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### Information and Notices

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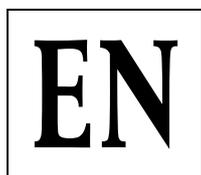
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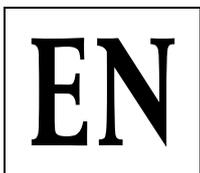
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## III

(Preparatory Acts)

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

## 434th PLENARY SESSION HELD ON 14 AND 15 MARCH 2007

**Opinion of the European Economic and Social Committee on the Economic and budgetary impact of ageing populations**

(2007/C 161/01)

On 16 May 2006 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the *Economic and budgetary impact of ageing populations*.

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 23 February 2007. The rapporteur was Ms Florio.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 109 votes to none with two abstentions.

**1. Conclusions and recommendations**

1.1 The present exploratory EESC opinion comes in response to a letter from the Vice-President of the European Commission, Ms Margot Wallström, but it also takes account of opinions presented over the last few years embodying the thoughts, analyses and proposals which the Committee has drawn up on these questions.

*Labour market*

1.2 The EESC believes that the Lisbon objectives regarding demographic policies should be pursued. On account of the rapid demographic changes on the labour market, measures are urgently needed to tackle the ensuing issues:

- increasing the employment rate among the segment of workers aged over 50 in both employment and self-employment, if possible;
- promoting instruments that encourage older unemployed workers to retrain and re-enter employment, so that they can be sure of a decent pension;
- preventing the over-50s who wish to continue working from being pushed out of the labour market.

1.3 The removal of older workers from their jobs must be discouraged — indeed, greater attention should be given to employing older workers in the productive cycle.

1.4 Jobs should match each individual's training and vocational experience, with no age discrimination. The EESC therefore calls upon all the Member States to transpose and apply the directive on equal treatment in employment and occupation (2000/78/EC).

1.5 Better organisation of work requires an assessment of the type of work carried out (hazardous, strenuous or repetitive work).

*Lifelong learning*

1.6 Lifelong learning programmes are the key to making more effective use of over-50 workers both within and outside companies. Instances of best practice should therefore be disseminated and monitored, as envisaged in the annual monitoring reports presented by the European social partners.

1.7 A policy supporting high-quality employment would guide and train generations of citizens throughout their working lives. This entails a proactive role for the social partners and all the relevant economic and social players at local, national and European levels.

#### *Towards a pact between the generations*

1.8 Research and innovation are a key investment for both future generations and today's Europeans. Consequently, young people must be encouraged to take up science courses at university, and conditions conducive to employment in the technological and research fields must be created.

The European Union must catch up with other countries, such as China and India, which have made huge strides forward in these sectors in recent years.

1.9 Investing in disadvantaged areas helps young people not to move away, and to become an instrument for developing and regenerating local areas.

1.10 2007 — the Year of Equal Opportunities — should concentrate on determining how to strike a proper work-life balance, so that decisions on parenthood are not determined by unstable or difficult circumstances, or by families having to face alone the costs — which are not purely economic — of bringing up children.

#### *Women and the labour market in the EU*

1.11 The EESC believes that the use of important directives, for example on parental leave, should be encouraged, and childcare and care services for the elderly should be guaranteed; the pay gap between men and women should be rapidly closed, and unstable and short-term employment should be combated, as these are the causes of poverty among many women in Europe. Incentives should also be devised that encourage men to assume a greater share of family responsibilities. For women, having children and working should not be seen as opposites, and every measure should therefore be taken to ensure that mothers can successfully combine childcare with their working lives.

1.12 In business too, measures must be adopted ensuring that women enjoy access to managerial posts.

#### *The role and weight of immigration in the light of demographic changes*

1.13 Immigration is one of the necessary responses to the challenge of an ageing population. Holistic integration and

employment policies can serve as motors for growth and development. Immigrants' skills, vocational experience and educational qualifications should be harnessed.

#### *Sustainability of EU welfare systems*

1.14 The sustainability of the welfare system needs to be guaranteed with a series of measures which do not penalise its final objective, as defined in the EU treaties (Article 2). It is therefore necessary, firstly, to ensure its sustainability and, secondly, to pursue the objectives of universality and fairness which underpin the European social model.

1.15 Social services of general interest should be guaranteed and upheld on account of their function, as should social economy actors. Voluntary associations in which the elderly are active perform an important social function and should be supported and put to effective use.

#### *Sustainability of pension systems*

1.16 The aim of the European Union and the Member States ought to be to ensure an anxiety-free and decent old age, and consequently proper pension systems, for future generations. Supplementary pensions, if required, must be reliable, secure and shielded from unforeseeable fluctuations on the financial markets.

1.17 Combating insecure employment means assuring young workers of a decent pension, and necessarily entails reducing late entry into employment.

1.18 The sustainability of pension schemes must be analysed bearing in mind a series of complex factors which cannot be reduced to population ageing alone.

1.19 In some EU countries, strict measures against evasion of tax and social security contributions must be one of the key objectives in ensuring the sustainability of pension schemes.

#### *The health implications of population ageing*

1.20 In the health field, an ageing population will principally mean investment in prevention the quality of care, and research, especially into the diseases most frequently affecting the elderly: efforts and study will need to focus on this aspect.

1.21 In the light of population ageing, occupational health and safety issues will also assume different dimensions and will undergo changes which should be analysed and assessed carefully.

1.22 The EESC is of the view that the EU Member States should, in consultation with the social partners, implement joint programmes to prevent accidents and occupational illness, particularly when age-related. Monitoring and information exchange are important tools.

1.23 Older workers must be allowed to choose freely whether to continue working, in the light of the type of work and with an assessment of how much risk, repetitiveness and strenuous labour is involved.

1.24 The EESC undertakes to continue analysing, assessing and making proposals with regard to demographic changes, aware of the complexity of this issue which will, in the coming years, demand the participation of all institutional, economic and social actors if the challenge is to be met. In accordance with its Rules of Procedure, the Committee undertakes to follow up on the questions addressed in the present opinion.

## 2. Introduction

2.1 Ms Margot Wallström, Vice-President of the European Commission, has asked the European Economic and Social Committee to draw up an exploratory opinion on the report that the Commission, together with the EU Economic Policy Committee, has recently published on the economic and budgetary impact of ageing populations for all EU Member States.

2.2 Given the broad scope of this issue and the policies involved, in her request Ms Wallström asked the EESC to concentrate on areas directly or indirectly connected with employment and a number of related aspects, such as health, pension systems and lifelong learning.

2.3 The Dublin Foundation for the Improvement of Living and Working Conditions has carried out many studies addressing the population ageing issue and analysing the impact on European citizens and workers.

2.4 A range of factors contribute to an ageing population: falling birth rates and increasing life expectancy, together with the progressive withdrawal from economic activity of the post-war generation and, in the future, of the baby-boom generation of the 1960s<sup>(1)</sup>. This latter factor is having, and will continue to have, a direct impact on the population of working age.

2.5 According to Eurostat projections, the population of over-65s in EU25 is set to rise from 75 million in 2005 to about 135 million in 2050. Their percentage of the overall EU25 population is expected to reach 30 %, with peaks in Spain (36 %), Italy (35 %), the lowest rates being in Luxembourg (22 %) and the Netherlands (23 %).

<sup>(1)</sup> The EESC has previously emphasised the need for research aimed at analysing ageing in the EU; concerning the 7th Framework Programme on Research, see the EESC opinion on *Research needs in the area of demographic change*, OJ C 74 of 23.3.2005, p. 44.

2.6 Ageing populations have important social and economic consequences for the Member States, making modernisation of budget and welfare policies a necessity.

2.7 The entire economy of a country is affected by ageing: the labour market, productivity, technological innovation and economic growth, since the population's needs and potential inevitably change.

## 3. Ageing and the labour market

3.1 The Lisbon strategy addresses the employment rate of older workers, with an initial goal — still unattained — of a minimum of 50 %.

3.2 Ageing is reflected firstly in an increase in average age, and secondly in a reduction in the overall number of citizens of working age, as the older generations are not replaced by sufficient numbers of young people. Young people are, moreover, entering the labour market at an ever later stage<sup>(2)</sup>.

3.3 The labour market is particularly susceptible to the influence of population ageing. The implications are such that measures are urgently needed to deal with issues including:

- increasing the employment rate among the segment of workers aged over 50 in paid employment and not blocking their entry into self-employment;
- promoting instruments that encourage older unemployed workers to re-enter employment (including retraining), so that they can be sure of a decent pension;
- preventing the over-50s who wish to continue working from being pushed out of the labour market;
- facilitating young people's entry into the labour market, with regular employment contracts contributing to continuity and to a better working life.

<sup>(2)</sup> See the European Commission's recent Communication on *The demographic future of Europe — from challenge to opportunity*, COM(2006) 571.

3.4 The effects of population ageing affect not only workers, but also entrepreneurs. As one generation replaces another, means must be provided to facilitate the hand-over of businesses, especially in the SME field. A progressive rise in the average age of entrepreneurs has also been noted, with direct and indirect implications for innovation, the capital market and, more broadly, on the entire industrial fabric of Europe. An older population of entrepreneurs means that many have already retired or are on the point of doing so, without fresh generations of younger entrepreneurs to replace them. A shrinking number of entrepreneurs means a shrinking number of businesses and, consequently, a smaller number of jobs.

3.5 The removal of older workers, not only from industry but also from the tertiary sector, is ever more worrying. The difficulty of fitting into a new work environment, the handicap of having vocational experience from perhaps one or only a small number of jobs, and the discrimination from which older workers unquestionably suffer when seeking new employment, are factors which affect all European workers.

3.6 Greater attention should be given to employing older workers in the productive cycle: in some sectors, their experience generates qualitatively higher productivity. In the business sector too, purely age-related assessments should be abandoned in favour of an appreciation of actual skills. The European directives banning any form of discrimination (2000/43/EC and 2000/78/EC) should be brought to in this area and monitored.

3.7 All workers should have jobs which match their training and skills as closely as possible: this would pave the way for higher productivity which would, at least in part, offset the negative effects of an ageing population <sup>(3)</sup>.

3.8 Active policies to support the employment of older workers must, in any case, take account of the type of work carried out: hazardous, strenuous or repetitive areas of work require targeted analysis and must involve a greater degree of personal choice on the part of workers <sup>(4)</sup>.

#### 4. Lifelong learning

4.1 One of the specific objectives set in order to increase the employment rate of older workers is to implement efficient and effective lifelong learning programmes, through exchanges of

<sup>(3)</sup> In this regard, see the recent EESC opinion on *Quality of working life, productivity and employment in the context of globalisation and demographic challenges*, OJ C 318 of 23.12.2006, p. 157.

<sup>(4)</sup> See EESC opinion CESE 92/2007 on *Promoting decent work for all*.

best practice between the 27 EU Member States and a permanent dialogue with the social partners, as called for by numerous European institutions <sup>(5)</sup>.

4.2 Guidelines on lifelong learning have been laid down year after year since the Luxembourg summit (1997), in the form of the European Employment Strategy (EES). On each occasion, emphasis has been laid on the importance of the employability of older workers — and, consequently, of their further vocational training — in tackling the problems raised by an ageing population.

4.3 The expression *lifelong learning* is used for all significant learning activity aimed at enhancing capacities, knowledge and skills. Such activities should therefore be seen as being relevant to the entire working life, since the loss of occupational skills and updating has the most serious effects precisely on older workers.

4.4 The EESC, for its part, has highlighted the intergenerational imbalances in terms of technological knowledge and acquisition of various skills <sup>(6)</sup>.

4.5 In-house training is an effective instrument in boosting worker adaptability. Some Member States (United Kingdom, Spain, Portugal, Netherlands and Austria) have, to varying degrees, encouraged in-house training and refresher courses by means of tax incentives and exemptions.

4.6 As part of the Lisbon strategy, importance has been attached to efficient training methods and systems which effectively meet labour market requirements as a key component in a knowledge-based economy, which was one of the objectives of the summit in Portugal.

4.7 Removing obstacles to the employment of older workers means anticipating the effects of demographic change.

#### 5. Towards a pact between the generations

5.1 In 2004, the EESC strongly advocated supporting a pact between the generations in order to provide European citizens with sufficient renewal of the generations on the labour market, a welfare state adjusted to reflect the new demographic conditions in Europe, and European legislation promoting employment policies, vocational retraining and closer links between the education system and business <sup>(7)</sup>.

<sup>(5)</sup> See the *Framework of actions for the lifelong learning development of competencies and qualifications*, signed by the ETUC, UNICE and CEEP.

<sup>(6)</sup> See, for example, the recent EESC opinions on *Key competences for lifelong learning*, OJ C 195 of 18.8.2006, p. 109, and on *Relations between the generations*, OJ C 157 of 28.6.2005, p. 150.

<sup>(7)</sup> See the EESC opinion on *Relations between the generations*, OJ C 157 of 28.6.2005, p. 150.

5.2 Policies in support of 'good' employment must in any case also be geared to helping young people to enter the job market, by accompanying them throughout their working lives<sup>(8)</sup>, without creating a 'digital gap' between young workers and their older colleagues who intend to remain at work.

5.3 In its opinion, the EESC identified the challenge of 'facilitating the development in the future of more consultation on a major issue, where coordinated, ongoing action from a wide range of players and the continuity of a constructive plan are necessary and short-term interests must not be allowed to prevail. A new pact between the generations needs to take shape step by step across the EU'.

5.4 Research and innovation are fields in which investment is inevitably required if future generations of Europeans are to be assured future well-being and a satisfactory, sustainable quality of life. It is therefore also important to take account of the average age of European researchers and scientists, and of the need to bring young people into these key sectors.

5.5 The lack of adequate investment in research throughout Europe — which is still lagging far behind the Lisbon strategy targets — prevents young researchers, who are often compelled to work on an extremely insecure basis, from building a future and a career in the field of scientific and technological research. The higher average age of scientists in Europe compared to other world powers points to future danger. In India and China, for example, the number of graduates in scientific subjects is increasing, to such an extent that 60 % of researchers and scientists in the USA come from these two countries. In many European countries, in contrast, university science departments have witnessed a definite fall in the number of new students over recent years.

5.6 Population ageing also has a direct impact on regional cohesion: young people tend to leave certain areas to seek work in others which can offer better living and working conditions. This widens the gap between regions with a more developed economy and those where impoverishment and ageing are accelerating.

5.7 The work-life balance is a pillar of the European social model. The rising average age of the European population poses the problem of how to boost the birth rate. This is to be understood purely in terms of offering all couples the opportunity to have children, without necessarily having to give up work or drastically cut the family's standard of living — which can, all too often, fall to levels close to the poverty line. Young people today are typically affected by unstable employment conditions incapable of providing them with any security for their futures:

consequently, they are tending to have fewer children or none at all.

5.8 In order to achieve the aim of a progressive rise in the birth rate, all social, health and education services (pre-school, medical assistance, preventive health care, financial support, etc.) should be reinforced, improved and brought into line with current demographic conditions in the EU countries.

## 6. Female employment and the birth rate

6.1 In 2005, the female employment rate in the EU25 stood at 56.3 %. The problem is less acute in the northern European countries, but more pressing in the Mediterranean countries. But even women who do work find it difficult to shape a career enabling them to build up significant welfare contributions. Women at work are effectively confronted with a series of difficulties:

- women are currently the worst affected by insecure and short-term employment, economic instability and, more broadly, often by poverty;
- the pay gap remains a very damaging factor in almost all EU countries (an average of 24 % less for the same work);
- the inadequacy of child-care services and care arrangements for the elderly continues to oblige primarily women to sacrifice their careers so they can devote more time to caring for family members;
- major directives, for example on parental leave, are not treated seriously enough and women must still choose between having children and having a career;
- female employment and childbirth should not be seen as incompatible: examples should be sought from the best practices of those countries whose tax systems enable women to get back into the labour market more easily after the birth of their children, without being penalised in career or pay terms. It should also be emphasised that incentives for men to share in the responsibilities of having children remain insufficient.

6.2 The Commission rightly considers that the decline in the size of the working-age population may be partly offset by a series of measures including, in the short term, rising female participation in the labour market. The cultural changes which, over recent decades, have made it possible for women to work and become independent, are reflected in inter-generational differences in female employment rates. In Europe, young women have a greater presence in working life than do middle-aged women.

<sup>(8)</sup> See, for example, the Communication from the European Commission COM(2003) 728 final on *Improving quality in work: a review of recent progress*.

6.3 Increasing female participation in the labour market is unquestionably a positive sign of social progress, although according to statistical analyses, including recent ones, it is not yet sufficient. Moreover, it is essential that this growth lead to the real application of equal working conditions and pay with men, as well as protection of women against abuse and discrimination at work and in society. Employment differences between men and women also exist among entrepreneurs: there is a glaring discrepancy between the numbers of businessmen and businesswomen. The Member States and the European Union must therefore strengthen what tools they already have and adopt new ones in order to facilitate and safeguard female employment.

## 7. The role and weight of immigration in the light of demographic changes

7.1 Immigration into the EU is growing constantly. The vast difference between economies and standards of living inside Europe and the developing countries outside Europe is driving migration towards our, richer countries. Immigration must not be seen as a threat but rather as a phenomenon which, if comprehensive policies are implemented, can represent a potential factor for growth, development and integration.

7.2 Given the general ageing of the population and a declining working population, migrant workers perform tasks in the EU which effectively match the production, economic and social needs of the host countries. Employment and integration policies must be geared to allocating human resources, including immigrants, as effectively as possible by making best possible use of their skills, vocational experience and qualifications<sup>(9)</sup>.

7.3 The Commission itself argues that immigration could be a positive factor in labour market adjustment. Moreover, as long as immigrant workers are employed within the official economy, their tax and social security payments contribute to welfare systems, and they therefore constitute a major new element in the European labour market of the next few years. Neither should the vital economic support provided by their remittances to their families be overlooked: these often constitute their sole source of economic support. For these reasons, better integration of immigrants is an essential objective for EU Member States<sup>(10)</sup>.

7.4 The need to be brought into the official economy does not concern immigrant workers alone: population ageing raises issues such as combating unregistered and insecure work on the agenda as a matter of urgency, if national economies are to be put on a sounder and more sustainable footing.

<sup>(9)</sup> See the EESC opinion on *Immigration, integration and employment*, OJ C 80 of 30.3.2004, p. 92.

<sup>(10)</sup> See, in this regard, the recent EESC opinion on *Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations*, OJ C 318 of 23.12.2006, p. 128.

## 8. Sustainability of EU welfare systems

8.1 The European Commission states, in a range of documents, that public debt must be substantially, progressively and continuously brought under control or reduced if sustainability of public finances in the Member States is to be achieved. Efficient allocation of resources — without repercussions for the quality or universality of public services — is necessary for this purpose.

8.2 Demographic changes — which are raising concern about the sustainability of the welfare state — are the main reason why the various social protection funding systems in the EU Member States must, each in its own, specific way, operate efficiently, fairly and transparently to serve their citizens.

8.3 The EESC emphasises that social services of general interest, and the social economy actors, have an important function in supplementing support for families and the elderly. The importance of their work needs to be recognised, and such bodies should be supported on the basis of agreed requirements, since they perform a socially useful role.

8.4 The European Union can perform an important function in this respect: the Lisbon strategy (integration of social, economic and employment policies) introduced an unprecedented, innovative approach, and one of its instruments, the open method of coordination, can be seen as one of the most interesting innovations in Community policy in recent years. This instrument has unfortunately been underused and often underestimated, at the same time as the Community legislative instrument has been abandoned. The European social model is a goal which unfortunately remains far from being fulfilled — but is certainly not an obstacle to be sacrificed for the sake of the internal market.

8.5 In some European countries, especially those facing macro phenomena such as the rising average age of the population, funding for welfare and pension systems is jeopardised by evasion of tax and social security contributions. Any project to overhaul welfare and health systems and employment possibilities must include measures to combat tax evasion and avoidance which represent the primary threat to sustainable national budgets.

8.6 The EESC therefore wishes to draw attention to the importance, in seeking solutions and changes in line with demographic developments, of combating evasion of tax and social security contributions, as well as the falling number of taxpayers.

## 9. Pension systems

9.1 Numerous European Commission documents on the sustainability of pension systems focus on the shrinking population of working age and the increase in the number of retired workers, both of which are effects of rising life expectancy.

9.2 Over the coming decades, pension systems will need to be capable of guaranteeing future generations a secure and decent old age. This is why, in the first place, the impact of ageing on pension systems cannot be countered only by encouraging the use of supplementary or private pensions: to do so would be a dangerous simplification. Rather, efforts should be devoted to devising effective instruments making such supplementary pension schemes more straightforward, secure and reliable, and to ensuring that they are shielded from unforeseeable fluctuations on the financial markets. Supervision of private pension funds also needs to be stepped up, in order to extend control arrangements and guarantee proper management.

9.3 In many EU countries, the current crisis in pension systems is not caused by population ageing alone, but also by the fact that contributions are steadily contracting, with no corresponding increase in resources from elsewhere (e.g. through tackling evasion of tax and social security contributions), while the demand for pensions on the part of citizens continues to rise.

9.4 Matters are made still worse by the fact that young people are entering employment ever later, and frequently on insecure and low-paid terms, meaning that they pay lower pension contributions compared to their parents at the same age.

9.5 Population ageing may require individuals to stay for longer on the labour market. In some EU Member States in particular, however, it is more urgent to speed up entry into employment and, more broadly, to provide better job opportunities and working conditions early in working life.

9.6 The European Commission forecasts an increase in spending on pensions from now until 2050 throughout the EU, with the exception of Austria on account of its pension reforms in 2000. Although only slight increases in expenditure are expected in Italy and Sweden, as their public pension schemes are contributory, very substantial increases are projected in the other countries, rising to 9.7 % in Portugal.

9.7 Consequently, the issue of pension system sustainability cannot be analysed and resolved in isolation. There must be a clear picture of its causes, which are not generated only across European society as a whole, as in the case of widespread population ageing, but also arise from all the differing circumstances

concerning the labour market, economic growth and social protection systems in the various EU countries.

9.8 The objectives that should be set in order to address the question of pension system sustainability go beyond simply raising the pension age, a measure which, if applied without regard to specific criteria, could prove useless — indeed harmful — for the quality of life of European citizens.

9.9 In view of the differences between types of work, including strenuous, repetitive or physically demanding work, the solution to the problem of an ageing population cannot be simply a higher retirement age across the board: working longer will not have the same effect in all occupations, and the difference between the legal pension age and the real age of retirement must be taken into consideration.

9.10 Steps to combat job insecurity and undeclared work and to support wage policies, fairer distribution of wealth and more effective social cohesion must be accompanied by an irreversible, gradual and voluntary rise in the retirement age, to be achieved and upheld through permanent dialogue with the social partners and civil society.

## 10. Health

10.1 The fact that an increase in the average age of the population leads to an increase in health spending is readily understood. However, forecasting future trends in health expenditure, and predicting which specific areas will require the heaviest investment, over the coming decades, is an extremely complex exercise. It is not possible to predict how much public money will have to be invested in health on the basis of demographic trends alone; health spending also depends on the types of policies it is decided to implement in this field, on advances in medical science, the evolution of diseases and levels of pollution, and on the political and technological choices made in order to contain them.

10.2 However, as previously explained, all studies reveal that a situation is rapidly approaching in which people will work longer. Older workers are inevitably at greater risk of illness and physical decline simply because they are older than their colleagues. As the population of older workers is unquestionably set to continue rising, a health system urgently needs to be devised that can implement effective preventive policies in all the EU Member States. Furthermore, workers who have been in long-term precarious employment will find themselves in need when they reach pension age: they will have to be provided for using other forms of collective solidarity, according to the arrangements in each Member State, including for health and welfare. The increase in precarious employment will thus have a direct impact on welfare costs.

10.3 If the aim is to keep public spending down to sustainable levels, the EU Member States must pool their efforts to implement care, accident prevention, monitoring and information exchange programmes, in order to forge closer and more effective links between working life and health.

10.4 Not all jobs are the same. Workforce ageing is also tied in with the fact that some jobs are more strenuous, risky or repetitive than others: the effects of age vary according to occupation. An older worker cannot perform physically demanding

manual functions, but can more easily carry out office-based or mental tasks.

10.5 A longer working life consequently entails greater health problems for workers in strenuous occupations. This factor must be taken into account. If future plans revolve around a later retirement age in those sectors where it is possible, then major efforts will have to be made in the field of health care and health and safety at work.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee concerning the need to develop a coordinated strategy to improve the fight against fiscal fraud**

COM(2006) 254 final — 2006/0076 (COD)

(2007/C 161/02)

On 31 May 2006 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

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 23 February 2007. The rapporteur was Mr Iozia.

At its 434th plenary session held on 14 and 15 March 2007 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 97 votes to two with one abstention.

## 1. Conclusions and recommendations

1.1 The European Economic and Social Committee regrets that the Commission's initiatives intended to combat fiscal fraud have not yet been adequately backed up by cooperation from the Member States. It supports future initiatives in this regard and urges the Commission to make use of all the powers presently invested in the European institutions by the treaties.

1.2 The EESC considers the Commission's communication to be well-structured, taking a balanced view of the problems involved in tackling fiscal fraud and singling out stronger administrative cooperation between the Member States as the main means of countering the spread of fraud.

1.3 The Communication's practical response to the issue of relations with third countries is to propose a Community approach. The EESC agrees with the proposal.

1.4 The EESC supports the proposal to reconsider VAT — something it has itself advocated on previous occasions — believing that a think-tank should be formed to envisage replacing VAT, with the proviso that any new tax should not lead to increased payments by businesses or citizens.

1.5 The EESC recommends that the Commission make full use of OLAF's current powers, under which the European anti-fraud body holds important functions. The Commission must assess whether OLAF has adequate means to perform its official tasks.

1.6 The EESC views the proposal to ensure increasingly efficient cooperation between national anti-fraud bodies as an absolute priority. This could be achieved by setting up a network of police forces and investigative bodies, allowing them to share available databases, and it recommends that the technical and legal issues involved be carefully examined.

1.7 The proposal for a high-level forum on administrative cooperation is a step in the right direction. There can be no possible justification for the apparent bureaucratic resistance and obstacles to this idea.

1.8 The EESC believes it would be helpful to incorporate the achievements of some Member States into Community law, introducing the 'normal market value' criterion for anti-fraud purposes.

1.9 The EESC recommends a cautious approach to introducing joint liability between vendors and purchasers, but reversing the burden of proof in the case of apparently unjustified transactions, in the light of judgments by the Court of Justice.

1.10 The EESC feels that the Commission's proposal to introduce simplified requirements for operators who cooperate with the authorities and, by the same token, stricter controls and procedures for parties judged to be a risk, merits further consideration.

1.11 The EESC calls upon the Commission to continue funding Community programmes to promote activities in the field of the protection of the Community's financial interests, such as Hercule II.

1.12 The EESC recommends harmonising the provisions of Directive 77/799/EEC with existing provisions concerning indirect taxation as well as standardising the various VAT systems.

## 2. Gist of the Communication

2.1 The Commission communication proposes developing 'a strategy to improve the fight against fiscal fraud', noting that although the Community legal framework has been improved and consolidated, it is not sufficiently used and administrative cooperation is not commensurate with the size of intra-Community trade.

2.2 The Commission thus takes up a theme that has often been addressed, namely the need for closer administrative cooperation between the tax authorities of the Member States — an instrument for combating fiscal fraud and evasion, which can produce fiscal losses and cause distortions of competition, impairing the functioning of the internal market.

2.3 When the communication was presented, László Kovács — the commissioner responsible for taxation and customs union — stated: 'I firmly believe that it is time to look at new ways of effectively combating tax fraud. The scale of this phenomenon has become very worrying.'

2.4 Economists say that tax fraud accounts for a total of 2-2.5 % of GDP, or EUR 200 to 250 billion. So-called VAT carousel fraud is one of the biggest problems, but smuggling and counterfeiting of alcohol and tobacco, and fraud involving direct taxation are equally serious issues. Since 1993, the free movement of goods, services, people and capital within the internal market has made it more difficult for the Member States to combat tax fraud effectively on their own.

2.5 In the sphere of indirect taxes, Community standards lay down direct common rules for the Member States (uniform procedures, identification of the competent authorities, information provision arrangements) to facilitate administrative cooperation and information exchange.

2.6 The Commission identifies three priority areas for action:

### 2.6.1 Improving the functioning of cooperation

2.6.1.1 The Commission believes that tax fraud can be combated more effectively through:

— more efficient cooperation mechanisms. The absence of a Community administrative culture is an obstacle to the fight against tax fraud, and this absence is often tied in with language problems, lack of human resources or limited knowledge of cooperation procedures among staff. At operational level, these problems are reflected in the failure to meet deadlines for meeting requests for cooperation in the tax field from other Member States;

— reinforcement of legislation relating to cooperation on direct taxes and assistance in the collection of taxes;

- faster investigation procedures and better risk management, which would enable the Member States to be promptly informed about potential risks of fraud to which they might be subject, especially involving new foreign companies planning to set up for the first time on their territory;
- the setting up of a permanent forum on administrative cooperation at Community level for all direct and indirect taxes.

## 2.6.2 Increased cooperation with third countries

2.6.2.1 ‘... tax evasion does not stop at the external borders of the European Union.’ The Commission proposes a Community approach to cooperation with third countries which, as it is at present based on bilateral agreements between individual countries, generates a range of situations which fraudsters can easily take advantage of. The Commission also proposes that tax cooperation clauses should be included in the economic partnership agreements that the Community concludes with its economic partners.

## 2.6.3 Modifying the common VAT system

2.6.3.1 The Commission opens the debate on the possibility of strengthening the principle of joint and several liability for the payment of VAT, subject to the principles of proportionality and legal certainty.

2.6.3.2 The Commission is also considering the possibility of extending application of the reverse charge mechanism — currently mandatory only for certain transactions, whereas for others it can be imposed more or less at the Member State’s discretion — for transactions within a Member State. The Commission considers that any change to the prevailing VAT rules must substantially reduce the risk of fraud, exclude new risks and above all not create disproportionate red tape for companies and for authorities, and it must in addition ensure tax neutrality and non-discriminatory treatment of operators.

## 2.7 Other innovative approaches

2.7.1 The Commission also proposes that other specific measures should be considered, including:

- reinforcing tax declaration obligations for parties considered to represent a risk;
- lightening tax declaration obligations for companies that obtain an authorisation by entering into a partnership with tax administrations;
- the use of standard computer formats of high quality for rapid exchange of information.

## 3. Community legal framework

3.1 The Committee believes that the legal instruments provided by the present legislative framework are up to the task of combating tax fraud. There is, on the other hand, an urgent need to press the Member States to make wider use of existing instruments for administrative cooperation and to comply with the deadlines and procedures laid down. In a present-day climate of economic globalisation in which fraud is also taking on a transnational dimension, it is essential that requests for information be met as investigations are taking place.

3.2 In order, however, to have a more uniform system between the direct and indirect tax aspects, the Commission could harmonise the provisions of Directive 77/799/EEC in line with existing provisions concerning indirect taxation, and introduce more efficient methods for exchanging information given the opportunities offered by computer technology. It is also important to standardise the various VAT systems, with particular regard to the obligations of liable parties.

3.3 The Community legislative framework can be broadly divided into five basic types:

- Mutual assistance
- VAT cooperation
- Cooperation on excise duties
- Recovery of claims
- Fiscalis programme.

3.4 References to Community legislation, together with a brief summary of the relevant provisions, are set out in Appendix A.

## 4. General comments

4.1 The EESC believes that the increasing frequency of tax fraud should be combated more vigorously and laments the fact that Member States’ action and their cooperation is considered by the Commission to be insufficient, despite a complex, well-structured legal framework.

4.2 The distorting effect of tax evasion and avoidance on the smooth functioning of the economy and the internal market is a serious issue which has hitherto been underestimated, as has the relationship between tax fraud, money laundering and economic crime. Indeed, fraud aimed at wrongfully obtaining national or EU financial aid is often carried out by means of false tax documents and, vice versa, the money gained from tax fraud, including in cross-border transactions, is often used for subsequent illegal or criminal acts.

4.3 With regard to tax avoidance — which, unlike tax evasion, involves practices which are not unlawful per se, but which are designed solely to obtain an undue tax saving — the Committee points out that national legislation has not dealt with this issue uniformly. To avoid the proliferation of administrative and social costs linked to inconsistent legislation, the Committee would welcome moves to harmonise national legislation in this area; a general anti-avoidance provision could be introduced, a common list of cases in which tax administrations can exercise repudiation — for tax purposes — of the legal effects of transactions where tax avoidance is deemed to have occurred.

4.4 The EESC believes that the Commission's proposals take a too cautious approach to the issue, considering the power conferred on the Commission by the Treaties to take all the necessary measures to secure the financial stability of the European institutions. Indeed, Council Decision 1999/468/EC of 28 June 1999 confers on the Commission substantial implementing powers. The Committee also points to the principle of subsidiarity — laid down under Article 5 of the Treaty of Rome — which stipulates that the Community shall also take action in areas which do not fall within its exclusive competence, whenever the objectives of the proposed action cannot be achieved by the Member States or rather, can be better achieved by the Community. The EESC calls upon the Commission to make full use of these powers.

4.5 As early as June 2001, with the Communication on *Tax policy in the European Union — Priorities for the years ahead* (COM(2001) 260 final), the Commission stressed the need to make use of all other available instruments, in addition to legislation, to achieve priorities. In that context, it was highlighted that decisions on tax policy had, and still have, to be adopted unanimously <sup>(1)</sup>.

4.6 Even then, the EESC upheld the need to change the transitional system and introduce without delay the definitive system based on the principle of taxation in the country of origin. With some irony, the EESC wondered at that time: *'how many more years of the ramshackle transitional system will have to be endured before this objective can be attained?'*, calling for simplification and modernisation of rules, more uniform application of the rules and closer administrative cooperation. It would appear that no progress has been made.

4.7 The EESC upholds the general approach of strengthening cooperation by moving beyond the current VAT information exchange system — VIES — and developing measures for automatic or spontaneous information exchange between Member States.

4.8 The EESC welcomes the opening of the debate on changing the VAT system, but stresses the need for an in-depth impact assessment to be carried out, based on the assumption

that any changes to the system should make it more effective and simpler and not serve to increase the tax burden on people and businesses. In this regard, the Committee would point to a proposal it made in a previous opinion <sup>(2)</sup> to consider an alternative to the VAT system, that would ensure a level of revenue at least equal to the current one but would be less costly to society and more efficient from the point of view of collection.

## 5. Specific comments

### 5.1 Value added tax

The current VAT system for intra-Community trade is based on the principle of applying tax in the receiving country, in order to ensure equal treatment of national products and products from other EU countries, by means of the mechanism whereby goods move between countries untaxed and are subsequently taxed in the receiving country at the same rate as for internal transactions.

Rather than applying the principle of taxation in the country of origin, this transitional system was introduced — on a temporary basis, however — because of the time needed to adopt a suitable structure to allow the correct redistribution between the Member States of the revenue collected, in proportion to consumption. Such a system cannot therefore be adopted until VAT rates have been harmonised, in order to avoid distorting competition.

#### 5.1.1 VAT carousel fraud

The transitional system for intra-Community trade, while greatly freeing up the movement of goods, exposes individual Member States to losses deriving from tax evasion and fraud.

5.1.1.1 One type of VAT fraud with particularly serious consequences, in terms of amounts of tax evaded, and which is highly difficult to detect, is known as *carousel* fraud. It involves VAT avoidance systems, in which companies are created ad hoc to operate internationally. The aim is to avoid paying VAT due in order to allow the other links in the fraud chain to deduct fictitious tax payments and thus obtain a refund of the VAT or reduce the VAT due. To achieve this unlawful objective, the defaulting party generally does not operate or trade as a real business, and often its headquarters are nothing more than a post-office box. Such companies then disappear, after several months of *'trading'*, without producing the required tax return and paying the tax due, thus making detection very difficult for the tax authorities.

<sup>(1)</sup> EESC opinion on *Tax policy in the European Union — Priorities for the years ahead* — OJ C 48, 21.2.2002, pp. 73–79.

<sup>(2)</sup> EESC opinion on the *Proposal for a Council Directive amending Directive 77/388/EEC as regards the place of supply of services* — OJ C 117 of 30.4.2004, pp. 15–20.

5.1.1.2 The EESC believes that carousel fraud might have been made possible in particular by inadequate cooperation between Member States, as well as by differentiated rate systems. The EESC therefore suggests that all necessary forms of cooperation and intelligence exchange should be activated to combat the phenomenon effectively.

### 5.1.2 Administrative cooperation on VAT

5.1.2.1 VAT evasion has led Member State financial administrations to refine their investigative techniques more and more, with the aim of combating the phenomenon more effectively.

Administrative cooperation has a key role to play in combating VAT fraud, given that such fraud is committed by a chain of companies across the Member States.

By means of relevant treaty instruments, the Member States have established a system of information exchange which has proved useful for determining the status of taxpayers and for combating and curbing transnational tax fraud.

As regards cooperation, the EESC pointed out long ago the need for the Commission to play a more active role, and it therefore welcomes the creation of a monitoring system to verify the quantity and quality of assistance provided.

5.1.2.2 Information exchange is currently far from being standard practice, due to cultural differences, varying levels of computerisation and a lack of legislation to curb Member States' inertia. An EU-wide culture therefore needs to be created whereby it is accepted that cross-border information requests must not be considered an exceptional occurrence but rather standard practice within the investigative process, whenever relevant.

To this end, we must overcome the obstacles to an EU administrative culture, incentivising full use of the existing cooperation instruments, and compliance with deadlines and procedures laid down, so that investigative bodies can have the requested information in a timeframe conducive to their investigative work.

5.1.2.3 Furthermore, in line with the Commission's call for the use of standard computer formats for the exchange of information, the Committee would propose considering the case for creating a network for Member State police forces and investigative bodies involved in the fight against fraud. This could facili-

tate direct information exchange by means of a certified electronic mail system. Opening up access to Member States' tax return databases — as has happened with level 1 and 2 VIES data — should also be considered.

Such an initiative, which would, however, require prior agreement on the specific data to be included in such archives as well as its compatibility with national legislation on privacy, would be a real step forward in improving the fight against tax fraud, in that it would provide investigative bodies with the information they need directly, in real time and without excessive bureaucracy.

5.1.2.4 Also, although legislation on Member State information exchange is well-structured and generally satisfactory, the greatest obstacle to curbing tax evasion within the EU lies in the inconsistency of legislation across the Member States with regard to powers of inquiry, as well as the varying degrees of deterrence.

This means that fraud is particularly prevalent in countries where investigators' powers of inquiry are less pervasive or where penalties are insufficient to act as a deterrent.

5.1.2.5 Therefore, while respecting Member States' sovereignty, the Committee would advocate harmonising the penalties for fraud cases of comparable gravity, at EU level, as already envisaged, for example, in the fight against money laundering. This would prevent less stringent legislation or less efficient audit systems from effectively creating *safe havens* for the proceeds of criminal activity and for operating carousel fraud.

### 5.1.3 Normal market value as a criterion for determining the taxable amount for anti-fraud purposes

5.1.3.1 Measures to counter tax evasion must be in line with EU principles, including non-discrimination and proportionality, as the Court of Justice has often stressed. One of the areas in which the various systems vary greatly is in the use of criteria to determine the taxable amount which differ from the consideration agreed between the parties, not only in the case of goods for private consumption or for purposes other than those of the business, but also in all cases where there is considered to be a risk of fraud or tax evasion.

In this regard, the EESC points out that in all Member State systems the criterion for determining the taxable amount is largely based on the parties' willingness to negotiate and aims to ensure that the actual consideration is taxed given that the taxable amount is generally the contractual consideration agreed on for the goods or service rendered. Alongside this 'basic' *taxable amount* criterion, another factor used is *normal market value*, as a means of adjusting or re-establishing the taxable amount, under certain conditions.

5.1.3.2 The concept of normal market value for VAT purposes is practically the same in all Member States and is broadly in line with Directive 77/388/EEC of 17 May 1977 (Sixth Directive) which defines it as the average sum paid for the same kind of goods and services, in conditions of free competition and at the same stage of marketing, at the time and in the place that the goods or services were acquired or provided, or, if this is not possible, the time and place nearest thereto.

5.1.3.3 In all Member State systems, normal value represents an alternative method of determining the taxable amount:

- in cases where a monetary consideration is totally or partially lacking. Here, the normal value criterion allows the taxable amount to be quantified in monetary terms, while also having an anti-evasion function;
- in cases where the legislative authorities presume that there is a risk <sup>(3)</sup> of tax fraud.

5.1.3.4 In addition to these cases, there is also a derogation from the principle of determining the taxable amount based on the consideration in cases where:

- there is provision for regulatory or administrative authorities to fix minimum taxable amounts or amounts not lower than normal value with regard to certain goods or commercial sectors, particularly property sales;
- there are provisions that consider the normal value of goods and services as the taxable amount, when a unit price is paid for different goods and services;
- regulations which, despite the existence of a monetary consideration, consider the taxable amount as the normal value, import value or purchase cost, when there is interdependency between the parties;

<sup>(3)</sup> The risk must be *real* and the fraud *proven* for the rule of law within the Community context to be upheld.

- there is transfer or establishment of real or customary rights in property transactions.

5.1.3.5 In this regard, the Court of Justice <sup>(4)</sup> has ruled that national measures designed to prevent tax evasion or avoidance may not in principle derogate from the basis for charging VAT in accordance with the consideration agreed on, as laid down in Article 11, except within the limits strictly necessary for achieving that aim.

5.1.3.6 In other words, normal value is the reference point for detecting fraud. The taxable amount, based on the agreed consideration, if lower than the normal value, must not be substituted by the latter, but tax authorities may infer the existence of fraud by reversing the burden of proof.

5.1.4 Joint and several liability for the payment of VAT

5.1.4.1 With a view to curbing carousel fraud, provision has been made in some national legislation for the purchaser to be held jointly and severally liable for the payment of VAT which the supplier has failed to pay in the case of certain categories of goods, where the sale price is lower than the normal value.

5.1.4.1.1 These provisions derive from Article 21 of the Sixth Directive, which permits Member States to hold a person jointly and severally liable for paying VAT, other than the person directly liable, in accordance with the proportionality principle.

5.1.4.2 The motivation for doing this is based on the assumption that transactions for prices which are different from the market value may well be a front for a different, underlying situation involving fraud. Essentially, under the conditions laid down by the legislation, the purchaser is presumed to have acted in bad faith, when, given the price paid, the latter could not fail to be aware that fraud was taking place <sup>(5)</sup>. The purchaser can be released from this presumption on production of documents proving that the below-normal-value price was determined by objectively demonstrable events or situations, or in accordance with legislation, and did not entail a failure to pay VAT, thus decreasing the joint and several liability arising from the supplier's failure to pay VAT.

<sup>(4)</sup> Judgments 324/82 and 131/91, on the sale of new and second-hand cars, and, more recently, judgment C-412/03 of 20 January 2005.

<sup>(5)</sup> In this regard, the EESC would highlight Commission Communication 2004/260/EC of 16 April 2004, which, while welcoming the deterrent effect created in several Member States by the introduction of joint and several liability, referred to a system that would require complicity between supplier and purchaser to be proven.

5.1.4.3 The EESC shares the concerns expressed by many operators regarding the principle of joint and several liability and, in view of the Court of Justice judgment <sup>(6)</sup>, believes that any measures taken should be limited to seeking guarantees of payment by those parties which are clearly identified as required to pay taxes. Provision could therefore be made for a purchaser to be jointly and severally liable with a supplier to pay tax where the sale price is lower than the normal value of the goods sold. It seems quite clear that, given such a strong provision, where the purchaser is penalised by being exposed to paying a tax which others are evading, the practical application of the rule needs to be limited to specific conditions:

- the transaction must be between taxable persons for the purposes of VAT, with the explicit exception of end consumers;
- the supplier has failed to make all or part of the VAT payments due;
- the goods being supplied must belong to one of the categories explicitly identified in the legislation;
- the goods must be supplied for a price which is lower than their normal value;
- the difference between the consideration agreed on and the normal value must not be justifiable by objectively demonstrable events or situations.

5.1.5 The EESC supports the possibility of extending the reverse charge mechanism to domestic transactions in Member States. In a recent opinion, the EESC stated this mechanism 'to be a tool that could be needed for preventing tax avoidance and evasion. It is particularly apt where the vendor is in financial difficulties' <sup>(7)</sup>. The Commission itself extended optional application of the reverse charge mechanism after a successful experiment with construction materials and buildings services. Measures must not, however, jeopardise intra-Community trade in goods and services, where different invoicing requirements might compromise the effectiveness of the internal market.

## 5.2 Direct taxation

5.2.1 Fraud must also be combated from the more general angle of harmonisation of Member States' laws on direct taxation and investigation procedures.

5.2.1.1 Following the enlargement of the European Union to include more countries, the disparities between tax systems look set to influence, more and more, decisions on capital allocation in the various Member States and their respective arrangements for managing entrepreneurial activities. Indeed, a considerable degree of coordination of economic policy will enable Member

States to use their respective tax regulations to influence decisions regarding localisation of investments and resources within the European Union. Nonetheless, the persisting significant disparities between Member States' direct taxation systems could, in some cases, create barriers to the market integration process <sup>(8)</sup>, to the detriment of the competitiveness of the European economy.

5.2.2 The approximation of Member States' tax laws was discussed by the Commission in Communication COM(2003) 726 of 24.11.2003. However, as regards company tax, particularly the 'comprehensive' approaches facilitating the setting-up of a European company tax based on a common consolidated tax base <sup>(9)</sup>, there are considerable difficulties in implementation due to the continuing disparities between the different Member States as regards tax base criteria. Moreover, the adoption of a common tax requires, in addition to a high level of convergence of economic policies, a proper legal framework. As things stand, Article 94 of the EC Treaty provides for the Council, acting unanimously on a proposal from the Commission, to issue directives for the approximation of such laws, regulations and administrative provisions of the Member States as directly affect the establishment of functioning of the common market.

5.2.3 This provision and Member States' continued sovereignty in taxation matters, which do not seem to further initiatives to create a common consolidated tax base for companies operating in the European Union, are still a substantial barrier to the approximation of company tax systems because of both enlargement to include more Member States, which makes it particularly difficult to achieve unanimity, and the fact that the final text of the Constitution for Europe fails to prescribe qualified majority voting for the adoption of laws or framework laws establishing measures in the field of company tax.

5.2.4 With a view to overcoming the unanimity rule, Commission Communication SEC(2005) 1785 of 23.12.2005 entitled *Tackling the corporation tax obstacles of small and medium-sized enterprises in the Internal Market. Outline of a possible Home State Taxation pilot scheme* is a tangible step towards actual harmonisation of company tax bases, providing an analysis of the pilot scheme Home State Taxation for small and medium-sized businesses <sup>(10)</sup>. This study revealed that the 23 million small and medium-sized businesses in EU-25 account for most of the European economy — making up 99.8 % of all European

<sup>(6)</sup> Cases C-354/03, C-355/03, C-484/03 and C-384/04.

<sup>(7)</sup> OJ C 65 of 17 March 2006, pp. 0103-0104.

<sup>(8)</sup> Cf. L. KOVÁCS, *The future of Europe and the role of taxation and customs policy*, in [www.europa.eu.int/comm/commission\\_barroso/kovacs/speeches/speech\\_amcham.pdf](http://www.europa.eu.int/comm/commission_barroso/kovacs/speeches/speech_amcham.pdf).

<sup>(9)</sup> EESC opinion on the *Creation of a common consolidated corporate tax base in the EU* — OJ C 88 of 11.4.2006, p. 48.

<sup>(10)</sup> EESC opinion on *Tackling the corporation tax obstacles of small and medium-sized enterprises in the Internal Market — outline of a possible Home State Taxation pilot scheme* — OJ C 195 of 18.6.2006, p. 58.

businesses — and provide around 66 % of private employment <sup>(11)</sup>. The actual adoption of this scheme would allow greater internationalisation of these businesses' activity, in that the compliance costs <sup>(12)</sup> borne by these businesses, which are much higher than those borne by larger businesses <sup>(13)</sup>, would be lower, and the possibility of loss carry-over, which is the main obstacle to developing cross-border economic activities, would be greater, encouraging the approximation of Member States' laws on company taxation at Community level.

### 5.3 *Electronic commerce*

5.3.1 Growth and technological developments in electronic commerce are providing economic operators with new opportunities, but new trading methods require tax systems to adapt, particularly as regards aspects connected with the implementation of consumption taxes. Indeed, tax systems, which were previously governed by conventional trade rules, must take into account these changes and adapt to cater for the new forms of trade which are developing.

5.3.2 The main problem with taxation of electronic transactions concerns the possibility of discrimination arising from transactions being treated differently according to the medium of delivery of the goods being transacted.

5.3.2.1 When weighing up the possibilities of applying conventional principles of tax law to cases belonging to the electronic age, respect for the principle of neutral taxation must be ensured, preventing discriminatory treatment of similar transactions, which differ in the case in point only in the delivery method (on line or off line).

5.3.3 In particular, the greatest difficulties are related to the direct and indirect taxation of intangible (or digitised) goods, in that all stages of the commercial transaction (transfer and delivery) are carried out electronically (on-line trading) by means of the on-line supply of virtual products. Indeed, the services and goods are rendered intangible at the start by the supplier and rendered tangible by the recipient when they arrive. In this case, there is no physically tangible product which can be subject to a physical check, even for inspection purposes.

<sup>(11)</sup> Source: European Commission, *SMEs in Europe 2003*, Observatory of European SMEs 2003/No 7, DG Enterprise Publications and European Commission (2003): *The impact of EU enlargement on European SMEs*, Observatory of European SMEs 2003/No 6, DG Enterprise Publications, in cooperation with Eurostat. Regarding the economic importance of small and medium-sized businesses in the European Union cf. European Commission Communication SEC(2005) 1785 of 23.12.2005, pp. 15-17.

<sup>(12)</sup> The above-mentioned Communication SEC(2005) 1785 mentions compliance costs in legal and tax consultancy services, translation of documents, travel expenses and business and financial risks.

<sup>(13)</sup> According to a European Association of Craft, Small and Medium-sized Enterprises press release published on 11.6.2004, referred to in the above-mentioned Communication SEC(2005) 1785, compliance costs for small and medium-sized businesses are up to 100 times higher than for large companies. Regarding methods of determining compliance costs cf. Commission Staff Working Paper SEC(2004) 1128 of 10.9.2004, European Tax Survey.

### 5.4 *OLAF's competences*

5.4.1 The EESC believes that the current Community legislation, which is the legal basis for the creation of OLAF, already assigns to this body major responsibilities, as specified by Article 2 of Commission Decision 1999/352/EC, ECSC, Euratom. The Commission is therefore asked to make every endeavour to ensure that its current powers are used in practice, if necessary giving OLAF further resources necessary for it to discharge its institutional role, for example, by using the model of Articles 81 and 86 of the EC Treaty, which regulate competition.

5.4.2 In this context, OLAF could serve as a body with analysis and coordination responsibilities at EU level in the area of combating tax and other fraud, with responsibilities and competences in the field of administrative cooperation related to taxation (direct and indirect taxation and excise duties), to facilitate the exchange of information between bodies required by individual national laws to actively combat tax fraud.

5.5 The development of intra-Community trade requires closer cooperation in the exchange of information on risk management. However, the Commission does not put forward specific initiatives, merely calling on the Member States to use the guide on risk management for tax administrations. On this point, the EESC suggests that a central database be set up to serve as a channel for the information being exchanged by administrations, which is currently only standardised in the field of customs and on a bilateral basis.

5.5.1 In this connection, types of products could be identified which — on the basis of the results of surveys carried out by the relevant bodies in the individual Member States — are more liable to be used for the purposes of carousel fraud. Motor vehicles and high-tech products such as IT tools and telephony products are examples of this. Responsibility for carrying out these analyses could be given to OLAF, which could periodically pass the results on to the Member States, to help them plan the next monitoring exercise and allow subsequent targeted operations. Moreover, a similar communication flow from the Member States to OLAF should be provided for and regulated.

5.6 The EESC believes that the possibility of a Community approach to relations with third countries would certainly be better than bilateral agreements. To this end, specific provisions could be included as part of the plans to approve the Community system of agreements for double taxation referred to in Commission Communications SEC(2001) No 1681 on *Company Taxation in the Internal Market* and COM(2003) No 726 on *An Internal Market without company tax obstacles — achievements, ongoing initiatives and remaining challenges*, also discussed by the European Parliament in Communication (SEC A5-0048) 2003. Support should be given to the idea of drawing up specific cooperation clauses, to be included in economic partnership agreements. However, in the absence of clear, decisive commitment from the Member States, it is still essential to continue along the road of bilateral agreements, i.e. not to stop processes currently underway.

5.7 The EESC considers that reinforcing tax declaration obligations, as proposed by the Commission, should be strictly in line with the proportionality and simplification principles. The necessary fight against fraud must not result in unnecessary burdens for the many honest taxpayers and businesses. To this end, the EESC advocates a substantial lightening of obligations for honest businesses which cooperate actively with the tax administrations, and an appropriate reinforcement of the obligations for those which, according to objective criteria, are considered to be a risk.

5.8 The EESC does not agree with the Commission's point on tax on tobacco and alcohol, which are treated as 'normal' commodities. Some Member States see the management of excise duty on tobacco and alcohol products as a solution to the associated health problems, which clearly has priority over the functioning of the single market. The Commission proposes to eliminate these distortions, but this will still take a long time, given the widely diverging income levels in the individual Member States and the different revenue and health policy

objectives and measures of the individual Member States. Awaiting a reasonable degree of harmonisation of the tax rates, other solutions should be found to guarantee that the individual Member States fully preserve their ability to pursue their own fiscal and health policy objectives. It should however be borne in mind that tobacco smuggling is only to a very small extent generated by Community countries, being controlled by crime multinationals. While it is aware of the high social and health costs associated with abuse of these kinds of substances, and hopes that the appropriate bodies will adopt suitable measures to contain them, the EESC believes that excise duty on tobacco and alcohol must remain strictly the responsibility of Member States.

5.9 The EESC invites the Commission to continue with the Hercule II programme, calling for Parliament and the Council to swiftly adopt COM/2006/0339 final, which calls for the Community action programme to promote activities in the field of the protection of the Community's financial interests to be extended. The programme has already borne considerable fruit, with 19 training activities in which 2 236 people took part from the various Member States, five third countries and other European institutions, in the light, in particular, of the need for closer cooperation, given the accession to the EU of Romania and Bulgaria, which should also be able to benefit from these activities.

5.10 The EESC considers that it would be appropriate to set up an ongoing high-level forum for discussion and/or consultation, to ensure a more comprehensive approach to aspects of fraud and cooperation between Member States. The current scattering of consultation among a variety of high-level committees, subdivided by area of competence, prevents a useful exchange of good practice which would improve cooperation and the performance of administrations. The Committee considers the bureaucratic objections raised and the lack of direction in ECOFIN to be both incomprehensible and reprehensible.

Brussels, 15 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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## Opinion of the European Economic and Social Committee on Housing and regional policy

(2007/C 161/03)

On 26 September 2006 the European Parliament decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on *Housing and regional policy*.

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 23 February 2007. The rapporteur was Mr Grasso and the co-rapporteur was Ms Prud'homme.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 91 votes to none with one abstention.

### 1. Conclusions and recommendations

1.1 Housing is, above all, a fundamental right, access to which, in turn, determines access to other fundamental rights and a life of dignity. It is recognised in the Charter of Human Rights, in the Council of Europe's Revised European Social Charter and in the constitutions of many European states. Having a roof over one's head is essential if an individual is to develop as a person and integrate into society.

#### 1.2 *The Housing Charter produced by the European Parliament's URBAN-Housing Intergroup*

1.2.1 The EESC endorses the adoption of the European Housing Charter by the European Parliament's URBAN-Housing Intergroup, which notes the large and growing number of interactions between European policies and housing policies as well as the importance of the right to housing.

1.2.2 Consequently, the EESC calls for the incorporation of the European Housing Charter in the European Parliament's own-initiative opinion on *Housing and regional policy*.

#### 1.3 *Strengthening the right to housing*

1.3.1 The EESC would like to see proposals at European level on: a set of common objectives on access to housing; minimum standards on the quality of housing which define the concept of decent housing. Without these criteria, it will be difficult to establish an effective right to housing — and access to housing is clearly a minimum condition for a decent life.

1.3.2 The EESC would point out that the social and community services sector is becoming increasingly important in an ageing society and that such services are often provided together with housing, and it calls for these services to be made the subject of European exchanges and be given a higher profile. It further notes that social housing must be accorded special treatment and cannot, as such, be subject to market rules, as is recognised in the Services Directive.

#### 1.4 *Housing and the Structural Funds 2007-2013: building on initiatives, raising their profile and developing technical assistance*

1.4.1 The EESC would stress that the possibility to use Structural Funds resources to improve housing conditions should be exploited to the full not only by EU12 countries but also by EU15 countries, which can use the Structural Funds to finance operations in the field of integrated urban development. These initiatives will have a positive impact on social and territorial cohesion and on economic growth. In this respect the EESC would suggest that European financial institutions earmark resources at very low rates for integrated building programmes for young people, immigrants, older people and the disabled, thus encouraging worker mobility, improving the social mix and providing affordable solutions for occupants.

1.4.2 The EESC notes that the use of the JESSICA programme will provide the elements necessary to set up a guarantee fund for larger-scale social housing projects and it calls for this question to be considered during the mid-term review of the Structural Funds.

1.4.3 Accordingly, the EESC endorses the introduction of a technical assistance facility for housing projects during the period 2007-2013, in cooperation with representatives and networks of local and regional authorities and supported by the European Commission and the Member States. This facility will make it possible to build on projects and methods for effectively integrating housing projects in urban regeneration programmes. It will also enable the pooling of expertise, and could play a facilitating role in transferring experiences. It would appear to be of the utmost importance to establish a specific instrument for housing with the purpose of promoting effective use of the Structural Funds. This could be done on the basis of Article 45 of the Regulation laying down general provisions on the Structural Funds by asking the Commission to smooth the way for the setting up of the technical assistance facility.

## 1.5 Housing and energy

1.5.1 In addition, the EESC proposes the creation of an exchange network around the theme of housing and energy efficiency, where players on the ground could exchange information and build on and deepen their experiences, with a view to putting in place sound and ambitious energy policies. This facility could be linked to the Structural Funds support facility, although they would not have the same objectives; thus it would essentially be a matter of ensuring the smooth coordination of these two entities.

1.5.2 The EESC proposes the launch of a campaign to raise awareness of the potential for energy savings in the housing sector. The campaign would be conducted at European level in partnership with networks active in this field, and should be geared to changing users' behaviour. This approach would require the participation of the general public and would make it possible to rally all stakeholders around a positive initiative. The 'Sustainable Energy Europe' campaign lacks the focus necessary to raise awareness and has limited resources.

1.5.3 The EESC calls upon the Commission to submit proposals based on a broader approach than that applied to date, which focuses primarily on improving the energy efficiency of buildings. There is a need to work with residents and to take better account of the existing housing stock.

## 1.6 Housing and the European institutions

1.6.1 The EESC also supports the European Commission's initiative to set up an inter-service group on urban issues. The Committee suggests that the inter-service group include housing in its remit and that it appoint an interlocutor on this issue.

1.6.2 In addition, it would appear essential that the housing dimension also be included on the agenda for meetings of ministers for regional and urban affairs.

## 2. Reasons

### 2.1 The right to housing: a fundamental right

2.1.1 The EU's Charter of Fundamental Rights, proclaimed in Nice on 7 December 2000, states that (Article II-34): 'In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the procedures laid down by Community law and national laws and practices.'

2.1.2 Whilst noting that housing does not fall within the EU's remit and that the subsidiarity principle is fully applicable, the EESC feels that this article should be taken on board in the implementation of European policies so as to respond to the social urgency of the situation and the lack of housing for the

poorest (but also for people on low incomes and young people starting a career and a family).

2.1.3 Nevertheless, the Laeken summit in December 2001 recognised the importance of housing issues from the point of view of avoiding the risk of growing poverty. The EESC therefore feels that the summit made a vital contribution by opening the debate on the need to increase the supply of social housing in order to combat poverty in Europe.

2.1.4 The right to housing is enshrined in the constitutions of several EU Member States, including Belgium, Spain, Greece, Portugal, Finland and the Netherlands. This therefore raises the possibility of a European right to housing. The EESC believes that it is important and strategic to incorporate housing into the Charter of Fundamental Rights appended to the Treaty establishing a Constitution for Europe and deplores the fact that the right to housing, or at least the 'right to accommodation', has not been included.

2.1.4.1 The EESC considers the creation of a European housing strategy to be of the utmost importance: a home for every individual is a prerequisite for the more effective implementation of other human rights recognised at European level, such as everyone's right to 'respect for private and family life, his home and his correspondence' and respect for the right to 'get married and have a family'.

2.1.5 The principle of the right to housing is accepted. The question then arises as to the enforceability of this right, in other words the recourse available to a person who cannot find housing. Therefore the EU must be concerned about the conditions for giving effect to the right to housing. If a single solution cannot be considered, each Member State which formally recognises the right to housing must be able to specify:

- the public authority against which this right can be enforced, and in what form;
- the resources which must, as a consequence, be granted to this authority, or which it must equip itself with;
- the beneficiaries of this right and the procedures for exercising it;
- the content of the right (housing or accommodation, free choice or not).

2.1.6 In keeping with the European Housing Charter, adopted by the European Parliament's URBAN-Housing Intergroup on 26 April 2006, which defines housing as a 'necessary good', the EESC welcomes the EP's initiative to draw up a report on housing and regional policy. The EESC hopes that the Parliament will support its request to recognise the right to housing and will propose a partnership with local and regional administrations to promote an adequate level of housing and to make housing affordable for those who do not have access to market housing.

2.1.7 A study on living conditions and the social dimension of housing <sup>(1)</sup> published in 2006 by the European Foundation for the Improvement of Living and Working Conditions reveals important differences between the EU15 countries and the EU10 countries in terms of the quality and quantity of housing. It is also worth noting that not all European citizens are guaranteed access to hot water and an indoor toilet, two of the criteria for defining the minimum conditions for decent housing.

2.1.8 As housing is a cornerstone of the European social model, the challenges posed to Europe by social and demographic change must be translated into housing policy. Population ageing, the impoverishment of young adults who, because of lack of resources, continue to live with their parents, access to suitable housing for people with disabilities and access to housing for migrants are all issues which need to be taken on board. The EESC proposes, in line with the conclusions of the Laeken European Council in December 2001, the adoption at European level of:

- a set of common objectives on access to housing;
- minimum housing quality standards defining the concept of decent housing.

2.1.9 Moreover, it is essential to promote housing mobility so as to ensure labour mobility. Many people are 'captives' of their homes, whether social or owner-occupied housing, because of lack of supply, tax reasons or the cost of borrowing. Increased residential mobility is a prerequisite for greater labour market flexibility.

2.1.10 In view of its implications for community life and the urban economy, housing can no longer be the subject of partial strategies or measures. Whilst recognising the principle of subsidiarity, the EESC suggests that housing must be considered as a key political issue with implications for people's everyday life and as a means of bringing citizens closer to the European project, which seems to be becoming more and more elusive by the day.

2.1.11 The contribution of housing policy to the achievement of the Lisbon objectives, particularly as a driving force of economic growth, should be better identified. **The EESC would stress that the impact of housing policy on labour mobility makes it a complement to European policies implemented as part of the growth and employment strategy**, whilst also helping to boost territorial cohesion. This is particularly important in the newer Member States, via the provision of financing for urban and rural infrastructure networks, and appropriate energy policies.

<sup>(1)</sup> *First European Quality of Life Survey: social dimensions of housing*, Dublin, 2006, ISBN 92-897-0935-9.

## 2.2 Housing and territorial cohesion

2.2.1 The residential environment has always played a structuring role in our societies; the public areas that provide meeting places are linked with zones of individual or collective housing. Town planning and the creation of pleasant districts to live in where the home is a fundamental component are prerequisites for social and territorial cohesion.

2.2.2 Although housing and housing policies differ in each Member State, the European Union as a whole is characterised by very high urban density. European towns and cities are typically compact but what gives them an even more distinctive stamp is the presence of medium-sized buildings, and it is dwellings which shape the urban landscape.

2.2.3 Therefore housing is an important element of urban, economic and social policies in all European countries and there is a need for wider sharing of solutions, particularly in the light of the crises which have afflicted disadvantaged districts in several Member States.

2.2.4 The objectives of European regional policy are to enhance territorial, social and economic cohesion by promoting economic development in the most disadvantaged regions and, since 2005, by focusing on the priority objectives of growth and employment as part of the revised Lisbon agenda.

2.2.5 In order to ensure the competitiveness of all regions and foster job mobility, it is essential that housing supply be diversified, not only in terms of type of tenure but also the mix of neighbourhoods (type of housing and economic activities) or the social mix, which underpins social cohesion. The ghettoisation of some urban districts makes economic activity very difficult.

2.2.6 The location of affordable housing is the corollary of the preceding point. In tandem with the right to housing, the local authority must ensure that quality housing commensurate with household resources is made available throughout the area for which it is responsible.

2.2.7 **The development of residential areas has a strong impact on rural areas** and if there is to be sustainable development it is essential to give greater consideration to the interaction between rural and urban areas insofar as concerns housing policy.

### 2.3 Housing, economic growth, mobility and employment

2.3.1 In some European countries, particularly those which received financing from the Cohesion Funds during the previous funding period, the rate of economic growth is closely linked to the level of activity in the housing sector. This does not, however, mean that people have easy access to affordable housing. Ireland's 2006 National Reform Programme, drawn up under the relaunched Lisbon Strategy, stresses the poor sustainability of growth due to the lack of secure, affordable housing. For example, in its 2006 National Reform Plan, Portugal points out the need to give more support to the construction sector and local authorities in order to foster sustainable growth in the housing sector.

2.3.2 The ready availability of housing for all employees is a *sine qua non* for the development of a dynamic employment area, and lack of housing is a factor holding back growth in many employment areas in Europe. Thus housing may be a factor behind the rigidity of local labour markets and reduced labour mobility.

2.3.2.1 France has an interesting scheme whereby employers contribute the equivalent of 0.45 % of the total wage bill to housing policy, thus aiding efforts to develop housing solutions for employees. Similarly, the social partners run specific schemes for young people and vulnerable households (guarantee deposits).

2.3.3 It is a particularly pressing need for regions receiving growing numbers of migrants who encounter difficulties in finding housing in a tight market and who come up against discriminatory practices conducive to community segregation.

2.3.4 Housing is one of the main sources of employment in the Europe. There are numerous areas where the employment potential has not yet been developed, particularly in the fields of sustainable housing technologies and ecological homes, which are set to expand considerably in the future. Moreover, construction is one of the sectors facing a serious shortage of skilled labour.

2.3.5 Household and community services, and in particular personal care, are a very important source of employment and are often organised and provided in conjunction with housing-related services. Thus social housing providers, in partnership with social service organisations, provide not only homecare services for the elderly and people with disabilities but also a range of integrated health, education or childminding services, as, for example, in 'intergenerational' homes. Support for community-based initiatives can help to sustain social and cultural dynamism in neighbourhoods in crisis.

2.4 In addition to being a source of jobs, household and community services related to housing help to meet the challenges of demographic change, which inevitably have an impact on employment at regional level. For example, intergenerational homes, which are the subject of a targeted policy in Germany, are a response to the need for diversity and offer an effective way of combating the exclusion of elderly or other people living alone. Given the background of an ageing population across Europe, the exchange of good practice should be supported.

2.4.1 The EESC feels that the question of the right to housing should not be considered solely from the standpoint of combating exclusion but also from the viewpoint of population ageing, migratory flows and new forms of poverty, and taking into account the Lisbon Strategy, which seeks to breathe new life into the European economy through greater labour market mobility.

2.4.2 Worker mobility will remain illusory as long as nothing is done to strengthen fundamental social rights, including the right to housing assistance. It is worth noting the impoverishment of residents in social housing which was originally built to house persons in paid employment. The latter no longer have priority access to social housing and experience considerable difficulty in finding decent housing in areas where there is pressure on the housing market.

2.4.3 Over the past decade, housing prices have been rising constantly in nearly all EU countries. This has reduced the capacity of households to consume other goods, which will act as a brake on sustainable growth in the long term. In addition, low interest rates have led to over-investment in the residential sector, thereby putting pressure on financial resources allocated to housing (cf. the Swedish National Reform Programme). The social housing sector represents an instrument for regulating housing prices (through rents) and the sustainability of the sector.

2.4.4 The EESC would further note that when it comes to the implementation of social housing policy, the conditions on intervention by public authorities in Member States and by housing sector players are increasingly governed by Community law. It is essential that competition and internal market policies do not pose obstacles to housing policy aimed at guaranteeing access to decent and affordable housing for all, given the positive contribution which housing policy makes to economic growth and employment in Europe. The objectives have evolved over time and social landlords are now required to develop social services to deal with the lack of an integration policy, particularly for migrants.

## 2.5 Responding to the challenge of reducing energy consumption

2.5.1 The contribution which housing can make to reducing energy consumption is vital, and given the level of energy prices this is an area of activity which will become increasingly attractive for regions.

2.5.2 The largest potential for energy savings lies in the residential (households) sector where the potential is estimated to be 27 % of the energy used, as noted by the European Commission in its Action Plan for Energy Efficiency.

2.5.3 More and more households in Europe are living in poverty because of high home energy bills (fuel poverty).

2.5.4 The potential for reducing consumption will be even greater if appropriate incentive measures are taken at European level.

2.5.5 In this context, it is surprising to note that the approach adopted by the European Commission in its Action Plan for Energy Efficiency focuses mainly on new construction and proposes to extend the scope of standards in this field.

2.5.6 This approach is too narrow since it does not take into account the necessity to change our lifestyles as part of a broader sustainability framework that encompasses various aspects of individual behaviour (not only the utopian dream of everyone having their own house but also day-to-day environmental behaviour). The Commission's approach essentially amounts to raising production costs, which are already too high for average and disadvantaged households, without doing anything to improve the existing building stock or change attitudes, even though numerous studies attest to the importance of such measures.

2.5.7 There is a wealth of evidence that European regional policies make an important contribution to improving cohesion and living conditions. Nonetheless, a greater emphasis on housing in these policies could help to generate positive synergies.

2.5.8 Energy saving policy focuses on new housing, either ignoring old properties or simply applying the new regulations as such to them. Not only should the existing housing stock be taken into consideration, but approaches should be adapted to the specific characteristics of old properties and the particularly high cost of complying with standards.

2.5.8.1 Public assistance must take into account the specific features of social housing: tenants' poor financial position; fiscal

support which is less tailored to needs than that available for the private sector.

2.5.8.2 Energy is only one aspect of the problems associated with sustainable development: water, waste management, access for people with disabilities, safety, air quality and health at home. Housing can make a crucial contribution to sustainable development, but this presupposes that appropriate instruments are available, particularly as regards the existing housing stock.

## 2.6 European instruments for improving the contribution of housing to regional policies

2.6.1 The EESC supported extending eligibility for EDRF financing to housing projects in EU12 countries and to measures related to sustainable urban development and energy efficiency in EU15 countries and as part of integrated approaches for the development of disadvantaged urban districts. Given the importance of the housing dimension, there is a need to encourage and assist Member States and regions in planning the restructuring of urban districts and improving housing within the framework of the Structural Funds.

2.6.2 In fact, it is difficult to implement integrated strategies for the development of urban neighbourhoods without a housing strand. Here the approach adopted in the European Strategy for Social Inclusion, which included the objective of access to decent, affordable housing as a condition for successful social integration, remains equally relevant today. The EESC believes that all of the European instruments should be used to promote better social integration of all groups.

2.6.3 To this end, the European Social Fund must do more to support social inclusion measures which go beyond mere employment market inclusion, since it has been observed that the housing market and the employment market are intrinsically linked. Moreover, immigration policies, which today are set at European level, cannot overlook the role which housing can make in efforts to prevent spatial segregation. The guidelines which the European Commission is to publish on the integration of immigrants through housing must mark the first step in this process, which must also involve better support for projects with a housing dimension in the PROGRESS <sup>(2)</sup> programme.

2.6.4 It is important to note that improving energy efficiency in buildings is not only a priority for the EU12 countries but for the EU as a whole. In all Member States energy efficiency measures are eligible for Structural Funds financing, in the same way as are measures for improving public areas, the use and promotion of renewable energies and social inclusion measures.

<sup>(2)</sup> The aim of the PROGRESS programme is to provide financial support for the European Union's objectives in the field of employment and social affairs. It thus contributes to the achievement of the Lisbon Strategy objectives.

2.6.5 The EESC welcomed the initiative by the European Commission and the European Investment Bank (EIB) to create a new financial instrument, JESSICA <sup>(3)</sup>, specifically to provide support for the development of disadvantaged urban areas, including social housing in these areas. It is worth noting that this instrument will be able to raise capital needed for the renewal of these areas by offering loans and guarantees to players involved in urban regeneration and social housing. This instrument must be managed by players specialised in urban renewal and housing, in close partnership with local authorities. It must be able to exert a leverage effect in order to improve living conditions for local residents. The JEREMIE <sup>(4)</sup> programme also offers opportunities for players in the social housing field who work to create pleasant neighbourhoods to live in for everyone.

2.6.6 In the field of energy policies, the European Commission proposed the launch under the **Intelligent Energy** programme of a pilot action for the social housing sector which allowed the selection and promotion of model projects in the area of energy efficiency and exchanges between players in the sector. Given the European objectives to establish a common energy policy and to improve coordination of measures taken by Member States in this field, it is essential to ensure the continuation of this instrument and to extend its scope beyond support for pilot actions.

Brussels, 15 March 2007.

2.6.7 As regards technological and social innovation, the assistance provided under the 7th Framework Programme for Research and Development will make it possible to identify not only the potential for reducing energy consumption in the housing sector but also for sustainable urban development.

2.6.8 European standardisation is highly pertinent to housing and related services. However, this is an area where technical or urban planning choices intersect with the choices of society, and it is not acceptable that standards be laid down for the public at large by working parties without a guarantee that the standardisation process is subject to political control. The example of the CEN standard on 'prevention of crime by urban planning and building design', which was adopted without any real political consideration of the urban model resulting from the application of a risk-analysis approach, calls for a rethink of the standardisation process in this sector.

2.6.9 Finally, the Commission has drawn up a strategy for sustainable urban development which should encourage towns and cities to consider their development in terms of, inter alia, transport policy. However, this strategy is only indicative and there is a danger that its full potential will not be deployed if it does not touch upon the social dimension of sustainable urban development.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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<sup>(3)</sup> JESSICA: Joint European Support for Sustainable Investment in City Areas.

<sup>(4)</sup> JEREMIE: Joint Resources for Micro to Medium Enterprises.

**Opinion of the European Economic and Social Committee on the Proposal for a Council Directive concerning indirect taxes on the raising of capital (Recast version)**

COM(2006) 760 *final* — 2006/0253 (CNS)

(2007/C 161/04)

On 16 January 2007 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 23 February 2007. The rapporteur was Mr Burani.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 159 votes to none, with six abstentions.

## 1. Background

1.1 The proposal relates to the recast version of Council Directive 69/335/EEC on capital duty, which had been amended a number of times. The Directive — which was originally intended to harmonise tax systems and to prevent Member States from creating or levying other similar taxes — was amended on a number of occasions, until in 1985 it was acknowledged by Directive 85/303/EEC that capital duty should be **completely abolished** given its detrimental economic effects on businesses.

1.2 However, the losses of revenue which would result from such a change were unacceptable for certain Member States; the 1985 Directive therefore had to grant a derogation, giving Member States the opportunity to either **exempt** transactions from capital duty or **charge a single rate of tax**, not exceeding 1 %.

1.3 Of course, the principle still applies in the new proposal, which is merely a recasting of the previous texts; the EESC notes this and endorses it. However, the Commission's Explanatory Memorandum gives rise to a number of comments, which the Council may wish to take on board with a view to further initiatives.

## 2. Conclusions and recommendations

2.1 The majority of the 25 Member States acted on the Council's 1985 recommendation, abolishing the duty comple-

tely; at present, only seven Member States are still levying it: Poland and Portugal, at a rate of 0.5 % or less; Cyprus, at a rate of 0.6 %; and Greece, Spain, Luxembourg and Austria, at the full rate of 1 %. This unequal treatment is a **barrier to the creation of a level playing field** between European businesses, which is one of the prerequisites for the single market to function properly. The fact that a good many other disparities and barriers continue to exist in the field of taxation is no excuse not to abolish this duty once and for all.

2.2 It would be useful for the Member States which continue to take up the derogation to compare the benefits in terms of tax revenue with the probable (and to some extent calculable) loss of investment from other EU and third countries, put off by a duty which is now extinct almost everywhere. The EESC believes that forfeiting the derogation would benefit stakeholders and be a step towards the proper functioning of the single market as a whole.

2.3 The EESC would also like to draw attention to a practice that has been adopted by a number of Member States, whereby new charges are introduced to surreptitiously replace the duty once it has been abolished. In some cases, the Commission has intervened and opened an infringement procedure, but other, unnoticed incidents cannot be ruled out. Vigilance on the part of the social partners could help to eradicate them.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the retrofitting of mirrors to heavy goods vehicles registered in the Community**

COM(2006) 570 final — 2006/0183(COD)

(2007/C 161/05)

On 10 November 2006 the Council decided to consult the European Economic and Social Committee, under Article 71(1)(c) of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Ranocchiaro.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 139 votes, with six abstentions.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the Commission's commitment to strive for ever safer road traffic and fully supports its proposal, which is worthy of a place among the initiatives undertaken to this end.

1.2 The EESC congratulates the Commission on carrying out a cost-benefit analysis and a thorough impact assessment before issuing the proposal: this enabled it to make the proposal realistic, taking all aspects of the issue into due consideration and giving the necessary priority to the protection of the most vulnerable road users.

1.3 However, the EESC feels that the proposal as it is currently worded contains a number of problematic elements which should be pointed out, and suggests some additions and clarifications which should make it easier to implement correctly in terms of timeframes, certification and monitoring of implementation.

1.4 The EESC calls upon the Commission to take into due consideration its suggestions regarding the need for genuinely uniform treatment to avoid distortions of competition between Member States, and regarding the importance of giving Member States more recommendations on certification systems which are easy for the national authorities governing the sector to use.

1.5 The EESC strongly recommends to the Council and the European Parliament that the proposal be implemented as quickly as possible so as to cover most of the vehicle fleet and to ensure that as many human lives as expected are saved.

## 2. Reasons for the Commission's proposal and its legislative context

2.1 Road safety has always been an absolute priority for the Community institutions. There is no doubt that the publication of the White Paper on transport policy <sup>(1)</sup>, one of whose objectives was to halve the number of road accident victims by

<sup>(1)</sup> *European transport policy for 2010: time to decide* (COM(2001) 370 final).

2010, was a milestone in its renewed commitment to this cause.

2.2 Successive initiatives, such as the Road safety action programme <sup>(2)</sup>, the eSafety initiative and many others, piloted an integrated approach to the issue, involving industry, public authorities and road users' associations, thereby overcoming the constraints which — partly in the name of the subsidiarity principle — had been placed on the introduction of binding, practical measures at European level.

2.3 Much progress has been made: for example, in the past 30 years, while road traffic has trebled, the number of road accident victims has halved. However, this statistic should on no account be allowed to ease our consciences as Europe is still paying too high a price for the relentless increase in mobility, with around 40 000 deaths per year and the bleak prospect that the challenge laid down by the 2001 White Paper may be lost.

2.4 The EESC recognises that decisive progress in the area of road safety can only be achieved if improvements are made in all three of its 'pillars', i.e. the automotive industry, infrastructure and user behaviour. However, it supports any initiative which, although targeting only one of the pillars, can contribute towards achieving the ambitious 2001 goal.

2.5 It was with this in mind that the EESC endorsed <sup>(3)</sup> the adoption of Directive 2003/97/EC <sup>(4)</sup>, which proposed a European-level harmonised approach to road safety to reduce the risks arising from heavy goods vehicle drivers having incomplete vision to the side.

<sup>(2)</sup> COM(2003) 311 final.

<sup>(3)</sup> CESE 512/2002 — OJ C 149 of 21.6.2002.

<sup>(4)</sup> '... relating to the type-approval of devices for indirect vision and of vehicles equipped with these devices, amending ...', OJ L 25 of 29.1.2004.

2.6 Indeed, the aim of Directive 2003/97/EC was to remove the risk of accident arising from the fact that heavy goods vehicles have a blind spot on the passenger side, requiring a set of more effective mirrors to be fitted as of 2006/2007.

2.7 Many road accidents occur precisely because the blind spot around their vehicle prevents large-vehicle drivers from detecting other road users in their immediate vicinity.

2.8 In particular, the risk arises at crossings or roundabouts when, as he changes direction, the driver has to cope with a blind spot on the passenger side which prevents him seeing the road users nearest to the vehicle, such as pedestrians, cyclists and motorcyclists, who are also the most vulnerable road users.

2.9 An estimated 400 people die in this type of accident each year, and that is sufficient reason why the EESC, like other parties, unreservedly supported the adoption of Directive 2003/97/EC repealing and replacing the first directive on the type-approval of systems for indirect vision (71/127/EEC) and subsequent amendments. The repealed directive laid down provisions on the construction and fitting of rear-view mirrors but national measures on the subject remained untouched. Only with Directive 2003/97/EC did a specific set of mirrors or other systems for indirect vision become mandatory throughout Europe.

2.10 As regards types of heavy duty vehicles, Directive 2003/97/EC concerns N<sub>2</sub> goods vehicles over 7.5 t and N<sub>3</sub> (°) goods vehicles: however, it was amended by Directive 2005/27/EC (°), which, under certain conditions, requires Class IV and Class V mirrors (°) to be fitted on vehicles weighing 3.5 t instead of the previous 7.5 t.

2.11 Directive 2003/97/EC applies to vehicle type-approvals (new types) with effect from 26 January 2006 and to new vehicle registrations (new vehicles) with effect from 26 January 2007. This means that vehicles already in circulation, i.e. most of the fleet, will not be subject to the provisions.

2.12 There are well over five million heavy duty vehicles (=> 3.5 t) in the European Union. Given the life of these vehicles (as long as 16 years) and the slow turnover of the fleet (300 000 registrations each year) with 2007 as the start of the process, it would be 2023 before the entire fleet were equipped with the new mirrors.

(°) N<sub>2</sub>: maximum weight > 3,5 t and <= 12 t; N<sub>3</sub>: maximum weight > 12 t.  
(°) OJ L 81 of 30.5.2005.

(°) Class I — Interior rear-view mirror; Classes II and III — Main exterior rear-view mirrors; Class IV — 'Wide-angle' exterior mirrors; Class V — 'Close-proximity' exterior mirrors; Class VI — Front mirrors.

2.13 The current Commission proposal seeks to find ways of making the fleet already in circulation safe as well, as quickly as possible.

### 3. Gist of the proposal

3.1 The proposal is to be a temporary measure. In essence, the Commission calls for the provisions of Directive 2003/97/EC to be extended to N<sub>2</sub> and N<sub>3</sub> vehicles already in circulation in respect of the new Class IV and V mirrors (field of vision on the passenger side), with the following exceptions:

— vehicles registered more than 10 years before the date of transposition of the directive into national legislation (about 1998);

— vehicles where it is impossible to mount Class IV and Class V mirrors in compliance with the following conditions:

a) no parts of the mirrors are less than 2 m (± 10 cm) from the ground when the vehicle is under a load corresponding to its maximum technically permissible weight,

b) the mirrors are fully visible from the driving position;

— vehicles that were already subject to national measures (°) requiring fitment of other means of indirect vision covering not less than 95 % of the total field of vision at ground level provided by the Class IV and the Class V mirror under Directive 2003/97/EC.

3.2 Member States have to implement the directive, and therefore ensure that the new mirrors are fitted, within 12 months of its entry into force, with a number of possible derogations:

— compliance with the requirements of the Directive will be deemed to be achieved where vehicles are equipped with mirrors whose combination of field of vision covers not less than 99 % of the total field of vision at ground level provided by the Class IV and the Class V mirror under Directive 2003/97/EC;

— Member States may give vehicles registered from 4 to 7 years before the entry into force of the directive an additional year to comply and vehicles registered from 7 to 10 years before the entry into force of the directive an additional two years.

(°) The 'grandfathers': Belgium, Denmark and the Netherlands. The same may be said of Germany, where a voluntary agreement between the government and truck manufacturers enables the same results to be achieved as by the 'grandfathers' for vehicles produced after 2000.

3.3 Lastly, vehicles which it is technically impossible to fit with the requisite mirrors may be equipped with other devices for indirect vision (video cameras or other electronic devices), provided that such devices cover at least 99 % of the field of vision as specified above. In these cases, the vehicles must be individually approved by the competent authorities of the Member States.

3.4 Member States are free to extend the scope of the directive to vehicles over 10 years old.

#### 4. General comments

4.1 It should be pointed out that the proposal only makes sense if it is implemented quickly enough to have a significant impact on the fleet in circulation. Indeed, according to the Commission's estimates, the phasing-in of the new mirrors on vehicles will enable a further 1 200 human lives to be saved.

4.2 However, in the impact assessment accompanying the proposal <sup>(9)</sup>, the Commission itself acknowledges that immediate, rigorous implementation of the new requirements would create numerous technical problems, with adverse economic and other effects on operators in the sector and consequent potential market distortions.

4.3 The Commission states that, for over half of the fleet in circulation, the mirrors can be replaced easily and affordably, i.e. at a cost of about EUR 150 <sup>(10)</sup>. Where the rest of the fleet is concerned, solutions range from a slight downsizing of field-of-vision requirements (> 99 %) to highly complex solutions for older vehicles, some of which would require structural modifications in the cabin, the success of which is uncertain, at a cost of thousands of euro.

4.4 Given these variables, in difficult or (where some vehicle models/versions are concerned) apparently insoluble cases, the Commission calls on national inspection authorities 'to be flexible and accept exceptional solutions at reasonable costs' <sup>(11)</sup>.

4.5 While the EESC understands the reasons for this vagueness, caused by the many technical issues to be addressed, it feels that the proposal as currently worded is liable to give rise to substantial differences in interpretation, with adverse effects on the European freight transport market.

4.6 The EESC is concerned about two aspects in particular: the risk of disparities in the treatment of operators in the road transport sector, leading to distortion of competition, and the lack of a simple, reliable, uniform certification and monitoring system for the new provisions.

4.6.1 With regard to the first point, it seems inappropriate to require new mirrors to provide 99 % coverage while, at the

same time, allowing Member States which have already legislated on the subject a limit of 95 %. The EESC feels that it would be fairer, as well as simpler for monitoring purposes, to lay down a single percentage applying to the whole of the EU.

4.6.2 Remaining on the subject of uniform treatment, the fact that Member States are given the option to decide to delay implementation of the new measures where older vehicles are concerned <sup>(12)</sup> could cause distortions of competition between vehicles traded internationally. The EESC therefore recommends that the timeframe for implementing the new measures be the same in all the Member States.

4.6.2.1 In this regard, given the large number of vehicles and the complex nature of certification, the EESC believes that an adjustment period of two years from the transposition of the directive is necessary but that that will suffice. On this point, the general approach adopted by the recent Transport Council <sup>(13)</sup> seems to tally with the solution suggested here. On the other hand, the same Council appeared to be planning to apply the directive to vehicles registered as of 1 January 2000 rather than 1998, thereby excluding about 15 % of the fleet in circulation.

4.6.3 The EESC feels the second point raised is even more worrying — certification and monitoring in respect of the new requirements. It is doubtful whether verification and certification of the field of vision can be carried out effectively on every vehicle as part of a periodic inspection. Determining the field of vision is actually a very demanding operation involving a set of parameters and different, complex recordings.

4.6.3.1 Normally, a type approval mark, as in the case of the above-mentioned Directive 2003/97/EC, relates to the certification of an assembly (mirror, mount, cabin, seat, height of the mirror from the ground) which is not determined by the mirror alone but also by the vehicle model on which it is fitted. These tests are carried out on a prototype, whose approval implies and guarantees the approval of the entire subsequent production series. Thus, the mirrors are type-approved as a single set of components, with a type-approval mark affixed on the body of the mirror which does not have to be replaced when the reflective glass is replaced. This raises a problem for vehicles already in circulation which have been type-approved on the basis of the previous Directive, 71/127/EEC: were the reflective glass alone to be replaced, such vehicles would bear a type-approval mark referring to a repealed directive.

<sup>(9)</sup> SEC(2006) 1238 and SEC(2006) 1239.

<sup>(10)</sup> This cost is realistic where only the reflective glass is replaced but becomes much higher where a complete mirror is fitted.

<sup>(11)</sup> Impact Assessment, page 5 of the English version.

<sup>(12)</sup> Cf. point 3.2.

<sup>(13)</sup> TTE Council of 12.12.2006.

4.6.3.2 Therefore, if no conformity guarantee (mark, certificate etc.) were provided for, there would be a danger that all vehicles would have to be inspected and undergo the tests laid down in Directive 2003/97/EC. In effect, the field of vision of each individual vehicle would have to be re-type-approved, as in cases where electronic devices are used to achieve the field of vision required. It is easy to imagine the impact of this on the workload of the certification and monitoring authorities, given that millions of vehicles would be involved.

4.6.3.3 The solution recommended by the Commission and the Council makes conformity certification part of the annual road worthiness tests required by Directive 96/96/EC of 20 December 1996 for vehicles weighing over 3.5 t.

4.6.3.4 These tests are limited, where mirrors are concerned, to recording that they have been safely fitted at the requisite points and that the assemblies are complete. It is therefore unlikely that it will be possible to certify on the basis of these tests that the overall field of vision required, as described above, has been achieved.

4.6.3.5 The EESC's preferred solution, which would be more practical to implement and yield more reliable results, is for the company fitting the new mirrors to issue a declaration of conformity. This document, signed by the company representative, would contain all the vehicle's specifications, including those relating to replaced mirrors or reflective glass. The declaration would be kept in the vehicle and would be valid for the purposes of both the annual inspection and roadside checks. Moreover, as the document would consist almost exclusively of numerical codes, it would raise no particular problems of translation into the EU languages.

Brussels, 14 March 2007.

## 5. Specific comments

5.1 The report introducing the proposal states that Directive 2003/97/EC was amended by Commission Directive 2005/27/EC to extend the general requirement for fitting Class IV and Class V mirrors down to N<sub>2</sub> vehicles weighing 3.5 t instead of the previous 7.5 t.

5.1.1 However, this wording is misleading as the provision could be seen as applying to all N<sub>2</sub> vehicles under 7.5 t. In actual fact, Directive 2005/27/EC lays down this requirement only for N<sub>2</sub> vehicles which have a cabin similar to that of an N<sub>3</sub> vehicle, where a Class V mirror can be fitted two metres from the ground. Only in this case can the fitting of the two new mirrors be required.

5.1.2 The EESC therefore suggests, in the interests of clarity, that Article 2(b) of the proposal be revised to include a specific exemption for N<sub>2</sub> vehicles weighing 7.5 t or less to which it is not possible to fit a Class V mirror, in line with the provisions of Directive 2005/27.

5.2 Recital 8 provides for an exemption for 'vehicles whose remaining lifespan is short', clearly referring to vehicles which have been in use for a considerable number of years and therefore have a limited remaining lifespan. Given that the average fleet lifespan varies between Member States, the Commission needs to make this concept clearer and quantify it.

5.3 Many vehicles already in circulation have been fitted with an optional (Class IV) wide-angle mirror on the driver's side. The requirement now endorsed for a new wide-angle mirror on the passenger side means that the first mirror will have to be replaced too as the driver, who already has to cope with several mirrors, could have problems using two wide-angle mirrors with different curvatures to assess distances.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and the Council establishing the European Institute of Technology**

COM(2006) 604 final/2 — 2006/0197 (COD)

(2007/C 161/06)

On 20 December 2006 the Council decided to consult the European Economic and Social Committee, under Article 157(3) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Committee instructed the Section for the Single Market, Production and Consumption to prepare its work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Pezzini as rapporteur-general at its 434th plenary session, held on 14-15 March 2007 (meeting of 14 March), and adopted the following opinion by 93 votes to two with one abstention.

## 1. Conclusions and recommendations

1.1 Top performances in the scientific and technical field, and their conversion into a competitive, economic force, are essential preconditions for safeguarding our future, for example with regard to nanotechnology, information society, energy and climate issues, preserving and improving our current global position, and developing rather than jeopardising the European social model.

1.2 The Committee has always welcomed any initiative aimed at:

- increasing the innovative capacity of the Community and the Member States;
- promoting an integrated approach to the knowledge triangle <sup>(1)</sup>;
- consolidating links between academia and business;
- supporting all efforts to promote research and innovation;
- extending public-private partnerships in RTD;
- increasing SMEs' access to new skills.

1.3 The Committee strongly and wholeheartedly supports the idea of creating an instrument such as the European Institute of Technology (EIT) with a view to contributing to the development of quality education, innovation and research by encouraging cooperation and integration between European centres of excellences in the field of industry, universities and science.

1.4 The Committee stresses the importance of developing the EIT proposal consistently with its legal basis, aimed in particular at 'speeding up the adjustment of industry to structural changes, encouraging an environment favourable to initiative and to the development of undertakings throughout the Community, particularly small and medium-sized undertakings, encouraging an environment favourable to cooperation between

undertakings, and fostering better exploitation of the industrial potential of policies of innovation, research and technological development' <sup>(2)</sup>.

1.5 However, the Committee believes that, if this new integrated knowledge, research and innovation instrument is to succeed, it must be able to differentiate itself and stand out from other, existing integrated Community instruments such as the European Technology Platforms, Joint Technology Initiatives, European Networks of Excellence, Integrated Projects, and European advanced masters schemes <sup>(3)</sup>.

1.6 The Committee is aware that it would be inappropriate to make simplistic comparisons between the future EIT and an institute such as MIT in the United States, given that the latter was never a federal excellence project but rather a top-level university characterised by the presence of the 'MIT Corporation', supported by an investment management company. Yet the success of institutions like the MIT shows that excellence is the result of an evolutionary process based on the right principles and on sufficient support.

1.7 However, the Committee believes that if the future EIT wants to become a global performer and a world class player symbolising the harnessing of European excellence, it needs to go beyond merely integrating resources.

1.8 To this end, not only must its design, structure and form fully and coherently meet the objectives set out in the Treaty, which form its fundamental legal basis; they must also serve to develop a science- and technology-oriented culture of competence and excellence which attracts the best students and shapes the best scientists and engineers. This is a prerequisite for the creation of new knowledge and continuous innovation.

<sup>(1)</sup> Attaining knowledge through research, passing it on through education, and applying it through innovation.

<sup>(2)</sup> See Article 157 of the EC Treaty, which forms the legal basis of the Commission proposal.

<sup>(3)</sup> See, for example, EMM Nano offered under Erasmus Mundus, [www.emm-nano.org](http://www.emm-nano.org)

1.9 The Committee also believes that it is important not to stop at the idea of an internationally prestigious knowledge flagship (\*), but it needs the stamina of all engaged players to develop a signature of outstanding results characterising the individual Knowledge and Innovation Communities (KICs) to seek to bring about concrete results that impact on the market:

- in terms of transforming knowledge and research findings into real market innovations;
- thanks to the creation of new businesses at the forefront of competitiveness;
- attracting and creating experts of international standing;
- promoting new, stable, skilled jobs.

1.10 The structure and form of the Institute should be designed and set up in such a way as to:

- address the needs of European business and employment, strengthening efforts towards a knowledge-based society;
- be in tune with the economic and social dimension of the Community model;
- have a strong international flavour so as to be able to attract researchers and businesses from all over the world.

1.10.1 The joint undertaking formula could be given due consideration.

1.11 At the same time, at least the initial success of the EIT will heavily depend on sufficient funding by the Community and Member States, which, however, should not be diverted from the other adopted programmes for research and innovation.

1.11.1 The Committee believes that a number of factors will become increasingly important in the future EIT: firstly, the mechanisms for encouraging patents and the arrangements for managing intellectual property; and secondly, the ability to find sources of private financing, as these will need to play a much greater role than Community funds if resources are not to be diverted from other programmes, especially those for research and innovation.

1.11.2 As regards financial resources, the Committee thinks that provision needs to be made for initial funding from the Community, which could come from additional resources under the Mid-term review of the Seventh RTD Framework Programme, while a substantial part should come on a pro-rata basis from the Member States. Moreover, the possibility of activating EIB actions for innovation networks and university research should not be overlooked.

1.12 Just as important, in the Committee's view, are the skills the Institute will be able to develop in the knowledge, innovation and research market so as to ensure gradually increasing

interaction between the Institute itself and its branches, i.e. the Knowledge and Innovation Communities (KICs).

1.12.1 This could also take place through major public events organised by the EIT system and aimed at establishing a single brand of excellence with a network structure that draws in and passes on knowledge and innovation in a decentralised manner.

1.12.2 Innovation and success are the result of a delicate balance between goal-oriented procedures and individual freedom to develop new ideas and concepts to be carried into the test-area of competition. Compliance with standardised EU quality assurance requirements must underpin research, knowledge and innovation initiatives throughout the EIT network. Without market-driven interaction between research, innovation and industry, public-funded research will have only a limited impact on the economy.

1.13 The system for selecting networks of businesses, laboratories and universities as candidates for becoming KICs should, in the Committee's view, work on the bottom-up principle and be based on clear and transparent criteria including professional success and excellence, skill and experience in transferring technologies, especially to SMEs.

1.13.1 In any case, the new KIC status should not be granted indefinitely, but rather be subject to periodic assessment of quality and of measurable results, notwithstanding the need for an appropriate build-up period.

1.14 The Committee also believes that the EIT system should aim — where appropriate — to incorporate selected centres of excellence that already exist in the EU, but avoid becoming a bureaucratic support superstructure for the centres of excellence that already exist in the EU; for this very reason, it should focus more on the industrial component and that of interdisciplinary research, both within its statutory bodies and in the selection bodies.

1.14.1 With this in mind, it would be appropriate to set up an EIT Investment Management Company, which would provide for a more innovative approach that could help redress the shortcomings that have so often been a feature of relations between industry, academia and research.

1.15 Finally, the Committee believes that more clarity is needed as regards the definition and awarding of EIT degrees by the KIC networks and the EIT itself. At least for a sufficiently extended initial period, awarding degrees should remain the prerogative but also the responsibility of those universities and/or technical universities (institutes of technology) of the Member States which are selected as partners within the individual KICs, their degrees being enhanced, once minimum conditions are fulfilled, by the EIT label.

(\*) COM(2006) 77 final, 22 February 2006.

1.16 The Committee feels that the awarding of the EIT label to KIC network degrees should be subject to the following conditions: that the studies and research have been carried out in at least three different institutes in three Member States (to give the degree a interdisciplinary European flavour), that they must have displayed sufficient impact potential in terms of innovation, and, lastly, that they are endorsed by the central EIT.

1.17 As regards the EIT Statutes, the Committee believes that it would be appropriate for the Administrative/Governing Board <sup>(5)</sup> provided for in the Commission proposal to be supported by a Monitoring Committee made up of representatives of the Member States and chaired by a Commission representative, an Executive Committee made up of two representatives each of industry, research centres and universities respectively and headed by the Chairperson of the Governing Board, a Director and a Rector.

## 2. Introduction

2.1 The mid-term report submitted to the European Council in Spring 2005 entitled *Working together for growth and jobs: A new start for the Lisbon Strategy* <sup>(6)</sup> defined fundamental principles for reinvigorating the Strategy, i.e. focused actions, broad ownership of the goals and clearly-defined levels of responsibility.

2.2 The elements supplementing the Lisbon Strategy included spreading knowledge through high-quality education systems. In particular, the Union must ensure that our universities can compete with the best in the world. However, this requires the completion of the European Higher Education Area, which will make it easier to build and disseminate knowledge throughout the EU.

2.3 To this end, the Commission stated its intention to moot the creation of a European Institute of Technology, and its commitment to enabling European universities to compete internationally, as 'existing approaches to financing, governance and quality are proving inadequate to meet the challenge of what has become a global market for academics, students and knowledge itself.

2.4 The Committee has commented several times on the issue <sup>(7)</sup>. In its exploratory opinion on *The road to the European knowledge-based society — the contribution of organised civil society*

to the Lisbon Strategy <sup>(8)</sup>, it upheld the need to create a Common European Area of Knowledge, based on intensified cooperation in learning, innovation and research policies. Moreover, in this opinion the Committee called upon businesses, financial institutions and private foundations to shoulder their responsibilities and invest more in the knowledge-based economy, also supporting European public-private partnership (PPP) agreements.

2.5 In the United States of America, the Massachusetts Institute of Technology — MIT — set up in Boston in 1861, now has approximately 10 000 students and a teaching body of around 10 000 people working in a high-quality multi-disciplinary system, including economics, law, architecture, engineering, management techniques, mathematics, physics and biology. The MIT costs over USD 1 000 million per year, but in the 'Shanghai Listing', which enumerates the best universities in the world <sup>(9)</sup>, it ranks fifth.

2.6 As regards Europe, by 2010 the Bologna process goals should have been achieved. The Bologna process is the initiative launched by the European Union in 1999 to harmonise the various higher education systems in Europe, with the aim of creating a European Higher Education Area and promoting the European higher education system internationally. The following objectives were set:

- adoption of a system of easily readable and comparable degrees;
- convergence of education systems, to be based on three main cycles (bachelor's degree, master's degree, doctorate);
- consolidation of the credits system, based on the ECTS <sup>(10)</sup>, under which credits can be obtained from different faculties;
- promotion of mobility (for students, teachers, researchers and administrative and technical staff), along with removal of the remaining obstacles to free movement;

<sup>(8)</sup> OJ C 65, 17.3.2006, rapporteurs Mr Olsson, Ms Belabed and Mr van Iersel.

<sup>(9)</sup> Cf. the 2005 Shanghai Listing of the top 50 universities. Only four EU universities are in the top 30: 1 Harvard University USA, **2 Cambridge University UK**, 3 Stanford University USA, 4 University of California — Berkeley USA, 5 Massachusetts Inst. Tech. (MIT) USA, 6 California Inst. Tech. USA, 7 Columbia University USA, 8 Princeton University USA, 9 University of Chicago USA, **10 Oxford University UK**, 11 Yale University USA, 12 Cornell University USA, 13 University of California — San Diego USA, 14 University of California — Los Angeles USA, 15 University of Pennsylvania USA, 16 University of Wisconsin — Madison USA, 17 University of Washington — Seattle USA, 18 University of California — San Francisco USA, 19 Johns Hopkins University USA, 20 Tokyo University Asia/Pac, 21 University of Michigan — Ann Arbor USA, 22 Kyoto University Asia/Pac, **23 Imperial College London UK**, 24 University of Toronto Canada, 25 University of Illinois — Urbana Champaign USA, **26 University College London UK**, 27 Swiss Fed. Inst. Tech. — Zurich Switzerland, 28 Washington University — St. Louis USA, 29 New York University USA, 30 Rockefeller University USA.

<sup>(10)</sup> European Credit Transfer and Accumulation System.

<sup>(5)</sup> See footnote 28.

<sup>(6)</sup> COM(2005) 24 final, 2.2.2005.

<sup>(7)</sup> (OJ C 120 of 20.5.2005), rapporteurs Mr Ehnmark, Mr Vever and Mr Simpson; (OJ C 120 of 20.5.2005) rapporteur Mr Koryfidis; CESE 135/2005 (OJ C 221 of 8.9.2005), rapporteur Mr Greif; (OJ C 221 of 8.9.2005), rapporteur Mr Koryfidis.

— promotion of European cooperation in quality assurance;

— promotion of an essential European dimension in higher education, concerning syllabuses, cooperation between universities and other higher-education institutions, mobility, integrated programmes, training and research.

2.7 On 26 September 2006, the European Parliament adopted a resolution on the creation of a European qualifications framework<sup>(11)</sup>, taking into account the Bologna process and the 2002 Copenhagen process and based on facilitating enhanced European cooperation in the field of vocational education and training, with a number of specific goals<sup>(12)</sup>.

2.8 In 2005, the Commission published the second report on Progress towards the Lisbon objectives in education and training<sup>(13)</sup>. This stressed, inter alia, the difficulty of raising the number of graduates in Europe, the need to update and supplement knowledge, skills and qualifications throughout working life through advanced lifelong learning systems and, lastly, the need to increase public investment in higher education and training, supplementing it with private investment, and to train enough high-calibre, highly-skilled academic and teaching staff to replace older workers (around 1 000 000 people between 2005 and 2015).

2.9 In 2006, an OECD survey was carried out from the demand perspective<sup>(14)</sup>. Entitled the Programme for International Student Assessment (PISA)<sup>(15)</sup>, it provides a general framework of students' characteristics, attitudes and ability to use the knowledge they have acquired.

<sup>(11)</sup> European Parliament resolution on the creation of a European qualifications framework of 26.9.06 (2006/2002/INI).

<sup>(12)</sup> Copenhagen process goals:

- a single framework for transparency of competences and qualifications (European CV, certificates, diplomas, Europass-Training brand etc.);
- a system of credit transfer for vocational education and training, similar to the ECTS in higher education;
- common criteria and principles for quality in vocational education and training, structured around a core of common criteria and principles for quality which could serve as a basis for European-level initiatives such as quality guidelines and checklists for education and training;
- common principles for the validation of non-formal and informal learning, in particular to ensure greater compatibility between approaches in different countries and at different levels;
- a European dimension of information guidance and counselling services, giving citizens improved access to lifelong learning.

<sup>(13)</sup> SEC(2005) 419 of 22.3.2005 — Commission staff working paper: Progress towards the Lisbon objectives in education and training, 2005 Report.

<sup>(14)</sup> On 2 October 2006 the OECD published the 2009-2015 programme framework, which incorporates three new areas of research:

- 1) the measurement of learning progress over time and the comparison of progress across countries;
- 2) the relationship between aspects of instruction and learning outcomes;
- 3) the assessment of ICT competences, as well as the use of technology as a means to capture a broader range of assessment tasks.

<sup>(15)</sup> PISA, Assessing Scientific, Reading and Mathematical Literacy: a framework for PISA 2006, OECD 11.9.2006.

2.10 The European university educational system's weaknesses seem to have four main causes<sup>(16)</sup>:

— **excessive uniformity**: insufficient flexibility and diversity to meet new requirements;

— **insularity**: all too often, universities are in an ivory tower, with inadequate links to business and society;

— **over-regulation**: all too often, universities cannot modernise due to national regulations;

— **under-funding**: with both research and education-and-training spending lagging behind its competitors, the EU would have to spend EUR 150 billion per annum to bridge the gap — i.e. more than the entire Community budget<sup>(17)</sup>.

2.11 The main general problems which could be resolved by creating a European Institute of Technology (EIT) are as follows:

— low levels of investment in higher education and R&D and lack of concentration of investment in communities of excellence which can compete internationally;

— inadequate tools and conversion of knowledge and R&D outputs into competitive economic activities and jobs, compared with the EU's major competitors;

— models of governance and organisation of European research and higher education bodies which are not innovative enough and often inflexible and over-regulated;

— lack of an integrated approach to the 'education/research/innovation' triangle;

— insufficient ability to attract and retain the best teachers and students.

2.12 In its resolution on the 2007 annual budget, while the European Parliament welcomed the idea of strengthening the capacities of the knowledge triangle (education, research and innovation) and reinforcing the links among them, it was sceptical regarding the setting-up of a new European Institute of Technology, which it believed 'may undermine or overlap on existing structures and may therefore not be the most effective use of funds in this context'<sup>(18)</sup>.

<sup>(16)</sup> See 'Can Europe close the education gap?' — Friends of Europe 27.9.2005.

<sup>(17)</sup> The 2006 EU Budget totalled EUR 121.2 billion: of this sum, EUR 7.9 billion were allocated to competitiveness, including EUR 0.7 billion for education and training.

<sup>(18)</sup> EP resolution of 28.4.2006 on the 2007 budget: the Commission's Annual Policy Strategy report (PE 371.730V03-00) (A6-0154/2006).

2.13 For its part, however, the European Council of 15-16 June 2006 stressed that 'the European Institute for Technology (EIT), working with existing national institutions, will be an important step towards filling the existing gap between higher education, research and innovation together with other actions that enhance networking and synergies between excellent research and innovation communities in Europe'. It invited the Commission to prepare 'a formal proposal for its establishment'. In response to this invitation, in November 2006 the Commission issued the proposal addressed by this opinion <sup>(19)</sup>, which follows on from its two previous Communications on the matter <sup>(20)</sup>.

2.13.1 Since then, the December 2006 European Council confirmed the favourable attitude previously expressed.

### 3. The Commission proposal

3.1 The concept underlying the Commission's Proposal for a regulation setting up the EIT is that the EIT can contribute to industrial competitiveness, strengthening the Member States' and the EU's innovation capacity. The proposal's goals are to:

- contribute to improving the competitiveness base of the Member States by involving partner organisations in integrated innovation, research and education activities in line with international standards;
- promote innovation through trans- and inter-disciplinary strategic research and education in areas of key economic or societal interest;
- build a 'critical mass' of human and physical resources in these fields of knowledge, attracting and retaining private sector investment in innovation, education, and R&D, as well as students at master's level, doctoral candidates and researchers;
- become a symbol of the integrated European Innovation, Research and Education Area;
- become a reference for managing innovation and a model for the modernisation of higher education and research institutions in the EU;
- build a global reputation and provide an attractive environment for the best talents worldwide, remaining open to partner organisations, students and researchers from outside the Union.

3.2 The Commission proposes to give the EIT a two-level integrated structure, which combines a bottom-up approach with a top-down approach, as follows:

- the EIT itself, under the direction of a Governing Board. The EIT, a legal entity, will be made up of the Governing Board, assisted by a very small number (60 people) of scientific and administrative staff. The Governing Board will be composed of a group of 15 members representing enterprise and the scientific community, and an additional four members repre-

senting the staff and students of the EIT and the KICs (see below). Moreover, a supervisory Executive Committee, a Director responsible for day-to-day management who is the legal representative, and an Audit Committee are also provided for under the EIT's statutes, annexed to the proposal.

- Knowledge and Innovation Communities (KICs), based on a network approach. KICs are consortia of partner organisations representing universities, research institutes and businesses, who form an integrated partnership in response to invitations from the EIT to submit proposals. KICs' internal organisation is highly autonomous to enable them to achieve the objectives set on a contractual basis with the EIT.

3.3 The EIT's general budget for 2007-2013 is estimated at about EUR 2 367,1 million, coming from:

- a) External and internal sources, including Member States' and regional and local authorities' contributions; private-sector contributions (companies, venture capital, banks, including the EIB); resources resulting from its own activity (e.g. from intellectual property rights); resources from the donations and endowments that the EIT may accumulate;
- b) Community sources: EC budget, from unallocated margins (EUR 308.7 million), Structural Funds, 7th RTD Framework Programme, the EU Lifelong Learning Programmes, the CIP (Competitiveness and Innovation Programme).

### 4. General comments

4.1 The Committee has always welcomed moves to boost the innovation capacity of the EU and the Member States, advocating an integrated approach to the knowledge triangle, particularly linking the academic world and enterprise. It is firmly in favour of ensuring better coordination of research, boosting innovation and education in the EU, achieving a more effective public-private partnership in the area of R&D and providing better access for small and medium-sized businesses to new skills <sup>(21)</sup>.

4.2 However, the Committee cannot deviate from the three key principles underlying the reinvigoration of the Lisbon Strategy:

- the need for strong support for the most focused European initiatives;
- broad ownership of the goals;
- clear definition of levels of responsibility.

4.3 The Committee therefore believes that there needs to be careful consideration of how the EIT initiative ties in with the many other initiatives under way, which are based on various other policies such as research, enterprise, regional development, information society, education and culture.

<sup>(19)</sup> COM(2006) 604 final of 18.10.2006.

<sup>(20)</sup> COM(2006) 77 final of 22.2.2006 and COM(2006) 276 of 8.6.2006.

<sup>(21)</sup> OJ C 120 of 20.5.2005, rapporteurs Mr Vever, Mr Ehnmark and Mr Simpson.

4.3.1 The Committee believes that in order for the future EIT to become a point of reference and a symbol of European excellence, it needs to go beyond merely integrating resources. Instead, it must be designed and structured so as to meet the objectives set out in the Treaty, which form its fundamental legal basis.

4.3.2 The Committee emphasises that a key to the success of the future EIT will be its ability to market a single brand of excellence with a network structure that draws in and passes on knowledge and innovation in a decentralised manner.

4.4 The Committee agrees that the EIT's structure should be as simple as possible, flexible and dynamic, so that it can cater for new demands, and believes that the possibility of setting up a joint undertaking should be explored<sup>(22)</sup>. However, it stresses that this structure must be oriented towards businesses and employment and that it is essential for it to focus on its stated primary objective, which is to convert R&D results into market opportunities.

4.4.1 To this end, the selection criteria for the Governing Bodies should be based not just on scientific excellence but on ability to attract innovative capital, create start-ups, generate and exploit patents and attract public/private financing, not to mention SMEs.

4.5 The Committee believes that this approach should be reflected in the selection criteria for KICs, whose consortia must remain open, in line with the priorities for the multi-annual Community programming for research and innovation, so as to facilitate involvement of smaller businesses and bodies, ensuring the greatest possible flexibility and minimum red tape.

4.5.1 The requirements for KICs need to be better defined:

- they must have a European dimension — incorporating new bodies from at least three Member States;
- the level of expertise must reflect the level of excellence required for the EIT itself;
- they must be sufficiently interdisciplinary; their membership must strike the right balance between the three defining elements of the research, knowledge and innovation triangle;
- the balance between the public and private components must be respected; the individual partners must have demonstrated the capacity, over the previous five years, to deliver excellence in the areas of research, knowledge, patents and technology transfer;
- a unified plan of joint activities must be submitted in a programme covering at least five years.

<sup>(22)</sup> Cf. Article 171 of the Treaty.

4.6 In order to promote a European Area of Knowledge, as part of the Lisbon strategy, it will be necessary to create incentives to promote mobility between the various white-collar professions and between the public and private sectors so as to facilitate movement between the different senior and middle management jobs, between researchers and engineers, and between the institutional and private sectors<sup>(23)</sup>: mobility on a European scale must be a key part of training, research and technological applications programmes.

4.7 The Committee notes that initial funding for EIT activities appears to be very limited, while it seems that future resources will be directed towards conventional programmes<sup>(24)</sup> and draw on the already depleted funds of the 2007-2013 budget in the area of research, innovation and education. The EIT will thus be competing with other tried and tested integrated-approach instruments such as the IPs (Integrated Projects), NoEs (Networks of Excellence) and other more recent instruments such as the JTIs (Joint Technology Initiatives) and the ETPs (European Technology Platforms).

4.7.1 The funding provided for the Seventh RTD Framework Programme, for the period 2007-2013, which represents about 5.8 % of the overall EU budget, is already inadequate to support policies to incentivise research. Therefore, resources cannot be diverted from this except through the normal tendering process, in which the EIT and the KICs should be able to compete on a level playing field with other participants.

4.7.2 At least the initial success of the EIT will heavily depend on sufficient funding by the Community, which, however, should not be diverted from the other programmes adopted for research and innovation: indeed, the Commission's estimates for the period 2007-2013 for the entire EIT system seem to be too low while Community funds from budget surplus are negligible. The Committee feels that one solution might be a joint undertaking (under Article 171 of the Treaty), where the Member States concerned participate directly (cf. the formula used for the Galileo joint undertaking)<sup>(25)</sup>.

<sup>(23)</sup> (OJ C 110, 30.4.2004), rapporteur: Mr Wolf.

<sup>(24)</sup> It should be pointed out that no specific provision has been made for the EIT in the new legislative proposals included in the negotiations on the Inter-institutional Agreement of 17 May 2006 on budgetary discipline and sound financial management.

<sup>(25)</sup> The constituent bodies of the joint undertaking are as follows:

- Administrative Board: This is composed of the founder members. Decisions are adopted by a simple majority except in the case of major decisions, where a majority of 75 % of the votes is required. The Administrative Board takes all strategic decisions relating to planning, financial and budget matters. It also nominates the Director of the joint undertaking;
- Executive Committee: This assists the Administrative Board and the Director;
- Director: This is the chief executive responsible for the day-to-day management of the joint undertaking and its legal representative. He/she directs the staff of the joint undertaking, updates the programme development plan, draws up the annual accounts and balance sheet and submits them to the Administrative Board and draws up the annual report on the current status of the programme and its financial situation.

4.7.3 In the Committee's view, the initial funding necessary could come from **additional** resources under the Mid-term review of the Seventh RTD Community Framework Programme; these funds should be in addition to **direct contributions** from Member States **made on a pro-rata basis**.

4.7.4 An additional source of funding could be EIB activities under the *Innovation 2010 Initiative* (i2i) and the EIB action for university research <sup>(26)</sup> and university networks.

4.8 Community R&D policy also needs more systematic monitoring of all factors that limit the mobility of researchers, which is currently hindered by the differences in arrangements for recognising academic qualifications, as well as those for taxation, insurance and social security <sup>(27)</sup>.

4.9 In the Committee's view, if the EIT aims to be a world-class operator in its field capable of inspiring better performance by other European actors and networks in the knowledge triangle, it will have to be able to attract substantial private funding, which will, over time, have to become its main source of finance.

4.10 A major factor here may be the solution found to intellectual property protection issues, which may warrant further clarification in the proposal, as do the issues relating to the definition and awarding of EIT degrees.

4.11 The Committee believes that more clarity is needed as regards the definition and awarding of EIT degrees by the KIC networks and the EIT itself.

4.11.1 For a sufficiently long initial period, awarding degrees should remain the prerogative and responsibility of Member States' universities and/or polytechnics which have been selected as partners within each KIC. However, even in this initial period, the awarding of degrees should comply with specific minimum requirements.

4.11.2 The requirements could include the following elements:

- the studies and research must have been carried out in at least three different institutes in three Member States, to give the degree a European flavour;
- they must have displayed sufficient impact potential in terms of innovation, and they must have been endorsed by the central EIT.

4.12 As regards the EIT Statutes, the Committee believes that there should be an **Administrative Board**, with the same membership as that of the Governing Board provided for in the Commission proposal — five representatives of business, five representatives of public and private research centres and five representatives of public and private universities, and an additional four members representing the staff and students of the EIT and the KICs <sup>(28)</sup> — and chaired by a Commission representative. This would be supported by:

- a **Monitoring Committee** made up of **representatives of the Member States** and chaired by a Commission representative;
- an **Executive Committee** made up of two representatives of business, research centres and universities respectively and chaired by the Chairperson of the Administrative Board;
- a **Director** and a **Rector**, appointed — and dismissed — by the Administrative Board, after receiving the assent of the Monitoring Committee.

4.12.1 If the joint undertaking formula is adopted for the EIT, the administrative and scientific staff of the joint undertaking should have fixed-term contracts based on the conditions of employment of other servants of the European Community <sup>(29)</sup>.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

<sup>(26)</sup> Cf. the Starebei and Eiburs programmes and EIB University Networks.  
<sup>(27)</sup> See footnote 22.

<sup>(28)</sup> This makeup must also ensure adequate representation of the social partners.

<sup>(29)</sup> Cf. Article 11 of the Statutes of the Galileo joint undertaking — Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking; OJ L 138 of 28.5.2002.

**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (Codified version)**

*COM(2006) 651 final — 2006/0216 (COD)*

(2007/C 161/07)

On 22 November 2006, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Burns.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 146 votes with 7 abstentions.

1. The purpose of the proposal is to undertake a codification of Council Directive 74/347/EEC of 25 June 1974 on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers for wheeled agricultural or forestry tractors.
2. The Committee considers the codification of all texts in a single directive to be very useful. It has been assured that this codification contains no substantial change and its sole purpose is to render Community legislation clear and transparent. The Committee fully endorses this objective and, having received the above-mentioned assurance, welcomes the proposal.

Brussels, 14 March 2007.

The President  
of the European Economic and Social  
Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on certain parts and characteristics of wheeled agricultural or forestry tractors (Codified version)**

*COM(2006) 662 final — 2006/0221 (COD)*

(2007/C 161/08)

On 22 November 2006, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Burns.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 147 votes with 8 abstentions.

1. The purpose of the proposal is to undertake the codification of Council Directive 74/151/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to certain parts and characteristics of wheeled agricultural or forestry tractors.
2. The Committee considers the codification of all texts in a single directive to be very useful. It has been assured that this codification contains no substantial change and its sole purpose is to render Community legislation clear and transparent. The Committee fully endorses this objective and, having received the above-mentioned assurance, welcomes the proposal.

Brussels, 14 March 2007.

The President  
of the European Economic and Social  
Committee

Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the maximum design speed of and load platforms for wheeled agricultural or forestry tractors (Codified version)**

*COM(2006) 667 final — 2006/0219 (COD)*

(2007/C 161/09)

On 22 November 2006, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Burns.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 151 votes with 6 abstentions.

1. The purpose of the proposal is to undertake the codification of Council Directive 74/152/EEC of 4 March 1974 on the approximation of the laws of the Member States relating to the maximum design speed of and load platforms for wheeled agricultural or forestry tractors.
2. The Committee considers the codification of all texts in a single directive to be very useful. It has been assured that this codification contains no substantial change and its sole purpose is to render Community legislation clear and transparent. The Committee fully endorses this objective and, having received the above-mentioned assurance, welcomes the proposal.

Brussels, 14 March 2007.

The President  
of the European Economic and Social  
Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the steering equipment of wheeled agricultural or forestry tractors (Codified version)**

*COM(2006) 670 final — 2006/0225 (COD)*

(2007/C 161/10)

On 29 November 2006, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Burns.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March 2007), the European Economic and Social Committee adopted the following opinion by 157 votes with six abstentions.

1. The purpose of the proposal is to undertake the codification of Council Directive 75/321/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to the steering equipment of wheeled agricultural or forestry tractors.
2. The Committee considers the codification of all texts in a single directive to be very useful. It has been assured that this codification contains no substantial change and its sole purpose is to render Community legislation clear and transparent. The Committee fully endorses this objective and, having received the above-mentioned assurance, welcomes the proposal.

Brussels, 14 March 2007.

The President  
of the European Economic and Social  
Committee

Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Amended Proposal for a Directive of the European Parliament and of the Council on injunctions for the protection of consumers' interests (Codified version)**

COM(2006) 692 final — 2003/0099 (COD)

(2007/C 161/11)

On 11 December 2006, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Pegado Liz.

At its 434th plenary session of 14/15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 153 votes for, none against and seven abstentions.

1. This proposed directive to codify Directive 98/27/CE <sup>(1)</sup> looks again at and modifies the proposal on the same subject submitted on 12 May 2003 <sup>(2)</sup>, on which the Committee issued a favourable opinion <sup>(3)</sup>.

2. This current proposal had to be drawn up because, in the meantime, Directive 2005/29/CE on unfair commercial practices was published on 11 June 2005; this expressly recognised that such practices may be the subject of injunctions provided for in the said directive, with a view to preventing and stopping such unfair practices and making it legitimate for organisations representing collective consumer interests to go to court to have these injunctions imposed.

3. As referred to in the above-mentioned opinion, the Committee notes that, in line with the Interinstitutional agreement between the European Parliament, the Council and the Commission of 20 December 1994, no substantial change may be made as part of a codification. Thorough examination of the alterations proposed here reveals that this principle has been complied with; it should be pointed out that the Commission has met the Committee's request, set out in its earlier opinion, that the proposed directive be accompanied by the full text of the amended proposal, where all the changes made are clearly marked.

4. The Committee nevertheless feels it must mention that in its opinion on the first Commission proposal on this subject <sup>(4)</sup>, on which the current Directive 98/27/CE is based, it pointed

out that the reference in Article 1(1) to an 'annex' with a list of directives does unfortunately give rise to a need for constant updating whenever, as is the case here, another directive is published containing substantive legislation requiring implementation by means of measures of the type set out in the articles in the present proposal, for the protection of the collective interests of consumers <sup>(5)</sup>.

4.1 In addition, this manner of drafting the articles reflects an unnecessarily complicated form of legislation, which runs counter to the goals of 'better lawmaking' and 'simplification of legislation', which the EESC shares with the Commission.

5. Furthermore, publication of Directive 2005/29/CE <sup>(6)</sup> and, more specifically, the provisions of Articles 11 and 14, strengthen the recommendation already made in the aforementioned 1996 EESC opinion, and acknowledged at the time, that there was a 'case for liability actions, which would be an effective complement to injunctions'.

5.1 Consequently the EESC calls on the Commission to give further thought to the suitability of extending the sphere of application of measures for representing collective interests, namely those of consumers.

<sup>(1)</sup> Directive 98/27/CE of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests (OJ L 166 of 11.6.1998).

<sup>(2)</sup> COM(2003) 241 final.

<sup>(3)</sup> EESC Opinion; Rapporteur Mr Burani (OJ C 10 of 14.1.2004).

<sup>(4)</sup> COM(1995) 712 final (OJ C 107 of 13.4.1996).

<sup>(5)</sup> EESC Opinion (OJ C 30 of 30.1.1997); Rapporteur Mr Ramaekers; This opinion echoes the comments and proposals made inter alia by ECLG, do BEUC and the most solid doctrine (Cf. Jerome Franck and Monique Goyens st al 'La proposition de directive relative aux actions en cessation en matière de protection des intérêts des consommateurs: quelques impressions préliminaires' (The proposal for a directive relating to injunctions for the protection of consumer interests: some initial impressions) (REDC, 1996,95).

<sup>(6)</sup> OJ L 149 of 11.6.2005. EESC Opinion: OJ C 108 of 30.4.2004.

6. In conclusion, the Committee, within the strict limits of the codification effected by the Commission on the basis of the decision of 1 April 1987 [COM(1987) 868 PV], is favourable to

this proposal, as it has been previously in relation to the same directive.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council repealing Council Directive 71/304/EEC of 26 July 1971 concerning the abolition of restrictions on freedom to provide services in respect of public works contracts and on the award of public works contracts to contractors acting through agencies or branches**

COM(2006) 748 *final* — 2006/0249 (COD)

(2007/C 161/12)

On 13 December 2006 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Wilms.

At its 434th plenary session held on 14/15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 87 votes to one, with 13 abstentions:

## 1. Introduction

1.1 Fifty years of continuous development without any consistent consolidation has made European legislation — in the form of treaties, directives and regulations, recommendations, European Court of Justice case law and other Community documents — highly complex and very difficult even for specialists to fathom.

1.2 In some areas, for instance, new directives have been adopted without any consistent checks on whether the body of directives already in place is thereby rendered obsolete or whether the relevant provisions can be incorporated into the new text, thus making it possible to repeal the earlier directive on the same subject. Similarly, certain facets of a particular legal area that, in essence, belong together have, over the years, come to be dealt with separately in an increasing number of new and independent directives. Or again, certain directives have, over time, been partially amended by various legal instruments without the adoption of any new and legally binding consolidated text.

1.3 The time therefore really is ripe for change in this field. There can be no objection to a technical consolidation of the existing directives, provided this is carried out with the best of intentions and is not done for any ulterior motive, such as to settle old scores with other institutions and to push through a particular viewpoint that has thus far failed to secure acceptance in the political process.

The Commission's declared intention is to tidy up Community law from a purely technical angle and it is thus, in principle, to be welcomed.

1.4 In the same way, the Commission's declared intention of simplifying European law in a bid to cut red tape and reduce useless effort in the Member States can only be welcomed.

1.5 The relevant Commission proposals for directives to repeal or amend existing legislation as part of this process must, however, be examined in the light of the two considerations mentioned above.

## 2. Gist of the Commission proposal <sup>(1)</sup> and Directive 71/304/EEC

2.1 The Commission is proposing a new directive <sup>(2)</sup> to repeal Directive 71/304/EEC.

2.2 The purpose of Council Directive 71/304/EEC of 26 July 1971 was to oblige the Member States to remove restrictions affecting the right to enter into, award, perform or participate in the performance of public works contracts on behalf of the state, or any public entities or legal persons for the benefit of cross-border service providers. The directive sought to combat direct or indirect discrimination against non-national service providers in the awarding of public contracts by the Member States. It also obliged Member States to ensure that non-national enterprises should have access to credits, grants and subsidies under the same conditions as nationals and that non-national enterprises should 'have access without restriction and in any event under the same conditions as nationals' to (state-controlled) 'supply facilities' that are essential for the performance of their contract.

2.3 The Commission says the current proposal is needed because this directive is now obsolete, given the changes that have taken place since it was adopted.

2.3.1 As the Commission notes, the field of public procurement is now covered by Directives 2004/17/EC and 2004/18/EC, which supersede the directive under discussion here.

2.3.2 As Directive 71/304/EEC also relates in general terms to the freedom to provide services, the Commission further notes that European Court of Justice case law in this area has changed substantially. To back up this statement, the Commission, in a footnote, quotes verbatim from Case C-76/90 *Säger*, ECR I-4221, which states that Article 59 [now Article 49 — freedom to provide services] of the Treaty requires not only the elimination of all discrimination on grounds of nationality against providers of services but also the abolition of any restriction, even if it applies without distinction to all providers of services regardless of their place of origin, 'which is liable to prohibit or otherwise impede the activities of a provider of services established in another Member State where he lawfully provides similar services'.

2.3.3 In its explanatory memorandum, the Commission sums up the case law in question, noting that the ECJ has made clear that 'Article 49 of the EC Treaty prohibits measures that apply indiscriminately and that are likely to impede the freedom to provide services'.

2.4 In the recitals, the Commission again refers to the new public procurement directives and the *Säger* judgment, stressing that, thanks to them, it has been possible to achieve a level of

protection for economic operators that is just as good as that provided for under the directive that is to be repealed.

2.5 The directive itself has only four articles. Article 1 repeals Directive 71/304/EEC. Article 2 enjoins Member States to bring into force the laws and administrative provisions necessary to comply with this directive, the purpose of which is to repeal another directive; to communicate to the Commission the text of the provisions and a correlation table between the directive and the national provisions; and to make due reference to this directive in the measures themselves or on the occasion of their official publication; the Member States themselves are to lay down the methods of making such a reference. Article 3 sets the entry into force of the directive as the day of its publication, while Article 4 states that the directive is addressed to the Member States.

## 3. Assessment of the Commission proposal

3.1 The proposal for a Directive repealing Directive 71/304/EEC unfortunately fails to fully meet all the criteria set out in point 1 of this opinion.

3.2 As a general point, it should be noted that the proposed directive, the purpose of which is to repeal another directive, is one of the first of a whole series of directives of this kind. It would be well, therefore, to ask whether the most effective way of implementing the work programme for the repeal of a large number of now-obsolete directives over the coming months and years really is to adopt a separate new directive repealing every single obsolete directive. In the ongoing implementation of the work programme, consideration should again be given to whether, as an alternative, it might not be possible — and also more efficient — to repeal several directives at once via a single new directive. Since Member States frequently adopt legislation transposing a number of directives at once, such an approach could be a way of avoiding having to amend the same laws of the Member States repeatedly over a short period of time.

3.3 With regard to the proposed directive under discussion here, further consideration should be given to the question as to whether the transposition arrangements set out in Article 2 really do brook no alternative, or whether, to attain the desired objective, it might not be enough to ask the Member States to check their body of law for any changes that might be necessary and to implement those changes where appropriate.

3.4 After all, the main purpose of the 1971 directive that is to be repealed was to eliminate discriminatory laws and rules in place in the Member States at that time and to enforce general principles of Community law in the field of public procurement — principles that have been reiterated and further fleshed out in directives adopted in the intervening years.

<sup>(1)</sup> COM(2006) 748 final.

<sup>(2)</sup> COM(2006) 748 final.

3.5 The abolition of discriminatory rules in force in the Member States was undertaken back in the 1970s as part of the transposition of Directive 71/304/EEC — or, for those countries that joined later, in the course of their adoption of the Community *aquis*. The planned repeal of this directive does not of course mean that the abolition of these earlier discriminatory national rules is to be rescinded. The repeal of the directive does not therefore necessitate any changes to the national legislation adopted at the time to abolish discriminatory rules, as that legislation has by and large fulfilled its purpose (i.e. the discriminatory rules have been abolished) and, in any case, the Treaty and all the more recent directives require such discriminatory rules to stay abolished or to be prohibited.

3.6 At the latest after the adoption of Directives 2004/18/EC and 2004/17/EC, the public procurement legislation of the Member States was in most cases brought to a level reflecting the changes in European law since 1971. Where this has not yet happened, the Commission can still enforce the new directives. Since all directives are anyway addressed to the legislatures of the Member States, simply repealing Directive 71/304/EEC at

European level and requiring the Member States to carry out the necessary checks would obviously in this case be quite enough to achieve the desired effect. In the majority of cases, this will, at most, involve the deletion, wherever they are still in place, of any references to the now-obsolete Directive 71/304/EEC.

3.7 Although it is too late to do anything about it, it is nonetheless regrettable that Directive 71/304/EEC was not repealed in conjunction with the adoption of Directives 2004/17/EC and 2004/18/EC. It is therefore suggested that, for all future directive proposals, checks should always, as a matter of principle, be made on whether the new directive does not render earlier directives obsolete and whether such obsolete directives should not be repealed straight away. This measure too could progressively lead to clearer and more coherent European law.

4. The EESC therefore recommends that the proposal for a Directive should be amended so as to simply note the repeal of the Directive and to ask the Member States to check their body of law for any changes that might be necessary and to implement those changes where appropriate.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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APPENDIX

**to the opinion of the European Economic and Social Committee**

The following section opinion text was rejected in favour of amendments adopted by the assembly but obtained at least one-quarter of the votes cast:

- 3.9 The explanatory memorandum and the second recital of the proposed directive implicitly try to promote a somewhat slanted interpretation of EU primary law.
- 3.10 As was already the case in the Commission's draft of the services directive, this is done in particular by giving an edited, one-sided account of the European Court of Justice's case law on freedom to provide services, in this instance the judgment of 25 July 1991 in Case C-76/90 *Säger*, which is summed up as having made clear 'that Article 49 of the EC Treaty prohibits measures that apply indiscriminately and that are likely to impede the freedom to provide services'. This interpretation is backed up by a paragraph of the judgment cited in footnote 7.
- 3.11 Apart from the fact that the Court of Justice was not referring in this paragraph very broadly to all measures that might apply, but only to discrimination and restrictions, the Commission's summary and selective quote fail to take account of another very important principle of the judgment, found in paragraph 15 thereof — which the Commission does not cite — and in many other judgments: while all direct and indirect discriminatory measures and obligations imposed by the Member States are clearly prohibited, the European Court of Justice still permits non-discriminatory measures and obligations imposed by the Member State if they are justified by imperative reasons relating to the public interest and are also appropriate and necessary to achieve the objectives and do not exceed what is strictly necessary.

- 3.12 But the point of the Commission's interpretation, implicit in its selective citing from the judgment, is obviously that no rules and obligations, or measures, of the contracting Member States should apply any more to cross-border service providers, even if they are absolutely compatible with the objectives of the European Treaties and other European legislation, are applied without any discrimination and clearly satisfy all the requirements of the European Court of Justice.
- 3.12.1 If this interpretation were correct, all obligations on service providers would have to be seen as illegal, even in the case of Member State projects with EU funding, including those based on explicit EU provisions under which EU funding is made available. The same would also apply to obligations which serve to secure compliance with certain standards in the as-yet non-harmonised area and also foster road safety, such as national rules on the colour, reflectiveness and dimensions of place-name signs. The same would go for exemplary national provisions on health and safety at work, covering, as in the Netherlands for instance, the maximum weight and dimensions of kerbstones in a bid to cut invalidity rates among road workers.
- 3.12.2 These examples alone demonstrate the absurdity of any over-rigorous interpretation of freedom to provide services. Such an interpretation would make Article 49 of the EU Treaty — contrary to its wording and to the legal context in relation to other articles of the European Treaties — into a type of 'super basic right' for businesses operating across borders, which would obviate the entire framework of legislation that has been adopted for good reasons and in accordance with the general legal principles of the EU and its Member States in order to regulate company activities. This idea would be well-nigh impossible to uphold vis-à-vis the EU public and has already been rejected by all the other European institutions in connection with the services directive.
- 3.13 Such an interpretation would contradict not just the content of the more recent Directives 2004/18/EC and 2004/17/EC, but also the spirit and letter of the European Treaties, the provisions and supplementary protocols on the subsidiarity principle and the case law of the European Court of Justice.
- 3.14 Nor is it the task of the Commission or of any other European institution to provide binding interpretations of judgments delivered by the European Court of Justice. And it is certainly not their task to distort the content of those judgments, by citing only part of them, in a way which clearly runs counter to the intention of the European Court of Justice as expressed in the judgments.
- 3.15 If such biased interpretations were to become part of European secondary law via a proposal for a Directive, new possibilities for interpreting the earlier Directives 2004/18/EC and 2004/17/EC would be opened up, which would produce not more legal clarity and certainty, but the opposite.
4. The EESC therefore recommends that the proposal for a Directive should be amended so as to simply note the repeal of the Directive and to ask the Member States to check their body of law for any changes that might be necessary and to implement those changes where appropriate, justifying this on technical grounds only, i.e. the previous adoption of Directives 2004/18/EC and 2004/17/EC.

*Outcome:*

43 votes for deleting these paragraphs, 38 against, 12 abstentions.

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council to approximate the laws of the Member States relating to trade marks (Codified version)**

COM(2006) 812 final — 2006/0264 (COD)

(2007/C 161/13)

On 17 January 2007 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 7 February 2007. The rapporteur was Mr Grasso.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 157 votes with three abstentions.

**1. Conclusions and recommendations**

1.1 A codification of rules that have frequently been amended is essential if Community law is to be clear and transparent.

1.2 Codification must be undertaken in full compliance with the normal Community legislative procedure.

1.3 The purpose of this proposal is to undertake a codification of Council Directive 89/104/EEC of 21 December 1988 to

approximate the laws of the Member States relating to trade marks. The new Directive will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

1.4 The Committee endorses this codification.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on 25 acts to be adapted as a matter of urgency to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers, as amended by Council Decision 2006/512/EC of 17 July 2006**

COM(2006) 901, 902, 903, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926 final

(2007/C 161/14)

Between 18 January and 8 February 2007, the Council decided to consult the European Economic and Social Committee, under Articles 37, 44, 47, 55, 95, 152, 175 and 262 of the Treaty establishing the European Community, on the above-mentioned proposals.

On 14 January 2007, the Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Retureau as rapporteur-general at its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), and adopted the following opinion by 96 votes to one with three abstentions.

## 1. Summary of the Committee opinion

1.1 The Committee welcomes the introduction of the regulatory procedure with scrutiny into the comitology system, enabling the Council and the Parliament to scrutinise and, where appropriate, amend the Commission's implementing regulations when the legislative act recognises the Commission's right to exercise implementing powers in some areas, without authorising it to make substantive amendments; in principle, this involves only making the adjustments and changes necessary for the proper application of the act in question, in accordance with Article 251 TEC.

1.2 The Committee notes that the urgent amendment of some acts proposed by the Commission <sup>(1)</sup> is in line with Decision 2006/512/EC and the joint statement concerning both the list of acts to be adjusted as quickly as possible and the repeal of time limits on the exercise of the Commission's implementing powers.

## 2. Commission proposals

2.1 Council Decision 2006/512/EC of 17 July 2006 <sup>(2)</sup> amended Council Decision 1999/468/EC <sup>(3)</sup> of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, in particular by the addition of Article 5a introducing a new regulatory procedure with scrutiny.

2.2 The comitology procedures for the follow-up of each legislative act will thus comprise a further option strengthening the Parliament's scrutiny over the exercise of the implementing powers conferred on the Commission by the act, with reference to acts subject to this new option and governed by the co-decision procedure, or the Lamfalussy process in financial matters.

2.3 In a joint statement <sup>(4)</sup>, the Commission, the Council and the Parliament agreed on a list of instruments that they believed should urgently be adjusted to the amended Decision, so as to replace the initial procedure with the new regulatory procedure with scrutiny. This joint statement further stipulates that the principles of good legislation require that implementing powers be conferred on the Commission without any time limit.

2.4 The Commission now proposes to amend retroactively 26 legislative acts considered to be of key importance <sup>(5)</sup>, so as to introduce the new procedure and, where appropriate, repeal any time limits on the implementing powers which might be included in the acts.

2.5 In three cases, the listed co-decision instruments not only modify already existing basic acts but also merely refer to comitology provisions which have to be aligned in those acts. In these cases, the Commission has therefore proposed to adjust the latter. In particular:

2.5.1 To align Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005, the Commission proposes to adjust:

- Directive 91/675/EEC of 19 December 1991 setting up a European insurance and occupational pensions committee;
- Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive);

<sup>(1)</sup> COM(2006) 901 to 926.

<sup>(2)</sup> OJ L 200 of 22.7.2006, p. 11.

<sup>(3)</sup> OJ L 184 of 17.7.1999, p. 23.

<sup>(4)</sup> OJ C 255 of 21.10.2006, p. 11.

<sup>(5)</sup> I.e. documents COM(2006) 901 to 926, introduced by Communication COM(2006) 900 final. It should however be noted that the EESC has not been consulted on COM(2006) 904 final.

— Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance;

— Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

2.5.2 To align Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, the Commission proposes to adjust:

— Directive 2002/83/EC of the European Parliament and of the Council mentioned above.

2.5.3 To align Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002, the Commission proposes to adjust:

— Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

2.6 The list of instruments to be aligned as a matter of priority is reproduced below:

(1) Directive 2006/49/EC of the European Parliament and the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions;

(2) Directive 2006/48/EC of the European Parliament and the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions;

(3) Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC;

(4) Regulation 2006/562/EC of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code);

(5) Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC;

(6) Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;

(7) Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using

products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council;

(8) Regulation 2005/396/EC of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC;

(9) Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC;

(10) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and replacing Council Directive 93/22/EEC;

(11) Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC;

(12) Regulation 2003/1829/EC of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed;

(13) Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse);

(14) Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE);

(15) Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment;

(16) Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council;

(17) Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance;

- (18) Regulation 2002/1606/EC of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;
- (19) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use;
- (20) Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC;
- (21) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;
- (22) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles;
- (23) Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market;
- (24) Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive);
- (25) Directive 91/675/EEC of 19 December 1991 setting up an insurance committee;
- (26) Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

Brussels, 14 March 2007.

### 3. General comments

3.1 The Committee has always considered that comitology procedures, involving only representatives of the Commission and Member State governments and tasked, according to the nature of the committee established, with the management, consultation or regulation flowing from the follow-up and implementation of legislative acts, should be more transparent and accessible to people living in Europe and especially to those affected by these acts.

3.2 It therefore welcomes the decision to introduce a new regulatory procedure with scrutiny for acts governed by the co-decision procedure. With the Parliament not being directly involved in the committees, it was appropriate that a system be established to scrutinise the Commission's implementing powers so as to verify that the implementing regulations adopted autonomously by the Commission did not exceed these powers.

3.3 The repeal of time limits on implementing powers, which are included in some acts, follows on logically from the enhancement of the scrutiny exercised by the Parliament and the Council, and their right to amend Commission implementing regulations for any act governed by the co-decision procedure and the Lamfalussy process.

3.4 The joint statement of 21 October 2006 called on the Commission, as a matter of urgency, to submit proposals under the Decision of 17 July 2006, and the Committee notes that the Commission has duly complied with this request.

3.5 It also notes that the acts amended are consistent with the priorities established by this decision.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council establishing a framework for Community action to achieve a sustainable use of pesticides**

COM(2006) 373 final — 2006/0132 (COD)

(2007/C 161/15)

On 15 September 2006 the Council decided to consult the European Economic and Social Committee, under Article 175 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 19 February 2007. The rapporteur was Mr Pezzini.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 147 votes with 3 abstentions.

## 1. Conclusions and recommendations

1.1 The EESC agrees that it is important to make the use of pesticides more sustainable, so as to optimise their beneficial effects and reduce their adverse effects on farming, the environment, the consumer, operators and society as a whole.

1.2 The EESC welcomes the Commission's proposal in principle, in that it addresses an issue of great importance as regards the European public's well-being, safeguarding the quality of life and of the ecosystem, and rural development, and, moreover, as regards a positive product trend ensuring that products remain competitive on the internal and international markets, with continual improvements in quality.

1.3 The EESC agrees that action plans should be drawn up at national level to identify the objectives in respect of reducing risk and to launch a genuine EU harmonisation policy.

1.3.1 The plans' provisions must be converted into appropriate national, regional and local measures, in particular taking into consideration the three dimensions of sustainability, i.e. economic, social and environmental impact.

1.4 The EESC believes that training and information campaigns are essential to achieve rational, sustainable use of crop protection systems, avoiding potential adverse environmental impact.

1.4.1 Training must be extended to all stakeholders, including public authorities and bodies and non-professional users. Clearly, national training systems, which are already managed by properly approved bodies, must be preserved.

1.5 The EESC believes that awareness-raising campaigns should be objective and neutral, highlighting the benefits for crops and the risks and targeting non-professional users in particular, especially local public bodies and authorities.

1.6 When introducing precautionary measures in particularly sensitive contexts, as when laying down rules on aerial spraying, the EESC believes that it would be preferable to ensure a certain degree of subsidiarity.

1.7 The EESC feels that it is important for due consideration to be given to agricultural and plant protection research, in order to minimise the risk which is always present when chemicals and mixtures of chemicals are used.

1.8 The EESC believes that due attention should also be given to cooperation, both with international bodies such as the FAO, the OECD and the WHO and with neighbouring regions.

1.9 Globalisation of the agricultural and food markets calls, in the EESC's view, for a Community initiative to disseminate European production and health standards internationally, in particular by incorporating them into the Codex Alimentarius.

## 2. Reasons

2.1 The term pesticides denotes active substances and products designed to influence fundamental processes in living organisms and which, therefore, have the potential to kill or control harmful organisms <sup>(1)</sup>. However, the Commission proposal also uses the more specific term 'plant protection products' <sup>(2)</sup>.

<sup>(1)</sup> *International Code of Conduct on the Distribution and Use of Pesticides* (FAO, November 2002), Art. 2 of Resolution 1/123, of the 123rd Session of the FAO Council, 2002.

<sup>(2)</sup> Cf. COM(2006) 388 final, Article 2(1).

2.2 Pesticides are considered to be essential to protect crops from insects, rodents and natural pathogens, but they can also accumulate in the environment and cause serious risks to human and animal health, particularly when they pollute drinking water. The potential risks in humans include cancer, genetic disorders and permanent damage to the immune system.

2.3 Risks to human health can occur through direct or indirect exposure, misuse or accident, in particular during or after use in agriculture, landscaping and other activities.

2.4 The risks related to each individual active substance contained in pesticides are evaluated during the relevant authorisation procedures, but there is no satisfactory assessment at Member-State level of the effects of exposure to mixtures of chemicals. Thus, as things stand, it would be very difficult to evaluate the overall impact on human health of all substances currently in use <sup>(3)</sup>.

2.5 Indirect exposure of bystanders, residents (*via* spray drift) and those who could be described as consumers (*via* residual amounts in agricultural produce or water) can be even more serious for especially vulnerable population groups. In particular, recent research <sup>(4)</sup> has shown the special sensitivity of foetuses whose neurological development has been affected when their mothers are exposed to pesticides.

2.6 Account must be taken of risks caused to the environment by unintended and excessive flows of chemical substances to water, air and soil, resulting in adverse effects on plants, wildlife, quality of the environmental compartments and biodiversity in general.

2.6.1 At the same time, the fact must not be overlooked that modern society relies on a wide range of fertilisers, biocidal products, food additives, insecticides, pesticides and herbicides, with numerous beneficial effects in terms of higher levels of food safety and quality.

2.7 If used responsibly, they guarantee the availability on the market of high-quality fruit and vegetable produce, raw materials and foodstuffs at low prices which are affordable for all consumers. The use of crop protection products ensures high yields, reduces the levels of natural toxins produced by fungi and bacteria, reduces crop losses and helps to secure sufficient, sustainable food supply on the internal and international markets.

<sup>(3)</sup> It should be noted that, at international level, there are already methodologies widely in use, particularly in the United States of America. See <http://www.epa.gov/ord/htm/innovations.htm>.

<sup>(4)</sup> Developmental neurotoxicity of industrial chemicals, *Lancet* 2006; 368:2167-78.

2.7.1 Moreover, all fungicides, insecticides and herbicides are already subject to a rigorous approval process before marketing and use are authorised.

2.8 The EESC agrees that it is important to make the use of pesticides more sustainable, so as to optimise their beneficial effects and reduce their adverse effects on the environment, the consumer and operators: this would also improve the image of operators and farms which use plant protection products prudently.

2.9 The EESC believes that more emphasis should be placed on the potential benefits for farmers of more rational, judicious use of plant protection products. Farmers themselves have, for some years, been engaged in developing more rational techniques such as Integrated Crop Management and Integrated Pest Management with a view to promoting integrated farming in a more tangible way, and this trend should be encouraged.

2.10 The real challenge of the future is not just to provide high-quality, safe conventional and organic products to the 'most discerning' consumers, but also to satisfy those seeking products which are both reasonably priced and of guaranteed quality.

2.11 The problems involved in integrating environmental issues into the use of pesticides are covered by the priorities outlined in the Sixth Community Environment Action Programme 2002-2012, which provides for the development and implementation of seven thematic strategies.

2.12 There are clear interactions between the recommendations in the thematic strategies adopted — particularly the strategies on the protection of ground water and natural fauna and flora, soil protection, waste management, and residues and packaging — and the proposal for a framework directive.

2.12.1 The Thematic Strategy on the Sustainable Use of Pesticides sets out four new measures for environmental and health protection, including the proposal for a directive establishing a framework for more sustainable use of pesticides, which is addressed by this opinion.

2.12.2 The Commission has also drawn up an impact assessment of the various scenarios which might result from the implementation of the measures laid down for sustainable use of pesticides and their cost: '*losses (for the PPP industry and for farmers paying for training and the certification and maintenance of application equipment) and benefits (for less consuming farmers, and training, maintenance or certifying firms) are equal.*' <sup>(5)</sup>

<sup>(5)</sup> Cf. SEC(2006) 914, point 5, second paragraph.

2.13 The net overall impact, considering the reduced externalities, is thus clearly positive: *'Extrapolation from a comprehensive study in Germany leads to the conclusion that the optimised use in pesticides should create an overall benefit to the EU which would exceed EUR 200 million each year, through reduced externalities such as adverse effects on the environment and human health.'* <sup>(6)</sup>

2.14 The EESC has already, in 2003 <sup>(7)</sup>, expressed support for the Commission's effort to draw up a thematic strategy on pesticides. The EESC feels that explicit mention should be made of both the crop protection role of pesticides, and other techniques, i.e. biopesticides, plant extracts, prevention methods, organic methods and plant resistance to certain pests, the risks and benefits of which must be assessed on a sound scientific basis.

### 3. The Commission proposal

3.1 The Commission proposal seeks to protect human and animal health and the environment from the hazardous, inappropriate or excessive use of pesticides in farming and the ecosystem, reducing the risks and adverse impact of pesticide use 'in a way that is consistent with the necessary crop protection'.

3.2 It provides, in particular, for:

- mandatory establishment of National Action Plans (NAPs) to identify types of crops, activities and areas of higher risk which should be addressed as priorities, with the involvement of stakeholders in the setting-up, implementation and adaptation of the NAPs;
- creation of a system of training and awareness-raising for distributors and professional users of pesticides, and of information for the general public through awareness-raising and information campaigns;
- mandatory regular inspection of application equipment in order to reduce adverse impacts of pesticides on human health and the environment during application;
- prohibition of aerial spraying (with derogation possible), to limit the risks of adverse impacts on human health and the environment;
- specific measures to protect the aquatic environment from pollution by pesticides;
- defining areas of reduced or zero pesticide use (ZPU) in line with measures taken under other legislation;
- handling and storage of pesticides and their packaging and remnants (pesticides life cycle);

- development of Community-wide standards on Integrated Pest Management (IPM) — mandatory as of 2014 — and establishment of conditions for implementation;
- a system of harmonised indicators for the mandatory collection and reporting of information on the placing on the market and use of pesticides, to measure progress in overall risk reduction.

### 4. Comments

4.1 The EESC welcomes the Commission proposal in that it addresses an issue of great importance as regards the European public and consumer's well-being, safeguarding quality of life, farming and the ecosystem.

4.2 Annual world pesticide sales are estimated at EUR 25 billion and the use of pesticides is still very high in developing countries, even though these markets are sluggish or shrinking <sup>(8)</sup>. Moreover, globalisation of agricultural and food markets calls for increasingly careful compliance with appropriate production and health standards of the Codex Alimentarius by all concerned, to prevent these markets suffering the effects of Gresham's law as well <sup>(9)</sup>.

4.3 Moreover, in various parts of the world, a huge quantity of pesticides is wasted or used needlessly, and a large number of people suffer from poisoning because farmers, operators and local authorities do not know or have not been updated about new technological applications and because the equipment used for pesticides is often obsolete or poorly maintained. In addition, dangerous substances already banned in the EU are still in use in developing countries <sup>(10)</sup>.

4.4 The EESC believes that the introduction of National Action Plans incorporating quantitative targets and implementation schedules is particularly necessary in order to define measures geared to the need to reduce risks, at national, regional and local level, taking into consideration the three dimensions of sustainability, i.e. economic, social and environmental impact.

4.5 The socially responsible use of crop protection products is essential to achieve increasingly advanced social objectives, ensuring that farmers discharge their responsibilities in the food chain and produce high-quality foodstuffs for consumers, while also securing sufficiently high levels of agricultural competitiveness on both the internal and international markets as regards the Lisbon Strategy.

4.6 The economic dimension of sustainability ensures that products are only used to the extent necessary to keep the various diseases below the danger line, thus increasing yield and farm product availability as well as reducing the costs of farm management.

<sup>(8)</sup> Resolution 1/123, FAO Council 11/2002 ([www.fao.org](http://www.fao.org)).

<sup>(9)</sup> [http://en.wikipedia.org/wiki/Gresham's\\_Law](http://en.wikipedia.org/wiki/Gresham's_Law).

<sup>(10)</sup> For example, lindane was banned from the EU market in 2005 and it is still in use in developing countries.

<sup>(6)</sup> Idem.

<sup>(7)</sup> OJ C 85 of 8.4.2003, pp. 112-118.

4.7 As regards the environment, the risks caused by the excessive accidental presence of chemical substances in water, soil, air and processed farm and food products would be avoided. These substances are harmful to man, flora and fauna, the quality of the environment and biological diversity in general. At the same time, it must be borne in mind that it is essential to prevent the spread and proliferation of plant diseases.

4.8 In order to avoid distorting competition in the internal market, the measures adopted when National Action Plans are introduced should be based on directives and criteria which are common to the whole of the EU.

4.9 Education, training and information campaigns are essential to achieve rational, sustainable use of crop protection systems, and for ensuring that best farming practices are used and avoiding potential adverse environmental impact. Integrated training of all stakeholders, including public authorities and bodies and non-professional users, is of particular importance here.

4.10 Member States have set up different training systems, based on national provisions and legislative requirements and managed by properly approved bodies. The EESC therefore believes that a flexible Community reference framework is necessary in order to cater for the needs of different user groups. It could be based inter alia on teaching methods and course content agreed on by stakeholders at European level<sup>(11)</sup> and discussed as part of a sectoral dialogue between the social partners in each country.

4.11 The same may be said of information and awareness-raising campaigns, which must be objective and neutral, on the benefits of potential crop protection practices and the risks of harmful effects. These campaigns could be financed in the individual Member States by means such as a tax levied on crop protection products. The funds obtained in this way could be channelled into resources such as simple technical guides updated online to raise awareness among users, particularly non-professional users.

4.12 The EESC believes that it is essential for Member States to set up a system for regular technical inspection and maintenance of pesticide application equipment in use, on the basis of common, harmonised standards founded on essential requirements.

4.13 As regards the introduction of precautionary measures in particularly sensitive contexts, such as the protection of water<sup>(12)</sup> — which must be in line with the Water Framework Directive — and the sectors defined by Natura 2000, local

<sup>(11)</sup> Cf. *ECPA Training resource for trainers on ICM and Guidelines on the Sustainable use of crop protection products*.

<sup>(12)</sup> Cf. best practices introduced under Directive 91/414.

conditions and types of crops such as rice need to be taken into account.

4.13.1 In the EESC's opinion, it is important to ensure that best practices are followed to reduce risks, laying down balanced, sensible common provisions and minimum parameters. The choice of measures and stringent monitoring thereof should be the responsibility of the Member States. The Committee is not in favour of a general ban, as it feels this would be excessive.

4.14 As regards the introduction of stringent restrictions on aerial spraying, the EESC believes that careful consideration should be given to the fact that there are geographical areas and situations where no other technique is feasible. In such circumstances it might be appropriate to allow only very limited derogations for this kind of operation, so as to secure the greatest possible level of safety and professional skill among operators and thus avoid adverse effects on human health and the environment. Member States and the various tiers of public authority responsible should use standardised risk assessment procedures to monitor safety and competence levels systematically.

4.15 Under the common agricultural policy, increasing support is being given to the development of Integrated Crop Management (ICM) techniques<sup>(13)</sup>. In this context, new Integrated Pest Management (IPM) methods should also be phased in on a consensual basis. The EESC firmly supports ICM techniques<sup>(14)</sup>, which are a milestone for sustainable farming systems.

4.16 It is very difficult to distinguish the various effects of crop protection from the effects of a whole series of other farming practices (rotation etc.): if general IPM 'target-standards' are to be drawn up and made mandatory by the Member States before 2014, the EESC feels that users must be given incentives to participate fully in this and that general ICM techniques, technical progress and technological research in the sector — supported and consolidated in the Seventh Community RTD Framework Programme work programmes — must be taken fully into account.

4.17 The EESC feels that work programmes and calls for tender under the Seventh RTD Framework Programme 2007-2013 should give due consideration to agricultural and plant protection research into the degrees to which new, advanced technologies are harmless, and into minimising the risk caused by the use of chemicals and mixtures of chemicals.

<sup>(13)</sup> *CEAS Report on CM Systems in the EU* carried out for DG Environment and the *Codex on Integrated Farming* of the European Initiative on Sustainable development in Agriculture (EISA). The Codex was also recognised by the CEAS report.

<sup>(14)</sup> *Report on CM Systems in the EU*, European Commission, May 2003. Comments from PAN Europé and the EEB, 9/2002.

4.18 In its Own-initiative opinion on The future of the CAP <sup>(15)</sup>, the EESC pointed to a number of possible ways of taking better account of environmental aspects in agricultural policy. The 'second pillar' of the CAP requires Member States, in the new 2007-2013 Structural Funds programming period and national and regional development plans for rural areas, to provide incentives for mechanisms to compensate farmers who succeed in reducing the risks involved in their use of chemical plant protection products <sup>(16)</sup>.

4.19 The definition of IPC techniques must be in line with new provisions on the placing on the market of crop protection products, and standards on IPM techniques must take into account the varying natural and climatic conditions within the EU.

4.20 Crop protection products must be handled and stored in such a way as to prevent any potential risk to health or the environment. The EESC believes that, in addition to the proposals, a framework of minimum standards on storage for wholesalers, retailers and farmers should be defined at Community level <sup>(17)</sup>.

4.21 As regards the system of harmonised indicators for the mandatory collection and reporting of statistical information on

placing on the market and use of pesticides, the EESC fully agrees that there is a need for statistical information and that it should be mandatory for this data to be collected regularly on the basis of risk and use indicators harmonised at European level.

4.22 The EESC stresses the importance of standardising the information to be requested from all stakeholders the need to avoid any duplication or excessive burdens in terms of either red tape or technical complexity.

4.23 The indicators should be based on risk rather than on the quantity of products used or of residues present, and on the impact on health. WHO studies could be used here. They should also cover the spread of diseases and pathogens affecting crops.

4.24 The EESC calls for due consideration to be given to aspects of international cooperation, as regards both bodies such as the FAO <sup>(18)</sup> and the OECD <sup>(19)</sup>, and neighbouring regions, particularly the countries of the Mediterranean Basin, the Balkans and bordering countries.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

<sup>(15)</sup> OJ C 125 of 27.5.2002, pp. 87-99.

<sup>(16)</sup> OJ C 85 of 8.4.2003, pp. 112-118.

<sup>(17)</sup> Cf. also *Guidelines for Packaging and Storage of Pesticides* (FAO 1985). Current Community legislation on the storage of chemical substances only lays down standards for large quantities while there are no requirements governing small quantities of pesticides held by individual operators, despite the need for this.

<sup>(18)</sup> Particularly as regards the monitoring, implementation and updating of the *International code of conduct on the distribution and use of pesticides*. Nov. 2002.

<sup>(19)</sup> Particularly where the definition of indicators is concerned.

**Opinion of the European Economic and Social Committee on the Proposal for a Decision of the European Parliament and of the Council repealing Council Directive 68/89/EEC on the approximation of the laws of the Member States concerning the classification of wood in the rough**

COM(2006) 557 *final* — 2006/0178 (COD)

(2007/C 161/16)

On 11 October 2006, the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 19 February 2007. The rapporteur was Mr Dorda.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 159 votes with 3 abstentions.

## 1. Introduction

1.1 The Commission proposal seeks to repeal Council Directive 68/89/EEC of 23 January 1968 on the approximation of the laws of the Member States concerning the classification of wood in the rough.

1.2 Given the fact that Member States, the forestry sector and forest-based industries have been saying for a number of years that the Directive is not generally applied across-the-board in the timber trade, the Commission has proposed that the Directive be repealed.

## 2. General considerations

2.1 In mid-2005, 19 Member States and 11 representatives of national industry federations took part in consultations aimed at establishing whether or not the Directive had been applied and whether its repeal would have an adverse impact. The results of the survey confirmed that the majority of both Member States and industry federations do not observe the Directive in the timber trade; they believed that the Directive itself was not detailed enough, did not take into account the intended uses of wood and was not geared to market needs.

2.2 Application of the Council Directive has been limited, since it is not binding, the systems of classification and measurement it establishes are out of date, and operators in the timber market have agreed upon and applied other methods of measurement and classification. Despite this, the internal market for wood raw material has expanded, as well as trade with third countries, seemingly without hindrances.

Furthermore, European standards for the measurement and classification of wood have been established; they can be applied, as appropriate, in wood market transactions and are considered a better solution.

2.3 The repeal of the Directive is therefore in line with the results of the consultations with Member States, the forestry sector and forest-based industries. The aims of the Directive can be achieved without Community legislation.

2.4 For the reasons given above, and also given the fact that the repeal of the Directive will not have any budgetary implications and will help to simplify European legislation, the Committee supports the Commission proposal. The Committee believes that legislation that is rarely applied and is not essential for the proper functioning of the internal market in this sector should not remain in force.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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## Opinion of the European Economic and Social Committee on Animal Welfare — Labelling

(2007/C 161/17)

On 28 November 2006 the German presidency of the Council requested the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, to draw up an opinion on *Animal welfare — labelling*.

The Section for Agriculture, Rural Development and the Environment prepared the Committee's work on the subject.

Because of the referral's urgent nature the European Economic and Social Committee, at its 434th plenary session, held on 14 and 15 March 2007 (meeting of 15 March), appointed Mr Nielsen as rapporteur-general and adopted the following opinion by 92 votes to six, with two abstentions.

### 1. Conclusions and recommendations

1.1 There is growing interest in the EU in promoting production and rearing methods that show more consideration than hitherto for domestic animal welfare. In view of this, it is proposed that the present mandatory minimum animal welfare standards should be backed up by voluntary labelling rules that can be used in combination with both general commercial labels and more quality-based labels, not least among them 'quality schemes'. This will underpin market forces and will not place an unnecessary burden on the political system in the EU or on national inspection bodies. Quality labels play an essential part in competition in the food sector, and they often contain varying animal welfare elements over and above the applicable mandatory minimum standards. However, it is difficult for consumers to see the basis for labelling and the content of rules, and the animal welfare aspects are not always based on proper scientific principles.

1.2 Such a market-based system based on objective criteria to quantify animal welfare will be more flexible, effective and future-oriented than politically imposed criteria and will therefore be better suited to future developments in production and marketing, which will be marked by a greater variation in production conditions as a consequence of EU enlargement, continued specialisation and diversification of production, structural changes in retailing and partnerships in the field of product development and branding.

1.3 It is important to promote production and rearing methods that show more consideration for animal welfare, both directly, through training and the circulation of new research findings, and through market signals, which at the same time will be an essential starting point for a series of priorities within training, investments, etc. In this way a labelling scheme can help create the necessary 'all round' synergy and contribute towards a more rational use of resources. Livestock producers need stability, since today they can be subject to a string of more or less valid changes that affect producers' planning and investment strategy.

1.4 An animal welfare labelling scheme going beyond minimum requirements should thus be set up as a voluntary offer to the producer, business and industry interests concerned; private labelling schemes could refer to standards that have a scientific and practical basis and be adjusted in line with new knowledge. In concrete terms this could consist of offering a sort of logo combined with colour labelling or a points system, which could be applied to commercial labels and form an objective basis for marketing combined with a form of private and independent monitoring. The system could, in principle, be applied to all types of domestic animals and animal products and likewise to imported products, in accordance with WTO rules.

1.5 Traditional regulation by the authorities in the form of minimum requirements should still be continued in the EU, as has been the case up to now for labelling the methods used for producing eggs and organic products. However, this form of regulation is politically and administratively burdensome and therefore less suitable for promoting the development of production and rearing methods that pay greater attention to animals' welfare. At the same time the system will be perceived as stiff and bureaucratic by producers, industry and trade interests, without there being any corresponding benefits for consumers.

1.6 The proposed scheme shows essential similarities to environmental labelling schemes in general, including the EU's own eco-label. Environmental labels are thus based on the application of common principles for production and the use of widely differing products to create greater synergy and wide recognition for the label. However, because of mutual competition, players in the food sector will naturally give priority to their own quality labels, which is why the 'environmental model' is not directly applicable to animal welfare labelling, which must be based on specific research and the mutual assessment of welfare-related indicators.

1.7 The contribution of research in the EU in the field of animal welfare is thus crucial in determining whether it will be possible in the future to integrate animal welfare into the agriculture and subsequent production and trading chain on a scientific and objective basis. However, it is important that the elements of a labelling scheme be laid down as soon as possible so that research findings and standardised — objective, measurable and replicable — indicators can be turned into practical strategies and used in the labelling scheme as and when they become known and those concerned become familiar with the scheme.

1.8 In any case, a substantial information campaign is required, targeting consumers and the retail sector in particular and including coverage of the EU's mandatory minimum standards. At the same time, thought could be given to setting up a website and database supported by the EU to bring about greater transparency and openness, though common guidelines should first be applied before the exact content is published. Thought should also be given to tighter controls and bans on incorrect and misleading advertising to ensure that businesses live up more to their own claims.

## 2. Background

2.1 In accordance with the request from the German presidency, the aim of the opinion is to describe possible animal welfare labelling schemes and their structure, with an eye to promoting the development of production and rearing methods that pay more attention to animals' welfare. It is to be seen against the background of the increased interest in animal welfare in the EU, where animal welfare alongside other ethical considerations is increasingly being included as an element in the 'European model of society'. Consumers have a right — in line with the findings of Eurobarometer studies — to expect food made from animals to be produced using systems that respect EU regulations, notably those on animal welfare, and to count on the existence of objective and credible possibilities for choosing food that is produced in conditions that show special consideration for animals' welfare<sup>(1)</sup>. Moreover, in many respects there is a connection between animal health and welfare and the development of diseases that can be transferred to human beings.

(1) According to the Eurobarometer Special of June 2005 'Attitudes of consumers towards the welfare of farmed animals', 43 % of consumers in the EU take animal welfare into consideration when buying meat and 74 % of those questioned think that their purchases can have an influence on animal welfare. At the same time, however, a number of scientific studies have shown that the psychological and emotional factors which influence consumers, such as appeals to ethical and moral values and the retail trade's presentation and labelling, are extremely complex. For instance, there is a difference between attitudes and actions, and a politically correct attitude towards ethical labelling does not necessarily lead to the purchase of products that are produced under particularly ethical conditions; purchasing decisions are determined more by price, accessibility, health and taste. However, people react strongly when cases of inadequate conditions for animals used in production or research are made public in the media.

2.2 According to most research, consumers thus consider animal welfare as a parameter of key importance to a product's quality. However, this view may be less marked in some Member States. An animal's welfare experience or quality of life can be defined as the sum of positive and negative experiences to which an animal is exposed during its life. Pain, disease, conflict behaviour, abnormal behaviour and chronic stress can be considered as the start of negative experiences for an animal, whereas rest, sleep, food, parental care and grooming can be considered as positive experiences. However, there is no recognised unambiguous definition of animal welfare.

2.3 The EU has — among other things, on the basis of recommendations by the Council of Europe — adopted a series of minimum standards for animal welfare in the form of traditional regulation by the authorities. Many of these minimum standards in the years ahead will have to be reviewed in the light of earlier decisions. In addition, specific rules have been implemented on the voluntary labelling of organic products and the mandatory labelling of production methods when marketing eggs, as well as a few isolated rules when marketing poultry for slaughter and beef.

2.4 The food industry and the retail sector are becoming increasingly concentrated and competitive, and make more and more use of quality labels which show that special consideration is being paid to various quality criteria including, to an increasing extent, animal welfare. At the same time producer organisations and co-operatives have set up an array of regionally-based quality labels, which often include consideration for animal welfare and the environment. Some of these products can make use of the EU's system for protecting geographic designations and specialities<sup>(2)</sup>.

2.5 There are major differences from country to country. For example, the British market is dominated by the trade's quality labels, while in France and Italy there are a significant number of regionally-based quality labels. Dutch production is traditionally dominated by the processing sector's quality labels, although more and more labels are being developed by the retail trade and producer organisations. In Sweden producers' own labels dominate, which is tied up with the traditional view in several other countries that naturally assumes that domestic products mean higher quality, including the animal welfare aspects.

(2) Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed and Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, OJ L 93 of 31.3.2006.

2.6 Experiences with voluntary labelling schemes indicate that the Commission's intention is to promote the use of specific, objective and measurable indicators for animal welfare in current and future Community legislation as the basis for legislation on the validation of production systems that apply higher welfare standards than the minimum standards laid down in the present rules<sup>(3)</sup>. According to the Commission this involves a classification of applied welfare standards in order to promote the development of production and rearing methods that pay greater attention to animals' welfare and make it easier to use these standards in the EU and internationally. The Commission also wants to consider the possibilities of EU labelling on this basis.

### 3. General comments

3.1 As the representative of civil society it is natural for the EESC to contribute towards the formulation of relevant labelling schemes and share responsibility for introducing them in the form of a common European system that can support sustainable development in the internal market and in trade with the rest of the world. Animal welfare forms part of Europe's cultural heritage and the EU's ethical values alongside corporate social responsibility, environmental protection and ecology, which to some extent have been incorporated into EU legislation. There is a certain common identity here with ecology, which as a sustainable production system within agricultural production is based on the environment and animal welfare.

3.2 The EESC therefore supports the Commission's intention to promote animal welfare in the EU on an objective and sustainable basis<sup>(4)</sup> and considers it appropriate to establish a common system for labelling to promote production and rearing methods that pay greater attention to animals' welfare. The aim here above all is to help get market forces to operate on an objective basis and 'pull in the right direction'. At the same time it is important that production and rearing methods which pay greater attention to animals' welfare are promoted through training and the circulation of new research findings. The signals from the market will at the same time, as is the nature of things, be the starting point for a whole series of priorities within research, the training of farmers, advisers and vets, and for future investments in the production system. A labelling scheme can thus contribute to creating synergy and to rational

<sup>(3)</sup> See the Commission Communication on a Community Action Plan on the Protection and Welfare of Animals (COM(2006) 13 of 23.1.2006), which announces initiatives at WTO level, a report in 2009 on a mandatory labelling scheme for chicken meat and meat products, a report in 2009 on the further application of measurable indicators and the possible establishment of a European Quality Standard for products emanating from high level animal welfare production systems and creation of a specific technical and financial system to promote the application of higher welfare standards both inside and outside the EU.

<sup>(4)</sup> See EESC opinion CESE 1356/2006 of 26.10.2006 on the Commission Communication on a Community Action Plan on the Protection and Welfare of Animals, and CESE 1246/2005, OJ C 28 of 3.2.2006 on the Commission proposal COM(2005) 221 for a directive laying down minimum rules for the protection of chickens kept for meat production.

resource use, not least as regards producers' planning and investment strategy.

3.3 At any event, this is a long-term process that of necessity must take place in step with the development of objective, measurable and replicable scientifically-based welfare indicators and an assessment of different production systems. It is, however, important early on to lay down frameworks and principles for the formulation of a common labelling scheme for animal welfare, so that work can be prepared and standardised welfare indicators can be incorporated into the scheme as and when they are developed. As soon as possible, therefore, there must be an understanding and acceptance among the parties concerned on the guidelines and structure of the common scheme that can be used for all livestock products on a voluntary and flexible basis as possible.

3.4 At the same time it has to be admitted that the process is made more complicated not only by a lack of accessible knowledge about the animal welfare aspects and their priority in relation to each other, but also by the diversity of consumer preferences and production conditions, the effect of different traditions and levels of education on people's attitudes, competition in the food sector, the complexities of existing laws, the difficulties of comparing the content of private quality labels and the unreliability of private and public sector inspection bodies, including those relating to imports into the EU.

3.5 In any case, clear and informative labelling is a key factor in promoting production and rearing methods which pay greater attention to animals' welfare. Experiences with organic products and alternative egg production systems have shown that labelling rules have the potential to make production systems show greater consideration for animal welfare.

3.6 Labelling rules fall within the EU's terms of reference. They are constantly the subject of discussion and conflicts of interest, and it is the Commission's intention to bring out a proposal for an amended labelling directive by the end of 2007<sup>(5)</sup>. Relevant and clear labelling is most often the result of a compromise where it is not possible to satisfy all wishes and demands. This applies not least to food products, where it is often said that labelling requirements are too comprehensive. The food authorities also have reservations about further labelling that runs the risk of overshadowing basic information

<sup>(5)</sup> Welfare Quality® is an EU-funded project involving 39 institutes and universities with special expertise in the field of animal welfare. The aim of the project is to develop scientifically-based animal welfare standards and practical strategies with an eye to making animal welfare an integral part of the production chain from agriculture through to the subsequent processing, sales and marketing stages, with adequate information for consumers.

about a food's characteristics. Consumers are also uncertain about the benefits of much of the information on food, especially that relating to ethical aspects. For these reasons animal welfare labelling should be based on a smaller logo combined with colours, stars or points, which can be applied as a supplement to existing labelling.

#### 4. Imports into the EU

4.1 Further statutory requirements and restrictions in the EU may lead to imports from countries with lower standards squeezing EU production and sales, and even cause a loss of market share on the world market. But a stronger focus on animal welfare in the internal market comprising 30 European countries with a total of 500 million inhabitants <sup>(6)</sup> will have a spin-off effect in countries outside the EU and their exports to the EU. The World Bank's International Finance Corporation has pointed out the increasing interest worldwide in animal welfare and the need to adapt to this development both in primary production and in industrial processing <sup>(7)</sup>.

4.2 Obviously, animals that have been reared, slaughtered and cut up in the EU, as well as processed or unprocessed products made from them, fulfil the EU's minimum criteria, and putting a label on them stating this is therefore superfluous. On the other hand, there is often a justifiable call for imported products to be labelled in such a way that it is directly or indirectly evident to what extent the product concerned fulfils the EU's minimum requirements. As has already been mentioned in previous EESC opinions, animal welfare must be recognised in the longer term as a fully justified consideration in trade in agricultural products, so that imports can be required to meet minimum standards. In view of all this, there should be a closer look at how much a call for the mandatory labelling of imports' countries of origin would be justified and — if there is no guarantee that EU minimum standards have been met — whether there should be some sort of 'unknown production method' statement.

4.3 In order to cater for all EU agricultural products which comply with mandatory EU animal welfare standards and to distinguish them from non-EU products which are not subject to the same requirements, the place where agricultural raw material making up the product was grown or bred could thus

<sup>(6)</sup> Including Norway, Iceland and Liechtenstein, which through the European Economic Area (EEA) are included in the EU's internal market.

<sup>(7)</sup> Creating Business Opportunity through Improved Animal Welfare from the International Finance Corporation (IFC), World Bank Group, April 2006. The IFC covers 178 member countries and the request applies in particular to investments in developing countries with an eye on exporting to the developed countries. Many countries also have traditional codes of practice regarding animal welfare without having legislation in the strict sense of the term. This applies, for instance, to Switzerland, Australia, New Zealand, Argentina and Brazil.

be indicated, using one of the following designations as appropriate:

- 'EU Agriculture' if the agricultural raw material making up the product was grown or bred in the EU;
- 'Non-EU Agriculture' if the agricultural raw material making up the product was grown or bred in a third country;
- 'EU and non-EU Agriculture', if part of the agricultural raw material making up the product was grown or bred in the EU and another part was grown or bred in a third country.

The designation 'EU' or 'Non-EU' could possibly be replaced or supplemented by the name of a country in cases where all the agricultural raw materials making up the product were grown or bred in that country.

4.4 Even though compatibility with WTO rules should be the starting point and precondition for any controls, the EU may, in cases where there is no international agreement as mentioned in the EESC's previous opinions, see itself as obliged to take unilateral action in order to draw the necessary attention to the need for an adaptation of existing rules. In any event, importers and the retail trade must take responsibility in both the short and long term for ensuring that imports from non-EU countries fulfil comparable requirements through certification and similar guarantees.

#### 5. Traditional regulation by the authorities

5.1 A whole series of minimum standards have been laid down for animal welfare in the EU and previous decisions oblige the Commission to produce a proposal to review and update these in the years ahead <sup>(8)</sup>. Minimum standards are laid down in detailed legislation, often after difficult political negotiations. In the future, minimum standards should be based even more on research findings and an objective analysis of the situation, which should conceivably make the political process easier. The rules should thus be based on the knowledge available at any given time and be laid down at an objective and justifiable level that reflects the practical possibilities for primary production, transport, stunning and slaughter under proper operating conditions. Minimum standards must, of necessity, also be laid down in this way in the future, through the application of traditional public law regulations.

<sup>(8)</sup> Commission Communication on a Community Action Plan on the Protection and Welfare of Animals (COM(2006) 13).

5.2 Rules on the voluntary labelling of organic products and the mandatory labelling of production methods when marketing eggs have also been laid down in detail in EU legislation. In other words, if more detailed marks are used in labelling, EU rules must be followed. This is to ensure fair conditions of competition and provide correct information for consumers. These forms of labelling combined with detailed mandatory requirements are to be introduced when labelling has been clearly requested by consumers or is important to the market's smooth operation, since it regulates the use of commercial names which the consumer associates with certain forms of production, thereby establishing the minimum legal conditions required in order to avoid fraud or confusion in the market. Here too, experience has shown that it is difficult and time-consuming to lay down criteria. There is also a lot of work involved in the form of registrations, accounting and inspection visits for businesses and for national inspection bodies. Nonetheless, it is also appropriate to keep to the present form of regulation in these areas.

5.3 According to the proposal on minimum standards for the slaughtering of chickens, the Commission plans, at the latest two years after adoption, to submit a report on the 'possible introduction of a specific, harmonised mandatory labelling regime at Community level for chicken meat, meat products and preparations based on compliance with animal welfare standards' <sup>(9)</sup>. This will result in a scheme in parallel with existing Community rules for egg production systems, with labelling rules that refer to different forms of production.

5.4 However, the traditional regulation model is only suitable when a distinction can be drawn between clearly defined forms of production that are readily apparent to consumers. The same applies to the 'ecology regulation', which primarily covers the environment and does not refer explicitly to animal welfare. The model may also be used for the production of chickens for slaughter if consumers are able to understand and remember the background to labelling but the model will not be clear if it is extended to cover several animal products.

5.5 In addition, traditional regulation would be too rigid and complicated bearing in mind divergent production relationships in an enlarged EU and future market developments. There is a risk that it would slow down or block development as a result of complicated audit procedures and the difficulties of allowing for natural differences in the production process. The model is politically and administratively demanding and not sufficiently attractive for market players, and it would reduce the incentives for private quality labels, such as those applying to production in a regional area. Experience has also shown that there would be an increase in red tape if there was a shift from voluntary

to regulated or mandatory labelling.

5.6 A further extension of the traditional model laid down by authority at EU level and the use of labelling by the public authorities is therefore inappropriate. The same applies at national level, where taking national labelling rules as a starting point would be in conflict with the internal market. Similarly, a label stating that the EU minimum standard had been met would only mean anything if there were different levels of labelling, as is the case with egg production.

## 6. The 'environmental model'

6.1 A general voluntary labelling scheme along the lines of the rules for awarding the EU's eco-label <sup>(10)</sup> and corresponding national rules would be less suitable for promoting the development of production and rearing methods that pay more attention to animals' welfare. The food industry and trade would, without a doubt, prefer to develop their own quality labels further. Even though the 'environment model' has more similarities with the proposed voluntary model for animal products, it would be unsuitable for use as a basis for the introduction of objective criteria for animal welfare, in the same way that a model like the EU's eco-labelling scheme would be too bureaucratic to use for animal welfare labelling.

6.2 The relevant eco-labels would operate, in principle, with the help of a secretariat that would assist the parties concerned with laying down environmental criteria that were stricter than those prescribed by law and provide information on labelling for consumers and purchasers. The advantage with this is that the labelling in principle could be used for all products and thereby achieve a wider application through synergy and greater knowledge of the scheme. The information would be guaranteed by an impartial third party as objective and verified proof that a product was produced in a more environmentally-friendly way and used as such throughout its total life cycle.

6.3 When animal products are involved, the laying-down of individual criteria for the rearing of animal species and production conditions must be done by experts on the basis of research findings and a thorough assessment of production systems. So, there is a need for detailed and specific professional assessments. But the 'environmental model's' clear and credible indication to consumers, voluntary use and the market-based common labelling scheme showing compliance with special ethical criteria that are stricter than the mandatory minimum requirements should also be used to promote the development of production and rearing methods that pay more attention to animals' welfare.

<sup>(9)</sup> COM(2005) 221 of 30.5.2005 laying down minimum rules for the protection of chickens kept for meat production.

<sup>(10)</sup> Regulation (EC) 1980/2000 of the European Parliament and of the Council of 17.7.2000 on a revised Community eco-label award scheme, OJ L 237 of 21.9.2000, p. 1.

## 7. Private quality labels

7.1 Private quality labels operate in line with market premises and in accordance with the legal bans on misleading advertising without any particular intervention by the authorities. These are flexible systems that can constantly adapt to developments. However, labelling is not optimal as far as animal welfare is concerned. The ever-increasing supply of goods makes it difficult for consumers to monitor and make comparisons between the individual labels. Marketing may give a misleading picture of production conditions and the qualities claimed for a product may not necessarily be based on objective criteria, among other things because there is not yet a pool of sufficiently objective knowledge that can be used as a basis for such criteria. This leads to a loss of credibility and a distortion of competition with regard to more serious products and production conditions. Industry and business may also, as the result of competition, be prone to altering requirements in a way that is not always well-founded and which may cause difficulties for animal producers.

7.2 For these reasons, objective criteria need to be laid down for production. The Commission has proposed the setting-up of a centre or laboratory whose aims will include the development of objective welfare indicators<sup>(1)</sup>, and the Commission expects that the further use of measurable indicators in Community animal welfare legislation can come about on the basis of the research findings of the Welfare Quality Project, which is to be concluded in 2009. At the same time it is important to make use of other research and development carried out in the Member States.

7.3 Future efforts to promote the development of certain production and rearing methods that pay more attention to animals' welfare in line with sound scientific indicators must therefore, of necessity, be made as a complement to private quality labels as the best solution. This will allow businesses to keep their own labels and develop them further, and thus also differentiate themselves from their competitors on a real and objective basis; moreover, consumers will be able to make choices according to their own convictions and preferences on the basis of accurate information. The system will thus be able to operate in line with market premises and without unnecessary intervention by the authorities. This can be done with an indication that the product meets an EU standard that is subject to independent monitoring.

## 8. Proposals for animal welfare labelling

8.1 It is important to lay down frameworks and principles for the structure of a common labelling system so that work can be prepared and standardised welfare indicators can be incorporated into the system as and when sufficient preliminary

<sup>(1)</sup> As proposed in the EESC's opinion on the Commission's Communication on a Community Action Plan, the relevant laboratory or centre should be set up at a global level in cooperation with the EU's most important trading partners, with the aim of gaining international acceptance of the methods developed.

findings have been produced by the Welfare Quality Project, among other things. This will make it possible for experts and, where appropriate, the proposed centre for animal welfare, to work out the necessary objective criteria. There must be an overview of different indicators covering the entire life cycle of the animals; these should be translated into practical and realistic production conditions, so that there is the best possible interaction between research, development and the application of new technologies<sup>(2)</sup>.

8.2 The results from this can be translated into standards for all domestic animal species and the most essential animal products through a mandate given to the relevant centre and used for the proposed rules on labelling; guarantees must be provided that the individual indicators can be measured and subsequently checked. Labelling referring to animal welfare should be based as far as possible on measurable and replicable animal welfare indicators and not just on the production systems used.

8.3 Business and industry could then, on a voluntary basis, label animal products with a logo recognised by the EU guaranteeing that they meet a higher standard than the EU's minimum requirements. The higher standards should be laid down in a legal instrument, unless it is legally possible to refer directly to common standards. The standards could, for example, be set at a choice of three levels 20, 40 and 60 per cent above the minimum standards to the extent considered appropriate for the respective animal species and product. The guarantee of compliance with the specific requirements and checking of the label's application could be based on self-policing by businesses with the help of an independent inspector, institute or organisation or a special certification body working in accordance with the relevant European and international ISO Standards in EN — ISO — 17000 or accredited as a certification body in accordance with EN — ISO — 45011. However, there is no need for use of the relevant logo to be approved or permitted in each individual case, with the red tape and monitoring by the public authorities that this would involve.

8.4 The relevant logo could, for example, be combined with a system of colours, stars or points, which could be applied to existing commercial labels, so that there was no conflict between the common labelling rules and existing commercial label. The system could also be used for imported products and thus not cause problems in relation to WTO rules.

## 9. Supplementary measures

9.1 Consideration should be given to setting up a website and database, supported by the EU, with a description of the proposed labelling rules and various welfare labels and rules, to be supplied by those responsible for the relevant labels. Businesses would be able to provide information about products and thus show that they are behaving in an ethically responsible

<sup>(2)</sup> The relevant indicators should include all the essential data on the animal species concerned as regards rearing, space and accommodation, daily supervision, health and sickness aspects, weaning, surgical operations, transport to the slaughterhouse, stunning and slaughter.

manner. The same information could also be accessible in shops, for example. The database could also be a source of inspiration for further development in this area. It would lead to greater transparency, and the risk of criticism and the exposure of cheating and misleading claims could contribute to a certain self-discipline and internal monitoring.

9.2 In addition, consideration could be given to tightening the rules on incorrect or misleading claims, so that stiffer sanctions can be imposed in the event of abuse, though this would not mean a system of approval combined with monitoring by national authorities. Of course, businesses may quite legally make claims that are correct and do not mislead consumers; but it is also quite clear that it is the exclusive responsibility of businesses to ensure that claims about products are truthful — irrespective of whether or not they are verified by an independent third party.

9.3 By far the simplest option would be just to support the continued development of private labelling rules through information campaigns aimed at consumers and the retail trade, without any further measures. But, as has been made clear earlier, this would not be sufficient. Regardless of the choice of labelling rules or other measures, information campaigns should be carried out in all circumstances, if the basis for this is estab-

lished. This could be done through conferences for opinion-leaders as well as through TV or newspaper articles; the Commission and the relevant national authorities should play an essential role here, along with agriculture, consumer and animal protection organisations, for example.

9.4 In the meantime there have been calls for mandatory national labelling to show a product's origin, against the background of a general preference for national products. Despite claims from business about the risk of distortions of competition, a basic principle up to now has also been that stricter rules on animal welfare may be laid down at national level than the minimum requirements prescribed by the EU. If, in accordance with the subsidiarity principle, it is left up to the individual Member States to develop their own labelling schemes for protecting animals' welfare, dependent on production conditions and consumer interests, these would rapidly turn into a one-sided promotion of national products, and any form of mandatory national labelling would be incompatible with the internal market and EU competition rules. However, Member States which introduce higher mandatory minimum requirements for one or more production sectors have the possibility, where appropriate, of allowing these to be included in the proposed labelling scheme.

Brussels, 15 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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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 883/2004 on the coordination of social security systems, and determining the content of Annex XI**

COM(2006) 7 final — 2006/0008 (COD)

(2007/C 161/18)

On 10 February 2006 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2007. The rapporteur was Mr Greif.

At its 434th plenary session, held on 14/15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 163 votes to 0 with 5 abstentions.

## 1. Summary

1.1 The EESC believes that it would be advisable to work to ensure that the new regulation on the coordination of Member States' social security systems comes into force as quickly as possible, which would also involve the draft implementing regulation taking effect without delay and agreement being reached on the regulation under consideration here, which lays down the content of Annex XI of Regulation 883/2004.

1.2 The EESC is aware that unconditional application of the principle of equal treatment of facts, under which national authorities may not limit themselves to facts occurring in their own territory, would be accompanied by major consequences for social security systems.

1.3 The EESC acknowledges therefore that certain entries in Annex XI concerning particular facts in Member States are necessary to ensure that there is no conflict between national rules and the text of Regulation 883/2004. The Committee requests, however, that the entries do not proliferate and that their number is kept to a minimum by ensuring that specific entries are in fact necessary for the implementation of the coordination rules in the relevant Member State and adhere to the proportionality principle.

1.4 For the EESC, it is especially important to emphasise that under no circumstances should the process of coordination lead to a situation whereby entries included in Annex XI work to the disadvantage of the public.

1.5 In the EESC's view, the approved entries do not present any obvious problems, either for insured persons moving from one country to another or for businesses and social security institutions. The benefits of coordination for recipients must not be undermined by the entries.

1.6 The EESC acknowledges the successful efforts of all those involved to simplify Annex XI. As a result, it contains far fewer

entries than the equivalent annex (Annex VI) to the current coordinating Regulation 1408/71.

1.7 To facilitate the rapid practical implementation of the basic regulation, the EESC therefore calls on the Member States to provide their social security institutions, without delay, with the necessary human and technical resources.

## 2. Introduction and background to proposed regulation

2.1 The Community rules on the coordination of national social security systems are currently laid down by Regulation (EEC) No 1408/71 (basic regulation) and its implementing regulation, Regulation (EEC) No 574/72, which have been modified and updated several times since coming into force over 30 years ago.

2.1.1 These regulations are intended to define the necessary measures for the persons covered to travel, stay or reside in another Member State without losing their social security entitlements. Insured persons who move from one country to another should not suffer any disadvantage and should not be treated worse than insured persons who remain in one country. To ensure that rights are safeguarded, the regulations lay down the practicalities of coordination and also the different procedures to meet specific needs in the various branches of social security.

2.2 Regulation 1408/71 is to be replaced by Regulation (EC) 883/2004 of the European Parliament and the Council, which was adopted on 29 April 2004.

2.2.1 Article 89 of new Regulation 883/2004 provides that a further regulation shall lay down the procedure for its implementation, which will replace the current implementing Regulation 574/72. This implementing regulation <sup>(1)</sup>, which was published in draft form on 31.1.2006, is currently being examined in the European Parliament and the Council and has already been the subject of a separate EESC opinion <sup>(2)</sup>.

<sup>(1)</sup> OJ C 318, 23.12.2006.

<sup>(2)</sup> Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems COM(2006) 16 final — 2006/0006 (COD). Rapporteur: Mr Greif. OJ C 324, 30.12.2006.

2.2.2 Only after the implementing regulation has come into force can Regulation 883/2004 be applied and its numerous simplifications, clarifications and improvements in the area of social security coordination, which have already been approved, take effect for all users. Until then, Regulation 1408/71 and its implementing Regulation 574/72 remain fully in force.

2.3 Recital 41 of Regulation 883/2004 states that 'it is necessary to lay down special provisions which correspond to the special characteristics of national legislation in order to facilitate the application of the rules of coordination.' And it is these *special provisions for the application of the legislation of the Member States* that are contained in Annex XI of Regulation 883/2004, which is the subject of this opinion.

2.3.1 The basic Regulation 883/2004 therefore lays down the basic rules of coordination. The implementing regulation is a form of 'user manual' for the basic regulation and lays down rules on matters of a more administrative nature. Annex XI of Regulation 883/2004 contains specific rules, adapted to the legal systems of individual Member States, in order to facilitate the smooth application of the new coordination rules.

2.3.2 Annex XI therefore serves to ensure that the social security systems of individual states and the coordination rules are not at odds with one another. Certain rules peculiar to national systems must be safeguarded through entries included in Annex XI, so as not to impede coordination. Annex XI should therefore serve to ensure a smooth interaction of national and Community legislation with regard to the coordination of social security systems in Member States.

2.4 There will be a separate section in Annex XI for each Member State. The scope of the entries for individual Member States will vary widely and depends upon national legislation.

2.5 When the new coordinating Regulation 883/2004 was adopted in 2004, provisionally Annex XI was left completely blank. It was agreed at the time that its contents would be determined in a subsequent regulation. This regulation now exists in draft form <sup>(3)</sup>.

2.5.1 Annex XI relates not only to Regulation 883/2004 itself, but also to the implementing regulation. The three texts cannot be considered separately. Accordingly, Annex XI is being examined in the Council Working Group on Social Issues alongside those parts of the implementing regulation that are relevant to it. Both draft regulations submitted by the Commission in January 2006 will therefore be discussed in the Council at the same time.

<sup>(3)</sup> COM(2006) 7 final.

2.5.2 Before the implementing regulation comes into force, the content of Annex XI must be determined by the European Parliament and the Council. The finalisation of Annex XI is therefore a further condition for the application of the new rules on coordination. The legal basis for the regulation is Articles 42 and 308 of the EC Treaty. These articles stipulate that implementation requires unanimity in the Council in conjunction with the codecision procedure in the European Parliament.

2.6 On 24 January 2006, the Commission put forward a proposal amending certain points in Regulation 883/2004 and laying down the content of Annex XI. The proposal came about following consultation with Member States. The amendments to specific points in Regulation 883/2004, which is still not applicable, are based upon the fact that some of the questions which Member States requested be included in Annex XI were acknowledged to be of a horizontal nature, so that the rules on these questions should cover all Member States. By including them in the basic regulation, there is no need for similar entries from several Member States in Annex XI.

### 3. General and specific comments of the EESC

3.1 The EESC has already welcomed the new rules on the coordination of Member States' social security systems in several opinions as an important step towards improving freedom of movement in the Union, and is particularly pleased about the expansion of the scope to cover more matters and persons, the simplification of the current rules and also all measures to improve cooperation between social security institutions.

3.1.1 The EESC believes that it would be advisable to work to ensure that the new coordinating regulation comes into force as quickly as possible, which would also involve the draft implementing regulation taking effect without delay and agreement being reached on the content of Annex XI. In that connection, the EESC calls upon all stakeholders to press ahead as quickly as possible with the outstanding examination of the draft implementing regulation and also of the regulation under consideration here, which lays down the content of Annex XI <sup>(4)</sup>.

3.1.2 Furthermore, the EESC has already stipulated in its opinion on the implementing regulation that any period of time foreseen between the final adoption of the implementing regulation and its entry into force must under no circumstances exceed the six months envisaged in the Commission draft <sup>(5)</sup>.

<sup>(4)</sup> Most recently also requested in the EESC opinion on *Social security schemes for employed and self-employed persons* (Rapporteur: Mr Rodríguez García-Caro), OJ C 24 of 31.1.2006 and the EESC opinion on the *Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems* COM(2006) 16 final — 2006/0006 (COD). Rapporteur: Mr Greif. OJ C 324, 30.12.2006.

<sup>(5)</sup> OJ C 324, 30.12.2006, rapporteur: Mr Greif — point 4.4.1.

3.2 Member States may request that entries be included in Annex XI so that certain sensitive national rules can be maintained. The basis for this is, first and foremost, the comprehensive equal treatment of facts laid down in Regulation 883/2004, under which Member States must in principle take account of all facts and events with legal effects in the area of social security occurring in another Member State as though they had taken place in their own territory <sup>(6)</sup>.

3.2.1 Equal treatment of facts means, for example, that drawing a pension from a social security institution in another Member State must have the same legal effects as drawing a pension in one's own Member State. And should, for instance, having an accident in your own Member State result in you being able to draw an incapacity benefit, then this benefit must also be provided should you suffer an accident in another Member State.

3.2.2 In the past, the European Court of Justice has nearly always decided in favour of a broad interpretation of equal treatment of facts in order to guarantee the protection of migrant workers. In the current draft of Regulation 1408/71, there is no general equal treatment of facts, only rules for certain specific cases. Where no specific rules exist, the matter has occasionally been brought before the Court of Justice. For example, the Court found it to be inadmissible when the length of time for which orphan allowance can be claimed may only be extended on the basis of military service completed within the relevant Member State <sup>(7)</sup>, or when periods of incapacity are taken into account in an old-age pension only if the person concerned was subject to the laws of the relevant Member State when he/she became incapable of working <sup>(8)</sup>.

3.2.3 The EESC is aware that unconditional application of the principle of equal treatment of facts, under which national authorities may not limit themselves to facts occurring in their own territory, would be accompanied by major consequences for social security systems. Furthermore, recitals 9 to 12 of Regulation 883/2004 show that limits are set to the equal treatment of facts. For example, 'care should be taken to ensure that the principle of assimilation of facts or events does not lead to objectively unjustified results or to the overlapping of benefits of the same kind for the same period' (recital 12). And recital 11 stipulates that 'The assimilation of facts or events occurring in a Member State can in no way render another Member State competent or its legislation applicable.'

3.2.4 In order to eliminate undesired effects arising from the equal treatment of facts, horizontal waivers applicable to several Member States were included in the basic regulation (883/2004). Specific undesired effects on the system of one

Member State can be prevented by including an entry in Annex XI.

3.3 Annex XI is based upon the contributions of Member States. There are certain provisions on specific facts that Member States cannot introduce or leave in force at national level without there being a potential conflict with the text of Regulation 883/2004. Annex XI should therefore ensure that the points in the regulation relating to particular Member States are adapted in a way that enables a smooth application in individual Member States.

3.3.1 Given that it might contain quite a number of entries, Annex XI is key to the implementation of Regulation 883/2004. The EESC acknowledges that certain entries are necessary but requests that the entries do not proliferate and that their number is kept to a minimum by ensuring that specific entries are in fact necessary for the implementation of the coordination rules in the relevant Member State and adhere to the proportionality principle. For the EESC, it is especially important to emphasise that under no circumstances should the process of coordination lead to a situation whereby entries included in Annex XI work to the disadvantage of citizens.

3.3.2 The EESC is aware of the complexity of the issues to be settled here, but in spite of this requests that the pursuit of vested interests should not lead to any further delay in the application of the new rules, particularly in view of the fact that the Council must decide unanimously and in accordance with the codecision procedure in the European Parliament.

3.4 Even during the consultations on Regulation 883/2004, Member States were asked to submit proposals aimed at ensuring the smooth application of the individual provisions. Member States put forward some 150 proposals for entries to be included in Annex XI. The Commission evaluated the proposals and discussed them with officials from the relevant Member States. In the end, about 50 were incorporated into the proposed annex. This process led to the drafting of the annex which now appears in the Commission proposal under discussion here. A final assessment of the entries in Annex XI and the corresponding chapters in the implementing regulation is currently being carried out in the Council Working Group on Social Issues.

3.4.1 Given the complexity of the material, which covers questions of detail in the social legislation of individual Member States, the EESC will not comment in detail on specific entries. On first sight, the approved entries do not, in the EESC's view, present any obvious problems, either for insured persons moving from one country to another or for businesses and social security institutions.

<sup>(6)</sup> See Article 5 of Regulation 883/2004.

Equal treatment of benefits, income, facts or events:

'Unless otherwise provided for by this Regulation and in the light of the special implementing provisions laid down, the following shall apply:

(a) where, under the legislation of the competent Member State, the receipt of social security benefits and other income has certain legal effects, the relevant provisions of that legislation shall also apply to the receipt of equivalent benefits acquired under the legislation of another Member State or to income acquired in another Member State;

(b) where, under the legislation of the competent Member State, legal effects are attributed to the occurrence of certain facts or events, that Member State shall take account of like facts or events occurring in any Member State as though they had taken place in its own territory.'

<sup>(7)</sup> Case C-131/96, *Mora Romero*, [1997], ECR 3676.

<sup>(8)</sup> Cases C-45/92 and C-46/92, *Lepore and Scamuffa*, [1995], ECR 6497.

3.5 Furthermore, it also seems clear why most of the entries were not included: Some proposals were not included in Annex XI, either because of redundancy or because of incompatibility with Regulation 883/2004. Some of the other proposals for entries in Annex XI have become proposals for amendments to Regulation 883/2004. These proposals are not specific to a country but are of a general nature.

3.5.1 These proposed amendments to Regulation 883/2004, which have also been incorporated into the draft regulation, ensured that Annex XI did not include several similar entries for various Member States. This keeps the annex shorter and the overall regulation clearer.

3.5.2 Article 1 of the draft regulation is an example of this consolidation of horizontal matters. The clarifications it contains are relevant to many Member States and are therefore logically added as amendments to the regulation itself, rather than as a large number of entries in Annex XI.

3.5.2.1 Article 1 (1) amends Article 14 of Regulation 883/2004 on *voluntary insurance or optional continued insurance*. On the basis of this new provision, all Member States may stipulate in their national legislation that voluntary insurance in their own social security system, under which residence or previous employment in that Member State is a condition for voluntary insurance, is only possible if at an earlier stage the person had been insured in the system of that Member State on the basis of activity as an employed person. Without such a possible waiver, anyone who had resided or worked anywhere in the European Union could take out voluntarily insurance in this Member State by virtue of the comprehensive equal treatment of facts laid down in Article 5 of Regulation 883/2004. As voluntary insurance under the systems of certain Member States confers some real advantages, unconditional access could lead to the destabilisation of the systems of these Member States, and therefore present serious problems for insured persons there. It was therefore agreed that all Member States may stipulate that previous employment is a prerequisite for voluntary insurance.

3.5.2.2 Article 1(3) amends Article 52 of Regulation 883/2004 on *award of benefits*.

The amendment applies to all Member States and stipulates the cases in which the so-called *pro-rata-temporis* method is not used to determine the amount of the entitlement <sup>(9)</sup>.

- The aim is to ensure in all cases that insured persons who move from one country to another are treated no worse than those who remain in one country.

<sup>(9)</sup> Under the *pro-rata-temporis* method, a person's part pension from his/her own Member State is calculated on the basis of a pro-rata calculation. First of all, a credited calculation is made on the basis that the person concerned spent all insured periods in his/her own country. The part pension that this person receives from his/her own country is then calculated as the percentage of this credited pension that corresponds to the share of the total period of insurance spent in his/her own country. However, there are cases where the calculation based upon insured periods spent in one's own country (independent benefit) is always higher than the entitlement based upon the pro-rata calculation. These cases are referred to in Annex VIII. Under these circumstances, the competent institution may waive the calculation of the pro-rata entitlement.

- For the sake of completeness, it should be mentioned here that the proposed Commission text was revised during examination in the Council.

- According to the provisional partial agreement reached in the Council, systems in which periods of time are not taken into account when calculating the amount of an entitlement should not use the *pro-rata-temporis* method of calculation, provided they are referred to in Annex VIII of Regulation 883/2004.

- This includes defined contributions schemes, as referred to in the original Commission document.

3.5.3 Other horizontal matters were taken into account in the proposal for the implementing regulation. These are first and foremost proposals of a technical nature. The entries in Annex XI should therefore be limited to specific measures for individual Member States.

3.6 The EESC acknowledges the successful efforts of all those involved to simplify Annex XI. As a result, it contains far fewer entries than the equivalent annex (Annex VI) to the current coordinating Regulation 1408/71.

3.6.1 Building on this, due consideration should go on being given, in particular with regard to any future requests for entries to be included in Annex XI (*inter alia*, from Romania and Bulgaria, which are in the process of joining the EU), as to whether the matter is of a horizontal nature which should more logically be addressed in the basic regulation or in the implementing regulation.

This is the case for example with the protection clauses that exist under the state welfare systems of numerous Member States, to help people who have suffered in their social security situation for political or religious reasons or for reasons of their descent <sup>(10)</sup>, or even the special rules for people injured in war, former prisoners of war, victims of crime and terrorism or those who have suffered at the hands of a former totalitarian regime. Such protection clauses, while they offer the protection of social security (e.g. health insurance, pensions) or compensation payments to specific groups of individuals, are as a rule not part of the social security system. It would therefore be appropriate if the basic regulation were to include an article on this subject too, applicable to all Member States, so as to exclude altogether from the regulation those provisions which provide for state entitlements or compensation but do not come under the social security system.

<sup>(10)</sup> See entry No 5 from Austria in Annex XI.

3.6.2 At the same time, the EESC calls upon experts in individual Member States to examine in detail the legislation of their respective countries in the light of the new rules on coordination. Further entries should be included in Annex XI wherever there might be problems for the smooth application of Regulation 883/2004. If national social security legislation is at odds with the coordinating rules, this could lead to a large number of proceedings being brought before the ECJ.

#### 4. Further remarks on coordination

4.1 Cross-border mobility in Europe is right at the top of the EU agenda. Effective coordination in the area of social security is essential if EU citizens are to make use of it. They rightly expect practical benefits from Community cooperation.

4.2 The EESC believes that the Commission and Member States should, in that connection, strengthen measures to raise awareness among all potential users of the regulation of the arrangements for and advantages of the coordination of social security systems. The Committee believes that the necessary preparations for this should be made without delay. Existing tools for providing advice on the subject of mobility <sup>(1)</sup> should be publicised more widely and strengthened.

Brussels, 14 March 2007.

4.3 In this connection the EESC has also pointed out that staff employed in social security institutions must be prepared in good time for the new rules and all the supporting arrangements. It is essential that staff in the Member States receive instruction and training in this area.

4.4 To facilitate the rapid practical implementation of the basic regulation, the EESC therefore calls on the Member States to provide their social security institutions, without delay, with the necessary human and technical resources. The existing instruments available to stakeholders and users at national level — in particular the existing TRESS networks, which bring together the interested parties and stakeholders in the Member States <sup>(12)</sup> — should be used to carry out an appropriate evaluation of the practical implementation of this regulation in individual Member States once it enters into force.

4.5 The EESC reserves the right to return to the practicalities of coordination in a separate own-initiative opinion. The opinion should, in particular, provide an assessment of the extent to which the public are actually able to profit from intended benefits (associated, amongst other things, with the European Health Insurance Card) in the area of cross-border mobility.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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<sup>(1)</sup> See, *inter alia*: The Community provisions on social security — Your rights when moving within the European Union: [http://ec.europa.eu/employment\\_social/emplweb/publications/publication\\_en.cfm?id=25](http://ec.europa.eu/employment_social/emplweb/publications/publication_en.cfm?id=25); and also the MISOC database on the social security systems of the Member States: [http://ec.europa.eu/employment\\_social/social\\_protection/misoc\\_en.htm](http://ec.europa.eu/employment_social/social_protection/misoc_en.htm).

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<sup>(12)</sup> Training and Reporting on European Social Security (see also: <http://www.tress-network.org/>).

## Opinion of the European Economic and Social Committee on The family and demographic change

(2007/C 161/19)

The European Economic and Social Committee received a letter, dated 19 October 2006, from the future German presidency requesting its opinion on *The family and demographic change*.

The Committee Bureau decided to draw up an opinion which would also address the *Communication from the Commission — The demographic future of Europe — From challenge to opportunity*, COM(2006) 571 final, on which the Commission decided, on 12 October 2006, to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2007. The rapporteur was Mr Buffetaut.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March), the European Economic and Social Committee adopted the following opinion by 120 votes to one with five abstentions.

### 1. Recommendations and proposals

#### 1.1 Reacting to an unprecedented situation

1.1.1 Article 33 of the Charter of Fundamental Rights legitimises the European Union's involvement in the debate on family policy, even if it is clear that, for reasons of efficiency and subsidiarity, the practical definition and implementation of policies must lie with the Member States, the local authorities and even public services and businesses.

1.1.2 In its Green Paper of 16 March 2005, the Commission rightly described Europe's present demographic situation as 'unprecedented'. The Communication of 10 October 2006 emphasises that 'it is also one of the main challenges that the European Union will have to face in the years to come'. Statements of fact will not suffice. The only pertinent question is 'what action should be taken at Community level?' especially in the sphere of family policies and the reconciliation of family and working life. We should also stress that even the Council of Europe has recently joined the call for a broad European family policy.

1.1.3 The European Economic and Social Committee advocates a research programme, information campaign, proposals and monitoring. Generally speaking, impact assessments, which are now mandatory for all legislative proposals, should cover the impact on families if the latter are liable to be directly affected. These studies should be linked to the other broad socio-economic fields of action in the EU (employment, growth, energy evolution and its consequences).

#### 1.2 Research programmes

1.2.1 In order to respond appropriately to demographic change, decision-makers at EU, national, and local levels need to

carry out a detailed study of demographic developments. The first European Demographic Forum, which took place in October 2006, was an excellent initiative and should become a regular event.

1.2.2 It is equally necessary to scrutinise demographic change (the geography of population, natural mobility, migration, gender and age profile, increased life expectancy, etc.) and its causes (economic, social, cultural and environmental factors, difficulties in reconciling family and professional life, the situation of women and mothers in the labour market, flexible working arrangements for family reasons, the magnitude of job pressures and insecurity ...) whilst taking national and regional diversity into consideration. It is essential that these studies should be carried out independently because their results may challenge national policies.

1.2.3 Comparative studies could be carried out to look into the different tax or social systems used to help women and men get back to work after raising children, and incentives for men to share family responsibilities. It would also be interesting to study the various tax incentives for developing universally accessible family-oriented public or private services.

1.2.4 Families in specific circumstances (single mothers raising children, children with disabilities, dependent elderly parents, migrant families having difficulty integrating etc.) should be the focus of specific studies.

1.2.5 Ageing<sup>(1)</sup>, in all its forms and many geographic variations, should be the focus of specific studies, with particular emphasis on its impact on family life and policy. This policy has primarily been analysed from the perspective of relationships

(<sup>1</sup>) In demographic science, 'population ageing' is defined as an increase in the percentage of elderly persons in the population, generally accompanied by a drop in the percentage of young people. The expression 'ageing society/gerontogrowth' (*gérontocroissance*) is used to define an increase in the number of elderly persons. Depending on the country and the region, population ageing and 'gerontogrowth' are not necessarily concomitant, but may differ in terms of relative combinations and causes.

between parents, young children and adolescents. It should now be analysed from the perspective of relationships between children and elderly parents, with the emphasis on managing working hours and community support.

1.2.6 In the future it will also be necessary to consider how more active, independent and healthier older workers can be better involved in family, economic and social life for longer. More specifically, this could be achieved by adapting jobs and promoting greater active involvement in their communities, and relations between the generations (for instance, by involving older people in schools, nurseries or crèches). Families are not made up exclusively of parents and children, they also include grandparents, who often play an important role in helping and supporting the family (childminding, material support etc.).

1.2.7 In the Seventh framework programme of the European Community for research, technological development and demonstration activities (2007-2013), the socio-economic research aspect should be beefed up, with more funding provided to strengthen demographic research <sup>(2)</sup>.

### 1.3 Information

1.3.1 The Commission should set up a European register on best practice in family policy, family-work balancing, gender equality and policies focusing on mothers and fathers who assume their full share of family responsibilities. Its purpose would be to recommend successful initiatives from all over Europe to the Member States in order to enable couples to satisfy their unfulfilled wish to have children (the number of children per household is 1.5, whereas the most recent studies indicate that people would like to have far more children).

### 1.4 Proposals

1.4.1 The impact of demographic change can only be substantially reduced through the timely implementation of a series of coordinated social, economic, environmental, family and gender policy measures. This means keeping the broader picture in mind and having the right policy mix. In this context, the European Union should present a pluriannual action plan proposing measures which have proved their practical worth in the Member States as a basis for family oriented and family-work balance policies.

<sup>(2)</sup> See EESC opinion of 15.9.2004 entitled 'Towards the seventh Framework Programme for Research: Research needs in the area of demographic change — quality of life of elderly persons and technological requirements', rapporteur: Ms Heinisch (OJ C 74, 23.3.2005, pp. 44-54). URL: [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c\\_074/c\\_07420050323en00440054.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/c_074/c_07420050323en00440054.pdf).

1.4.2 Given that in the case of demography long-term policies are required, the EU should acknowledge the urgency of the situation and recommend measures for sustainable family policies to the Member States.

1.4.3 The open method of coordination should be developed as a means of benchmarking family, gender, economic and social policies, enabling the European Union to pick the best out of Member States' diversity and cultural wealth and national policies.

1.4.4 As a strong measure, the European Council, the European Parliament and the Commission should encourage the Member States — with due regard to the subsidiarity principle — to sign a European Pact for the Family, which could include the following commitments:

- an affirmation of Member States' desire to pursue policies that meet people's expectations regarding how many children they would like to have per couple in the EU. These policies should be put into practice by such means as direct financial support, changes in taxation, and the provision of economically viable public or private facilities (e.g. crèches of various kinds, including company or inter-company crèches) all-day schooling and services; thus, it is the quality of facilities that matters, not the quantity;
- a plan to establish a fixed threshold for public funding for family- and child-related policies — i.e. investments in the future — so that available resources are not, potentially, subsumed in the overall costs of an ageing society — costs which an ageing electorate may consider a top priority;
- a guarantee to promote an environment which is favourable to families, mothers, fathers and children, putting into practice an idea that is not new: i.e. reconciling family life and work by ensuring genuine gender equality, by taking proper account of changes in living and working methods (irregular hours, distances, high housing prices in city centres, lack of infrastructures for infants, etc.);
- ongoing and sustainable measures to support children and families — because the long-term stability of these policies is the key to their success. Such measures should keep spending on youth policy steady in relative terms when set against the health and pension costs that are inevitably set to rise as the population ages. It is of crucial importance to generate demographic renewal under the best possible conditions. This means safeguarding and improving the health and safety of children; providing quality education for all; proposing assistance and support systems enabling

parents to meet their needs and difficulties. Special attention should be paid to families and children living in extreme poverty, those needing specific support, and those from migrant backgrounds. Although the EESC acknowledges the ageing of the European population and believes that demographic renewal is essential for the survival of the continent, it points out that a reduction in widescale unemployment, access to lasting employment for 25-35 year-olds and real job security in general should make it possible to finance retirement (whether active or not).

1.4.5 Human beings are not just producers and consumers. They have a social and emotional dimension that constitutes their dignity. All genuinely humanist policies should not only take this essential dimension of humanity into consideration, they should safeguard it. Family policies play a full role in personal fulfilment and social harmony. By adopting a 'European Pact for the Family', the European Union would be demonstrating its commitment to the European Charter of Fundamental Rights.

## 2. Introduction

2.1 Following up on its Green Paper on *Confronting demographic change: a new solidarity between the generations* <sup>(3)</sup>, the Commission has recently published a new Communication entitled *The demographic future of Europe — From challenge to opportunity*, thus demonstrating the importance it attaches to this decisive question for the European Union's future.

2.2 It must be said that until the Treaty of Nice, Member States were relatively silent on this issue despite the fact that, for two decades, demographers had been trying to draw the attention of politicians to the impending 'demographic winter' and the difficulties it would create. We cannot but deplore the fact that the response has been so slow despite ample and reiterated warnings, and that we are now faced with a full-scale demographic crisis.

2.3 Over the last twelve years, the Commission has unceasingly emphasised the importance of this phenomenon, which could render the goals of the Lisbon Strategy null and void. In so doing, the Commission has shown laudable lucidity.

2.4 Indeed, without wishing to appear unduly pessimistic, although the fertility rate is not the only condition for growth in the Member States and has to be backed up by skills development, training and creativity for all generations, the EU's demographic situation remains a major challenge for its future economic development and its social balance.

<sup>(3)</sup> COM(2005) 94 final.

2.5 The lack of skilled manpower may limit the scope for productivity growth if insufficient attention is paid to the quality of work and modernisation of work practices. In effect, future jobs and the professional skills they require will be different from today's, underscoring the importance of lifelong learning. Unfortunately, there are some 17 million unemployed people in the EU, not to mention those who have to work part-time because they cannot find full-time employment. One of the EU's major challenges is to help these people find stable employment which, to a certain extent, would help to reduce the negative economic impact of the shrinking working population in Europe.

2.6 Demographic change comes after what is known in demographic terms as 'demographic transition'. The latter involved a substantially reduced mortality rate, especially in infancy and during child birth. This phenomenon is accompanied by a drop in the birth rate proportionate to the drop in mortality and a substantial increase in life expectancy at birth.

2.7 The demographic transition and increased life expectancy for senior citizens (since 1970 in Europe), are extremely positive developments. Nevertheless, demographic renewal must be ensured so that the balance between the birth and death rates is not disrupted in the long term, which is not the case in Europe. Indeed, in many Member States, the number of deaths exceeds the number of births.

2.8 Reaching an advanced age in the best possible conditions is a valuable asset that will continue to be an objective in the future. This trend will lead to a rise in health and welfare costs. However, it will also necessitate the establishment of new services and goods for the elderly. It will also entail the development of the working population's productivity and prolong the active life of senior citizens, who are sometimes excluded from the labour force against their will.

2.9 Immigration partially compensates and will doubtless continue to compensate for the demographic deficit on condition that integration programmes are provided for migrants (language and vocational training ...) <sup>(4)</sup>. Nevertheless, this cannot be our sole response to the demographic challenge because it is not just a matter of maintaining a labour force large enough to meet Europe's needs; it is also a human and societal issue. Moreover, depriving developing countries of their human resources — especially their most highly trained and qualified resources — cannot be an option. The European Union must also find its own home-grown solutions to the demographic challenges it faces.

<sup>(4)</sup> See EESC opinion of 13.9.2006 on 'Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations', rapporteur: Mr Pariza Castaños (OJ C 318, 23.12.2006).

### 3. The October 2006 Communication from the Commission

3.1 The Commission opens its Communication by recalling a point that is often neglected in the surrounding debate: there is an aspect of demographic ageing, the demographic term for which is 'top-down ageing', that is good news, because it is a sign of increased life expectancy in the elderly, and hence, of significant medical, social and economic progress.

3.2 This increased longevity has been accompanied by a sharp drop in Europe's birth rate. Europe's demographic situation is therefore characterised by four elements:

- increased life expectancy,
- low average number of children per woman (1.5 children for EU-25),
- the decline in birth rates in recent decades,
- major migration inflows.

3.3 As a result, the EU population may drop slightly but, above all, it will age substantially as the post-war baby-boomers approach retirement age.

3.4 Commission projections go up to the year 2050 and are based, by definition, on statistical estimates. The Commission believes that these projections should be used as a tool for raising awareness and promoting debate.

3.5 According to the Commission's projections, by 2050 there could be two people of working age for each person aged 65 or above in the EU, whereas today the ratio stands at four people of working age for each person aged 65 or above.

3.6 Basing itself on these projections, the Commission is forced to conclude that demographic ageing could have a strong impact on the labour market, productivity and economic growth as well as social security and public finances.

3.7 In the short-term, employment rates for women and workers aged 55 to 64 could rise (until approximately 2017). However this will only offer temporary respite after which the full burden of demographic change would bear down on economic growth.

3.8 Thus, the average annual growth rate in GDP for EU-25 could fall in strict correlation with demographic ageing from 2.4 % over the period 2004-2010 to only 1.2 % between 2030 and 2050; this would put an end to the aspirations and goals of the Lisbon Strategy.

3.9 At the same time, if nothing is done, ageing could lead to a significant increase in public spending (pensions, healthcare

and services for the elderly), which by creating budget deficits would lead to an intolerable spiral of debt.

3.10 The Commission believes that in the face of these anticipated difficulties, the question remains how to devise EU support for its Member States as part of a long-term strategy, the implementation of which, in law and practice, essentially depends on their political will and competences.

3.11 It thus proposes guidelines for debate and action which are relevant, but fairly vague and general, insofar as these issues fall within the remit of the Member States, or even the local authorities.

3.12 The proposals set out impact on family policy in order to promote demographic renewal by improving methods for reconciling professional, private and family life (by developing childcare facilities, parental leave, improving flexible work arrangements, and holding an annual European demographic forum).

3.13 The Commission also recommends measures to raise the employment rate for workers over 55 and productivity in Europe. It also envisages measures for organising legal immigration and the integration of legal immigrants.

3.14 Finally, the Commission proposes the emergence of a sufficient variety of financial instruments to safeguard pension schemes, which should include the building up of private savings and capital, so that individuals can have more autonomy in determining the level of income they wish to have at their disposal during their retirement, which presupposes efficient and transparent financial markets and effective supervision, especially of pension funds.

3.15 Ageing in Europe will lead us to change our mindsets as well as our social security systems and family policies because this is indeed a matter of turning a difficult challenge into an opportunity.

3.16 Since the European Union does not have specific responsibility for the issue under consideration, the Commission had no alternative but to restrict itself to setting out general principles. For this reason, we are at a loss to understand how the European Union is to acquire the relevant operational remit. The solutions vary according to the specific situation of each State and the social customs and traditions of the populations concerned. In addition, the practical implementation of certain measures, for instance the development of childcare facilities, can only be managed by the local authorities nearest the families. However, in no way does this alter the need and urgency for EU action to meet the demographic challenge.

3.17 The German presidency, which had expressed its interest in the Commission Communication, felt that a more-in-depth analysis of family policy was necessary and called on the European Economic and Social Committee to study to what extent a sustainable family policy might be able to contribute to economic and social development in Europe.

#### **4. The family — a human reality that has adapted to economic and social change**

4.1 Over the last two centuries, economic and social change in Europe has also impacted on the family, lifestyles and value systems. Industrialisation and urbanisation have changed the family framework. The extended family has been reduced and new variations on family life have evolved, the bond between the generations has changed, mentalities have evolved and economic solidarity has evolved or died out. At the same time, women's growing financial independence has raised the standard of living of two-income families.

4.2 Family life has changed and become more diverse. Marriages are fewer and occur later in life. More children are born outside marriage, and the number of adoptions, especially of non-European children, has risen. The divorce rate has gone up, as has the number of new families with children from a previous marriage. The number of single parents, usually women, has gone up and these 'single-parent families' often find themselves in financial difficulty. Families raising children with disabilities face specific difficulties that deserve special attention from the public authorities. New family networks have evolved whereby mutual assistance is based on solidarity and the bonds of friendship (family crèches for instance). Households are made up of fewer members and a growing number of people and couples live alone and without children. The issue of elderly couples, their role in society and the support they will need will present itself more and more acutely. Immigration has introduced new family cultures to Europe thereby adding to the complexity of family situations.

4.3 In a predominantly rural society, the family was held together by three elements: affection, finance and geography. In practice, economic activities were usually carried out where the family was based: the farm, workshop, business. The unity created by these three elements died out or disappeared with the onset of industrialisation and urbanisation. In most cases, the family base is distinct from the workplace. Family members do not work in the same establishments or economic sectors. Parents are less present in the home. Grandparents and siblings often live far away and family solidarity is not as systematic. As a result, some children are often left to their own devices but, on the other hand, most also continue to live at home much longer than they used to, mainly because they prolong their studies and have difficulty finding their first job. It is not uncommon in some Member States to come across young

adults in their thirties who are still living with their parents and continue to depend on them financially. It has also been observed that a higher number of children currently benefit from health, social and educational services than in the past.

4.4 Whereas today the ties of affection remain, as they have always been, the foundation of the family, it is clear that the financial and geographical aspects have become the exception (farms, traditional businesses, crafts ...) rather than the rule.

4.5 Contemporary life has become more complex and undoubtedly individualistic. The values of individual competitiveness have become a very important goal, but all too often they tend to win out over values of solidarity.

4.6 Despite economic change, urbanisation, and the primacy of the individual over the community, the family has survived, and adapted, despite being undermined. Indeed, it corresponds to a natural and fundamental human aspiration for affection, love, mutual assistance, and solidarity. In addition, surveys carried out on the population and young people in particular show that this aspiration persists.

4.7 Nevertheless, it is manifestly clear that one of the major challenges is to make professional, private and family life possible and compatible for women as well as men, and to respond to growing parental responsibilities.

4.8 By their very nature, economic and social developments in European society have raised several vital issues for family policy: raising and educating children; assisting and supporting elderly parents, who may well be very elderly and dependent; flexible working arrangements; parental leave and leave to take care of a sick relative; support in getting back to work for parents who have interrupted their careers to raise the children; assistance or educational support for children — our societies' future hope; combating poverty and unemployment; supporting families suffering the consequences of illness, alcoholism or other harmful dependencies (drugs, smoking etc.); fighting domestic violence; and providing support for families that include members with a disability.

4.9 Concrete and effective measures are called for in order to avoid creating excessive pressure on young people of parenting age. Asking women to have children, a career, and increase their presence at work implies providing the necessary means to reconcile motherhood and family life with their jobs. It is also appropriate to develop strong and effective measures to encourage fathers to involve themselves in family life, have a sense of parental responsibility and assume equal responsibility for raising children within a family environment. This also implies developing labour laws that would enable parents of small children, including men, to take parental leave and work flexible hours in order to look after their children in Member States which still lack such provisions.

## 5. The family — a reality the European Union has already recognised and proclaimed in its human, economic and social aspects

5.1 The European Union has already formally recognised its concern for the family. Indeed, Article 33(1) of the Charter of Fundamental Rights stipulates that: *'The family shall enjoy legal, economic and social protection'*. This wording implies that the family, the economy and social organisation are not unrelated or totally independent realities. On the contrary, they interact with each other and it is the Member States' responsibility to ensure the legal, social and economic protection of the family.

5.2 In this respect, the Charter of Fundamental Rights echoes a much older text, the 1948 Universal Declaration of Human Rights of the United Nations and, in particular, Article 16(3) thereof, which states that: *'The family is the natural and fundamental group unit of society and is entitled to protection by society and the State'*.

5.3 Moreover, the European Charter goes a step further in Article 33(2), wherein it states that it is an objective of the Union in this field to *'reconcile family and professional life'*.

5.4 Thus, the European Union, in its definitive text on its fundamental values, not only emphasises that it considers family and professional life to be particularly important but also states that they must not be, or should not be, in conflict with each other.

5.5 Finally, it is worth noting that Article 33 of the Charter of Fundamental Rights affirms that the European Union has a role to play in family policy, at least in promoting, alerting and informing Member States and even urging them to coordinate in accordance with the principle of subsidiarity.

## 6. The family — a source of economic prosperity, social solidarity and emotional stability

6.1 As everyone knows, the three post-war decades of massive economic growth were also a period of strong demographic growth and this was no coincidence. It is essential that this demographic dynamism should replace Europe's demographic winter, and complement skills development, creativity and self-fulfilment for all generations, whilst respecting the environment and the planet's ecological health.

6.2 The family is a fundamental economic unit and its links with the economy are natural. The family, as a unit, has needs that take on an economic dimension in several respects: food, housing, facilities, access to culture and leisure, clean air and

water quality, etc. In some Member States, the family is also a source of income transfer and social services. It is clearly a driving force for the economy, insofar as family members have decent, sustainable purchasing power.

6.3 Recognising that the family is an economic unit does not mean reducing it solely to its economic role or focusing on numbers alone. Ultimately, the family and the economy work side by side for the common good, for the wellbeing of the individual as well as emotional stability <sup>(5)</sup>.

6.4 Furthermore, the family contains ingredients that promote economic development and social balance in at least four specific ways.

- The family is a hub of emotional, economic and social solidarity which, for many people, makes it easier to deal with the vicissitudes of economic life. When the unemployed can benefit from family, psychological and/or financial support, they find it easier to take steps to find a job, training programme or even set up a business, although this does not alter the fact that unemployment places a heavy burden on the entire family.

- The family is a direct economic driver because it is the source of what economists describe as 'human capital'. Hence, parents must get all the support they need to raise their children. The real cost of Europe's 'demographic winter' can be felt when we consider the difficulties ahead in terms of funding pensions, rural depopulation and the consequent disappearance of economic activities and difficulties in providing public services, fewer students in sunrise industries. Investment in human capital will boost productivity and economic growth, and help us deal with the above-mentioned developments in a lasting way.

- We should also stress the contribution the family makes to 'human capital' through the education and values it imparts and the support and stimulus the parents provide for their children. Qualities that will be crucial to professional as well as social life are acquired in the family: respect for others, making an effort, team spirit, tolerance, social behaviour, responsible independence, etc.

- Finally, it can be said that the family is a long-term economic driver, as parents use their economic resources to meet the family's needs. Parental responsibility to educate and prepare children for the future contributes towards saving and investment in terms of money, real estate, training and knowledge. Parents will also take steps to reduce pollution from all sources in order to preserve a decent environment for their children. Most children nowadays receive from their parents and society considerably

<sup>(5)</sup> See the EESC exploratory opinion on 'The economic and budgetary impact of ageing populations', adopted at the plenary session of 14 March 2007, rapporteur Ms Florio.

more capital in the form of care, education, health and social services and property investment (and many also in the form of inheritance) than their parents or grandparents in their time. This is why the demographer Alfred Sauvy claimed that *'the child is an active element in society'*. In this context, it introduces a historical dimension to a person's life at an economic, social and emotional level.

6.5 As early as the Renaissance, Jean Bodin wrote that *'The only wealth is man'*. All EU Member States recognise the family's positive contribution in human, economic and social terms, not to mention emotional stability. This is why they all, in some way or other, implement family policies. Ultimately, they know that their nations' future lies with their children.

## **7. Family policies — albeit varied — throughout the European Union**

7.1 Family policies are implemented throughout the EU to ensure gender equality and reconcile professional, social and family life. These three aspects are linked and form an integral whole even if different countries emphasise one aspect more than another. Be that as it may, implicit or explicit, strong or weak, these policies exist in all Member States.

7.2 The underlying reasons vary. They are sometimes moral or civic, sometimes economic or political. Nevertheless, the psychological, physical and educational wellbeing of the child is always one of the fundamental aspects of family policies, as is the need to enable parents to fulfil themselves whilst juggling their family, professional and social lives.

7.3 Ensuring gender equality in professional life as well as family responsibilities are at the heart of certain family policies, especially in the Scandinavian countries. Indeed, in a context where the workplace may be far from the home and career breaks are not always accepted or understood by businesses, measures to reconcile professional and family life are among the keys to a family policy that enables us to embrace children as part of society.

7.4 The willingness to ensure equal opportunities for children may also contribute to family policies. The purpose, in many cases, is also to compensate for the economic constraints and burdens arising from family responsibilities. This includes a range of measures to deal with the difficulties encountered by fathers and, above all, mothers in the labour market, who most often bear the responsibility for childrearing, especially in the early years of childhood.

7.5 In other cases, the issue is approached from a social rather than family angle, the aim being to redistribute income in order to combat poverty, but without always linking this policy to the idea of offsetting specific family-related burdens.

7.6 Lastly, some policies have been more obviously intended to boost the birth rate, explicitly anticipating the need to reinvigorate births in a Europe, where too few children are being born.

7.7 All studies carried out in Europe on the relation between birth rates and high female employment show that a better composite fertility index is an obvious consequence of the ability to reconcile family commitments with work. Greater success in raising the fertility rate might be achieved through measures encouraging fathers with young children to better share family responsibilities with mothers. This is an important aspect which should be emphasised to the younger generations.

7.8 Longer life expectancy and training for young people, as well as training periods throughout our lives, have changed and will continue to change the way we organise our working and family life. It would be worth considering how to make training and working life more flexible in order to make it easier for people who wish to start a family to do so without having to give up their careers.

## **8. Measures to support the family and promote equality of opportunity for men and women in the workplace**

8.1 In practice, the broad lines for the main policy measures for families are direct financial aid and free or subsidised childcare services (crèches, nurseries, childminder networks). Care will have to be taken to ensure that these measures facilitate reconciling working and family life. It is equally important for nursery services to be open to all and affordable for all.

8.2 Certain policies focus on childcare infrastructure, attractive opportunities for parental leave for educational purposes and a proactive policy aimed at reconciling remunerated activities and family life as well as facilitating a return to work after parental leave.

8.3 Others focus on tax relief for single-income families and benefits for parents who remain at home during the first few years of their children's lives.

8.4 Some countries provide financial aid to compensate for the cost of educating children and measures for reconciling professional life with parental responsibilities, mainly through parental leave and free childcare facilities and nursery schools. This combination of financial aid and services to families appears effective.

8.5 Gender equality in the context of family responsibility and reconciling family and professional life are clearly very important to revitalising European families. This goes hand in hand with the need to eliminate the structural causes of unequal pay for men and women, mainly linked with the fact that all too often women alone are responsible for their children's care and upbringing.

8.6 Achieving gender equality and balance — in line with personal aspirations, preferences and talents — with regard to earning a living, sharing parental, family and household responsibilities, participating in political activities or other activities of general interest is extremely important for demography and the birth rate. Most women, like men, quite rightfully want a job, children and the opportunity to participate in the social fabric.

8.7 There is a general tendency throughout Europe to postpone parenthood. This is not without its consequences for fertility despite modern medicine and public health research making it possible to reduce the risk of infertility in older women. Late pregnancies are largely due to the fact that people are studying for longer. However, it is also due to the fact that couples expect to have sufficiently stable and remunerated employment before they will consider having children. In this respect, youth unemployment and job insecurity, especially for women, is bound to have a negative impact on fertility and family life. Generally speaking, the European framework for economic and social life, whereby young people come by stable jobs increasingly late in life and the working population is encouraged to retire from fixed employment increasingly early, and young people's new lifestyles are not conducive to assuming family responsibilities and having children.

8.8 In order to improve these situations and achieve equality between men and women, family policy measures must be combined with gender equality measures. By this we mean, for instance, quality childcare facilities, including company nurseries, as well as legal, fiscal and social measures to enable women, as well as men, to reconcile their parental, professional and social lives. It would also be appropriate to consider to what extent grandparents who are still working might be able to work flexible hours so that they can spend time with their grandchildren. If we do not succeed, there is a grave risk that women will continue to give up children and family life in order to focus exclusively on having a career.

8.9 It is equally important to ensure that the policies implemented make it easier to choose to return to paid work following a career break to have a baby or raise small children. In this respect, vocational training for people on parental leave is one avenue that should be explored, alongside flexible working hours making it possible to raise children. In this spirit, the option to work part time should be encouraged without making a return to full time employment more difficult when there is no further need for part time employment. Finally, we must ensure that when people return to work after taking parental leave, they are not placed in jobs below their skills levels. The fact that employees may have been granted parental leave quite recently should not count against them in the event of economic redundancies.

8.10 It is important for public services and companies, which have a duty to be 'civic-minded', to implement or promote social policies, practices and innovations to make working life easier for couples who are expecting or bringing up children. This goes beyond words and legislation. It is also a matter of general and psychological attitudes whereby children are not perceived as hindrances and parents are not seen as less productive or 'competitive'. Initiatives currently being taken to set up company crèches or crèches shared by companies in the same area should be encouraged. They provide an invaluable service for couples with professional commitments as well as reducing the need to travel and simplifying their time management.

8.11 It is important to ensure that the public and private sectors do not misunderstand the problems that fathers of small children may encounter in their careers when it comes to taking parental leave or working shorter hours for family reasons. The public and private sectors should create the necessary conditions for fathers to look after their children. The social partners have an important role to play in this regard.

8.12 In general, fathers must be encouraged to take on a real share of all aspects of family responsibility, and especially upbringing. Many sociological studies show that the father's 'absence' is the cause of increased difficulties in raising children.

8.13 Thus, the policies implemented, or to be implemented, vary, the difficulties encountered are different, but the objectives are the same: making it possible for men and women who want to start a family to do so. Nevertheless, all surveys show that Europeans are not able to fulfil their wish to have children and the often-expressed desire for a third child frequently goes unfulfilled. This is often for financial or material reasons or due to difficulties in balancing a career with family life, especially for mothers.

8.14 There are also less materialistic reasons. The European Union, although among the most developed parts of the world and the richest, is going through a period of background concern. Three decades of prosperity have been followed by economic uncertainty, concerns relating to environmental degradation and climate change, certain negative consequences of globalisation, the complexity of modern society and the public's loss of faith in their governments' ability to impact on events. This has given rise to widespread pessimism in Europe, which is not conducive to having children. For the first time in a long time, parents in many European countries feel unable to promise their children a better future.

8.15 It is also worth considering whether the dominant culture favours the family and having children, whether the image of having a successful family life and having children is sufficiently valued, whether individualism and a certain materialistic consumerism have not made us forget that the human being is undoubtedly an individual but an individual designed to

live in a community. Hence, the deepest and most pressing concerns of Europeans relate to family life: education, housing, job opportunities, emotional stability and self-fulfilment. Perhaps the priority should be to take an optimistic and generous view of family life because when we broach the subject of family and having children, we are, by definition, touching on the most intimate aspects of being human. The public authorities, whose responsibility it is to ensure the common good, must therefore create opportunities and provide today's men and women with genuine freedom to start a family and have as many children as they like, without interfering with people's personal life choices.

8.16 Families are a source of economic prosperity, especially when both parents can be gainfully employed. They are also a source of social solidarity. The EU should therefore encourage the Member States to incorporate the family dimension in its economic and social policies. The EU should use best practice to promote a sustainable family policy.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on the protection of employees in the event of the insolvency of their employer (Codified version)**

(COM(2006) 657 final)

(2007/C 161/20)

On 23 November 2006, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2007. The rapporteur was Mr Soares.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March 2007), the European Economic and Social Committee adopted the following opinion by 160 votes *nem. con.*, with six abstentions.

1. This proposed directive forms part of the Commission's plan to simplify and clarify Community legislation so as to make it clearer and more accessible to the ordinary citizen.

2. Codification is an extremely important administrative procedure, which must be undertaken in full compliance with the normal Community legislative procedure and cannot result in changes of substance being made to the instruments affected by codification.

3. The purpose of this proposal is to undertake a codification of Council Directive 80/987/EEC of 20 October 1980 on the protection of employees in the event of the insolvency of their employer. The new directive will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bring

them together with only such formal amendments as are required by the codification exercise itself.

4. Although codification is a process that, by its very nature, cannot and must not amend the directives to which it refers, the EESC considers that the Commission should, in the performance of its duties, do more than simplify legislation. It should study the content of the various directives in order to resolve any issues that might in the meantime have proven to be unclear or that might have in practice been found to be somewhat outdated.

5. Nevertheless, bearing in mind that the subject of the opinion here is the codification of a directive, and taking account of the aims set out in paragraph 1 and the guarantees laid down in paragraphs 2 and 3, the European Economic and Social Committee approves this proposed directive.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Green Paper on diplomatic and consular protection of Union citizens in third countries**

COM(2006) 712 final

(2007/C 161/21)

On 28 November 2006, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the *Green Paper on diplomatic and consular protection of Union citizens in third countries*.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2007. The rapporteur was Mr Voleš.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 14 March 2007), the European Economic and Social Committee adopted the following opinion by 170 votes *nem. con.* with 1 abstention.

## 1. Summary of conclusions and recommendations

1.1 The EESC notes that the right to diplomatic and consular protection for EU citizens in third countries strengthens the idea of EU citizenship.

1.2 In this context, the Committee stresses the need to inform citizens much better about this right and considers the results of the information activities to date unsatisfactory. It calls for civil society organisations whose members travel to third countries to be involved in the information activities of the EU and Member States.

1.3 The Committee points out that the relevant EU web portal ([www.travel-voyage.consilium.europa.eu](http://www.travel-voyage.consilium.europa.eu)) does not contain information about which Member States are represented in which third countries, nor any addresses or contact information for them. It recommends that this and all other necessary information is included in an easily accessible web site with a simple address.

1.4 It should be compulsory for information about the right to protection in third countries as enshrined in Article 20 of the EC Treaty to be printed in all passports issued by EU Member States.

1.5 Recommendations for travellers to third countries should be better coordinated and published in such a way that they are as easily accessible as possible, for example through a web site as suggested in point 1.3.

1.6 The EESC recommends that all measures concerning the right to protection be published not only in the Official Journal, but also in the media in each Member State and be made part of the Commission's communication strategy.

1.7 The Committee supports harmonisation of the scope and legal basis of consular protection provided in third countries by individual Member States and asks that this take place as soon as possible, if necessary through harmonisation of national legislation. In the context of harmonisation in this area, the scope and conditions for provision of protection by individual Member States should be published.

1.8 The Committee welcomes the proposal to extend protection to include EU citizens' family members, where they are citizens of third countries.

1.9 It also supports the proposal to extend the protection provided to include the identification and transfer of corpses of EU citizens and members of their families who do not have EU citizenship. It also asks Member States that have still not ratified

the Council of Europe Convention of 26 October 1973 on the transfer of corpses (until now ratified by only 15 Member States) to do so without delay.

1.10 The Committee recommends that the procedure for providing financial assistance to EU citizens in third countries be simplified. This could be done, for example, by allowing settlement of payments directly to the authorities of the state providing the assistance, writing off these payments when they are very small amounts, and introducing a simple system of balancing debts between Member States.

1.11 The opening of common offices in areas where there is relatively little representation by Member States is a positive step. However, all the issues concerning legislation and international law need to be clarified. The Committee recommends active use of other forms of cooperation such as locating consular officials from Member States that are not represented in the representative offices of other Member States or the exercise of consular functions by the consular post of one EU Member State on behalf of another or the appointment of the same person as consular officer by several EU Member States, in accordance with Articles 8 and 18 respectively of the Vienna Convention on consular relations, and training programmes for Member States' consular staff.

1.12 The EESC would welcome it if the working party on consular cooperation (COCON) guidelines for consular authorities for EU citizens in third countries became legally binding, which would avoid legal uncertainty for EU citizens in third countries who need protection.

1.13 Diplomatic missions and consular offices of Member States represented in third countries should have at their disposal regularly updated contact details for the relevant offices of Member States that are not represented in that country so that they could allow EU citizens to contact them should the need arise. They should also have lists of interpreters for languages of the Member States that do not have representations in the country.

1.14 European Commission delegations in third countries could contribute to consular protection for EU citizens by using the experience they have gained in the protection of boats and fishermen from EU Member States.

1.15 The role of the Commission in coordinating Member States' activities directed at diplomatic or consular protection for EU citizens in third countries should be strengthened.

## 2. Introduction

2.1 On 28 November 2006, the European Commission published its *Green Paper on diplomatic and consular protection of Union citizens in third countries*. The right to protection by the diplomatic or consular authorities is enshrined in the Maastricht Treaty. Article 20 of the Treaty establishing the European Community thus states that: 'Every citizen of the Union shall, in the territory of a third country in which the Member State of which he or she is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State<sup>(1)</sup>.' The same right is part of the Charter of Fundamental Rights of the European Union, proclaimed in 2000 (see Article 46<sup>(2)</sup>). Article 20 of the Treaty delegates the 'Members States to establish the necessary rules among themselves and start the international negotiations required to secure this protection'.

2.2 The Member States have adopted Decision 95/553/EC<sup>(3)</sup>, which defines five cases where an EU citizen is entitled to apply for protection by the authorities of another Member State:

- assistance in cases of death,
- assistance in cases of serious accident or illness,
- assistance in cases of arrest or detention,
- assistance to victims of violent crime,
- the relief and repatriation of distressed citizens of the Union.

Member States' representations in a third country may come to the assistance of any citizen of the Union who so requests in other circumstances.

2.3 The applicant must show that he or she is a national of a Member State of the Union by producing a passport or identity card. In the event of loss or theft of those documents, any other proof of nationality may be accepted, if necessary after verification with the authorities of the Member State of which the person concerned claims to be a national. A procedure has been established for providing financial assistance to EU citizens, which is subject to obtaining the permission of the foreign ministry or diplomatic mission of the Member State of which that citizen is a national. It was agreed that the Decision would be reviewed five years after its entry into force. The Decision came into force in 2002.

<sup>(1)</sup> OJ C 325 of 24.12.2002.

<sup>(2)</sup> The Charter of Fundamental Rights of the European Union, signed in Nice on 7 December 2000.

<sup>(3)</sup> OJ L 314, 28.12.1995, p. 73-76.

2.4 The Member States set up a working party on consular cooperation (COCON) to act as an instrument for pooling experience. COCON has drawn up guidelines of a non-binding nature on consular protection of EU citizens in third countries<sup>(4)</sup>.

2.5 Various suggestions on diplomatic and consular protection were put forward in the Commission Communication on implementing the Hague Programme<sup>(5)</sup>. Former French Foreign Minister Michel Barnier drew up a similar report for the EU Council in which he suggested a number of measures for establishing a system of civil protection both inside and outside the EU, which would also include diplomatic and consular protection<sup>(6)</sup>. Under the Austrian Presidency, in its report of 15 June 2006 the Council summarised the measures taken to strengthen the protection of EU citizens in third countries<sup>(7)</sup>. In 2007, the Commission will present its 5th report on Union citizenship, which should include proposals on strengthening diplomatic and consular protection.

2.6 The protection of EU citizens is gaining importance given the high growth of travel by EU citizens to third countries (180 million journeys outside the EU per year) and as not every state has representation in each country. The Eurobarometer survey of July 2006 showed that almost half of the respondents planned to travel to third countries in the next three years<sup>(8)</sup>.

2.7 The Commission has therefore submitted a number of measures for discussion in its Green Paper, aimed at strengthening the principle of protection for EU citizens in third countries as an important right for every Member State citizen resulting from their EU citizenship. The measures also take account of the experiences from the aftermath of natural disasters such as the tsunami and Hurricane Katrina, the conflicts in the Balkans and Lebanon and terrorist attacks on Bali and in Sharm El Sheikh.

2.8 The proposed measures include:

- better informing EU citizens of their rights for protection by the diplomatic or consular authorities for EU citizens in third countries and about the representation of EU Member States in those countries,
- printing Article 20 EC in EU Member State citizens' passports,
- coordinating advice to travellers,
- reviewing the scope and legal basis for provision of protection, which are different in each Member State, and possibly harmonising them,

<sup>(4)</sup> *Guidelines on consular protection of EU citizens in third countries*, EU Council document 10109/06 of 2.6.2006.

<sup>(5)</sup> Commission communication COM(2006) 331 final of 28 June 2006.

<sup>(6)</sup> Barnier Report: *For a European civil protection force: europe aid* of 9 May 2006.

<sup>(7)</sup> Council of the European Union Presidency Report 10551/06 of 15 June 2006.

<sup>(8)</sup> Flash Eurobarometer 188 — December 2006.

- embracing protection of EU citizens in bilateral agreements negotiated by Member States and those negotiated by the EU with third countries, including the possibility of the European Commission delegations in third countries assuming responsibility for providing diplomatic protection,
- extending consular protection to include EU citizens' family members who are citizens of third countries,
- including the identification and repatriation of remains in the protection provided,
- simplifying the procedures for providing financial advances,
- opening pilot common consular offices in the Caribbean, Balkans, the Indian Ocean and West Africa, and encouraging EU citizens to register with them,
- training for Member State consular staff and Community officials.

### 3. Comments on individual Commission proposals

3.1 The EESC notes that an EU citizen's right to protection in third countries provided by the representation of a Member State of which he is not a citizen is tangible proof of the benefits of membership in the EU, strengthens the feeling of belonging and upholds the idea of EU citizenship.

3.2 In this context, the Committee stresses the need for citizens to be much better informed about this right to consular protection in third countries. Experience to date shows that awareness is minimal. According to the Eurobarometer results, only 23 % of EU citizens who plan to travel to third countries know about this right. Putting up posters in airports, ports and stations and distributing brochures through travel agencies is not enough. Trade organisations, employers' associations and NGOs should also be involved in disseminating the information, because many travellers to third countries are not tourists but business and commercial travellers, employees, and workers from humanitarian organisations. Links to information about consular protection on the EU portal could be added to the web sites of organisations whose members travel to countries outside the EU.

3.3 To be able to make use of the protection in third countries, it is essential to know which Member States are represented in which third countries and to have addresses and contact details for them. This information is very difficult to access; the functionality on the web site [www.travel-voyage.consilium.europa.eu](http://www.travel-voyage.consilium.europa.eu), which should contain it, is still under construction. The Committee recommends that this and other necessary information is brought together in an easily accessible web site with a simple address, which someone should also be able to access in case of need from third countries and find the necessary information.

3.4 It should be compulsory for information about the right for protection in third countries as enshrined in Article 20 to be printed in all passports issued by EU Member States. There should also be space to put the contact address for finding the specific information mentioned in paragraph 3.2 or this information should be included in each passport when it is issued.

3.5 Guidelines and advice for travellers are issued by national bodies and recommendations from individual Member States concerning travel to third countries are sometimes significantly different. While these differences can have objective grounds (such as different approaches by third countries to individual Member States), it would be desirable for advice for travellers to be better coordinated between Member States, using their diplomatic and consular representation in third countries, and to publish it in such a way that it is as easily accessible as possible. The possibility of publishing these recommendations on the web site described in paragraph 3.2 should be considered.

3.6 The Commission proposes that measures implementing Article 20 should be published in the Official Journal so that citizens can be better informed of their rights. The Committee agrees, but thinks that this is not enough and that they should also be published in the media in each Member State, this should also be part of the Commission's strategy.

3.7 The Committee shares the opinion of the Commission that harmonisation of the scope and legal basis of protection provided by the consular authorities in third countries by individual Member States is desirable and should take place as soon as possible, if necessary through harmonisation of national legislation. This would enable the differences in the approaches of some Member States to this right to be eliminated (some countries, for example, do not allow administrative procedures to be initiated by citizens in the case of non-provision of assistance, or retain passports when financial assistance is given). Pending harmonisation, the scope and conditions for provision of protection by individual Member States should be available on the above-mentioned central web portal.

3.8 The Committee welcomes the proposal to broaden protection to include EU citizens' family members where they are citizens of third countries and recommends using the procedure provided for by Article 22 EC to allow rights under the Treaty to be extended. This is a humanitarian issue requiring urgent resolution, as was shown by the events surrounding the tsunami, the war in Lebanon and other cases.

3.9 The Committee supports the proposal to extend the protection provided to include the identification and transfer of corpses of EU citizens and members of their families who do not have EU citizenship. In this context, it calls on those Member States that have still not ratified the Council of Europe Treaty of 26 October 1973 on the transfer of corpses (so far only ratified by 15 Member States) to do so as soon as possible.

3.10 One of the most common needs for EU citizens in third countries is emergency financial assistance in cases such as natural disasters, being victims of theft or following an accident or illness. The Committee recommends simplification of the current system requiring the agreement of the authorities of the Member State of which the applicant is a national and reimbursement through the authorities of that state. Other recommendations include considering the possibility of directly reimbursing the state authority providing the assistances, Cancelling such reimbursement in the case of small amounts and introducing a simpler system for balancing payments between Member States.

3.11 The opening of common offices in areas where there is relatively little representation by Member States is a positive step towards strengthening cooperation between Member States in diplomatic and consular representation. The Committee expects that all the issues concerning legislation and international law will be clarified, mainly the status of these offices, the jurisdiction under which they fall, their links with Commission delegations in individual countries, the form of financing, the agreement of the country in which they operate concerning their establishment and responsibilities, and compatibility with the Vienna Convention on diplomatic relations and the Vienna Convention on consular relations.

3.12 The Committee recommends active use of other forms of cooperation such as the exercise of consular functions by the consular post of one EU Member State on behalf of another or the appointment of the same person as consular officer by several EU Member States, locating consular officials from Member States that are not represented in the representative offices of other Member States and training programmes for Member States' consular staff.

3.13 The EESC supports the Commission initiative to also use common offices to enhance cooperation between Member States in the area of visa policy including the possibility of establishing common counters for receiving applications for visas and issuing them. Nevertheless, it considers that this

problem is not directly related to the right of EU citizens to diplomatic and consular protection and should therefore not be linked with it.

#### 4. Additional EESC proposals

4.1 The EESC thinks it would help if the working party on consular cooperation (COCON) guidelines for consular authorities were legally binding, which would avoid legal uncertainty for EU citizens who need protection in third countries.

4.2 Diplomatic missions and consular offices of Member States represented in third countries should have at their disposal regularly updated contact details for the foreign ministries, diplomatic missions and consular offices of Member States that are not represented in that country so that they could allow EU citizens to contact them should the need arise.

4.3 As shown in the Eurobarometer survey, one of the main concerns for EU citizens is the possibility to communicate in their mother tongue in times of need. For this reason, it would be desirable for Member State representations to have lists of interpreters for languages of the Member States that do not have representations in the country.

4.4 The Committee recommends consideration of the possibility of using European Commission delegations in third countries to provide consular protection for EU citizens, given the experience gained by these delegations for the protection of boats and fishermen from EU Member States. It therefore recommends launching negotiations with relevant third countries on recognising the right of Commission delegations to provide protection for EU citizens in agreed cases.

4.5 The Committee is in favour of strengthening the role of the Commission in coordinating the activities of Member States concerning diplomatic and consular protection of EU citizens in third countries as set out in the draft treaty establishing a Constitution for Europe, which seeks to strengthen the rights of EU citizens.

Brussels, 14 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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**Opinion of the European Economic and Social Committee on the Communication from the Commission Implementing the Community Lisbon programme: Social services of general interest in the European Union**

COM(2006) 177 final

(2007/C 161/22)

On 26 April 2006, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 21 February 2007. The rapporteur was Mr Hencks.

At its 434th plenary session, held on 14-15 March 2007 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 143 votes with 61 votes against and 9 abstentions.

## 1. Recommendations and evaluation

1.1 Social services of general interest exist to achieve social, territorial and economic cohesion by providing solidarity in order to address all situations of social disadvantage that are likely to threaten people's physical or moral integrity, such as sickness, old age, inability to work, disability, lack of job security, poverty, social exclusion, substance addiction, family and housing problems, and problems linked to the integration of foreigners.

Another aspect of SSGI is integration, which goes beyond simply providing assistance to the most disadvantaged and working to improve their lot. These services also exist to meet all needs, facilitating access to all fundamental social services: they help to ensure the effective exercise of citizenship and of fundamental rights.

1.2 What is important, therefore, is not to set the economic dimension against the social dimension, but to promote a constructive synergy between the two and to find a way of combining them harmoniously.

1.3 With this in mind, the EESC considers that rather than focusing on a dubious and evolving distinction as to whether a service of general interest is economic or non-economic, it is necessary to consider the actual nature of the service, together with its purpose and objectives, and to determine which services are covered by the competition and internal market rules and which services, for reasons of the general interest and in the interests of social, territorial and economic cohesion, in line with the principle of subsidiarity, should be exempted from these by public authorities at the Community, national, regional or local level.

1.4 Common benchmarks and standards should therefore be defined at Community level for all services of general interest (both economic and non-economic), including social services of general interest, to be set out in a framework directive, adopted under the co-decision procedure, whereby a Community framework can be established which reflects their specific characteristics.

1.5 In order to ensure that the general interest mission is fulfilled in a non-discriminatory and transparent manner and is not abused, Member States should explain why these services are in the general interest and in the interests of social, territorial and economic cohesion in an official legal act of 'delegation' or equivalent, and in authorisation rules, setting out the mission that the competent public authority of a given Member State entrusts to service providers for providing an SGI and which lays down their rights and obligations, without prejudice to the right of initiative conferred on operators by the regulations.

1.6 With regard to evaluating social services of general interest, the EESC wishes to recall, in this context, its proposal to set up an independent monitoring centre to evaluate services of general economic and non-economic interest, with a membership consisting of representatives of the European Parliament, the Committee of the Regions and representatives of organised civil society from the European Economic and Social Committee. At national, regional and local level, the public authorities should involve all stakeholders, providers and beneficiaries of social services, the social partners, bodies working in the social economy and to combat exclusion, etc., in regulating SSGI.

## 2. Introduction

2.1 Social services of general interest, just like SGI, of which they are one component, underpin human dignity and guarantee the universal right to social justice and to full respect of fundamental rights, as set out in the Charter of Fundamental Rights and in international commitments such as the revised European Social Charter and the Universal Declaration of Human Rights. They help to ensure the effective exercise of citizenship. They exist to achieve social, territorial and economic cohesion by providing solidarity in order to address in particular all situations of social disadvantage that are likely to threaten people's physical or moral integrity, such as sickness, old age, inability to work, disability, lack of job security, poverty, social exclusion, substance addiction, family and housing problems, and problems linked to the integration of foreigners.

Nevertheless, another aspect of SSGI is integration, which goes beyond simply providing assistance to the most disadvantaged and working to improve their lot. These services also exist to meet all needs, facilitating access to all fundamental social services.

2.2 The specific contribution of social services of general interest is thus based on a direct link to basic rights, and it is local, regional, national and European public authorities that are responsible for ensuring that these rights are fully respected, in line with the principles of subsidiarity and proportionality, according to which the Commission's actions should not go beyond what is necessary to achieve the objectives of the Treaty.

2.3 Since pricing does not always directly reflect the cost of these services, or the cost determined by the law of supply and demand, they could not be provided at a price that is accessible to everyone without funding from public authorities.

2.4 In conjunction with their duty to ensure that SSGI are properly funded, public authorities have overall responsibility for ensuring that social services are able to operate and that they maintain their high quality, whilst respecting the competences of the stakeholders.

2.5 Furthermore, social services of general interest, like all services of general interest, are not only an important factor for economic and social cohesion, but also make a significant contribution to the competitiveness of the European economy and constitute a major source of local employment.

2.6 The range of social services is enormous and covers, amongst others, retirement homes, homes for people with disabilities, shelters for people in distress, homes for children, battered wives, immigrants and refugees, nursing homes, residential care homes, organisations providing social housing or youth protection, social action and educational organisations, residential schools, day centres, crèches and nurseries, medical centres, health, rehabilitation and vocational training centres and personal care services, including those provided in the home and family care services.

2.7 In all Member States the status of the operators who provide these services varies, including a considerable number of not-for-profit social and cooperative organisations (such as associations, mutual societies, cooperatives and foundations), of many different types (public, charitable, philanthropic, religious, private, etc.). The operation of these services is governed by regulatory and financial frameworks drawn up by the public authorities.

### 3. Commission proposal

3.1 As part of the implementation of the Lisbon Community programme, on 26 April 2006 the Commission presented a communication on social services of general interest, following up its White Paper on services of general interest (COM(2004) 374 final) and the vote in the European Parliament of 16 February 2006 on the services in the internal market directive.

3.2 The aim of this communication is to interpret the relevant provisions and to provide the necessary legal clarification.

It only covers social services — thus excluding health services (which will be the subject of a specific initiative in 2007) — and does not provide for a legislative initiative in the field in the near future. It will study and decide on the need for and the legal possibility of a legislative proposal in the light of the open and ongoing consultation of all stakeholders, of the biannual reports on social services and of a study currently underway in preparation for the initial report in 2007.

3.3 This communication should be seen in the context of the Community's and the Member States' shared responsibility for services of general economic interest, established by Article 16 of the EC Treaty.

3.4 The communication divides SSGI into two groups: (a) statutory and complementary social protection schemes and (b) other essential services provided directly to the individual, such as assistance to people in overcoming the challenges and crises they face in life, full integration into society, the inclusion of persons with disabilities or health problems, and social housing.

3.5 All of these social services are underpinned by a number of common features, such as solidarity, versatility and personalisation (adapting to the needs of each recipient of assistance), the not-for-profit philosophy, voluntary work, charity, cultural sensitivity or an asymmetrical supplier-user relationship.

3.6 The Commission considers that modernising social services is one of the most important issues facing Europe today. It acknowledges that social services are an integral part of the European social model and that, whilst they do not form a distinct legal category within services of general interest, they nevertheless occupy a specific position as pillars of Europe's society and economy, because they contribute to the effective exercise of basic social rights.

3.7 The Commission notes that this sector, which is expanding rapidly, is in the process of modernising itself so as to address the tensions that exist between ensuring universal access, quality and financial sustainability. A growing number of social services that have to date been managed directly by the public authorities are now covered by Community rules governing the internal market and competition.

3.8 The Commission recognises that the legal position of SSGI vis-à-vis the competition rules is viewed by both public and private operators in the social sphere as a source of uncertainty. The Commission claims it is striving to reduce or to clarify the impact of this uncertainty, but appears unable to dispel it completely.

### 4. General comments

4.1 In its White Paper on services of general interest, the Commission announced that in the course of 2005 it would be publishing a communication on social services of general interest, which would cover, according to the White Paper, health services, long-term care, social security, employment services and social housing.

4.2 In these times of uncertainty about growth and employment, when the gap between the most disadvantaged strata of society and the most well-off and between the richest regions in the Union and the poorest is growing, despite Community or national programmes to combat exclusion and poverty, the need for social services of general interest is increasingly clear and this holds all the more true because demographic changes are resulting in new needs.

4.3 The EESC can thus only welcome the publication of the Commission's communication, which confirms the importance of social services for the general public, the particular role that these services play as an integral part of the European social model and the benefits of developing a systematic approach in order to identify and recognise the specific characteristics of these services and to clarify the framework in which they operate and can be — in the Commission's word — 'modernised'. Nevertheless, rather than talking about 'modernisation', the EESC would prefer to use the term 'improving quality and efficiency'.

4.4 What is important is not to keep up with one particular trend or another or to adopt the Commission's <sup>(1)</sup> approach of linking modernisation to outsourcing public service obligations to the private sector. Instead, what is needed is to regularly adapt service provision to the social needs of the public and of local and regional authorities, as well as to technical and economic progress and to new requirements arising from the general interest.

4.5 The EESC regrets that in the communication in question, the Commission excludes health services, contrary to what it had previously stated, at a time when there is so much interaction and so many synergies between social services and health services. The question *what is the link between health services and related services such as social services and long-term care?* that the Commission asks in its consultation document of 26 September 2006 regarding Community action on health services and to which it would like a response by 31 January 2007, should thus have been asked before the decision was taken on social services alone.

4.6 In the absence of any explanatory note, this course of action appears incomprehensible, particularly because in the list of what are to be considered social services, the Commission specifically includes activities to integrate persons with long-term health or disability problems.

4.7 To date, health services, which are obliged to provide universal access to high-quality care and which operate on the basis of the solidarity principle, have always been considered to be social policy tools, on a par with services providing personalised social care.

<sup>(1)</sup> COM(2006) 177 final, point 2.1(3).

## 5. Specific comments

### 5.1 Description of social services of general interest

5.1.1 In line with the observations made in point 4.5, the EESC accepts the description of the specific characteristics of social services of general interest proposed in the communication. This description is broadly formulated and open-ended, which leaves sufficient room to take account of future developments in this sector.

5.1.2 The EESC welcomes the communication's reference to the particular role of services to the individual in exercising fundamental rights, which highlights the importance and the *raison d'être* of social services.

5.1.3 The communication's description of the common framework's implementing conditions is nevertheless confined to the most common cases. The EESC would suggest that schemes vary from one Member State to another; the list of categories (total or partial delegation of a social mission, public/private partnership) does not always take account of these differences. The EESC therefore welcomes the planned public consultation as an important means of learning more about the activities of social services and their operating methods.

### 5.2 The EC internal market and competition rules

5.2.1 The EC Treaty gives Member States the freedom to define missions of general interest and to establish the organisational principles for providers entrusted with the task of accomplishing them.

5.2.2 However, when exercising this freedom (which must be done transparently and without misusing the concept of general interest), the Member States must take account of Community law and must respect the principle of non-discrimination and the Community legislation on public contracts and concessions when organising a public service, including a social service.

5.2.3 Moreover, when it comes to services that are considered to be of an economic nature, the compatibility of their organisational arrangements with other areas of Community law must be ensured (in particular freedom to provide services and freedom of establishment, and competition law).

5.2.4 According to Community case law, almost all services provided in the social sphere, with the exception of solidarity-based social security schemes, can be considered to be economic activities.

5.2.5 The consequence of the ECJ's broad definition of what constitutes an economic activity, which has been accepted by the European institutions <sup>(2)</sup>, is that Community competition and internal market rules (such as State aid, the free provision

<sup>(2)</sup> In its 2000 Communication, the European Commission thus wrote that 'according to the case law of the Court of Justice, many activities conducted by organisations performing largely social functions, which are not profit-oriented and which are not meant to engage in industrial or commercial activity, will normally be excluded from the Community competition and internal market rules' (point 30). The Communication of 26 April 2006, however, states that 'almost all services offered in the social field can be considered "economic activities" within the meaning of Articles 43 and 49 of the EC Treaty'. See also the EESC opinion on 'Private not-for-profit social services in the context of services of general interest in Europe' — OJ C 311, 7.11.2001, p. 33.

of services, the right of establishment and the 'public procurement' directive as well as secondary legislation) increasingly apply to social services of general interest, which is creating growing uncertainty amongst public authorities, service providers and users. This situation, if it continues, could alter the objectives of SSGI, despite them being central to the 'European social model'.

5.2.6 The underlying aims and principles of the Community framework for services of general economic interest reflect a rationale that is based essentially on models of economic performance. This is not the rationale generally applied to SSGI and is thus not relevant or applicable in this form to the reality of social services in the European Union.

5.2.7 As the EESC stated in its opinion on The future of services of general interest (CESE 976/2006), the distinction between economic and non-economic services remains vague and unclear. Almost any service of general interest, even a service provided on a not-for-profit or charitable basis, entails some economic value, although this does not automatically bring it within the scope of competition law. Furthermore, a service can be both economic and non-economic. Similarly, a service can be economic without the market necessarily being in a position to provide that service in a manner which is consistent with the principles governing SGI.

5.2.8 Furthermore, in the case law of the European Court of Justice, the concept of economic activity is extremely broad, because it considers an economic activity to be any activity consisting of supplying goods and services in a given market by an undertaking, regardless of the legal status of the undertaking and the way in which it is financed (see the Höfner and Elser judgment of 1991 and the Pavlov judgment of 2000) and it considers that this concept applies regardless of whether the operator intends to make a profit (Ambulanz Glöckner judgment of 2001).

5.2.9 The ECJ and the European Commission attach increasing importance to the economic nature of SGI but are not counterbalancing this by recognising or offering guarantees for the general interest missions carried out by these services, which creates a number of legal uncertainties for operators and beneficiaries. We are therefore moving from general interest towards profitable interest, whereas the distinction to be made is not whether or not a service is 'economic' but rather whether or not it is 'profitable'.

## 6. A stable and transparent legal framework

6.1 The EESC doubts that the flexibility which the Commission claims exists in the application of the Treaty as regards recognition of the specific characteristics inherent in missions of general interest, pursuant to Article 86(2) in particular, is suffi-

cient to allay all legal concerns and to guarantee social services for all. The same applies to the open method of coordination.

6.2 All services of general interest, including SSGI, have a role to play in implementing Community objectives as defined in Articles 2 and 3 of the Treaty, in particular to achieve a high level of social protection, to raise the standard of living and quality of life, to attain a high level of health protection and to strengthen economic, social and territorial cohesion.

6.3 Consequently, the Union, which is responsible for achieving these aims, is also responsible for the implementing instruments which are, where fundamental rights and social cohesion are concerned, economic or non-economic SGI. The EU must therefore, with due respect for the principles of subsidiarity and proportionality and in conjunction with the Member States, safeguard and contribute to the existence of SGI that are accessible, affordable and of high quality for everyone.

6.4 Given the problems of producing an exhaustive definition of the concept of SGI/SGEI on the one hand and the given the risk entailed in adopting a restrictive approach on the other, the distinction between economic and non-economic should be dropped in order to focus instead on the particular mission of the services in question and on the requirements (public service obligations) imposed on them for the performance of their duties and which should be clearly established.

6.5 Furthermore, the great diversity of situations, rules and national or local practices, and the obligations on managers or public authorities, mean that the rules to be implemented must take account of the specific characteristics of each Member State.

6.6 It is not, therefore, a question of deciding what is economic or not, but of deciding which services are covered by the competition and internal market rules and which services, for reasons of the general interest and in the interests of social, territorial and economic cohesion, in line with the principle of subsidiarity, should be exempted from these rules by Community (for European SGI), national, regional or local authorities.

6.7 As the EESC<sup>(3)</sup> has been urging for years, common benchmarks for services of general interest must therefore be defined at Community level, as well as common standards (in particular for management and financing methods, the principles and limits of the Community's action, independent performance evaluation, consumer and user rights, a minimum level of public service missions and obligations) that should apply to all services of general interest, including SSGI, to be set out in a framework directive adopted under the co-decision procedure, whereby a Community framework can be established which reflects their specific characteristics, in order to complement the services directive.

<sup>(3)</sup> EESC opinion on 'Services of general interest' — OJ C 241, 7.10.2002, p. 119.

EESC Opinion on the 'Green Paper on Services of General Interest' — OJ C 80, 30.3.2004, p. 66.

EESC Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the White Paper on services of general interest — OJ C 221, 8.9.2005, p. 17.

EESC Opinion on The future of services of general interest — OJ C 309, 16.12.2006, p. 135.

6.8 In order to ensure that the general interest mission is fulfilled in a non-discriminatory and transparent manner and is not abused, Member States should explain why these services are in the general interest and in the interests of social, territorial and economic cohesion in an official legal act of 'delegation' or equivalent and in authorisation rules, setting out the mission that the competent public authority of a given Member State entrusts to service providers for providing an SGI and which lays down their rights and obligations, without prejudice to the right of initiative conferred on operators by the regulations.

6.9 This act (in the form of legislation, a contract, agreement, decision, etc.), could, in particular, detail:

- the nature of the specific mission of general interest, the related requirements and attendant public service obligations, including pricing, the provisions to ensure continuity of service and the measures to avoid potential interruptions in service provision;
- the rules for drawing up and, if necessary, amending the official act;
- the authorisation and professional qualifications arrangements;
- the funding methods and the models for calculating compensation for the costs incurred in accomplishing specific missions;
- the arrangements for evaluating the implementation of SGI.

6.10 The EESC recommends adopting a specific legal framework that is common to social services and health services of general interest, as part of an overall approach in the form of a framework directive for all services of general interest. This should help to ensure the appropriate legal stability and transparency for SSGI at Community level, in strict compliance with the principle of subsidiarity and in particular with the powers of local and regional authorities to define the missions, management and funding of these services. The principles set out in this legal framework should form the basis for the EU's stance in international trade negotiations.

Brussels, 15 March 2007.

## 7. Evaluation

7.1 The White Paper on services of general interest set particular store by an evaluation of social services of general interest, by means of a mechanism to be clarified in a future communication.

7.2 In order to enhance mutual information and exchanges between European operators and institutions, the Commission proposes a procedure involving follow-up and dialogue, in the form of biannual reports.

7.3 In this context, the EESC recalls its proposal that an independent monitoring centre be set up to evaluate services of economic and non-economic general interest, with a membership consisting of representatives of the European Parliament and the Committee of the Regions and representatives of organised civil society from the European Economic and Social Committee.

7.4 At national, regional and local level, the public authorities should involve all stakeholders, providers and beneficiaries of social services, the social partners, bodies working in the social economy and to combat exclusion, etc, in regulating SSGI at all stages, in other words, in establishing, monitoring, and implementing quality standards and ensuring their cost-effectiveness.

7.5 This monitoring centre should comprise a steering committee, which will define the aims and the terms of reference of the evaluations, select the bodies entrusted with the task of carrying out the studies and examine and deliver an opinion on the reports. The committee will be able to call on the services of a scientific advisory group, which will study the methodology used and make recommendations on the matter, as and when required. The steering committee will ensure that presentations are given and public discussions held on the evaluation reports in all Member States, with the involvement of all stakeholders. The evaluation reports must consequently be available in all of the Union's working languages.

The President  
of the European Economic and Social Committee  
Dimitris DIMTRIADIS

## APPENDIX

**to the opinion of the European Economic and Social Committee**

The following amendments, which received at least one quarter of the votes cast, were rejected in the discussion:

**Point 1.3**

Replace as follows:

With this in mind, the EESC considers that rather than focusing on a dubious and evolving distinction as to whether a service of general interest is economic or non-economic, it is necessary to consider the actual nature of the service, together with its purpose and objectives, and to determine which services are covered by the competition and internal market rules and which services, for reasons of the general interest and in the interests of social, territorial and economic cohesion, in line with the principle of subsidiarity, should be exempted from these by public authorities at the Community, national, regional or local level. Services cannot be simply exempted from competition and internal market rules for reasons of principle. Competition, which is intended to facilitate the completion of the single market based on market economy rules and which is regulated by antitrust rules, is a substantive democratic right; it limits not only state power but also, and above all, abuse of dominant market positions and it protects consumer rights. Moreover, EU competition and internal market rules allow for the accommodation of the non-commercial nature of SSGI. It is essential to guarantee the universal right to social services.

**Reason**

As underlined in many parts of the opinion, notably in paragraph 6.5, social services of general interest are characterised by different historical traditions, a great diversity of situations, rules and local, regional or national practices. The Employers' Group, in line with the view expressed by the European Parliament, therefore considers that the most appropriate Community intervention would consist in the adoption of recommendations or guidelines which would fully respect the key principles of subsidiarity and proportionality: an EU binding legislative framework on social services of general interests would impose a 'one size fits all approach' which is simply incompatible with SSGI. A Directive, which would be certainly based on the lowest common denominator, would not provide any guarantee in terms of quality or access to services for users, nor would it constitute any progress for the internal market. By contrast, adopting a recommendation would enable to clarify the obligations related to services of general interest that need to be taken into account in the implementation of the Services Directive 2006/123/EC adopted by the Parliament and the Council on 12 December 2006.

**Result of vote**

For: 82

Against: 91

Abstentions: 12

**Point 1.4**

Amend as follows:

~~Common benchmarks and standards~~ Common principles and values should therefore be defined at Community level for all services of general interest (both economic and non-economic), including social services of general interest, to be set out in a ~~framework directive~~ Community recommendations or guidelines, adopted under the co-decision procedure, whereby a Community framework can be established which reflects their specific characteristics.

**Reason**

As underlined in many parts of the opinion, notably in paragraph 6.5, social services of general interest are characterised by different historical traditions, a great diversity of situations, rules and local, regional or national practices. The Employers' Group, in line with the view expressed by the European Parliament, therefore considers that the most appropriate Community intervention would consist in the adoption of recommendations or guidelines which would fully respect the key principles of subsidiarity and proportionality: an EU binding legislative framework on social services of general interests would impose a 'one size fits all approach' which is simply incompatible with SSGI. A Directive, which would be certainly based on the lowest common denominator, would not provide any guarantee in terms of quality or access to services for users, nor would it constitute any progress for the internal market. By contrast, adopting a recommendation would enable to clarify the obligations related to services of general interest that need to be taken into account in the implementation of the Services Directive 2006/123/EC adopted by the Parliament and the Council on 12 December 2006.

**Result of vote**

For: 81

Against: 94

Abstentions: 10

**Point 1.6**

Amend as follows:

*With regard to evaluating social services of general interest, the EESC wishes to recall, in this context, ~~its proposal to set up an independent monitoring centre to evaluate services of general economic and non-economic interest~~ its commitment to the principle of evaluation and proposes to back up the proposed procedure by the Commission with the setting up of an informal network, with a membership consisting of representatives of the European Parliament, the Committee of the Regions and representatives of organised civil society from the European Economic and Social Committee. At national, regional and local level, the public authorities should involve all stakeholders, providers and beneficiaries of social services, the social partners, bodies working in the social economy and to combat exclusion, etc., in regulating SSGI.*

**Reason**

As underlined in many parts of the opinion, notably in paragraph 6.5, social services of general interest are characterised by different historical traditions, a great diversity of situations, rules and local, regional or national practices. The Employers' Group, in line with the view expressed by the European Parliament, therefore considers that the most appropriate Community intervention would consist in the adoption of recommendations or guidelines which would fully respect the key principles of subsidiarity and proportionality: an EU binding legislative framework on social services of general interests would impose a 'one size fits all approach' which is simply incompatible with SSGI. A Directive, which would be certainly based on the lowest common denominator, would not provide any guarantee in terms of quality or access to services for users, nor would it constitute any progress for the internal market. By contrast, adopting a recommendation would enable to clarify the obligations related to services of general interest that need to be taken into account in the implementation of the Services Directive 2006/123/EC adopted by the Parliament and the Council on 12 December 2006.

**Result of vote**

For: 85

Against: 93

Abstentions: 11

**Point 6.7**

Amend as follows:

*As the EESC has been urging for years, common benchmarks for services of general interest must therefore be defined at Community level, as well as common standards (in particular for management and financing methods, the principles and limits of the Community's action, independent performance evaluation, consumer and user rights, a minimum level of public service missions and obligations) that should apply to all services of general interest, including SSGI, to be set out in a framework directive ~~Community recommendations or guidelines adopted under the co-decision procedure, whereby a Community framework can be established which reflects their specific characteristics, in order to complement the services directive.~~*

**Reason**

As underlined in many parts of the opinion, notably in paragraph 6.5, social services of general interest are characterised by different historical traditions, a great diversity of situations, rules and local, regional or national practices. The Employers' Group, in line with the view expressed by the European Parliament, therefore considers that the most appropriate Community intervention would consist in the adoption of recommendations or guidelines which would fully respect the key principles of subsidiarity and proportionality: an EU binding legislative framework on social services of general interests would impose a 'one size fits all approach' which is simply incompatible with SSGI. A Directive, which would be certainly based on the lowest common denominator, would not provide any guarantee in terms of quality or access to services for users, nor would it constitute any progress for the internal market. By contrast, adopting a recommendation would enable to clarify the obligations related to services of general interest that need to be taken into account in the implementation of the Services Directive 2006/123/EC adopted by the Parliament and the Council on 12 December 2006.

**Result of vote**

For: 84

Against: 99

Abstentions: 7

**Point 6.10**

Amend as follows:

~~The EESC recommends adopting Community recommendations or guidelines a specific legal framework that is common to social services and health services of general interest, as part of an overall approach in the form of a framework directive for all services of general interest. This should help to ensure the appropriate legal stability and transparency for SSGI at Community level, in strict compliance with the principle of subsidiarity and in particular with the powers of local and regional authorities to define the missions, management and funding of these services. The principles set out in these recommendations or guidelines in this legal framework should form the basis for the EU's stance in international trade negotiations.~~

**Reason**

As underlined in many parts of the opinion, notably in paragraph 6.5, social services of general interest are characterised by different historical traditions, a great diversity of situations, rules and local, regional or national practices. The Employers' Group, in line with the view expressed by the European Parliament, therefore considers that the most appropriate Community intervention would consist in the adoption of recommendations or guidelines which would fully respect the key principles of subsidiarity and proportionality: an EU binding legislative framework on social services of general interests would impose a 'one size fits all approach' which is simply incompatible with SSGI. A Directive, which would be certainly based on the lowest common denominator, would not provide any guarantee in terms of quality or access to services for users, nor would it constitute any progress for the internal market. By contrast, adopting a recommendation would enable to clarify the obligations related to services of general interest that need to be taken into account in the implementation of the Services Directive 2006/123/EC adopted by the Parliament and the Council on 12 December 2006.

**Result of vote**

For: 78

Against: 97

Abstentions: 10

**Points 7.3, 7.4 and 7.5**

Replace as follows:

~~In this context, the EESC recalls its proposal that an independent monitoring centre be set up to evaluate services of economic and non-economic general interest, with a membership consisting of representatives of the European Parliament and the Committee of the Regions and representatives of organised civil society from the European Economic and Social Committee.~~

~~At national, regional and local level, the public authorities should involve all stakeholders, providers and beneficiaries of social services, the social partners, bodies working in the social economy and to combat exclusion, etc. in regulating SSGI at all stages, in other words, in establishing, monitoring, and implementing quality standards and ensuring their cost effectiveness.~~

~~This monitoring centre should comprise a steering committee, which will define the aims and the terms of reference of the evaluations, select the bodies entrusted with the task of carrying out the studies and examine and deliver an opinion on the reports. The committee will be able to call on the services of a scientific advisory group, which will study the methodology used and make recommendations on the matter, as and when required. The steering committee will ensure that presentations are given and public discussions held on the evaluation reports in all Member States, with the involvement of all stakeholders. The evaluation reports must consequently be available in all of the Union's working languages.~~

~~The EESC proposes to back up the Commission proposed procedure with the setting up of an informal network. The EESC would actively participate to this network, made of social partners and other civil society organisations. It would promote exchange of experiences and information on good practices, notably through an internet forum.~~

**Reason**

The Employer's Group supports the principle of promoting information exchanges and evaluating services of general interest. However, it is opposed to the present proposal to set up additional cumbersome and bureaucratic procedures in the form of an independent monitoring centre.

**Result of vote**

For: 88

Against: 99

Abstentions: 5

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**Opinion of the European Economic and Social Committee on the Communication from the Commission to the Council and the European Parliament — Keep Europe moving — Sustainable mobility for our continent — Mid-term review of the European Commission's 2001 Transport White Paper**

COM(2006) 314 final

(2007/C 161/23)

On 22 June 2006, the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned 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 21 February 2007. The rapporteur was Mr Barbadillo López.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 144 votes to three, with 24 abstentions.

## 1. Conclusions and recommendations

1.1 Since the Transport White Paper was published in 2001 the general situation has developed in a very different way from what was expected. Economic growth has been lower, the oil price has risen sharply, enlargement has given the EU a continental dimension, new technological developments are transforming transport into a cutting-edge technological sector, there is a constant terrorist threat and the modal breakdown of the transport market has changed. All of these factors require a re-orientation of transport policy.

1.2 But the overall objectives of transport policy have remained unchanged: competitive, sustainable, safe, environment-friendly mobility of persons and goods offering higher-quality employment. These objectives are fully in line with the revised Lisbon Agenda for growth and employment but have not yet fully engaged with the longer term objectives of the revised strategy for sustainable development and the climate change challenge. In particular the revision does not yet set out a coherent longer term strategy for achieving the first objective for sustainable transport set out in the revised sustainable development strategy of 'decoupling economic growth and the demand for transport'.

1.2(a) While supporting all the measures which the Commission proposes for making the different transport methods more energy efficient and less carbon-intensive the Committee questions whether this will ultimately be sufficient to achieve all the reductions of carbon emissions needed from Europe by the middle of the century. They therefore urge the Commission to put in hand now studies of the kind of measures that may be needed to achieve a reduction in the overall level of demand for transport in the longer term. This should include consideration of appropriate pricing signals; and a recasting of urban spatial and planning policies to encourage more local provision and access to goods and services of all kinds, and less reliance on

ever longer distance of transportation of people and goods. It should also include consideration of how to open up a broader public debate on these issues, and an exploration of how responsible individuals and businesses can best contribute to long term sustainability through their own transport and travel decisions and behaviour.

1.3 The EU is highly diverse, with very different orographic, territorial and demographic characteristics, with both central countries with high levels of congestion and transit traffic and very extensive peripheral areas without this constant pressure on their infrastructure. The Committee highlights the need to bring a geographically differentiated approach to transport policy.

1.4 The EESC supports the aims of the revised White Paper, which aims to optimise all modes of transport, on their own and in combination, enhancing the specific potential of each, the aim being less polluting and more efficient transport systems which guarantee the sustainable mobility of persons and goods.

1.5 The EESC considers it necessary to improve interoperability between transport modes and increase the competitiveness of rail, maritime and inland waterway transport in order to boost their effectiveness and efficiency, and to increase their share of the transport market in order to underpin their long-term viability. It also considers that the public authorities can promote coordination between the different modes.

1.6 The Committee recommends that account be taken of public inter-city road passenger services, as a way of achieving the objectives set by the Commission, such as reducing congestion, pollution and fuel consumption and improving road safety, on the basis of this transport mode's high passenger-carrying capacity, with a significant increase in the role of public transport vis-à-vis private cars.

1.7 Air transport has undergone a major expansion in the last ten years, as a result of the opening up of the market, but the uneven application of the third package in the various Member States and existing restrictions in the internal market are leading to distortions of competition. The operation of the internal market therefore needs to be improved.

1.8 The absence of an internal maritime transport market is preventing the EU from optimising regulations on internal traffic and thus simplifying internal trade, with all of the attendant damaging repercussions for integrating this traffic into internal modal chains.

1.9 Transport is one of the EU's major employers, but the lack of staff is leading to more recruitment of third-country workers, which suggests that efforts are needed to improve the training, image and quality of transport-related vocations among young people, which is an area where the social partners can play a role.

1.10 The common transport policy should continue to have an impact on the technical, fiscal and social harmonisation of each transport mode on its own and of all of them in combination, in order to promote a framework that ensures a genuinely level playing field.

1.11 Service quality needs to be improved to make transport modes attractive to users. The Committee notes with satisfaction the attention paid in the mid-term review of the White Paper to the rights of passengers of all modes of transport, especially the rights of persons with reduced mobility, while taking account of the specific characteristics of each mode.

1.12 The protection of modes of transport should be a priority objective, and security measures should be extended to all modes of transport and their infrastructure, while avoiding unnecessary security checks and safeguarding the human rights and privacy of users.

1.13 Transport is a major consumer of fossil fuel energy, and reducing its dependence on these energy sources and reducing CO<sub>2</sub> emissions from transport should be priorities, to which end a specific R&D and innovation programme should be drawn up for transport, with appropriate funding, which is able to stimulate the use of alternative sources of energy, primarily in urban areas; in addition a policy should be implemented that distinguishes between modes, especially as regards taxation, and which encourages the adoption and use of new, environmentally-friendly technologies.

1.14 Infrastructure provides the physical network needed for the development of the internal transport market and optimising this requires that two objectives be met: reducing congestion and increasing accessibility by mobilising all sources of funding.

1.15 Transport infrastructure, particularly in urban areas, should support the development of public transport. Investment policy should be used to gradually limit the space available for private car transport.

## 2. Introduction and Commission proposal

2.1 The aim of the Commission's 1992 Transport White Paper, entitled *The future development of the common transport policy* <sup>(1)</sup>, was to create a single market for transport, facilitating mobility in general, by opening up the market. In ten years, except in the rail sector, the aims have broadly speaking been achieved.

2.2 In September 2001, the European Commission published a new White Paper, entitled *European transport policy for 2010: time to decide* <sup>(2)</sup>, which proposed 60 measures for shifting the balance between modes of transport, eliminating bottlenecks, placing users at the heart of transport policy and managing the effects of globalisation.

2.3 In order to speed up decision-making and to evaluate the results achieved, the 2001 White Paper established a review mechanism requiring the Commission to present a timetable with specific aims, to make an overall assessment in 2005 of the implementation of the measures set out in the White Paper and, where necessary, to make changes. The result is the Commission communication under consideration in this opinion.

2.4 The approach adopted in the mid-term review of the White Paper is based, amongst other things, on the reorientation of transport demand towards more environment-friendly modes, in particular as regards long-distance transport, urban areas and congested transport corridors. At the same time all modes of transport are required to become more environment-friendly, safe and efficient from the energy point of view.

2.5 The Commission communication entitled *Keep Europe moving — Sustainable mobility for our continent* was drawn up on the basis of consultations held in the course of 2005. These consultations highlighted transport's central role in economic growth and the need to re-adjust policy measures.

2.6 The overall objectives of transport policy remain the same: a competitive, secure, safe, and environmentally friendly mobility for persons and goods, with better employment conditions. These objectives are fully in line with the revised Lisbon agenda for jobs and growth and with the revised Sustainable Development Strategy.

<sup>(1)</sup> COM(92) 494 of 2 December 1992: The future development of the common transport policy.

<sup>(2)</sup> COM(2001) 370 of 12 September 2001: European transport policy for 2010: time to decide.

2.7 Innovation is one of the most important tools for achieving these objectives: introducing intelligent, communications-based transport systems and more advanced engine technology to achieve greater energy efficiency and promoting and using alternative fuels.

2.8 The key to the mid-term review of the White Paper, however, lies in co-modality, in other words, the efficient use of different modes on their own and in combination, which 'will result in the optimal and sustainable utilisation of resources'. This approach is the best guarantee of achieving a high level of mobility and of environmental protection at the same time.

### 3. General comments

3.1 The EESC maintains and reiterates the view set out in its opinion on the White Paper of 19 June 2002, that the current mid-term review should make it clear that, given developments in the transport sector and in the economic, political and social situation of the Union, there needs to be an effective and immediate adaptation of the common transport policy to take account of the changes that have occurred during the period under review and of foreseeable future developments.

3.2 It also endorses the policies aimed at improving technological potential to find innovative solutions that will contribute directly to the European competitiveness, safety, environmental and social agendas.

3.3 The context is very different from the one imagined at the time the 2001 Transport White Paper was drawn up: lower than expected economic growth, geopolitical tensions, rising oil prices, the effects of EU enlargement, globalisation, new technological developments, the ongoing terrorist threat and changes in the balance between transport modes. The Commission communication aims at adapting EU transport policy to the context in which future growth and policies must be determined.

3.4 The rationale for the mid-term review of the 2001 White Paper is not only the new context described above but also the much-needed reorientation of EU transport policy that the White Paper sets out. The review of the White Paper, must focus just as intently on a transport policy designed to optimise all modes of transport, through processes that make them more competitive, sustainable, socially beneficial, environmentally-friendly and safe, with sustainability that is anchored in their close relationship with progress and economic growth, and on the necessary coordination between the different modes, which can be promoted by the public authorities.

3.5 The review also makes a very welcome proposal to bring transport into line with environmental priorities, under the concept of 'sustainable transport', and does this in a similar way for the different modes of transport. Unfortunately, however, the studies made by the Commission in section 3 of the

communication's Annex II, concerning transport and the environment, are not broken down by type of road transport, with separate figures for public and private transport use, which would provide a model showing the detrimental effects of, primarily, intensive and unbridled car use on congestion, safety, pollution and energy consumption, amongst other things.

3.6 Given the continuity of this transport policy, the EESC considers that a more realistic position should be advocated, and this would mean:

- a) speeding up the regulatory processes for introducing a maritime transport system and a rail transport system based on regulated competition, as a way of making these more effective and efficient;
- b) the effects of road transport, caused by traffic congestion and pollution, mainly from private vehicles, together with the relentless growth predicted by the Commission for the period 2000-2020, must be subject to specific measures that tackle these problems so as to allow for growth while reducing the harmful effects of road transport (new infrastructure, technology, etc.);
- c) public passenger transport is essential for obtaining the results envisaged by these policies;
- d) determining precisely the effects that commercial vehicles of less than 3.5 tonnes have on safety, the environment, working conditions and the economy.

3.7 There is, therefore, a need to boost the effectiveness and efficiency of maritime, inland waterway and rail transport, by promoting the competitiveness of these sectors, strengthening coordination and intermodality, with measures in place enabling it to continue to provide its services with the appropriate flexibility and pricing.

3.8 In the Committee's view the studies so far undertaken also fall short in that they do not directly address the fundamental goal adopted in the revised sustainable development strategy of decoupling economic growth and the demand for transport. Moreover they do not work through the implications of the climate change challenge and the level of CO<sub>2</sub> reductions that will be needed in the next 50 years. Given the rapid growth in mobility over the last 50 years, and the apparently continuing appetite for yet more growth of movement (both in Europe and still more in the developing world) the Committee has serious doubts as to whether it will be possible to achieve the carbon reductions needed from the transport sector to avoid climate catastrophe simply by promoting greater energy efficiency in the different transport modes and optimisation of the balance between them, desirable though all those objectives are. They believe that the Commission needs to put in hand as a matter of urgency studies of the kind of measures that may be needed soon to discourage the growth in demand for ever greater mobility. This should include appropriate pricing signals, and

appropriate urban spatial and planning policies to encourage more local provision of goods and services of all kinds to meet peoples' aspirations without requiring them to travel ever greater distances to satisfy them. It should also include consideration of how to open up a broader public debate on these issues, and an exploration of how responsible individuals and businesses can best contribute to long term sustainability through their own transport and travel decisions and behaviour.

3.9 Transport policy must demonstrate commitment to quality, safety, the environment and transport efficiency and guarantee users' a choice of transport modes. Transport must achieve economically and socially sustainable levels of coverage, not forgetting, where appropriate, public service obligations and the right to mobility, which is enshrined in the Treaties.

3.10 Population is distributed unequally within the EU. With an average of 116 inhabitants per km<sup>2</sup>, population density varies from 374 inhabitants per km<sup>2</sup> in the Netherlands to between 15 and 21 in the Nordic Countries. The percentage of a country's total population living in urban areas also varies. The European average is 80 %, and ranges from Belgium's 97.2 % to 59.9 % in Greece. The problems of captive transport users in rural areas should be highlighted.

3.11 The EESC wishes to emphasise the need to adopt a geographically differentiated approach to transport policy, since the EU is a highly diverse territory with very different topographical, territorial and demographic etc., characteristics, in which core countries, containing areas with high levels of congestion and significant through-traffic, coexist with very large peripheral or rural areas that do not face the same constant pressure on their infrastructure. These two models require different and specific approaches, within the framework of the common transport policy.

3.12 There is also the problem of the peripheral countries, far from the large population and production centres, which have higher transport costs and consequently, higher costs for producing and marketing their products — one of the disadvantages of remoteness. The EESC therefore considers that improved accessibility must be a priority tool for increasing countries' or regions' competitive capacity and for strengthening territorial cohesion.

3.13 Both the Commission communication and the 2001 Transport White Paper are documents that need to be fleshed out, in that: a) they provide no clear economic/financial or budgetary analysis of the issues that the Commission considers should be addressed; b) transport policy does not give regulated competition the leading role that the Commission itself claims it should have and c) more detailed work needs to be done on breaking down environmental and other studies by modes and particular types of transport, in order to study the effects and possible solutions.

The EESC considers that consultation measures should be adopted, setting out initiatives that will, once the problems have

been studied, give the EU a cohesive and sustainable transport policy for the future.

3.14 The Commission communication states that most of the measures set out in the White Paper have been adopted or proposed, and that their impacts are described and evaluated in Annex 3, which is not included in the communication. The EESC requests that a detailed chronological list of the measures be adopted and their impact included, or that the address of the Internet page on which they are published be clearly provided.

#### 4. Specific comments

4.1 In order to carry out a systematic analysis of the communication on the mid-term review of the 2001 Transport White Paper, some general aspects will now be set out on which the EESC considers it necessary to make constructive contributions, following the communication's own format.

##### 4.2 Sustainable mobility in the internal market — connecting Europeans

4.2.1 The Commission states that 'the EU's internal market is the main instrument for achieving a vibrant transport industry which brings growth and jobs. As the aviation sector and other sectors such as telecommunications have shown, the process of liberalisation of the internal market stimulates innovation and investment to bring better service at a lower cost. The same success can be achieved throughout the transport sector'. In air transport the results have been more choice for users and lower fares.

4.2.2 Road transport: in order to analyse the issue of road transport objectively, it must be broken down by mode and by specific characteristic, since the largest share of intra-EU transport is carried by road, which accounts for 44 % of freight and around 85 % of passenger transport. Motor vehicles<sup>(3)</sup> in the EU 25 are distributed as follows: 212 million passenger cars, 30.702 million commercial vehicles, 25.025 million powered two-wheelers and 719 400 buses and coaches. This clearly shows where the main responsibility for the EU's major congestion and environmental problems lies.

4.2.2.1 The communication makes no reference to public intercity road passenger transport, thus seriously undermining the potential solution of getting car passengers to switch to this mode of transport, which would generate all kinds of benefits and savings relating to safety, the environment, land use, flexibility etc. The EESC considers that account should be taken of this mode of transport in order to achieve the stated aims. Consequently, legislation is needed to permit the development of regulated competition, so that regular intercity road passenger transport services can be established, which would have to comply with EU and Member State rules on advertising and competition.

<sup>(3)</sup> Energy and transport in figures 2005. Directorate-General for Energy and Transport. European Commission.

4.2.2.2 The Commission looks at ways of reducing excessive differences in fuel tax levels for road transport instead of adopting a more general approach to the issue by introducing a common tax policy for all modes of transport, which does not penalise any mode of transport more than another, to ensure equal treatment.

4.2.3 Rail transport: Since 1970 the railways' market share has declined from 10 % to 6 % of passenger transport and 21 % to 8 % of goods transport. International goods trains cross the EU at an average speed of 18 kph. The main challenges facing the railways are competition with the other modes, the interoperability of the different systems and the fact that the railways specialise in transporting certain goods.

4.2.3.1 The EESC considers that making rail transport more competitive is the only way to ensure that it achieves the desired level of efficiency and effectiveness, thus increasing demand for this mode of transport and restoring its long-term viability; this would require an in-depth review of all legislation on this matter and of its implementation in the various Member States.

4.2.3.2 Nevertheless, as it stated in its opinion on the 2001 Transport White Paper <sup>(4)</sup>, the Committee shares the view that the principle of 'regulated competition' should apply to services of general economic interest, including public rail and road passenger transport, which under Article 16 of the EC Treaty are considered essential to promoting social and territorial cohesion.

4.2.4 Air transport: The framework of liberalisation created by Regulations (EEC) No 2407/92, 2408/92 and 2409/92, the internal market in aviation's 'third package', has helped to achieve the transformation of air transport services, making them more efficient and affordable. However, the third package's differing implementation in the different Member States and the remaining restrictions on intra-Community air services create distortions of competition (for example, different requirements for granting operating licences, discriminatory treatment on routes to third countries, discrimination against airlines on grounds of nationality, etc.). The operation of the internal market therefore needs to be reviewed, changes must be made to eliminate potential distortions and the 'single sky' regulatory framework must be completed, thus making air transport in the EU more efficient.

4.2.5 Maritime transport: More than 90 % of transport between Europe and the rest of the world passes through seaports, and 40 % of intra-European transport goes by sea. Maritime transport, especially short sea shipping, has experienced growth similar to that in road haulage and it has great development potential given the EU's long coastline following enlargement. The EESC considers that the Commission ought to monitor the movement of goods by sea and take the measures

necessary to adapt to this development <sup>(5)</sup>.

4.2.5.1 The lack of an internal market for sea transport, due to the fact that journeys by sea between two Member States are considered to take place outside the Union under international law, is preventing the EU from optimising the regulation of internal traffic and simplifying internal trade, with negative repercussions for the integration of this into the internal modal chains.

4.2.5.2 The EESC considers the better integration of port services to be an essential basis on which to draw up and introduce a common maritime transport policy, which will help to develop the 'motorways of the sea' and to promote 'short-sea shipping', making maritime transport more efficient and competitive within the logistics chain, which will help to improve sustainable mobility.

#### 4.3 Sustainable mobility for the citizen — reliable, safe and secure transport

4.3.1 Employment and working conditions: transport is one of the main employers in the EU, accounting for 5 % of all jobs, but employment levels are now stabilising. In some sectors, such as rail and road transport, a lack of skilled workers has appeared, which has contributed to an increase in third-country labour. The EESC shares the Commission's view on the need to step up efforts to improve training and quality of employment for those working in the sector, in order to make transport-related vocations more attractive to young people.

4.3.1.1 To achieve these aims, there must be training programmes, guided by the social partners, that reflect the specific characteristics and needs of each mode of transport (initial and ongoing training) which must have the necessary funding.

4.3.1.2 The social legislation covering road transport must preserve equal treatment for workers, whether they are employees or self-employed and, therefore, Directive 15/2002 of 11 March 2002, on the organisation of working time of persons performing mobile road transport activities must apply immediately to self-employed workers, without a transitional period, since the aim of this Directive is to ensure road safety, to avoid distortion of competition and to promote better working conditions.

For the reasons given above, commercial vehicles of less than 3.5 tonnes used for freight services should be included in the different regulations covering goods transport by road,

<sup>(5)</sup> See EESC own-initiative opinion: Europe's accessibility by sea in the future: developments and how to anticipate them, OJ C 151, 28.6.2005.

<sup>(4)</sup> OJ C 241, 7.10.2002.

4.3.2 Passenger rights: strengthening users' rights is essential to ensuring that all modes of transport improve the quality of their service, (including frequency, punctuality, the comfort of all categories of user, safety, ticketing, prevention of over-booking, pricing policy and compensation etc.). The Committee urges that these changes be introduced as soon as possible, whilst taking into account each mode's specific characteristics, especially those of modes which have to share infrastructure.

4.3.2.1 The Committee welcomes the particular attention that the review of the White Paper pays to access to transport for persons with reduced mobility and to the quality of such transport. It wishes to state, however, that conditions of access concern not only modes of transport but also infrastructure, whether for air, sea, inland waterway, rail or road transport and also the particular problems arising from trans-shipment.

4.3.3 Safety: the introduction of a comprehensive set of regulations has resulted in improved safety in all modes of transport, especially in air and maritime transport. These measures include the introduction of a blacklist of unsafe airlines and the creation of European agencies for all modes of transport, including the European Maritime Safety Agency (EMSA), the European Air Safety Agency (EASA) and the European Railway Agency (ERA). The only exception is road transport. In order to achieve the stated aim of halving the number of accidents, a common road safety policy is therefore needed, establishing a common system of standardising offences and sanctions, and introducing the 'European penalty points driving licence', which would enable any offence, in any EU Member State, to result in penalty points.

4.3.3.1 It should not be overlooked, however, that technical progress, new vehicle design, vehicle-infrastructure cooperation (known as *eSafety*) and better infrastructure, by eliminating black spots, are all factors that will contribute to improving road safety.

4.3.3.2 The EESC wishes to state that road accident statistics should be broken down by mode, especially those which come into contact with private cars, because it is these which have the highest accident rate.

4.3.4 Security: air transport security was tightened following the events of 11 September 2001. The Committee considers that, in the wake of the Madrid and London attacks and the ongoing terrorist threat, protecting all transport resources and infrastructure must be a priority for the Union. Security regulations must therefore be extended to all modes of transport, and to intermodal chains. When introducing security inspections and rules, however, care must be taken to avoid unnecessary and costly checks and to safeguard users' human rights and privacy.

4.3.5 Urban transport: the Commission plans to publish a Green Paper on urban transport. This must focus on the promotion of public transport and contain a list of best practices. Furthermore, as the Committee stated in its Opinion on the

2001 Transport White Paper, there is a need for investment and transport plans to improve the quality of public transport in the large congested conurbations, along the lines of the CIVITAS initiative, the TranSURban project <sup>(6)</sup> and the Thematic Strategy on the Urban Environment <sup>(7)</sup>, which should receive more financing from Community funds, whilst fully respecting the principle of subsidiarity, because urban transport is an area for which local and regional authorities should logically be responsible. These measures will prove inadequate, however, without an urban transport policy that makes it possible and easier to involve private enterprise in the provision of public urban passenger transport services, which will help free up and optimise the use of public resources.

#### 4.4 Transport and Energy

4.4.1 Transport is one of the main consumers of energy and accounts for approximately 70 % of the EU's total oil consumption, with road transport using the most (60 %), owing largely to the stock of privately-owned vehicles, which equates to over 465 saloon cars per 1 000 inhabitants. Air transport accounts for approximately 9 % of oil consumption and the rail sector uses approximately 1 %. Fair competition between different modes of transport requires equal taxation of oil consumption. Consequently, removal of the non-taxable status of aviation fuel must be considered.

4.4.2 Reducing dependency on fossil fuels and reducing CO<sub>2</sub> emissions must therefore be priorities. To achieve these aims, — the Commission estimates that transport has an energy savings potential of 26 % by 2020, <sup>(8)</sup> — a properly funded R&D and innovation programme must be drawn up, which can promote the use of alternative energies <sup>(9)</sup>, especially in the area of urban surface transport.

4.4.3 A differentiated transport policy is needed to promote the exploitation of new technological advances that help to reduce CO<sub>2</sub> emissions and oil dependency, focusing on taxation and promotion of the acquisition and use of new technologies that can reduce pollution and increase energy savings. A specific fuel for public transport must also be introduced, with a lower rate of taxation exclusively for this type of less-polluting vehicle (Euro IV and in future Euro V), as exists for other modes of transport. The approach to environmental issues must not be based on punitive taxation. Quite the opposite is required, in other words, to prioritise transport that makes use of new technologies designed to reduce pollution and save energy.

<sup>(6)</sup> TranSURban (Transit Systems Development for Urban Regeneration) — project supported by the EU under Interreg III (inter-regional cooperation programme).

<sup>(7)</sup> See the Commission Communication on the Thematic Strategy on the Urban Environment — COM(2005) 718 of 11 January 2006.

<sup>(8)</sup> Commission Communication entitled Action Plan for Energy Efficiency: Realising the Potential — COM(2006) 545.

<sup>(9)</sup> See EESC own-initiative opinion on The development and promotion of alternative fuels for road transport in the EU OJ C 195, 18.8.2006, p. 75.

#### 4.5 Optimising infrastructure

4.5.1 The trans-European Transport Networks (TENs) provide the physical infrastructure for the internal market, but their levels of development vary across the EU and congestion is not a problem everywhere.

4.5.2 The Committee supports the idea of co-modal logistics chains as a more efficient solution to congested road corridors, which optimise the use of transport infrastructure within and across the different modes, including transalpine tunnels, rail corridors and intermodal transport nodes.

4.5.3 The problems arising from the remoteness of peripheral or ultra-peripheral regions and countries must be reiterated. To ensure that these areas located far from the centre of the EU can benefit fully from the internal market, the Trans-European Transport Networks must be completed within the agreed deadlines. This will require increasing the funding that the EU has earmarked for developing the most congested already-existing networks, especially cross-border links. The Commission gives the examples of bottlenecks in the Pyrenees, Spain-France links and the Alps. In short, improving accessibility leads to improved competitiveness as well as greater expectations for regional development.

4.5.4 Together with the above budget increases, the European Union must make a firm commitment to promoting the mixed-financing system of infrastructure provision, which offers stability and legal guarantees for the involvement of private capital in building and operating transport infrastructure.

#### 4.6 Intelligent mobility

4.6.1 As described above, intelligent transport systems help to ensure a more efficient and rational use of infrastructure and therefore to reduce accidents and congestion and to protect the environment.

4.6.2 The European satellite navigation system, Galileo, which will be operational as of 2010, will provide future applications for all modes of transport, such as the Intelligent Car <sup>(10)</sup>, promoting the new technologies in vehicles, the SESAR programme, which will help to improve air traffic management

in the single European sky, and the ERTMS system, which will enhance interoperability between national rail networks.

4.6.3 The EESC fully supports the co-modality approach, as transport's response to the phenomenon of globalisation and the opening-up of world markets. Building on this approach will require adapting infrastructure, so that interconnections are boosted to permit transport continuity and to avoid delays and breaks in the logistics chain. Promoting co-modality will help to strengthen all modes of transport, especially ones that may be currently underused.

#### 4.7 The global dimension

4.7.1 The EESC reiterates what it has already stated in its opinion on the 2001 White Paper <sup>(11)</sup>, to the effect that international transport policy is an integral part of trade policy and even, in some respects, of the Common Foreign and Security Policy (CFSP). It thus believes that in this area the Commission should have powers similar to those conferred on it by the Treaties for the negotiation of international trade agreements, in that, acting on the mandate of the Council, it should represent, where possible, the Union on questions of transport in all international organisations competent on transport policy issues and should have the power to negotiate transport agreements with third countries on behalf of the Member States.

4.7.2 At the same time, the Committee considers it crucial to work on simplifying customs procedures so that, without impairing service quality <sup>(12)</sup>, the costs of providing the service are not increased, as well as to guarantee the principles applying to internal EU frontiers, e.g. under agreements such as Schengen or any subsequent agreements.

Brussels, 15 March 2007.

The president  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

<sup>(10)</sup> Communication on the Intelligent Car Initiative — Raising Awareness of ICT for Smarter, Safer and Cleaner Vehicles — COM(2006) 59.

<sup>(11)</sup> OJ C 241, 7.10.2002.

<sup>(12)</sup> See EESC opinion on the Proposal for a Decision of the European Parliament and of the Council establishing an action programme for customs in the Community (Customs 2013), OJ C 324, 31.12.2006, p. 78.

## APPENDIX

**to the opinion of the European Economic and Social Committee**

The following text of the revised draft opinion was rejected in favour of an amendment adopted by the assembly but obtained at least one-quarter of the votes cast:

**Point 4.6.4**

*'Where goods transport logistics are concerned, the EESC proposes that restrictions on traffic at specific times set by national authorities be replaced with restrictions that the Union can coordinate, which would require the adoption of Community rules in this area. This measure would need to be coordinated with the declaration of a minimum trans-European road network free of such restrictions, on which road traffic could move without interruptions.'*

**Outcome of the vote:**

82 for amending the point, 72 against and 9 abstentions.

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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 on a Community energy-efficiency labelling programme for office equipment**

COM(2006) 576 final — 2006/0187 (COD)

(2007/C 161/24)

On 19 October 2006, the Council decided to consult the European Economic and Social Committee, under Article 175(1) of the Treaty establishing the European Community, on the above-mentioned proposal.

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 21 February 2007. The rapporteur was Mr Voles.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 15 March 2007), the European Economic and Social Committee adopted the following opinion by 83 votes with 2 abstentions:

## 1. Conclusions and recommendations

1.1 The EESC welcomes the new agreement with the USA to continue the coordination of the energy-efficiency labelling programmes Energy Star for a second period of five years and the Commission's endeavour to introduce more stringent technical specifications for the office equipment in line with technological progress and in more flexible manner. The EESC agrees with the Proposal to recast the Regulation (EC) 2422/2001 that adapts the Community Energy Star programme to the new agreement with the following remarks.

1.2 While the registration on the Energy Star database is a prerequisite for participation in public tenders in USA the Proposal speaks only about encouragement to use energy efficiency requirements not less demanding than Energy Star for public procurement of office equipment. The EESC suggests to make it more binding for all public procurement on office equipment to include the condition that the product is Energy Star qualified.

1.3 There are several energy efficiency labelling schemes in the EU like eco-label, eco-design and many national labels. The Commission tried to coordinate between the Community labelling programmes but the results are not obvious. The EESC calls the Commission to coordinate these labelling schemes more efficiently to avoid any confusion among the consumers.

1.4 The public awareness about the Energy Star logo is very limited therefore the EESC calls for the retention of the obligation on both the Commission and the Member States to publicise the logo and enable to finance its promotion from the appropriate programmes for energy efficiency like Intelligent Energy Europe and Sustainable Energy Europe Campaign.

1.5 The EESC calls for the review of the composition of the European Community Energy Star Board (ECESB) as the advisory body to include representatives of all Member States and the interested employers and employees organisations.

1.6 The EESC calls the Commission to increase its support for the technological development leading to more energy efficiency of the office equipment through 7th Framework Programme and other programmes supporting science, research and innovation.

1.7 The Commission and Member States should monitor product's eligibility for registration by performing the necessary checkings and tests and publishing their results positive or negative that would enhance the credibility of the Energy Star label.

## 2. Introduction

2.1 The Proposal for a Regulation of the European Parliament and of the Council on a Community energy-efficiency labelling programme for office equipment recasts Regulation (EC) No 2422/2001 of the European Parliament and of the Council of 6 November 2001 <sup>(1)</sup>, which laid down the detailed rules for the programme for labelling the energy efficiency of office equipment (including computers, monitors, printers, photocopiers and faxes) with the Energy Star logo. The European Union joined the Energy Star programme, in operation in the USA since 1992 and extended to other countries, through an agreement with the USA on 19 December 2000. The EESC adopted its opinion on this regulation in 2000 <sup>(2)</sup>.

2.2 The Commission was designated as the Managing Entity responsible for the implementation of the Energy Star programme. Regulation (EC) No 2422/2001 created the European Community Energy Star Board (ECESB) as an advisory body composed of representatives of manufacturers, experts, traders, consumers and environmentalists in the Member States to evaluate the programme's implementation and propose new technical specifications to reduce the energy consumption of office equipment.

<sup>(1)</sup> OJ L 332 of 15.12.2001.

<sup>(2)</sup> OJ C 204 of 18.7.2000.

2.3 In its Communication on the implementation of the Energy Star programme in the European Community in the period 2001-2005 of 27.3.2006, the Commission proposed renewing for a further five years the agreement with the USA on the Energy Star programme, which expired in June 2006, on the grounds that:

- energy efficiency is one of the main pillars of sustainable energy as defined in the Commission's Green Paper on Energy Efficiency;
- office equipment accounts for a major share of electrical energy consumption in the service sector and households, and this share is constantly growing;
- Energy Star is a means of coordinating the efforts of the Community and the Member States to boost energy efficiency and
- provides a framework for such coordination with the USA, Japan, Korea and other key markets;
- since most manufacturers can be expected to adhere to the technical requirements set by the Energy Star programme, it will make a substantial contribution to reducing the energy consumption of the whole sector;
- the voluntary nature of the Energy Star programme is a fitting complement to the mandatory labelling of products with energy labels enshrined in Directives 92/75/EC and 2005/32/EC on ecodesign requirements and brings greater transparency to markets.

2.4 The new agreement was approved by the Council on 18 December 2006 and signed in Washington on 20 December 2006. Providing for more stringent technical requirements on products, its main change is the introduction of specifications for energy consumption not only on standby, but also in other important modes, especially in on mode. Annex C to the agreement includes stringent and innovative requirements for computers, monitors and imaging equipment (photocopiers, printers, scanners and faxes) which could make savings of up to 30 TWh in the EU-27 over the next three years, according to ECESB estimates.

2.5 The ECESB suggested that the Energy Star programme for the new period should be implemented more effectively and enable a quicker adaptation of technical specifications to technological development and market change. Simplification of the Energy Star programme should result in savings for both the Community's administration and the Member States.

2.6 The Proposal for a Regulation amends the following articles of the Regulation 2422/2001:

- Art. 6: Promotion of the logo. The Commission proposes to abolish the obligation of Member States and the Commission to promote the logo, as the programme is voluntary and promoting it is in the interests of manufacturers.
- Art. 8: The ECESB will no longer produce a report on the market penetration of Energy Star products. This will be put

out to tender. The Commission will also not be required to keep the Council and the European Parliament informed of the ECESB's activities, since all the information is available on the Commission's ECESB internet portal.

- Art. 10: Working plan. The Commission and the ECESB will together draw up a working plan for three years whose implementation will be monitored and published at least once a year.
- Art. 11: Preparatory procedures for the revision of technical criteria. The Commission and the ECESB may take the initiative to amend the Agreement and, in particular, the common technical specifications. The obligations for the ECESB regarding revision of technical specifications have been reduced.
- Art. 13: Implementation. This Article is repealed because Member States are not under any obligations on which they are required to report to the Commission.

### 3. General comments

3.1 The EESC welcomes the Council's decision to continue the Energy Star programme and the new partnership agreement with the USA. Given the increasing amount and use of office equipment, raising its energy efficiency is the right way to reduce the growth in electricity consumption. The EESC therefore supports the Commission's endeavour to introduce into the new agreement more stringent technical specifications for the various categories of office equipment in line with technological progress.

3.2 In its opinion on Regulation EC No 2422/2001, the Committee stressed the need to update the agreement from time to time by raising energy-efficiency specifications in line with technological development and this requirement remains valid also for the new Energy Star programme.

3.3 While registration on the Energy Star database is a prerequisite for participating in open tenders in the USA, there is no such requirement in the EU. The Committee welcomes the fact that the Regulation charges the Commission and public institutions at national level with implementing energy efficiency requirements at least as stringent as those set out within Energy Star for open tenders for the purchase of office equipment. The Committee expects the Commission itself to set an example and apply these requirements in the open tenders it runs, including those involving the Community's development aid.

3.4 The EU Energy Star programme is one of a number of labelling programmes concerning the energy efficiency of products, many of which also cover office equipment; these include Community eco-labels, eco-design and national labels such as the Nordic Swan, Sweden's TCO, Germany's Blue Angel and others. The Commission apparently sought to coordinate Energy Star with other Community labelling systems, but the results are not obvious. The EESC therefore calls on the Commission to try to coordinate these activities more efficiently

in order to compare, coordinate and use common technical specifications so that consumers and users have a clearer overview of the energy and ecological standards of products on offer and are not bewildered by the many labels placed on products. It calls the respective authorities of Member States to peruse the Energy Star specifications where appropriate.

3.5 The agreement presupposed far-reaching and dynamic promotional activities to make consumers and users more aware of the logo. The EESC finds the results achieved by both the Commission and the Member States to be inadequate. There is very little public awareness of the logo and it does not in actual fact influence the choice of office equipment purchased, which in turn makes manufacturers less keen to promote it. Neither consumer nor business or employer organisations are involved in the promotion. The Committee therefore calls for the retention of the obligation on both the Commission and the Member States to publicise the logo and to step up its promotion. It recommends to make these activities eligible for projects financed from the Intelligent Energy Europe (IEE) programme, Sustainable Energy Europe Campaign and other programmes.

3.6 There is the energy calculator available on [www.eu-energystar.org](http://www.eu-energystar.org) for individual sample calculations but the manufacturers should be guided to include the data about Energy Star specifications into the manuals with instructions how to make the use of the equipment in the most energy-efficient way.

#### 4. Specific comments

4.1 In its present composition, the ECESB does not adequately represent employers', employees' organisations, interested NGOs and all the Member States. The Committee therefore requests the Commission to reconstitute it to make it more transparent and as representative as possible.

4.2 The Commission should increase its support for the technological development of more demanding specifications for energy efficiency also through programmes for science, research and innovation — especially the seventh Framework Programme.

4.3 In this context, a clearer distinction should be made between the Energy Star logo on older equipment and that on equipment which meets the more stringent criteria which are introduced in Annex C to the new Agreement. Some labelling schemes use to indicate the date of the approval of the specifications. The Committee recommends discussing this with partners from the USA.

4.4 The Commission should regularly publish information on the savings made by applying more stringent energy-efficient specifications for office equipment under the Energy Star programme and give specific examples of energy savings from the public sector, businesses and households.

4.5 The Energy Star agreement provides for partners to monitor a product's eligibility for registration. The Regulation should therefore include tasks to be performed by the Member States relating to such monitoring, as well as basic guidelines for carrying it out. There are no Commission documents that provide information on checks or monitoring of products registered in the database. If such data exists, it should be made available on the programme's website; if it does not, it would be useful to test equipment and publish the results. Failure to do so could detract from the logo's credibility.

4.6 The EESC recommends to keep the original obligation of the Commission to produce and submit to the European Parliament and the Council a report monitoring the energy efficiency of the office equipment and proposing measures complementary to the programme before the end of the five years validity of the Agreement.

Brussels, 15 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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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 applying rules of competition to transport by rail, road and inland waterway**

COM(2006) 722 final — 2006/0241 (COD)

(2007/C 161/25)

On Tuesday 12 December 2006 the Council decided to consult the European Economic and Social Committee, under Article 171 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 21 February 2007. The rapporteur was Mr Simons.

At its 434th plenary session, held on 14 and 15 March 2007 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 81 votes with one abstention:

## 1. Introduction

1.1 In the context of a people's Europe, it is of great importance to simplify and clarify Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him or her new opportunities and the chance to make use of the specific rights it gives him or her. This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules. For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

1.2 The purpose of this proposal is to undertake a codification of Council Regulation (EEC) No 1017/68 of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway. The new Regulation will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

## 2. Comments

2.1 Although the proposal is fully in line with the requirement set out in paragraph 2, the EESC nevertheless raises the urgent question as to whether Article 5(2), as it now reads, is not obsolete. The period referred to, 'within six months from the date of accession' of the countries mentioned (Austria,

Finland, Sweden and the ten Member States that later acceded 'en bloc'), has already long passed. Only if the agreements, decisions and concerted practices referred to were still under investigation or discussion at a European institution, which should first be verified, would Article 5(2) still serve any purpose.

2.2 In any case the verbatim text of Article 81(1) of the Treaty should be used, because not all agreements, but only agreements 'between undertakings', and not all decisions but only decisions by 'associations of undertakings' can fall under Article 81(1).

2.3 The EESC once again takes the opportunity to reiterate for the benefit of the European institutions that great misunderstandings regarding policy-making can arise from combining maritime and inland waterway transport under the heading 'waterborne transport', as in the Mid-term review of the Transport White Paper for 2001-2010, the European Commission's Legislative and Work Programme 2007, the German EU Presidency Programme, including the 18-month Programme of the German, Portuguese and Slovenian Presidencies or the current European Parliament discussion on the proposal of the EU Commission concerning liability in the event of accidents in passenger transport. Inland waterways and inland waterway vessels have a completely different legal framework from that of long-distance or short sea shipping. The present proposal indicates the correct policy framework, which has proved effective in the past, namely that of inland transport, which can be taken to cover rail, road and inland waterway transport and combinations of these.

Brussels, 15 March 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS