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## I

(Resolutions, recommendations and opinions)

## RESOLUTIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

470TH PLENARY SESSION HELD ON 15 AND 16 MARCH 2011

**Resolution of the European Economic and Social Committee on ‘The situation in the southern Mediterranean countries’**

(2011/C 132/01)

At its plenary session on 15 and 16 March 2011 (meeting of 15 March 2011), the European Economic and Social Committee adopted this resolution by 149 votes to 11 with 10 abstentions.

1. The European Economic and Social Committee (EESC) expresses its solidarity with the people of the southern Mediterranean countries who are peacefully struggling for their fundamental rights and freedoms, and supports their legitimate aim of establishing stable democracies in their countries.

2. The EESC demands an end to all violence against civilians and respect fully the people's desire for democratic transition and their right to freedom of speech and peaceful demonstration.

3. The EESC calls for a peaceful and democratic transition, with no delays, that leads to the rule of law, a stable democracy based on free and fair elections, full rights of association and the respect of human rights.

4. At this important juncture in history, both long-standing and recently established organisations of employers, workers, and other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas in the Mediterranean countries with clear democratic aspirations are playing a fundamental role in the change of political regimes and are destined to play a crucial role in the future of their countries. In order to lead to fully democratic systems, it will be essential to establish constructive and fruitful dialogue between

these organisations and the political authorities guiding the transition processes. Civil society's contribution to strengthening neighbourhood relations, including direct contacts between populations, will be of equal importance.

5. The EESC welcomes the High Representative for Foreign Policy's recent statements in favour of these democratic processes and the announcement of a humanitarian aid plan for the region. The EESC demands Europe's unequivocal commitment, as expressed in those statements, to civil society in the southern Mediterranean region. The EU's external service has stated that it is already taking steps to turn this political commitment into reality. For its part, the EESC stands ready to support this political effort through capacity building, support for consensus building and the establishment by the civil society of the different countries of the southern Mediterranean of a structured and representative dialogue. The EESC welcomes the decision to develop this new approach: the civil uprisings in the southern Mediterranean countries clearly point to the weaknesses of the EU external relations policy conducted so far towards these countries.

6. To this end the EESC is anxious to assist its existing and new contacts, including the organisations of employers, workers, and the other civil society organisations having links with European civil society counterparts, and the Euromed Non-Governmental Platform. The EESC proposes joint actions in the region in support of a peaceful transition towards democracy.

7. The EESC calls for the involvement of all democratic forces in the transition process. The involvement of democratic and independent organisations of employers, workers, and the other civil society organisations will be essential during the transition phase.

8. The EESC calls on the EU to take ambitious measures, revising the mission of the Union for the Mediterranean, to provide political and institutional, economic, social, technical and humanitarian assistance to the Mediterranean countries that are already on the path towards democratic transition. The EESC regrets the lack of coordination between the EU institutions and the Member States in addressing these issues. It therefore urges the EU institutions and the Member States to coordinate their actions in the region and to thoroughly overhaul their Mediterranean strategy. Support for civil society should be a strategic component of this new approach in order to ensure that EU support to the countries of the region leads to maximum benefits. The European Economic and Social

Committee, as well as the Committee of the Regions (CoR), are ready to be involved in such actions.

9. The EESC and the CoR have agreed to dovetail their future action in relation to the democratic transition processes in the countries of the southern Mediterranean. The EESC and CoR call for a joint action plan by the EU institutions and bodies, which sets out how each of them should contribute to an overall EU policy in the region.

10. The EESC welcomes the conclusions of the Extraordinary European Council of 11 March supporting the democratic, economic and social development of the Mediterranean countries.

11. The EESC calls on the European Union and its Member States to work quickly and effectively towards a coordinated intervention of the international community in Libya in order to provide safety for the population, humanitarian aid, and all the measures needed to support the transition to democracy.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

470TH PLENARY SESSION HELD ON 15 AND 16 MARCH 2011

**Opinion of the European Economic and Social Committee on 'Consumers and cross-border possibilities within the Single Market'***(exploratory opinion at the request of the Hungarian presidency)*

(2011/C 132/02)

Rapporteur: **Mr PEGADO LIZ**

By letter dated 15 November 2010, Mr Péter Györkös asked the European Economic and Social Committee, on behalf of the Hungarian EU Council presidency, to draw up an exploratory opinion on:

*Consumers and cross-border possibilities within the Single Market.*

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 175 votes to two with eight abstentions.

**1. Conclusions and recommendations for the Hungarian presidency**

1.1 The EESC thanks the Hungarian presidency for having given it the opportunity to issue an opinion on the main developments regarding possibilities for European consumers within the Single Market and thereby to contribute to the work of the EU presidency during the first half of 2011.

1.2 The EESC considers that there is a need to kick-start discussions on establishing a new approach to consumer policy with a view to 2030 and hopes that the Hungarian presidency, the other institutions and the social partners will take on this challenge.

1.3 The Committee welcomes the Council's approval of a common approach regarding consumer law on 24 January 2011, but is concerned about the subsequent developments in the European Parliament, and therefore urges the Hungarian Presidency to maintain the path set by the Council, ensuring that the final result can restore consumer confidence.

1.4 With regard to the review of the directive on unfair commercial practices, the EESC recommends that the Hungarian presidency give more consideration to the issue of total harmonisation from the outset of discussions, once an impact assessment has been carried out, and that account be taken of the reduced consumer protection resulting from harmonisation, in the Member States which have transposed the directive.

1.5 With regard to a legal instrument for collective action at EU level, the EESC calls upon the Hungarian presidency to show political courage in order to ensure that this is adopted as soon as possible, particularly since numerous studies have shown this project to be appropriate and feasible.

1.6 With regard to the review of the 'package travel' directive and the legislation on air passengers' rights, the EESC recommends that the Hungarian presidency deal with them jointly and establish rights, obligations and responsibilities in the event of disputes or unsatisfactory or fraudulent conduct.

1.7 In relation to the single market in retail financial services, the EESC recommends that the Hungarian presidency move ahead with the issues regarding minimum banking services for all European citizens, a reliable electronic payment system which is identical in all Member States, the strict definition of banks' responsibilities when granting credit, a uniform insurance system throughout European territory, the classification of unfair terms and unfair commercial practices specific to financial services, comparability of bank charges, deposit guarantees and a greater obligation to provide advice on complex financial products. Strengthening financial supervision is the absolute minimum in view of the ongoing financial crisis.

1.8 With regard to the Digital Agenda, the Hungarian presidency will have to take urgent decisions regarding a precise definition of consumers' fundamental rights in the digital environment, the review of the framework directive on data protection and the protection of copyright in the digital domain.

1.9 Finally, with regard to the implementation of the new provisions of the Treaty and the Charter of Fundamental Rights on services of general interest (SGI), the EESC calls on the Hungarian presidency to actively pursue the course opened up by the conclusions of the Council of 6 and 7 December 2010 in order to ensure that SGIs are not overlooked when the Europe 2020 strategy is implemented.

1.10 In particular, the Hungarian presidency has raised the issue of local cross-border trade. To date, no study has been carried out assessing the consequences of such trade in the Member States. The EESC's first recommendation to the Hungarian presidency is to ask the Commission for a precise statistical analysis of these transactions, and then to commission the studies required to determine whether this kind of trade is of a specific nature, warranting a particular legal approach at European level. Lastly, the needs of consumers in this kind of trade should be assessed (information, the language of contracts, comparability of prices when one of the currencies is not the euro, exchange rates, commissions and bank charges etc) as well as the most effective ways to meet those needs at local level.

## 2. Introduction

2.1 The EESC is pleased that the Hungarian presidency has asked it to draw up an exploratory opinion on what has been one of the Committee's favourite themes in the last twenty years. In its own-initiative opinion on the *Single market and consumer protection: opportunities and obstacles* of 7 November 1995 <sup>(1)</sup>, the EESC provided a summary of all earlier opinions on the subject, whilst setting out the issue and the main concerns as to the obstacles and difficulties faced by consumers in taking full advantage of the single market. Unfortunately, most of the issues raised in that opinion remain relevant today.

2.2 Completion of the single market, which is one of Europe's largest strategic projects, launched by Jacques Delors, and which was given a precise deadline, is still a work in progress, even though more than 30 years have passed. The recent publication of the Single Market Act attests to this fact. The Committee has always argued for an 'instrumental' single market that benefits citizens/consumers. Furthermore, a European consumer policy that is clear, coherent and comprehensive still needs to be adopted.

2.3 The Hungarian presidency's request, which the EESC is honoured to receive, is thus fully justified and enables the Committee to contribute to the work that has been planned under the Commission's programme for the first half of 2011, in line with the work carried out by the recent presidencies, especially the Belgian presidency.

2.4 This exploratory opinion will also be an opportunity for the EESC to pay tribute to the late Hungarian member, Mr Istvan Garai, who was the director of a prestigious Hungarian consumer association, a great champion of consumers' interests and rights and rapporteur for important opinions in this field, who sadly died in 2008, whilst still in office.

## 3. A major objective

3.1 A single presidency is not long enough to draw up guidelines for a given policy in a transparent and participatory manner, to carry out a prior impact assessment, for the policy to be adopted in a democratic manner by the EU and implemented by the Member States and for an ex-post evaluation to be carried out.

3.2 The five-year strategic programmes, which are moreover usually influenced by purely economic factors, are also inadequate unless they form part of a policy with a more wide-ranging vision. The 2007-2013 Strategy, which was adopted on 13 July 2007 and is currently being implemented, is a prime example of something already criticised by the EESC.

3.3 The 2020 Strategy should focus primarily on consumer promotion and protection, but that is not the case.

3.4 The only outline of a political approach of this type dates back to 1985, with what was known as the 'New Impetus', launched by Jacques Delors and taken up and built on by Commissioner Emma Bonino (1995-1999). Unfortunately, due to a lack of political will, its objectives have never been achieved, with the exception of a few symbolic actions.

<sup>(1)</sup> OJ C 39, 12.2.1996, p. 55.

3.5 The current challenge of laying down the bases and guidelines for a consumer promotion and protection policy with a view to 2030, taking on board the González report, is as great a challenge as any EU presidency can face, but at the same time, it must be recognised that we are already lagging behind other strategic initiatives such as the 2020 Strategy, the *Single Market Act*, *Smart Regulation*, etc.

3.6 The main lines of this policy in the medium and long term are:

- a) Daring to challenge and replace the legal base contained in the Treaty (Article 169, in the light of Article 12 TFEU) <sup>(2)</sup>,
- b) Placing consumer policy at the heart of EU policies as a policy of citizenship, and making this the cornerstone and the ultimate beneficiary of all other policies,
- c) Redefining consumers' rights in the light of this new approach, systematically referring to the treaties and to the Charter of Fundamental Rights,
- d) Emphasising the cross-cutting nature of consumer policy, with all that this entails, ensuring that this policy really is mainstreamed, both in the Commission's own departments, in its relations with the other institutions and at all tiers of authority in the Member States,
- e) Carrying out a genuine codification of Community consumer law, taking advantage of the excellent academic work done under the Common Frame of Reference, and drawing all possible conclusions – especially the reasonable and appropriate use of optional schemes – adopting the Proactive Law Approach,
- f) Clearly accepting the instrumental nature and subsidiary role of the single market policy and placing this unambiguously at the service of citizens as consumers, who are the ultimate beneficiaries,
- g) Establishing common principles for the organisation and participatory representation of consumers in the EU, as a key and decisive factor for implementing policies that concern them.

3.7 This last point warrants particular attention, because it has not been systematically taken on board at the European level. Both the public authorities in the Member States responsible for consumer protection and consumer protection organisations and associations have actually been calling for a long time for general principles and guidelines to be drawn up for the participatory organisation and representation of

consumers. A more systematic approach to consumer representation in all Member States, particularly amongst regulators of the different sectors, based on uniform principles, would boost the credibility of consumer organisations and also make consumer protection more effective.

#### 4. Certain topical issues relating to consumer protection policy

4.1 In a fully completed single market, consumers should be able to exercise fully the rights they have under the 'acquis communautaire', wherever they are in the EU, under the same conditions as in their own countries. However, neither the various consumer policies nor the current initiatives meet consumers' legitimate expectations in a satisfactory manner.

4.2 The Hungarian presidency's political agenda includes significant objectives, some of which will, of course, be maintained by subsequent presidencies.

4.3 Firstly, with regard to the **proposed directive on 'consumer rights'**, the EESC believed <sup>(3)</sup> that it should be reworded to deal only with certain fundamental principles regarding rights to information and the right of withdrawal in the case of distance and off-premises sales and that the sections on unfair terms and on the sale of goods and associated guarantees should be removed.

4.4 In view of the developments in the Commission's approach, demonstrated by Commissioner Reding's recent public statements, the EESC notes that, on 24 January, the Council adopted a position which chimed completely with its opinion, a fact which it welcomes. However, in view of the recent developments on this issue in the EP and the contradictory positions taken by the IMCO and JURI Committees and the conclusion scheduled for the coming months, the EESC urges the Hungarian Presidency to resolutely maintain the path set by the AGRI Council in January, coordinating it in a realistic fashion with the future common reference framework for European contracts (CRF), as recommended in the EESC's opinion <sup>(4)</sup>.

4.5 With regard to the **directive on unfair commercial practices**, the EESC notes that its slow transposition in most of the Member States has been deplorable, as it had predicted in its opinion <sup>(5)</sup>. The Court of Justice itself has taken this same view.

<sup>(2)</sup> OJ C 185, 08.08.2006 p. 71.

<sup>(3)</sup> OJ C 317, 23.12.2009, p. 9.

<sup>(4)</sup> OJ C 84, 17.03.2011, p. 1.

<sup>(5)</sup> OJ C 108, 30.04.2004, p. 81.

4.6 The EESC therefore recommends that the Hungarian presidency work on the basis of studies showing the resulting low level of consumer protection and the consequences for competition in the States which have transposed the directive on unfair practices, and give more consideration to the wisdom of the non-targeted application of the principle of total harmonisation from the outset of the discussions on the review of that directive.

4.7 With regard to a **legal instrument for collective action at Community level**, the EESC takes note of the Commission's intention to relaunch the debate through a new consultation of the interested parties, but wonders whether there is a real political will to achieve a tangible result after some thirty years of discussions, consultations, reports, opinions, green papers and white papers, communications and resolutions, studies, conferences and symposiums of all kinds.

4.8 In several opinions, both older and more recent, the EESC has expressed very clear support for a European legal instrument enabling consumers who consider themselves victims of collective harm to seek legal redress and damages collectively. It would fully accord with European judicial law and allow compensation to be paid for collective material and/or moral damage (the opt-out system) suffered by consumers in any Member State and under identical conditions. The adoption of that position by the Hungarian presidency would greatly benefit consumers and other holders of collective rights, and would boost the completion of the single market and fair competition.

4.9 With regard to the review of the **'package travel' directive**, the EESC has not yet been asked for an opinion. The Commission intends to present a proposal at the beginning of 2011 and has already begun to gather ideas for a possible review of the legislation on air passengers' rights.

4.10 Without wishing to anticipate the EESC's opinions on these two subjects, the EESC recommends that the Hungarian presidency deal with them jointly, in order to ensure a consistent approach, and to extend the scope of the directive to individual and collective transport service contracts, with or without related services, and to define rights, obligations and responsibilities in the event of disputes or unsatisfactory or fraudulent conduct. Particular attention must also be paid to the unfair terms and unfair commercial practices specific to the sector. The consequences of the bankruptcy of agencies, tour operators and airlines also require a strict regulatory framework.

4.11 The completion of the **single market in retail financial services** has made some progress – such as the SEPA directive, following the adoption of the euro, the MiFID directive, the CAD directive, and the recent Commission

proposals of 12 July 2010 on deposit guarantee schemes and investor compensation schemes <sup>(6)</sup> – but there is still much to be done: it lacks overall political direction, which could truly benefit consumers and SMEs in the single market. The Commission itself has described retail financial services as a sector in which consumers face a significant number of problems <sup>(7)</sup>.

4.12 The EESC has expressed its view on this subject on many occasions, through both referrals and own-initiative opinions, but lasting, practical and effective solutions have yet to be found. Some memorable examples include responsible lending and over-indebtedness <sup>(8)</sup> to which the 'consumer credit' directive was not able to respond; the failure of the proposals on mortgage credit when the idea of harmonising it was accepted years ago, the fragility of the provisions on cross-border payments and the use of debit/credit cards; the lack of true mobility of bank accounts and minimum universal banking services, the weakness of the provisions for dealing with financial crises and ensuring immediate compensation for losses and damages for bank customers.

4.13 The economic and financial crisis is still having a serious impact on consumers and small investors. Practical measures such as the creation of a universal bank account and minimum banking services for all European citizens, a reliable electronic payment system which is identical in all Member States and a strict definition of banks' responsibilities when granting credit would also be possible avenues, as well as a uniform insurance system throughout European territory, the classification of unfair terms and unfair commercial practices specific to financial services, comparability of bank charges and a greater obligation to provide advice on complex financial products. Furthermore, financial supervision should be geared towards the needs of consumers and effective mechanisms for resolving disputes and for providing compensation in the event of loss or damage due to the malfunctioning of financial systems (banks and insurance) should be established.

4.14 The EESC welcomes the Commission's approach to the **rights of consumers in the digital environment**, as demonstrated by the 'Digital Agenda' under the 2020 Strategy <sup>(9)</sup>, but there is still much to be done before everybody can enjoy a universal service in the field of telecommunications and information. The rapid adoption of a new Commission communication would be welcome and would provide an opportunity for the Hungarian presidency to adopt a firm position regarding the neutrality of the Internet and the inclusion of broadband as part of universal service, as the EESC has called for in the past.

<sup>(6)</sup> COM(2010) 368 final.

<sup>(7)</sup> SEC(2009)1251 final of 22.09.2009.

<sup>(8)</sup> OJ C 149, 21.06.2002, pp. 1-4.

<sup>(9)</sup> OJ C 54 of 19.02.2011, p.58.



4.15 The EESC has a particular interest in the recognition and protection of consumers' rights in the digital environment in general, and not just in relation to e-commerce. It is not just necessary to review as soon as possible the directive on the legal aspects of e-commerce, but also to seek ways to remedy the under-development of e-commerce.

4.16 The Hungarian presidency will also have to take urgent decisions regarding a precise definition of the fundamental rights of consumers in the digital world, as well as the review of the framework directive on data protection, and the protection of copyright, in the digital domain.

4.17 Finally, the EESC very much hopes that the Hungarian Presidency will follow up the conclusions of the EPSCO Council of 6 and 7 December 2010 on social services of general interest, taking full account of the recommendations of the 3rd SSGI Forum organised by the Belgian presidency on 26 and 27 October, and thus contribute to the implementation of the new provisions of the Lisbon Treaty and the Charter of Fundamental Rights on services of general interest.

### 5. The specific case of cross-border local trade

5.1 The Hungarian presidency has asked the EESC for an opinion on an issue which, though important, has not yet been studied in depth at EU level. This is cross-border local trade, i.e. purchases of goods and services by consumers on either side of the geographical borders of their countries, either between EU Member States or with non-EU countries.

5.2 Certain Member States had already studied this phenomenon, even before the introduction of the euro, in order to identify the types of transaction, the flow of currencies, prices and their consequences for cross-border regions and competition etc.

5.3 However, European-level study exists assessing the quantity and consequences of inter-regional cross-border transactions for Member States. In fact, this type of trade is not

mentioned in the Commission communication of 1991<sup>(10)</sup>, in the Green Paper on trade of 1996<sup>(11)</sup>, or in the White Paper of 1999<sup>(12)</sup>. The first thing that the Commission should be asked for, therefore, is a precise mapping and statistical analysis of these transactions.

5.4 However, at the beginning of the 1990s, the Commission and a number of regional consumers' organisations created a network of information and advice centres intended to assist consumers facing difficulties in cross-border trade: the Euroguichets. These focussed primarily on information for consumers and were located in border towns.

5.5 In 2001, the Commission launched the European extra-judicial network (EEJ Net), for the extra-judicial settlement of disputes. At that time, eleven Euroguichets in nine Member States were asked to provide consumers with legal advice, in addition to their traditional responsibilities.

5.6 The current European Consumer Centres Network (EEC Net) was then created in January 2005 through the merger of EEJ Net and the Euroguichets.

5.7 It made sense to merge the two networks in view of the introduction of the euro and the expected growth of e-commerce and distance selling. However, this merger ended the regional location of the Euroguichets and their role in relation to cross-border local trade.

5.8 The question therefore arises of whether this kind of trade is still of a specific nature, warranting particular EU action.

5.9 The needs of consumers in this kind of trade should also be considered (information, the language of contracts, the comparability of prices when one of the currencies is not the euro, exchange rates, commissions and bank charges, etc.), as well as the most effective ways to meet those needs at local level.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(10)</sup> COM 1991/0041 final of 11 March 1991.

<sup>(11)</sup> COM (96) 530 final of 20 November 1996.

<sup>(12)</sup> COM (1999) 6 final of 27 January 1999.

## Opinion of the European Economic and Social Committee on 'The future of the European Social Fund after 2013'

(exploratory opinion)

(2011/C 132/03)

Rapporteur: **Mr VERBOVEN**

Co-rapporteur: **Mr CABRA DE LUNA**

On 7 October 2010, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

*The future of the European Social Fund after 2013*

(exploratory opinion).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 February 2011.

At its 470th plenary session, held on 15-16 March 2011 (meeting of 15 March 2011), the European Economic and Social Committee adopted the following opinion by 172 votes to one with seven abstentions.

### 1. Conclusions and recommendations

The European Economic and Social Committee considers that:

1.1 The principles of economic, social and territorial cohesion and solidarity are laid down in the Treaty and are two of the most important pillars in terms of the integration of citizens and regions. Accordingly, these principles should remain at the heart of discussions on the future EU budget.

1.2 Cohesion policy must not simply reduce the disparities between regions; it should also contribute to reducing the social inequalities affecting certain population groups, by promoting a society of full employment, equal opportunities, social integration and social cohesion and thus, more broadly, the European social model. The European Social Fund (ESF) must continue to be a structural fund that forms part of the EU's cohesion policy.

1.3 The ESF is the key instrument for supporting the implementation of the European employment strategy and it must continue in the future to be an effective instrument for investing in human resources and promoting a high level of quality jobs and social inclusion, within the framework of the 'Europe 2020' strategy. In view of the current economic situation, therefore, the ESF must remain an important strategic and financial instrument and be given more

resources to match the greater challenges it faces (higher rates of unemployment), reflecting the increase in the EU's general budget, namely at least by the 5,9 % proposed by the European Commission for the EU's 2011 budget as a whole.

1.4 At this time of economic crisis, the European Council's decision to enhance the role of the ESF is particularly important. Employment market and social policies must continue to provide the overarching framework of the ESF. Investment must be aimed at both the development of human resources, improving skills and the reintegration into the labour market of workers who have been made redundant. Nonetheless, priority should be given to the creation of quality jobs, sustainable growth and the incorporation into the labour market and into society of vulnerable social groups including young people, women, migrants, the long-term unemployed, people who are the furthest removed from the labour market, older people and people with disabilities and ethnic minorities, in order to increase the EU's competitiveness and achieve the objectives of the 'Europe 2020' strategy.

1.5 Lessons must be drawn from the use of the ESF to support both the economic recovery and the economic growth of the European Union by improving support for SMEs, VSEs and social economy stakeholders, in accordance with ESF objectives, as well as through social improvements, both in terms of preserving and creating quality jobs and in terms of social inclusion, especially through work.

1.6 The ESF should – as an EU instrument promoting investment in human resources – support the three priorities of the Europe 2020 Strategy: smart, inclusive and sustainable growth. Employment, training, education, active inclusion and equal opportunity policies are all key factors for empowering people by developing their knowledge and qualifications, promoting a culture of innovation, raising levels of employment and encouraging an inclusive labour market.

1.7 The principle of partnership, which involves the social partners and other organised civil society organisations, provides the essential guarantee that measures linked to the structural funds, and the European Social Fund in particular, will function properly.

1.8 Lessons must be drawn from the role of the social partners in social dialogue and the role of the NGOs within such partnerships if we are to counter the effects of the economic crisis and achieve results.

1.9 The principles of partnership, non-discrimination and accessibility, and sustainable development<sup>(1)</sup> must be maintained and strengthened in order to consolidate the good results achieved throughout the last programming period.

1.10 The provisions on the structural funds must clearly establish the principle of partnership and the other abovementioned principles rather than simply referring to ‘current national rules and practices’, and the role of each partner must be clearly defined. The position of the follow-up committees vis-à-vis the competent national and regional authorities should be strengthened as part of their responsibilities for planning, implementation and follow-up.

1.11 The EESC shares the view that there is a need to improve the assessment, efficiency and the results of fund utilisation. However, in order to achieve this, it is vital to identify indicators and to set both quantitative and qualitative benchmarks as part of a broader framework covering the entire procedure for the implementation of cohesion policy.

1.12 Consistency amongst the priorities laid down at the different levels – European, national, regional and local – must be ensured.

1.13 There must be enhanced synergies with the European Regional Development Fund and other funds, within which the principles of partnership, non-discrimination and sustainability must be strengthened. Overlapping between the ESF and the

European Globalisation Adjustment Fund must be avoided (EGAF) and consistency ensured given that – as far as restructuring is concerned – the measures targeted by the ESF are preventive while those of the EGAF are curative in nature.

1.14 A number of improvements must be made to the implementation of procedures and the practical aspects of accessing ESF funding, in particular by considerably reducing bureaucracy, speeding up the payment system in order to minimise the financial burden for those implementing programmes and simplifying the invoicing and account settlement procedures, through the use of lump sums, for example.

1.15 The future ESF must guarantee sufficient resources to implement the ‘Europe 2020’ strategy, by means of innovative funding formulae<sup>(2)</sup>, such as the direct allocation of funds to targeted measures in the areas of employment and social inclusion to the most vulnerable groups or persons at risk of exclusion.

1.16 The social partners and civil society have a vital role to play in the ESF review, implementation and assessment process. Consequently, in future, the EESC will permanently monitor ESF utilisation and, accordingly, will help improve this key element in the decision-making process; namely, communication between the European institutions, social partners and all civil society stakeholders.

## **2. Context: the debate launched by the Commission on the future of the European Social Fund**

2.1 The implementation of programmes funded by the ESF for 2007-2013 has reached its midway-point.

2.2 The Commission presented its general guidelines on the EU’s future financial framework in the *EU Budget Review* (COM(2010) 700) and on the structural funds in the conclusions of the *Fifth report on economic, social and territorial cohesion* (COM(2010) 642).

2.3 The future of the ESF should be considered in light of the Lisbon Treaty. In accordance with the new Article 9 of the Treaty, the European Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

<sup>(1)</sup> As laid down in Articles 11, 16 and 17 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund.

<sup>(2)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments of 19 October 2010 on the EU Budget Review, COM(2010) 700.

2.4 The amended Article 175 now covers territorial cohesion. As the principal European instrument for supporting human resources, the ESF will continue to help achieve economic, social and territorial cohesion, as stipulated in Article 162 of the Treaty on the Functioning of the European Union.

2.5 The new political framework for the coming decade, the 'Europe 2020' strategy, was adopted by the European Council on 17 June 2010. Accordingly, the EU has committed itself to achieving an employment rate of 75 % for people aged between 20 and 64, to cutting the percentage of early school leavers to below 10 % and to ensuring that at least 40 % of young people obtain a higher education diploma, to reducing the number of people at risk of poverty by 20 million and to increasing public and private investment in research and development by up to 3 % of GDP <sup>(3)</sup>.

2.6 In 2011, the European Commission will propose a new budgetary framework for the post-2013 period. This framework will be accompanied by legislative proposals on the structural funds, including the European Social Fund. In this regard, the Commission presented a communication on 19 October 2010 on *The EU Budget Review*. This should also provide an opportunity to breathe new life into the ESF and make changes. There is a need to raise the profile of the ESF within the EU's new budgetary framework and to highlight its uniqueness.

2.7 The Commission's fifth report on economic, social and territorial cohesion, published on 10 November 2010, presents options for the future cohesion policy.

2.8 With regard to the future of the ESF in particular, discussions have been launched by means of specific studies.

2.9 Furthermore, the ESF Committee adopted an opinion on 3 June 2010 and the Commission organised a conference on 23 and 24 June 2010.

2.10 On 7 October 2010, the Commission asked the European Economic and Social Committee to draw up an exploratory opinion in order to study the issues raised in the ESF Committee's opinion.

2.11 Discussions have focused on five themes:

- What added value does the ESF offer compared to strictly national financing instruments?
- What should be the tasks and priorities of the ESF in the context of the 'Europe 2020' strategy?

— How should we ensure that the ESF concentrates its resources on priority geographical areas and themes?

— How can we develop maximum synergy with the other funds and the European Regional Development Fund in particular?

— What implementing system should be put in place to achieve more efficient and yet simplified management?

2.12 Furthermore, in view of the trend towards job losses in the European Union at the moment, the ESF is required to play an even more prominent role within European cohesion policy. Its budget must therefore increase considerably, namely at least by the 5,9 % proposed by the European Commission for the EU's 2011 budget as a whole.

### 3. General comments on the future of the European Social Fund

3.1 The principles of cohesion and solidarity are laid down in the Treaty and are two of the most important pillars in terms of the integration of citizens and regions. Accordingly, these principles should remain at the heart of the discussions on the future EU budget.

3.2 The Lisbon Treaty reaffirms these principles, and Article 174 thereof states that '*in order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion*'.

3.3 In particular, the Treaty stresses that '*the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions*'. This objective has become all the more important following the two latest rounds of EU enlargement.

3.4 Furthermore, the EU's Charter of Fundamental Rights, which became legally binding following its incorporation into the treaty, states that, together with territorial cohesion, the EU must promote social cohesion by guaranteeing the social rights of all citizens regardless of their region or nationality, prohibiting discrimination and taking action in the field of equal opportunities, amongst other things.

3.5 Cohesion policy must not just reduce the disparities between regions but should also, by adopting a people-centred approach, promote a society of full employment, equal opportunities, social integration and social cohesion and thus, in broader terms, the European social model.

<sup>(3)</sup> Communication from the Commission of 3 March 2010: EUROPE 2020 A strategy for smart, sustainable and inclusive growth (COM(2010) 2020 final).

3.6 The European Council decided that the structural funds were the financial instruments required to implement the Lisbon strategy, which had geared its work towards the least-qualified people and those facing the most difficulties in accessing active national employment policies<sup>(4)</sup>. In this context, the European Social Fund (ESF) is the key instrument for supporting the implementation of the European employment strategy and must in future continue to be an effective instrument for ensuring an increase in quality jobs and social inclusion, within the framework of the 'Europe 2020' strategy.

3.7 Economic, social and territorial cohesion must remain at the heart of the 'Europe 2020' strategy, in order to ensure that all available energies and capacities are harnessed and dedicated to implementing the strategy. The structural funds are the key instruments for achieving the priorities of what is known as 'smart, sustainable and inclusive growth' in the Member States, regions and territories. Accordingly, the ESF must continue to be an important strategic and financial instrument for increasing rates of employment and social inclusion.

3.8 The principle of partnership, which involves the social partners and other civil society organisations<sup>(5)</sup>, provides the essential guarantee that measures linked to the structural funds, and the European Social Fund in particular, will function properly.

3.9 Lessons must be drawn from the role of the social partners in social dialogue and the role of NGOs within such partnerships if we are to counter the effects of the crisis and achieve results.

3.10 There is a need to improve the assessment, efficiency and the results of fund utilisation. However, in order to achieve this, it is vital to identify indicators and to set both quantitative and qualitative benchmarks as part of a broader framework covering the entire procedure for the implementation of cohesion policy. For the time being, the procedure focuses on ensuring the regularity of expenditure rather than on efficiency. These two approaches should be brought closer together while the administrative burden should be reduced at the same time, to a reasonable level in line with the proportionality principle.

3.11 In view of the current economic crisis, the European employment strategy must once again be the European Union's central priority and more funds must be made available for

creating and maintaining more and better jobs for everybody. Employment market policies must continue to provide the overarching framework of the ESF.

3.12 The European Council's decision regarding the cohesion policy's contribution to the economic recovery plan is clearly a positive sign. The structural funds, which account for more than a third of the EU budget, can represent a source of funding that makes it possible to meet the short-, medium- and long-term challenges.

3.13 The trans-national dimension, which is characteristic of previous EU initiatives (in particular EQUAL), should be re-introduced as a fundamental principle of cohesion policy, in order to ensure not only a European approach but also and above all one that is based more on solidarity particularly as it has not been sufficiently taken into account during the 2007-2013 programming period, as provided for under the new mainstreaming approach. Accordingly, the possibility of funding being allocated to European projects, especially for innovative projects relating to trans-national networks, should be re-introduced.

#### 4. Specific comments and proposals regarding the issues addressed

##### 4.1 *The added value of the ESF*

4.1.1 Since it was created, the ESF has proven its European added value, and this holds all the more true in these times of economic crisis and as a means of bolstering economic growth in the EU.

4.1.2 The ESF is the structural fund which affects individuals directly: workers, the unemployed, people excluded from society, people encountering major difficulties in gaining access to the labour market, young people, the elderly and other groups of vulnerable persons.

4.1.3 The ESF is the primary instrument for supporting the implementation of the European employment strategy. This strategy should therefore be specifically integrated into national, regional and local labour market policies and into the ESF's objectives.

4.1.4 Europe needs to invest heavily in human resources, which are without doubt a crucial asset for the competitiveness of any society. This investment should anticipate social changes and at the same time respond to the problems of preserving and creating jobs, by boosting workers' qualifications and skills, by raising European companies' productivity levels, by seeking innovative and more effective ways to organise work through genuine investments in developing workers' skills, through social integration and by promoting equal opportunities and social economy initiatives.

<sup>(4)</sup> EESC opinion on the 'Employment of priority categories (Lisbon Strategy)', OJ C 256 of 27.10.2007.

<sup>(5)</sup> As laid down in Article 11 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund.

4.1.5 At this time of economic crisis, the European Council's decision to enhance the role of the ESF is particularly important.

4.1.6 Investments must also be aimed at boosting human resources and reintegrating into the labour market workers who have been made redundant and at creating jobs and sustainable growth in order to achieve synergies and interaction between these two processes. The contribution that effective social cohesion can make to European competitiveness must therefore be taken into account. Through the ESF, funding aimed at integrating the groups furthest removed from the labour market (such as people with disabilities, young people with particular employability problems, older people at risk of remaining unemployed and other people suffering social exclusion) will make a significant contribution to increasing the EU's competitiveness and, in the medium term, to achieving the objectives of the Europe 2020 strategy.

4.1.7 The principle of partnership provides the essential guarantee that measures linked to the structural funds will function properly.

4.1.8 The provisions on the structural funds must clearly define the principle of partnership rather than simply referring to 'current national rules and practices', and the role of each partner must be clearly defined.

4.1.9 The partners, including social economy organisations, must have access to technical assistance and their capacity-building needs to be supported by sector-specific organisations, through ESF.

4.1.10 High-quality partnerships must be created, involving the social partners and organised civil society at each stage of the fund's implementation, particularly in view of their key role in countering the impact of the economic crisis.

4.1.11 The other fundamental principles in terms of maximising the added value of the ESF are sustainable growth to protect and improve the environment, equality between men and women, and preventing discrimination based on sex, age, racial or ethnic origin, religion or belief, disability or sexual orientation during the implementation of the fund, as well as access to it, in particular for people with disabilities or those living on the margins of society<sup>(6)</sup>.

<sup>(6)</sup> As laid down in Articles 11, 16 and 17 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund.

4.2 *The tasks and priorities of the ESF in the context of the Europe 2020 strategy*

4.2.1 Economic, social and territorial cohesion must remain at the heart of the 'Europe 2020' strategy, as laid down in the European Council's decision.

4.2.2 The degree of alignment between the ESF and the Europe 2020 Strategy is dependent on the existence or otherwise of strategic guidelines aimed at transposing the EU's strategic priorities into operational programmes.

4.2.3 In this context, the ESF must continue to be the instrument for implementing the European employment strategy. The ESF must, therefore, contribute to creating quality jobs, which is a vital aspect of ensuring the EU's economic growth. Whilst priority must be given to creating quality jobs, attention should also be paid to creating other types of jobs such as green jobs, given the changes in the production model that have taken place, and on sustainable and inclusive growth.

4.2.4 The ESF is the EU's main financial instrument for investing in human resources, supporting the implementation of active integration measures and training, retraining and activation measures.

4.2.5 Lessons must be drawn from the use of the ESF to support the European Union's economic recovery.

4.2.6 The measures and priorities should be as follows:

- to support active inclusion and the integration onto the labour market of, in particular, young people, older workers, people with disabilities and other vulnerable groups, such as migrants and to combat discrimination;
- to raise the employment rate among women and to combat wage inequality;
- to set up observatories to monitor the labour market and the use of structural funds;
- to encourage worker redeployment and retraining, geared towards innovation and the transition to a low-carbon economy;
- to improve support for SMEs, VSEs and social economy stakeholders which not only account for 80 % to 90 % of the EU's industrial fabric but also create quality employment;

- to define ‘training during a recession’ on the basis of discussions on the changes taking place in the sectors and regions;
- to better disseminate best practices, such as investment in short-time working associated with the training of workers;
- to enhance social dialogue through joint training for the social partners;
- to support lifelong learning and training;
- to support direct participation in the programming, management and evaluation of the fund, in accordance with Article 11 of Regulation (EC) No 1083/2006, particularly by improving capacity building;
- to ensure the quality of jobs and working conditions;
- to promote health and safety in the workplace;
- to provide care services that are physically and financially accessible, and take steps to ‘deinstitutionalise’ people served by care centres, including, for instance, people with disabilities;
- to modernise public employment services.

#### 4.3 *The geographical and thematic priorities of the ESF*

4.3.1 The structural funds are the European Union’s main instrument, in cooperation with the Member States, for supporting the Union’s least-favoured areas and the most vulnerable social groups, in order to reduce the socio-economic disparities between the different Member States and regions. This role must be maintained.

4.3.2 Furthermore, by reducing inter- and intra-regional disparities (and inequalities between different social groups) economic, social and territorial cohesion should be priorities for the future ESF with a view to successfully implementing the Europe 2020 strategy. All Member States have shortcomings in different areas. Consequently, all regions suffering from unemployment that is above the EU average or labour market inequalities affecting the most vulnerable groups in particular should benefit from the ESF, including those regions with a higher GDP, such as metropolitan or border regions, for example.

4.3.3 The ESF, which focuses on employment, the development of human resources and promoting social integration, must continue to be the instrument directly affecting individuals, in particular workers, the unemployed, people excluded from society, young people, older people and other vulnerable persons.

4.3.4 Consistency amongst the priorities laid down at the different levels – European, national, regional and local – must be ensured.

4.3.5 This consistency must be reflected in the drawing-up and implementation of operational programmes.

4.3.6 Each Member State must identify priorities and approaches according to the conditions and potential specific to each region. The Member States must also set priorities in line with their own national reform plans, conditions and potential and, therefore, in accordance with the Europe 2020 Strategy, particularly in the areas of employment, training and social inclusion.

4.3.7 Appropriate financial assistance mechanisms must also be examined, such as the direct allocation of funding to measures targeting vulnerable groups, such as people with disabilities<sup>(7)</sup>, in order to focus cohesion policy on a limited number of priorities<sup>(8)</sup>. The EESC has already recommended that funds target specific objectives related to social inclusion<sup>(9)</sup>.

#### 4.4 *Synergy with the other structural funds*

4.4.1 The European Social Fund is the main instrument for implementing the European employment strategy and must retain this role.

<sup>(7)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 15 November 2010 on the ‘European disability strategy 2010-2020: a renewed commitment to a barrier-free Europe’, COM 2010(636).

<sup>(8)</sup> EESC opinion on the ‘Proposal for a European Parliament and Council Regulation on the European Social Fund’, OJ C 234 of 22.9.2005

EESC opinion on the ‘Proposal for a Council Decision on guidelines for the employment policies of the Member States (under Article 128 of the EC Treaty)’, OJ C 162 of 25.6.2008, p. 92

EESC opinion on ‘People with disabilities: employment by stages for people with disabilities in the EU. Post-2010 Lisbon Strategy’, OJ C 354 of 28.12.2010, p. 8

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 15 November 2010 on the ‘European disability strategy 2010-2020: a renewed commitment to a barrier-free Europe’, COM 2010(636).

<sup>(9)</sup> EESC opinion on the ‘Fourth Report on Economic and Social Cohesion’ OJ C 120 of 16.5.2008, p. 73, § 4.5.2.

4.4.2 However, there must be greater synergies with the European Regional Development Fund, within which the principles of partnership, non-discrimination and sustainability – as well as employment and social inclusion objectives – must be strengthened. Therefore, the principle of flexibility should be reinforced in order to optimise complementarities and coordination between the ESF, ERDF and other funds (such as the European Agricultural Guidance and Guarantee Fund, EAGGF), thus securing funding for complementary initiatives, such as those designed to foster access to professional training for people with disabilities and access to infrastructures for this social group.

4.4.3 Overlapping between the ESF and the European Globalisation Adjustment Fund must be avoided and consistency ensured given that – as far as restructuring is concerned – the measures targeted by the ESF are preventive, while those of the EGAF are curative in nature.

#### 4.5 Management system

4.5.1 A number of improvements must be made to the implementation of procedures and the practical aspects of accessing ESF funding.

4.5.2 In order to ensure that those improvements are made, the principle of partnership must be maintained and strengthened in the future ESF. It is important to point out that the principle of partnership is a fundamental tool for the effective implementation of the ESF, since it enables additional resources to be harnessed, and it is crucially important that this be promoted at a time of widespread public spending cuts throughout the European Union.

4.5.3 These improvements include, in particular:

— reducing bureaucracy before and during implementation of the operational programme by making the procedures for

accessing funding more flexible, speeding up the payment system in order to minimise the financial burden for those implementing programmes and simplifying invoicing and accounting procedures, through the use of lump sums, for example, and by simplifying accounting procedures for projects using specific results rather than financial documents as a basis;

— limiting the scope of Member State authorities to establish mechanisms or additional administrative conditions which make access to ESF funds more complicated;

— better disseminating information regarding funding opportunities by, among other things, setting minimum European standards for the transparency and accessibility of information about ESF funding opportunities, in particular by simplifying the language used;

— improving the transparency and efficiency of procedures for selecting the projects to be financed, both at Member State and regional level, ensuring in particular that innovative projects receive special attention;

— particular attention should also be paid to the built environment, new technologies and transport (including goods, services and infrastructures) in order to remove the barriers to full accessibility to all actions co-funded by the ESF.

4.5.4 The effective use of funds must be ensured and evaluated in terms of quantitative and qualitative results.

4.5.5 Indicators relating to funding must be established.

4.5.6 The social partners and civil society have a vital role to play in this process.

Brussels, 15 March 2011.

*The President*  
of the European Economic and Social Committee  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on 'Energy supply: what kind of neighbourhood policy do we need to ensure security of supply for the EU?'**

*(exploratory opinion at the request of the Hungarian presidency)*

(2011/C 132/04)

Rapporteur: **Mr IOZIA**

On 15 November 2010, the future Hungarian presidency of the European Union decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

*Energy supply: what kind of neighbourhood policy do we need to ensure security of supply for the EU?*

(exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 1 March 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 86 votes to four with eight abstentions.

## 1. Conclusions

1.1 The European Economic and Social Committee calls for:

1.1.1 a common EU foreign policy on energy to be rapidly and progressively stepped up in respect of security of supply and cooperation with supplier, transit and consumer countries, in a spirit of solidarity among Member States, tied in and integrated with the EU's security and defence policy, and taking account of the strategic importance of our energy supply;

1.1.2 a high representative for energy policy to be appointed, alongside the high representative for foreign affairs and security policy, given that energy security comes within these policy areas. The energy commissioner could be formally assigned this role;

1.1.3 an integrated approach to be adopted between internal and external policies and related policies such as neighbourhood policy or those related to environmental protection;

1.1.4 an end to energy unilateralism, which undermines the principle of solidarity among Member States, exposing countries with lesser bargaining power to serious difficulties in securing their supply at fair and sustainable prices;

1.1.5 the development of the energy community, and the extension of this partnership model to the countries of the southern Mediterranean, specifically tasked with fostering

energy efficiency, renewable energies, and network interconnections and interoperability. An objective of this new energy community should be to promote a new energy charter and a new protocol on energy efficiency;

1.1.6 access to platform 3 on energy security of the Eastern Partnership (EaP) and the systematic inclusion, into this platform, of representatives of working group 3 on 'Environment, climate change and energy security' of the EaP Civil Society Forum, given the fact that the voice of civil society, including the social partners, is still too often marginalised or even impeded;

1.1.7 energy to be placed on a new institutional footing; the current treaties have undoubtedly strengthened the EU's competence in this area, while still keeping it complementary to policies at national level, where responsibility should remain for deciding a country's internal energy mix. To this end, the Committee asks the Commission to explore the feasibility of an EU energy treaty, modelled on the Euratom Treaty;

1.1.8 a comprehensive multilateral agreement to be sought with Russia, aimed at safeguarding the EU's general interests. This policy should also be applied to the countries of the Caucasus, which are set to take on increasing importance in the future in terms of Europe's energy supply;

1.1.9 the development of strategic partnerships on energy efficiency and security of energy supplies with the USA, Japan, Brazil, India and China, and with a view to reaching a post-Kyoto global agreement on tackling greenhouse gas emissions; the renewal of existing agreements with the emerging democracies of North Africa and the Middle East, taking account of their development needs;

1.1.10 consideration to be given to holding an international conference on the issue, aimed at framing an energy charter and a protocol on energy efficiency that would be more effective, participatory, widespread and tied in with the economic and political connotations which energy has acquired;

1.1.11 Europe's energy dependency to be gradually reduced, by means of more robust, binding policies on energy efficiency, and support for the development of alternative and sustainable low-carbon energy sources;

1.1.12 the prioritisation of all the energy diversification projects carried out within the neighbourhood, such as the Caspian Sea-Black Sea-EU energy corridor, and, in particular, the Nabucco pipeline, liquefied natural gas infrastructure (LNG), the interconnection of electricity grids and the completion of the Euro-Mediterranean electricity (Med-ring) and gas infrastructure rings as well as the new oil infrastructure projects of European interest such as the Odessa-Gdańsk and Constanța-Trieste projects as well as *Nord Stream*, which is of major importance to Finland, and for which interconnection possibilities with the Baltic countries and Poland should be renegotiated;

1.1.13 every effort to be made by the EU institutions to seriously tackle the energy supply issue, on the basis of solidarity. The Committee calls on the Council, the European Parliament and the Commission to take all possible measures to utilise energy diplomacy, as a tool to protect and safeguard workers, businesses and Europeans' quality of life.

## 2. Introduction

2.1 This request from the EU Council presidency to the EESC concerns one of the most sensitive and fundamental aspects of the EU-27's strategy on energy: securing supply by utilising one of the EU's cooperation instruments, neighbourhood policy.

2.2 Over the last few years, energy has become one of the crucial, priority issues in economic, social and environmental policy. Sustainable development both now and in the future depends on the availability of energy, its careful and enlightened use, and research on new energy sources, linked in with the aim of a low-emission society.

### 2.3 Legal framework

2.3.1 The Lisbon Treaty (on the functioning of the European Union) (TFEU), has introduced a new Article 194, which establishes the EU's competences in respect of energy policy, which 'shall aim, in a spirit of solidarity between Member States, to:

- ensure the functioning of the energy market,
- ensure security of energy supply in the Union,

— promote energy efficiency and energy saving and the development of new and renewable forms of energy, and

— promote the interconnection of energy networks'.

2.3.2 Article 4(2)(i) TFEU provides for the EU to share competence in the area of energy.

2.3.3 With regard to international agreements, Article 216 TFEU bestows the necessary powers on the EU to conclude agreements aimed at achieving the EU's objectives.

### 2.4 The EU's dependency on third-country suppliers

2.4.1 The EU depended heavily on third-country supplies over the period 1997-2007 (Eurostat, *Energy, transport and environment indicators*, 2009 edition). Despite a fall in energy intensity of 17 percentage points, dependency on external supplies rose from 45,0 % to 53,1 %. Only Denmark continues to be a net exporter of energy – 25,4 % of its needs. Poland has seen its dependency rise from 6,4 % in 1997 to 25,5 % in 2007.

2.4.2 Malta, Luxembourg, Cyprus, Ireland, Italy and Portugal have the highest dependency rates, ranging from 82 % to 100 %.

2.4.3 As regards energy sources, EU-27 dependency on oil imports rose from 75,8 % to 82,6 %. Denmark was the only country that saw a notable increase in its exports, all of the other countries being net importers.

2.4.4 As for natural gas, dependency increased by a considerable 33 %, rising from 45,2 % to 60,3 %. Denmark and the Netherlands were the only net exporters, while Ireland recorded the highest increase: from 31,2 % to 91,4 % between 1997 and 2007.

2.4.5 Primary energy production in Europe fell from 962 384 ktoe in 1997 to 849 592 ktoe in 2007. The breakdown by fuel was as follows: 10 % coal, 12 % lignite, 14 % oil, 20 % natural gas and 28 % nuclear. Renewables accounted for 16 %.

2.4.6 Gross inland consumption rose by 6 %, increasing from 1 704 473 ktoe to 1 806 378 ktoe, with coal accounting for 13 %, lignite 6 %, oil 36 %, natural gas 24 %, nuclear 13 % and renewables 8 %. While oil, nuclear and lignite consumption remained largely stable over this decade, and coal use fell by 7 %, natural gas saw a rise of 20 % and renewables increased by 50 %, while still accounting for a very small share – 8 % – of the total.

## 2.5 Imports by country of origin

2.5.1 The main suppliers of fuel for energy production are as follows (2007 figures):

Natural gas	Oil	Coal	Uranium (2009)
Russia 39 %	Russia 33 %	Russia 25 %	Australia 22 %
Norway 26 %	Norway 15 %	South Africa 21 %	Russia 21 %
Algeria 16 %	Libya 10 %	Australia 13 %	Canada 19 %
Libya 5 %	Saudi Arabia 7 %	Colombia 13 %	Niger 11 %
	Iran 6 %	USA 9 %	Kazakhstan 9 %
		Indonesia 8 %	South Africa- Namibia 5 %

2.5.2 The above table shows a particularly high concentration of imports in just a few countries. Some 86 % of natural gas comes from four countries, 71 % of oil from five countries, 89 % of coal from six countries, and 87 % of uranium also from six countries.

2.5.3 The main partner for almost all fuels is Russia, from which the EU imports around 30 % of its energy needs, with these imports steadily increasing. The other partners providing the lion's share of our energy supply are Norway, Algeria and Libya – for liquid hydrocarbons – and Australia, Canada, Colombia and Niger – for coal and uranium.

2.5.4 Electricity presents significant fluctuations. Over the ten years covered in Eurostat's 2009 report, three years saw net exports, there were three years where the market was more or less balanced between supply and demand and five years saw spikes in demand vis-à-vis third country suppliers. Italy was the biggest importer – 46 283 GWh – and France the biggest exporter – 56 813 GWh. In 2007, net electricity imports in the EU-27 amounted to 10,5 TWh.

## 3. EU policy

3.1 The year 2008 saw a continuous rise in the price of oil and related hydrocarbons: from USD 90 in February, a barrel of oil reached the record level of USD 147,27 on 11 July. Previously, the issue of energy and security of supply was placed firmly back on the political agenda with the gas crisis that culminated in January 2006 with Gazprom cutting off the supply of gas to its Ukrainian counterpart Naftogaz. The 2009 crisis was worse still for the countries of Eastern Europe. The EU Energy Commissioner, Andris Piebalgs, dealt with the crisis firmly and intelligently and managed to maintain a regular

supply, despite the flow to EU countries falling back by around 30 % at that time, with a reduction in pipeline pressure.

3.2 Energy was already to the fore at the time of the ECSC – European Coal and Steel Community – (1952) and Euratom (1957) Treaties, just as, during the discussions that preceded the Rome Treaty, there were those who felt that the issue of energy should come fully within the remit of the Common Market and be firmly anchored to an EU competence.

3.3 Only after a number of years, in the face of a very serious crisis, came the realisation that Europe's energy dependency was not only of huge economic significance, but above all, that the supply of energy could readily be used as a weapon for exerting political pressure.

3.4 It is clearly a matter of great concern that the EU is increasingly dependent for its energy supplies on undemocratic and unstable areas and countries, in which human and social rights are often not respected, and on Russian suppliers, especially for gas. In the long term, this could create many difficulties not only for individual Member States, but above all for the overall security of the EU.

3.5 The international scene has changed utterly. The economic and political role of China, India and Brazil, the long-term strategies of the USA to conserve their domestic reserves as long as possible, driving up their energy demand on international markets, the growing instability and radicalisation of conflicts in exporting regions, all create a vital need for a radical shift in EU policy. Energy security now goes hand in hand with national security and economic development.

#### 4. New scenarios

4.1 Given the strategic importance of energy security, the new scenario must explore every possible alternative in the neighbouring countries to the east, south, around the Mediterranean and in the Middle East. More urgency is needed in terms of giving full effect to the EU-Africa energy partnership; preparations should get underway to hold a major international conference on access to energy and energy security, aimed at drafting a new set of common rules. Should a new global energy security pact be agreed, the specialist international agencies should be tasked with monitoring its implementation. Given the vital importance of this issue, the major international institutions should be key players in this.

4.2 The EU should consider the security of energy supplies as one of the priorities of its external and security policy, creating a new role of high representative for energy policy alongside the high representative for foreign affairs. While there has been some progress on a common policy, there is a continuing tendency for Member States to keep a firm grip on the controls through bilateral relations with producer countries.

4.3 Despite the treaty changes and the new Article 194 TFEU, it is not yet clear how the EU is to exercise its competences and, in particular, how 'the spirit of solidarity' is to play out on the ground. There have been some advances, for example on strategic gas reserves, where a commitment based on solidarity has emerged for the first time. The Commission is trying to establish a serious external policy. A communication will be published this year on international policy and energy security. In spite of this, some Member States are, however, developing an autonomous external policy on energy supplies, particularly vis-à-vis Russia and certain Mediterranean countries. This poses serious problems for other countries, weakening the EU's collective bargaining power.

4.4 While the current wording of the Treaty is clearly a useful compromise, it is insufficient as regards tackling future challenges. Energy policy should be reconsidered in its entirety in a specific treaty modelled on Euratom, giving a prominent institutional profile to security policy, which includes energy security. Energy unilateralism must be ended through a robust common policy on energy solidarity, based on diversification, an energy mix adapted to the conditions and features of each individual Member State, and above all on environmental sustainability, given that the main sectors linked to energy needs, such as the production, transmission and distribution of electricity, transport and heating are by far the greatest greenhouse gas emitters.

#### 4.5 Eastern dimension of the external EU policy

4.5.1 In the field of neighbourhood policy, for example vis-à-vis eastern countries such as Moldova, Ukraine and Belarus, despite recognised political difficulties, cooperation should be stepped up and those countries more closely involved in common policies, obviously in a context of respect for democratic rules and human rights, which have recently come under severe strain in Belarus with the violent repression of opponents. The experience of the Energy Community involving eastern and Balkan countries has been a positive one. Launched to pave the way for a possible integration of the countries of former Yugoslavia, the Community has gradually been enlarged and the recent accession of Ukraine will further embed this project in the neighbourhood and in Central Asian countries such as Uzbekistan and Kyrgyzstan.

4.5.2 In 2008, Poland and Sweden proposed setting up the Eastern Partnership as an EU initiative aimed at six neighbouring countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), with the aim of deepening political cooperation and economic integration and establishing multi-lateral cooperation structures in the region. The first official summit of Eastern Partnership countries which launched the partnership activities, took place in Prague on 7 May 2009.

4.5.3 The EESC has been involved in three of the four thematic platforms of the Eastern Partnership (EaP) and urgently claims access to platform 3 on energy security which deals with the strengthening of the Energy Community and the Energy Charter, improved energy efficiency and the role of renewable resources. Enhancing energy efficiency in the economies of the EU's eastern partners and promoting use of renewable energy resources in neighbourhood countries should be one of the key courses of action in the framework of the partnership. Further steps are also required to promote cooperation, modernise energy distribution infrastructure and foster other mutual ties between energy production and distribution networks.

4.5.4 These issues are of vital importance to civil society and should not be left to the exclusive consideration of public authorities and financial institutions. The EESC demands that EaP platform 3 include systematically, not only on an ad-hoc basis, representatives of working group 3 on 'Environment, climate change and energy security' of the EaP Civil Society Forum, given the fact that the voice of civil society, including the social partners, is still too often marginalised or even impeded. The initiative to create a business forum within the framework of the Eastern Partnership is an attempt to strengthen social dialogue on the economy and thus energy.

#### 4.6 *Euromed dimension of the external EU policy*

4.6.1 The ongoing political changes in several southern Mediterranean countries make it imperative for policy-makers to consult and involve civil society on both shores of the Mediterranean in future common energy policies in order to ensure that such policies are not seen as having been imposed from the top or from the outside, and are instead genuinely supported by the broader public. The EESC is working to establish an Assembly of Economic and Social Councils from the Mediterranean region by autumn 2011. This Assembly could provide a vital forum for civil society exchanges on energy policy.

4.6.2 The EU should propose a specific energy community involving the countries of the southern Mediterranean. Completion of the Med-ring electricity grid, projects in the pipeline such as Desertec, the Mediterranean Solar Plan, and Mediterranean cooperation itself should lead us to step up cooperation, in the Maghreb for example, in the areas of energy efficiency, renewable sources, transmission, grid inter-connection, and the upgrading of generation and distribution systems.

4.6.3 The benefits for the EU are obvious. Bolstering our Mediterranean partners' infrastructure will help them pursue a range of common objectives: sustainable development, reducing overall energy demand, which will help stabilise energy security and commodity prices, and cutting emissions.

4.6.4 This support, partly financial – via the EIB in the case of the Mediterranean countries and the EBRD for some of the countries coming within its remit – could come under the heading of the economic aid that the EU should commit to providing for less-developed countries to enable them to pursue sustainable low-carbon development.

4.7 In the near future, programmes aimed at significantly improving energy efficiency will form the strategic axis on which the Community will support the partner countries. This project ties in with environmental cooperation and the post-Kyoto goals.

4.8 The aims of the new 'energy diplomacy' to be engaged in with supplier, transit and consumer countries should be placed on a new EU institutional footing and incorporated in agreements and treaties modelled on the Energy Charter Treaty and Protocol on energy efficiency; these instruments for cooperation and international dispute resolution have been in existence for twenty years now, but have not proved particularly effective.

4.9 The EU should promote a new energy charter and protocol with the southern Mediterranean countries, and

revise and bolster the current charter, binding Member States to a policy of energy solidarity. Progress in the integration of Baltic States is particularly significant here.

4.10 The Arctic and the Barents Sea will become one of the most dynamic economic development areas of the EU, and an area of crucial importance to Norway, Russia, the United States and Canada. The interests of this region, both locally and globally, are a European issue that can only be dealt with as part of a strong and realistic policy on the part of the EU.

4.11 Unilateralism has drastically reduced the EU's bargaining power and has effectively enabled supplier countries, notably Russia, to have a decisive bearing on the democratic choices of some of its neighbours. The EU accounts for over 67 % of Russian energy exports and for obvious geographical and political reasons, markets as accessible as ours would be hard to come by.

4.12 Russia should be admitted to the WTO, on condition that it gives precise guarantees on the conduct of its energy monopolies, which are often guided and sustained by the political authorities, and, of course, that it resolves its conflict with Georgia by concluding a bilateral agreement.

#### 5. **Strategic partnerships with the USA, Japan, Brazil, India and China**

5.1 It will be crucially important to forge strategic partnerships with the key players in the global energy market: the USA, Japan, Brazil, India and China. Cooperation and agreement here should specifically cover supply security and fair prices; giving priority to energy efficiency; and cutting greenhouse gas emissions.

5.2 The issue of energy-supply security, which has obvious repercussions for security in general, sustainable development and combating climate change, requires a broad multilateral consensus. Economic competition must not jeopardise peace and stability and we must ensure that existing international tensions, simmering in many supplier areas, are not further stoked.

5.3 Energy has long been on the agenda of the G20. These discussions, which often go no further than a list of good intentions, should culminate in agreements and strategic partnerships. Probably the most realistic approach is bilateral agreements. The EU often forgets that it is the world's largest

economic area and fails to impose its agenda on its partners, an agenda aimed at strengthening the main lines of EU foreign policy, which must continue to promote democratic principles, respect for human rights, the self-determination of peoples and the rejection of war as a means of resolving conflicts between them, the resolution of which requires stronger international institutions.

5.4 The new emerging economies are just as interested as the EU in an international situation whereby energy supplies are stable and guaranteed, at reasonable prices. The EU's action here should also focus on entering into strategic partnerships with these countries, favouring a set of rules, within a market economy, that strengthen cooperation and prevent an unnecessary and costly rush to hoard commodities.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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## APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendment, which received at least a quarter of the votes cast, was rejected in the course of the debate:

**Point 1.1.12**

Delete end of sentence:

*'the prioritisation of all the energy diversification projects carried out within the neighbourhood, such as the Caspian Sea-Black Sea-EU energy corridor, and, in particular, the Nabucco pipeline, liquefied natural gas infrastructure (LNG), the interconnection of electricity grids and the completion of the Euro-Mediterranean electricity (Med-ring) and gas infrastructure rings as well as the new oil infrastructure projects of European interest such as the Odessa-Gdańsk and Constanța-Trieste projects as well as Nord Stream, which is of major importance to Finland, and for which interconnection possibilities with the Baltic countries and Poland should be renegotiated'*

**Reason**

Let national politicians and economists decide the importance of these projects for the abovementioned countries, especially as the route of Nord Stream is still the subject of dispute in connection with access to the port of Świnoujście.

**Result of the vote**

For:	33
Against:	46
Abstentions:	17

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**Opinion of the European Economic and Social Committee on 'Innovative workplaces as a source of productivity and quality jobs' (own-initiative opinion)**

(2011/C 132/05)

Rapporteur: **Leila KURKI**

Co-rapporteur: **Mihai MANOLIU**

On 16 September 2010, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

*Innovative workplaces as a source of productivity and quality jobs*

On 20 October 2010 the EESC decided to change the study group into a subcommittee.

The Subcommittee on Innovative Workplaces, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 February 2011. The rapporteur was Leila Kurki and the co-rapporteur was Mihai Manoliu.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March 2011), the European Economic and Social Committee adopted the following opinion by 94 votes to 1 with 2 abstentions.

## 1. Recommendations

1.1 The Committee believes that it is the European Union's task to support all Member States and companies in their efforts to increase workplace innovation. Innovation at the workplace is used to try and remodel organisational activities in a sustainable way while at the same time improving both productivity and the quality of work. Areas for improvement are work processes, work organisation, working methods and tools, the physical working environment, professional skills and working practices, and management and leadership.

1.2 The EESC recommends that the basic concept of the 'innovative workplace' be clearly defined. The lack of a commonly recognised concept could be one of the reasons why innovation at the workplace has had a limited place in most EU policy documents in the past. The EU institutions, Member States, social partners and civil society organisations need to understand the significance of innovations and the means used to effect them, especially at the company/organisational level.

1.3 The EESC believes that although the concept of the 'innovative workplace' is not mentioned in the Commission document, it is at the heart of the Europe 2020 strategy, as it is one of the key prerequisites for the success of this strategy, and therefore recommends that the 'innovative workplace' concept should be incorporated into the strategy.

1.4 The EESC recommends that, in order to improve the balance of the Europe 2020 strategy, the Commission should launch a pilot project on innovative workplaces as part of the 'Innovation Union' flagship initiative. The main thrust of the

project should be improving the quality of working life. The EESC believes that further studies should be initiated without delay on the relationship between the quality of working life, innovativeness and productivity, and that a European index should be introduced describing the quality of working life and its effects on innovativeness and productivity. We have to measure progress with reliable indicators that focus not only on input, but also and especially on output.

1.5 The EESC is concerned that EU funding is focused on high-technology product innovations, and that workplace innovations do not feature prominently enough. In its view, innovation policy should concentrate more on how the different partners can work together more effectively to promote innovative workplaces and in that way improve the EU's competitiveness and well-being. The EESC points out that EU funding can be used to boost innovation at the workplace and proposes that the Commission should examine all its funding instruments and make the necessary adjustments to them as soon as possible (e.g. the Structural Funds, in particular social funding, the research and development framework programmes, and education initiatives).

1.6 The EESC considers that when evaluating innovation policy it is important to focus on how skills are utilised and developed at the workplace, not just on the supply of skilled workers. The situation with regard to working and employment conditions and the working environment is equally important. A new, multisectoral approach is needed in companies and organisations to enhance activities. The EESC recommends that the Commission and the Member States should reflect seriously on what kinds of policies and work organisation have been effective in enhancing innovativeness through investment in skills. To find out what is working at company and organisation level, the Commission should support research and the dissemination of research findings. The EESC also



believes that is critical for the Commission to evaluate existing innovation strategies to make sure that a definition of workplace innovation is included in all of them.

1.7 The EESC believes it is important for the EU single market to function in a way that supports an environment in which companies and organisations are motivated to develop innovativeness. Competition between companies must be based on the quality of products and services and environment-friendliness, not just on prices. Public procurement plays an important illustrative and guiding role here.

1.8 The EESC notes that Member State governments have a strategic role to play in this sphere: investment in innovation projects and different economic incentives are the key. Efficient use of funding to promote innovation calls for a long-term perspective, a methodical approach and support in the form of advice and guidance with launching and carrying through improvement projects. The social partners bear a major responsibility in this regard for preparing, implementing and evaluating projects. The role of civil society organisations in organising training and presenting best practices must be strengthened.

1.9 It is important to bear in mind that innovation policy is at different stages of development in the various Member States. The EESC believes that the Commission should provide opportunities and facilities for new capacity-building (e.g. through best practice and mutual learning projects) for those countries that do not yet have much experience with innovation generation in companies and organisations. It would be useful, in EU innovation and training initiatives, to emphasise workplace innovation and new kinds of professional skills (in addition to technical and professional knowledge, these might include communication skills, creativity and innovative ability) and management practices. The Commission can also draw on the work of development centres in a number of Member States that promote innovation, quality of working conditions and productivity.

1.10 The EESC notes the importance of continuing the debate about innovative workplaces in Europe's various forums, the Member States, companies and organisations. The EESC has a key role to play in making the social partners, civil society organisations and policy-makers in general more aware of the need to develop policies that enhance innovation in the workplace. The EESC's task is to promote, in its texts and in EU policy documents more generally, the mainstreaming of innovation, in particular by presenting its views on innovation policy in its opinions on economic, employment and innovation policy issues, and by using its close contacts with the economic and social councils of the Member States.

## 2. Innovative workplaces - their importance for economic growth, sustainable productivity and quality jobs

2.1 The EU Member States and institutions have committed themselves to pursuing a strategy that will help Europe to come out stronger from the crisis and turn the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion. The Europe 2020 strategy sets out a vision of Europe's social market economy for the 21st century <sup>(1)</sup>.

2.2 This opinion is part of the EESC's input into the Europe 2020 strategy and relates in particular to the 'Innovation Union' and 'An agenda for new skills and jobs' <sup>(2)</sup> flagship initiatives, and to promoting the quality of work and lifelong learning <sup>(3)</sup>.

2.3 In this opinion innovation is defined in accordance with a broad understanding of innovation: '*Innovation*: applied competence-based competitive advantage, which can emerge from scientific research, technology, business models, service solutions, design, brands or methods of organising work and production, and improving the working environment. Typically, an innovation is generated through a combination of different competencies, and it promotes the advancement of businesses, society and well-being.'

2.4 The concept of innovation includes product, service, technical, social and functional innovations in all sectors and in all kinds of organisations. This approach sees companies, voluntary organisations and public sector organisations as innovators.

2.5 Workplace innovation is used to try and sustainably improve the productivity of organisations, while improving the quality of working life. Innovative workplaces support social and organisational change which incorporate integrated and sustainable approaches, improve companies' performance and reduce long-term operating costs. Areas for improvement are work processes, work organisation, working methods, the physical working environment and tools, professional skills and working practices, and management and leadership.

<sup>(1)</sup> Europe 2020 includes three mutually reinforcing priorities:  
 — Smart growth: developing an economy based on knowledge and innovation.  
 — Sustainable growth: promoting a more resource-efficient, greener and more competitive economy.  
 — Inclusive growth: fostering a high-employment economy delivering social and territorial cohesion.

<sup>(2)</sup> EESC opinion on 'New skills for new jobs' (OJ C 128, 18.5.2010, p. 74).

<sup>(3)</sup> EESC opinion on the 'Employment policy guidelines' (OJ C 107, 6.4.2011, p.77).

2.6 Based on the above definition of innovation, investments made in the context of innovation policy should be targeted at organisational and employee-driven innovations in the workplace in order to improve the performance of companies and public and other organisations, enhance competitiveness, create more and better jobs (new types of jobs in existing sectors and new jobs in new sectors), and increase sustainable productivity growth and quality of employment. Such investments promote the effectiveness of employers, workers and society as a whole.

### 3. New elements of growth and changes in work culture

3.1 Europe needs new elements of growth for its economy and well-being. We need productivity growth in all sectors. Achieving this in a sustainable way can promote innovativeness and create more quality jobs. Improving productivity and the quality of working life is based chiefly on combining technology and employee skills, engagement and motivation of staff, as well as leadership, to yield new products, services and working practices. The organisation's improved innovation capacity creates a virtuous circle where innovativeness generates productivity, making it possible to plough investment back into the organisation to support innovativeness <sup>(4)</sup>.

3.2 Working life will go through a major cultural transformation in the coming years. This is due to factors such as changes in the size of the workforce resulting from demographic developments, the higher education level of workers, the impact of advances in research (especially medicine) on life expectation and the duration of working life, penetration of digitalisation in production and services, global competition and the demands of sustainable development.

3.3 A key issue for future national and European competitiveness is how work will be organised and how people will be managed in the workplace. People increasingly want their work to be meaningful and value the meaning that work gives their own life, and there are growing demands for reconciliation of work, family and leisure time. There are also calls for working hours and remuneration systems to respect people's individual needs. Workplaces are becoming more diverse environments, where workers of different ages, and of different nationalities and minority groups, have to be managed. Technological progress has a critical impact on working environments and tools. The workplace of 2020 will be best described as: cooperative, authentic, personal, innovative, and centring on social contacts <sup>(5)</sup>.

<sup>(4)</sup> EESC opinion on 'Promoting sustainable productivity in the European workplace' (OJ C 10, 15.1.2008, p. 72–79).

<sup>(5)</sup> Max Mickelsson, workshop presentation, Helsinki, 25.1.2011.

3.4 Changes in the culture of work create pressure for changes in working practices and management. Increased sensitivity to sustainability considerations is a trend that will increasingly shape the nature of work, as companies begin to measure success and make operational decisions with reference to economic, social and environmental parameters. A guiding principle for sustainable workplace design is to create workplaces that are not only healthy and productive, but which are also inspiring and improve well-being.

### 4. Innovative workplaces

4.1 An organisation's innovation capacity depends on the motivation and commitment of its management and staff to regenerating their own work and the organisation. The result is updated product and service models or organisational processes that create added value for customers. The more advanced the practices an organisation applies in its innovation activity, the better its ability to implement innovations <sup>(6)</sup>.

4.2 Studies show that a greater number of an organisation's successful innovations are explained by workplace innovation than by technological innovation <sup>(7)</sup>. It is also important to understand the different aspects of the regeneration process: in most cases, product and service innovation can succeed only if there is innovation in relation to the organisational and working environment <sup>(8)</sup>.

4.3 It is also important to invest in research and technological development. Success is not always determined by having the newest technology, but by having the most productive technology, which can be used in a large number of applications. It is also important to exploit opportunities provided by technology developed elsewhere (e.g. ICT, digitalisation) and the regulatory environment (e.g. standardisation). However, research findings and technology do not automatically translate into new business activities or productivity. Applying technology often requires a high level of in-house skills. Intellectual capital <sup>(9)</sup> and the investment that promotes it must be harnessed more effectively. These are generally the weakest links in the application of new technology.

<sup>(6)</sup> Bessant, John (2003): High-involvement Innovation (Innovative capability's eight dimensions).

<sup>(7)</sup> Frank Pot, Radboud University and European Association of National Productivity Centres, *Workplace innovation for better jobs and performance*, November 2010, Antalya.

<sup>(8)</sup> For example: Terhi Arvonen / *Lumene*, workshop presentation, Helsinki, 25.1.2011; and Laura Seppänen and Annarita Koli / *Social services in the city of Helsinki*, workshop presentation, Helsinki, 25.1.2011.

<sup>(9)</sup> Most investment in intellectual capital is investment in innovation, chiefly R&D spending. Trademarks, human resources, organisational structure, software investment and digital knowledge, branding, business methods and design are also important. Intellectual capital emphasises employee skills and the importance to the economy and productivity of creating, applying and utilising new knowledge.

4.4 When evaluating innovation policy it is particularly important to focus on how existing skills are utilised and developed in an organisation, not just on the supply of skilled workers. There is evidence that the share in the economy of organisations which promote individual and organisation-wide learning in their management practices is also a very strong indicator of innovation capacity in the economy as a whole <sup>(10)</sup> <sup>(11)</sup>.

4.5 It has not yet dawned on companies what benefits will accrue from innovation based on improving the professional skills of their staff. Unfortunately, according to a Eurofound working conditions survey <sup>(12)</sup> and a Cedefop (European Centre for the Development of Vocational Training) study <sup>(13)</sup>, European companies still invest far too little in intellectual capital. Only 26 % of the companies that do train their staff foresee the professional skills that will be needed in the future.

4.6 In practice all innovations are the fruit of previous innovations, accumulated experience, learning and professional competences. Considering how important a role the employees in the company play as sources of knowledge and ideas, it is amazing how little this has been used or taken into account in innovation creation policies and discussions <sup>(14)</sup>.

4.7 Workplace-based innovation represents the potential to integrate the ideas, competencies and experience-based knowledge of all employee groups. There is empirical evidence that the likelihood of workplace innovation is increased by good working relations, working environment and conditions of work <sup>(15)</sup> <sup>(16)</sup>. According to case studies <sup>(17)</sup>, such activity has a number of advantages and a positive impact on companies' overall profitability. Positive side-effects are improved job satisfaction and reduced sickness absence. Workplace-based innovation activity can also yield efficient

ways of saving energy and resources, as well as improving the functioning of the physical working environment. Thus investments made are paid back to the company or organisation many times over.

4.8 Of crucial importance to companies' and organisations' success and position are workers' interest in work, creative skills and initiative (80 %). We are only in the early stages of understanding these attributes and drawing on them as a competitive asset, since management is not well enough informed about their significance. The importance of traditional worker attributes such as obedience, diligence and intelligence is understood, but in a globalised world and a context of technological progress their role as competitive assets has decreased substantially <sup>(18)</sup>.

4.9 Studies show that absence of motivation on the part of management, where no need for improvement measures is perceived, is the most common obstacle to workplace innovation. Other obstacles are lack of correct information, poor ability to promote change and the potential business risks associated with change <sup>(19)</sup>. Workers' fear of change is also becoming an obstacle, in particular where the workplace lacks a culture of participation.

4.10 Managing change and creating innovative processes therefore remain a considerable challenge for most companies and organisations, and training in these skills is inadequate <sup>(20)</sup>. Human resource management should be seen as a strategic aspect of management. Such skills could act as a new kind of stimulus to economic growth. Novel incentives are needed to get management and employees engaged with improvement activities and decision-making, together with a business culture that motivates people to cooperate and involves them in enhancing their organisation.

Brussels, 15 March 2011.

*The President*  
of the European Economic and Social Committee  
Staffan NILSSON

<sup>(10)</sup> Dirk van Damme, OECD Centre for Educational Research and Innovation, at a hearing of the EESC Labour Market Observatory held on 15 December 2010.

<sup>(11)</sup> OECD, *Innovative Workplaces, 2020*: '... a work organisation supporting innovation through the use of employee autonomy and discretion, supported by learning and training opportunities'.

<sup>(12)</sup> Eurofound, *European Working Conditions Survey - 2010*.

<sup>(13)</sup> Cedefop, *Encouraging continuing training by enterprises – time for a rethink?* Briefing note, March 2010.

<sup>(14)</sup> Tarmo Lemola, *Innovaation uudet haasteet ja haastajat* ('The new challenges of innovation'), WSOYpro Oy 2009.

<sup>(15)</sup> For example, Andreas Crimmann, Institute for Employment Research (IAB), Germany, LMO hearing held on 15 December 2010.

<sup>(16)</sup> Tuula Eloranta, workshop presentation, Helsinki, 25.1.2011.

<sup>(17)</sup> LO (Danish Confederation of Trade Unions), *Employee-driven innovation*, 2008.

<sup>(18)</sup> Tuomo Alasoini (based on an idea by Hamel, 2007), workshop, 25.1.2011, Helsinki.

<sup>(19)</sup> Tuomo Alasoini, workshop presentation, Helsinki, 25.1.2011.

<sup>(20)</sup> Dirk Ameel, Ameel D&C bvba, LMO hearing on 15.12.2010.

## III

(Preparatory acts)

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

## 470TH PLENARY SESSION HELD ON 15 AND 16 MARCH 2011

**Opinion of the European Economic and Social Committee on the 'Annual Growth Survey: advancing the EU's comprehensive response to the crisis'**

COM(2011) 11 final

(2011/C 132/06)

Rapporteur-general: **Mr SMYTH**

On 12 January 2011 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

*The Annual Growth Survey: advancing the EU's comprehensive response to the crisis*

COM(2011) 11 final.

On 18 January 2011 the Committee Bureau instructed the Europe 2020 Steering Committee to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Smyth as rapporteur-general at its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March 2011), and adopted the following opinion by 164 votes to eight with seven abstentions.

**PART I: ANNUAL GROWTH SURVEY MISSES OPPORTUNITY TO PROVIDE POLICY PROPOSALS DIRECTLY TARGETING SMART, SUSTAINABLE AND INCLUSIVE GROWTH**

1. The Committee fully supports the Europe 2020 Strategy as well as the progress towards ex-ante fiscal policy coordination in the European Semester and hopes that, at least for countries in the euro area, the current legislative proposals for European economic policy coordination will be the first step towards a genuine common economic policy and the full coordination of fiscal policies.

2. The Committee is concerned about the worrying trend in the discussion on economic governance in Europe towards limited, unfocused intergovernmental proposals in place of the Community method.

3. The Committee therefore encourages the European Commission to stand up for European integration by making

bold, balanced and inclusive proposals that will help Europe get on a smart, sustainable and inclusive growth path in the spirit of the still young Europe 2020 Strategy.

4. In this context, the Committee underlines that the Annual Growth Survey (AGS) should have an extremely important role to play in order to advance with inclusive policy reform in the Member States and at European level. The Committee commends the Commission for having chosen a comprehensive format for the AGS with 10 enumerated priorities under three large headings, with the intention to allow for precise discussion on the issues at stake.

5. The Committee regrets, however, that in this first Annual Growth Survey the European Commission has missed the opportunity to continue with the Europe 2020 spirit of directly targeting smart, sustainable, and inclusive growth, focusing instead on fiscal consolidation in a narrow way,

combined with proposals regarding labour markets that are often imbalanced and lacking the European dimension of the single market with its future-oriented growth drivers.

6. As regards fiscal consolidation, the Committee regrets that the proposals for consolidation are exclusively focussed on the expenditure side – complemented by a proposal to possibly consider broadening the base for indirect taxes in some Member States. Given that the current sovereign debt crisis has its origins in a financial crisis and the associated immense public financial support that had to be mobilised to save that sector from causing a total system breakdown, the Committee would have expected a series of proposals in order to obtain the contribution of the financial sector to help getting public budgets back on a sustainable track. Furthermore, concrete and ambitious proposals to control the financial markets are a precondition to create confidence and avoid further turbulences.

7. The Committee underlines that it will be impossible to consolidate the public budgets without a sufficient rate of economic growth. It regrets that the Commission has not set out a growth scenario that maximises the potential of the single market, but concentrates instead on drastic fiscal consolidation as the *prerequisite* for growth. Much more attention should be focused on growth drivers that will enable Member States to consolidate budgets while being on a sustainable growth path. To do so, the Committee believes that a balanced macro-economic policy that duly combines supply- and demand-side aspects must constitute an integral part of any future-oriented economic strategy. This would include that Member States with current account surpluses should be encouraged to continue an expansive stance and tackle their lack of domestic demand.

8. A forward-looking approach to labour markets, pension reform, unemployment and flexicurity will build on the creation of sustainable jobs, the creation of job opportunities, exploiting the potential of new economic sectors and clean energy. The EESC considers that the social dialogue has a vital role in any labour market related policy. Social security systems are also crucial as automatic social and economic stabilisers which help support development and productivity, alleviate poverty and promote economic and social cohesion, all of which are needed to acquire the support of public opinion for the European project. As we look to smart, sustainable and inclusive growth, it is important to build on these core institutions constituting the foundations of the European social market economy. The Committee therefore insists that Commission proposals directed to Member States which clearly interfere with their collective bargaining systems and job security practices are strictly out of place.

9. Moreover, the EESC believes that the European Commission must clarify its position on the quotas and closed shops which have an impact on the professional sectors. A distinction should be made between what concerns non-discriminatory public services and services of general interest and what might constitute real obstacles to the potential of the single market. As regards rules on trade, it is also essential to study in depth all of their consequences on jobs in the sector and to apply the subsidiarity principle to matters such as zoning and opening hours which must depend mainly on local, cultural, weather or other conditions.

10. At the same time, the Committee feels that the AGS devotes insufficient attention to the European growth potential of the single market, making only passing reference to the decisive Single Market Act and failing to develop key aspects of it which are conducive to smart, sustainable and inclusive growth, such as EU patents, a European 'professional card', European infrastructural projects, cross-border lending, integrated mortgage markets, social entrepreneurship and social investment funds.

11. In the following part the Committee sets out its specific proposals to the 10 points advanced by the European Commission in more detail. By doing so it hopes to direct the discussion more towards the issues really at stake.

## **PART II: COMMITTEE PROPOSALS ON THE 10 POINTS ADVANCED BY THE EUROPEAN COMMISSION**

### **1. Implementing a rigorous fiscal consolidation**

1.1 The EESC believes that the issue is rebalancing public finances whilst avoiding reducing demand, leading to a recession that would generate further deficits pushing the European economy into a downward spiral.

1.2 The EESC recommends that in order to avoid jeopardising the aims of the European Economic Recovery programme, debt reduction programmes should be set up in a way that is compatible with the economic recovery and the social and employment objectives set out in the Europe 2020 Strategy <sup>(1)</sup>.

<sup>(1)</sup> See EESC opinion on *The implications of the sovereign debt crisis for EU governance*, OJ C 51 of 17.2.2011, p. 15.

1.3 Member States' tax base will have to be broadened, not least by the closure of tax havens, an end to tax competition and measures to tackle tax evasion and fraud <sup>(2)</sup>.

1.4 The tax burden should be shifted towards new sources of revenue, such as financial transaction taxes, energy taxes, levies on financial institutions, levies on CO<sub>2</sub> emissions (subject to reorganisation of the carbon trading market), etc. Taxing in this way could ease pressure on public budgets and help redirect resources towards sustainable investment in the real economy. It could also help in providing new own resources for the European Union budget <sup>(3)</sup>. The tax on financial transactions also implies that the financial sector will pay back some of the public subsidies <sup>(4)</sup>.

1.5 The EESC believes that sanctions have to be balanced with greater European solidarity in the management of sovereign debt <sup>(5)</sup>.

## 2. Correcting macro economic imbalances

2.1 The EESC believes that a balanced macroeconomic policy that duly combines supply- and demand-side aspects must constitute an integral part of any future-oriented economic strategy. The EESC underlines the need to reduce the large differences in current account balances. The EESC hopes that, at least for countries in the euro area, European economic policy coordination will be the first step towards a genuine common economic policy and the coordination of budget policies <sup>(6)</sup>.

2.2 The EESC emphasises the role of non-price factors such as product differentiation, technological content, product quality, the quality of product-related services (after-sales), etc. in creating macroeconomic imbalances. Variables need to be identified that can indicate their level and evolution within the EMU Member States.

2.3 Appropriate wage policies have a key role to play in dealing with the crisis. Keeping wage rises in step with productivity growth and targeted in the national economy as a whole will, from a macro-economic viewpoint, make sure a proper

balance is struck between sufficient growth in demand and price competitiveness. The social partners must therefore work to avoid wage restraints along the lines of a beggar-thy-neighbour policy and gear wage policy instead towards productivity <sup>(7)</sup>.

2.4 If closer economic policy coordination extends not only to fiscal and monetary policy, but also to tighter wage policy coordination in the euro area, then freedom in collective bargaining must be respected: government targets for collective bargaining, let alone government-decreed wage cuts, are unacceptable and must be rejected <sup>(8)</sup>.

## 3. Ensuring stability of the financial sector

3.1 The Committee believes that work should be stepped up on shaping the post-crisis financial system, which should be transparent, socially and ethically responsible, better supervised, and innovative; its growth should be balanced, compatible with the rest of the economic system, geared towards generating medium- and long-term value and sustainable growth <sup>(9)</sup>.

3.2 The Committee proposes encouraging harmonisation of national legislation protecting users of products and financial services (consumers, businesses etc.), without undermining Member States' competences to preserve higher national standards. Provision could also be made for the presence of one or more consumer representatives, chosen by the social partners and consumer associations, at the European supervisory authorities (now the European System of Financial Supervision - ESFS) <sup>(10)</sup>.

3.3 The Committee proposes encouraging, in the wider sense of the term, the financial information production network, facilitating the inclusion of more players and the introduction of new rules intended to achieve more transparent, effective assessment methods, particularly as regards derivatives <sup>(11)</sup>.

<sup>(2)</sup> See EESC brochure *A Programme for Europe: proposals of civil society*, CESE 593/2009, Fiche 1, point 2.

<sup>(3)</sup> Further policy proposals regarding taxation can be found in point 8.

<sup>(4)</sup> See EESC opinion on the *Financial transaction tax*, OJ C 44 of 11.2.2011, p. 81.

<sup>(5)</sup> OJ C 51 of 17.2.2011, p. 15, op. cit.

<sup>(6)</sup> See EESC opinions on *The post-2010 Lisbon Strategy*, OJ C 128 of 18.5.2010, p. 3. and the *Economic recovery: state of play and practical initiatives*, OJ C 48 of 15.2.2011, p. 57.

<sup>(7)</sup> See EESC opinion on *Results of the Employment Summit*, OJ C 306 of 16.12.2009 p. 70.

<sup>(8)</sup> See EESC opinion on the *Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions: Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance*, OJ C 107 of 6.4.2011, p. 7.

<sup>(9)</sup> See EESC opinion *After the crisis: a new financial system for the internal market*, OJ C 48 of 15.2.2011, p. 38.

<sup>(10)</sup> See EESC opinion on the *Proposal for a Regulation of the European Parliament and of the Council on amending Regulation (EC) No 1060/2009 on credit rating agencies*, OJ C 54 of 19.2.2011, p. 37.

<sup>(11)</sup> OJ C 54 of 19.2.2011, p. 37, op. cit.

3.4 The Committee proposes moving on from the current system of self-regulation, also at international level. The process of coordinating the various competent authorities needs to be pursued, with strict rules to apply to all devised and the certainty that they will be enforced. The EU should make every effort to achieve this objective in international bodies <sup>(12)</sup>.

3.5 The Committee welcomes legislative initiatives to bolster financial market regulation and transparency, including better supervision of credit rating agencies, corporate governance and directors' pay and remuneration policies <sup>(13)</sup>.

3.6 The Committee welcomes the proposal for a Regulation on Short Selling and certain aspects of Credit Default Swaps, which will help eliminate conflicting regimes and bring clarity to this area of the financial markets <sup>(14)</sup>.

3.7 Given the role played by rating agencies in the recent crisis on the securities and financial markets, the Committee welcomes the fact that a three-phase programme has been put in place to regulate the role which these agencies play on behalf of investors and consumers. The EESC welcomes the inclusion of sovereign debt in the public consultation underway <sup>(15)</sup>.

3.8 The Committee would propose the regular publication of a state aid monitoring report to provide a detailed picture of progress in implementing measures and quantify the fall-out on markets, with a view to preparing a plan for maximising industrial sector potential by strengthening companies, especially SMEs, and related employment levels, necessary for EU economic recovery <sup>(16)</sup>.

3.9 The Committee is of the view that taxpayers' money should not be used again to cover bank losses and supports in principle the establishment of a harmonised network of national ex-ante bank resolution funds (BRF) linked to a set of coordinated national crisis management arrangements. However, in order to establish a workable bank resolution funds scheme, Member States should preferably agree beforehand on the adoption of common methods and uniform rules in order to avoid distortions of competition.

<sup>(12)</sup> OJ C 54 of 19.2.2011, p. 37, op. cit.

<sup>(13)</sup> See EESC opinion *After the crisis: a new financial system for the internal market*, OJ C 48 of 15.2.2011, p. 38.

<sup>(14)</sup> See EESC opinion on the *Proposal for a Regulation of the European Parliament and of the Council on Short Selling and certain aspects of Credit Default Swaps*, OJ C 84 of 17.3.2011, p. 34.

<sup>(15)</sup> OJ C 54 of 19.2.2011, p. 37, op. cit.

<sup>(16)</sup> See EESC opinion on the *Report from the Commission – Report on Competition Policy 2009*, OJ C 84 of 17.3.2011, p. 7.

3.10 It could be an efficient part of a European financial policy to keep some bank capital public to provide insight into the banking sector <sup>(17)</sup>.

#### 4. Making work more attractive

4.1 In the view of the Committee, action is needed to make transitions pay and improve access to employment, especially for some specific groups with problems. This should be achieved by increasing job opportunities, by reducing disincentives to work, improving the structure of tax and benefits to make work pay, including the tax burden on second earners and by ensuring access to services necessary to enable participation. For those who cannot work, adequate income support and access to Services of General Interest must be provided <sup>(18)</sup>.

4.2 The Committee supports broad access to high-quality childcare as an opportunity to increase the quality of life and help reconcile working, private and family life, in addition to strengthening the labour market participation of women and generating a higher income for the family <sup>(19)</sup>.

4.3 Eurostat should focus more on undeclared work both in specific national situations, requiring action by Member States, and in criminal networks with links to illegal immigration, which could justify greater judicial cooperation and an increased role for the EU, especially as regards impact on the internal market and competition. Action should be taken at EU level to encourage the social partners in Member States to launch national and sectoral projects among themselves and in cooperation with the authorities in order to combat undeclared work and reduce the informal economy. The social partners could also work together at EU level to analyse and publicise good practices in Member States. The fight against undeclared work calls for effective cross-border cooperation and surveillance by Member State authorities and dissemination of information on the sanctions arising <sup>(20)</sup>.

4.4 It is important not only to coordinate labour tax and social contribution structures within the EU but also to factor into the analysis aspects regarding trade between the Union and the rest of the world <sup>(21)</sup>.

<sup>(17)</sup> OJ C 48 of 15.2.2011, p. 57, op. cit.

<sup>(18)</sup> See EESC opinion on *Social inclusion*, OJ C 128 of 18.5.2010, p. 10.

<sup>(19)</sup> See EESC opinion on *Early childhood care and education*, OJ C 339 of 14.12.2010, p. 1.

<sup>(20)</sup> See EESC opinion on the *Green Paper – Modernising labour law to meet the challenges of the 21st century*, OJ C 175, 27.7.2007, p. 65.

<sup>(21)</sup> See EESC opinion on the *Impact of the territoriality of tax law on industrial change*, OJ C 120 of 16.5.2008, p. 51.

## 5. Reforming pensions systems

5.1 The Committee is of the opinion that projections on demographics should be analysed and monitored on a regular basis to allow adequate and timely adjustments of pension systems to new conditions. However, these projections, including future public expenditure on pensions, must be used and viewed with care, as they may include many assumptions hard to predict in the long term <sup>(22)</sup>.

5.2 Automatic adjustment mechanisms for retirement age, based either on longer life expectancy or demographic change, are not supported by the Committee. Most of these mechanisms automatically increase retirement age in correlation with extended life expectancy and other economic or labour market parameters. Such fundamental decisions on living conditions should be taken by parliaments, not computers, after a broad public debate, including social partners and other important stakeholders. In addition, any Member State introducing this mechanism should take into account the fact that although it reduces public pressure against reforms, in the absence of real job opportunities for older workers it could shift financial support for these workers to other social security pillars. Thus, implementing bluntly this mechanism to make pensions adequate and sustainable would fail to deliver the promised benefits. Increasing the effective retirement age should not be a stand-alone measure but should also be flanked by measures to improve employment opportunities for people close to retirement <sup>(23)</sup>.

5.3 The Committee supports promoting the employment of older workers but believes that discouraging early retirement schemes is something that requires in-depth discussion on conditions, scope, political flanking measures, etc., so as not to create social problems for elderly people in particular <sup>(24)</sup>.

5.4 The Committee doubts that a mere rise in legal retirement age can solve the problems connected with demographic challenges. On the contrary, it believes that this could push millions of elderly people below the poverty line, particularly women. What is needed is to increase the effective retirement age using initiatives to foster extended working life, flanked by effective growth and employment policies. Only a real 'active ageing' policy, aimed at increased participation in training and lifelong learning, can sustainably boost employment rates for older people, who give up work early due to health problems, the intensity of work, early dismissals, and lack of opportunities for training or re-entering the labour market. In addition, experience from some Member States shows that a rise in legal retirement age can increase pressure on other pillars of social security, such as invalidity pensions or minimum income, making the progress

towards healthier public finances fake. Alongside lifelong vocational learning, active labour market measures, financial incentives to continue in employment, including for self-employed workers, and changing corporate attitudes to older employees, the following measures must also be promoted to offer new choices to older workers:

- amending legislation which, in some Member States, does not allow salaries and pensions to be combined for pensioners or beneficiaries of invalidity pensions who wish to work;
- introducing a bonus system to encourage workers to continue working beyond the legal age of retirement: benefits accrued after reaching retirement age should be more attractive than those acquired previously;
- encouraging the Member States to work with the social partners on the issue of onerous employment;
- offering comprehensive advice and support for jobseekers and rehabilitation measures for long-term reintegration into the labour market;
- implementing socially acceptable incentives for later retirement and, where desirable, development of attractive models for a flexible transition from work to retirement;
- measures alleviating the physical and mental burden of work enabling employees to remain longer in employment;
- encouraging older workers to upgrade their skills;
- awareness-raising among older workers and companies, especially SMEs, about innovative staff management and organisation of work favourable to older workers <sup>(25)</sup>.

5.5 The EESC believes that Pay-As-You-Go mandatory schemes must continue to play a fundamental role in assuring future pensions and therefore special attention should be devoted to them in order to reverse the observed tendency in many EU countries towards decreased replacement ratios <sup>(26)</sup>.

<sup>(22)</sup> See EESC opinion on the *Green Paper – Towards adequate, sustainable and safe European pension systems*, OJ C 84 of 17.3.2011, p. 38.

<sup>(23)</sup> OJ C 84 of 17.3.2011, p. 38, op. cit.

<sup>(24)</sup> OJ C 128, 18.5.2010, p. 10, op. cit.

<sup>(25)</sup> OJ C 84 of 17.3.2011, p. 38, op. cit.

<sup>(26)</sup> OJ C 84 of 17.3.2011, p. 38, op. cit.



5.6 The Committee notes the possibility of additional individual voluntary private pension schemes, functioning alongside the current pension systems. In this context, the possibility of European guarantees could be studied in order to benefit cross-border workers. Since future pensions are determined by individuals' income and life expectancy, which penalises women in particular, special attention should be paid to the private pension schemes established in some countries to reduce the risk of poverty among elderly women <sup>(27)</sup>.

5.7 The Committee asks the Commission to review the Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision to ensure that:

- employees and union representatives are consulted about pension investments and the associated risks and that their views are respected;
- Member States use best practice to ensure that company pensions acquired by employees are shielded from bankruptcy <sup>(28)</sup>.

5.8 Monitoring the general level of pension system liabilities is fundamental. The current European framework could be supplemented by monitoring and reporting on implicit pension liabilities using an approved methodology. Consideration could be given to revising Stability and Growth Pact rules to ensure that the outcome of reforms (including the shift from fully Pay-As-You-Go to partially funded pension systems) leading to changes in the financing of pension systems, which increase explicit and reduce implicit liabilities, are reflected appropriately. If this were done, such reforms, aimed at resolving long-term sustainability challenges, would not be penalised in the short term due to higher explicit public debt. However, promoting today effective reforms on the basis of 2060 projections may lead to missing the target of adequacy and sustainability of pensions. The Committee recommends supplementing mandatory Pay-As-You-Go pension systems with buffer funds on a case-by-case basis in order to avoid risks of rapid adjustments for the most vulnerable <sup>(29)</sup>.

<sup>(27)</sup> CESE 72/2011, op. cit., and see EESC opinion on *The roadmap for equality between women and men (2006-2010) and follow-up strategy*, OJ C 354, 28.12.2010, p. 1.

<sup>(28)</sup> See EESC opinion on *The impact of private equity, hedge and sovereign funds on industrial change in Europe*, OJ C 128, 18.5.2010, p. 56.

<sup>(29)</sup> Op. cit. CESE OJ C 84 of 17.3.2011, p. 38.

## 6. Getting the unemployed back to work

6.1 In the view of the Committee, 'activating' people to seek work should be achieved chiefly by providing an efficient service through job centres and less by supposed 'incentives' via unemployment benefits. Under the shadow of the crisis especially, the Committee sees no need for tightening the rules for unemployment insurance. With the current record levels of unemployed, the labour market problem is not one of insufficient labour supply generally but rather the lack of skilled workers in some Member States and the huge shortage in available employment. More consideration must be given to developing an intelligent supply policy that promotes growth and innovation and helps to create more jobs <sup>(30)</sup>.

6.2 Social welfare benefits must be regarded as a productive investment that benefits everyone. Unemployment benefits associated with dynamic labour market policies can stabilise the economy and promote active adaptation to change thanks to the improvement of skills and effective initiatives on job-seeking and retraining. It is advisable to remain cautious about measures which aim to tighten eligibility criteria. The risk is that persons who are excluded will be further marginalised, which represents a major obstacle to finding a/another job. Such weeding-out policies may have a perverse effect of displacing people to other welfare sectors, such as social assistance or work incapacity, which is undesirable <sup>(31)</sup>.

6.3 Work is not necessarily a safeguard against poverty, therefore job creation should be concentrated on the provision of more secure and adequately paid employment. It is essential to enhance work attractiveness and make work pay for all, including disadvantaged people, i.e. to find a way to ensure an effective balance between tax and benefit systems <sup>(32)</sup>.

6.4 The scope of the European Globalisation Adjustment Fund was rightly extended to help workers made redundant as a result of the current international economic crisis <sup>(33)</sup>.

<sup>(30)</sup> See EESC opinion on the *Proposal for a Council Decision on guidelines for the employment policies of the Member States – Part II of the Europe 2020 Integrated Guidelines*, OJ C 21, 21.1.2011, p. 66.

<sup>(31)</sup> See EESC opinion on *Development of social welfare benefits*, OJ C 44, 11.2.2011, p. 28 CESE 977/2010.

<sup>(32)</sup> See EESC opinion on *Work and poverty: towards the necessary holistic approach*, OJ C 318, 23.12.2009, p. 52.

<sup>(33)</sup> See EESC opinion on the *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1927/2006 on establishing the European Globalisation Adjustment Fund*, OJ C 228, 22.9.2009, p. 103.

6.5 The Committee supported the efforts made at the Prague Employment Summit for action at national and European levels based on social dialogue, job creation and measures to boost demand <sup>(34)</sup>.

6.6 The Committee has stressed the importance of promoting entrepreneurial activity and an entrepreneurial mindset if the economic growth needed to successfully maintain Europe's social model is to be fostered. A distinction should be made between real entrepreneurship and economically dependent self-employed work. In many cases the switch to economically dependent self-employed work is not strictly a voluntary choice, but rather one that has been imposed by external factors such as outsourcing of production or the company restructuring, with the resulting layoffs <sup>(35)</sup>.

6.7 Social protection systems have not only helped to shield Europeans from the most severe effects of the financial crisis but have also played a counter-cyclical role in stabilising the economy. In the absence of ambitious convergence policies, these systems could be jeopardised by, in particular, competition practices developed by certain Member States which use a fall in social expenditure as a lever to attract foreign investment. This process, which is already a reality in the areas of taxation and pay levels, is tending to expand into the field of social matters <sup>(36)</sup>.

6.8 The Committee welcomed that many EU countries at the beginning of the present jobs crisis implemented publicly subsidised active employment policy instruments, enabling employees to be kept on and engage in further training instead of being laid off. Arrangements enabling companies to keep employees on during the crisis, combined with solid income support for employees whose hours are cut, are a much smarter way of getting to grips with the crisis than simply laying off skilled employees as soon as orders fall off, as it ensures that sufficiently skilled workers are available once the economy recovers. Such arrangements should be extended to EU countries where they are currently lacking and to employees on non-standard employment contracts <sup>(37)</sup>.

<sup>(34)</sup> See EESC opinion on *The impact of the global crisis on the main European manufacturing and services sectors*, OJ C 318, 23.12.2009, p. 43.

<sup>(35)</sup> See EESC opinion on the *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions Implementing the Community Lisbon Programme: Fostering entrepreneurial mindsets through education and learning*, OJ C 309, 16.12.2006, p. 110; and EESC opinion on *New trends in self-employed work: the specific case of economically dependent self-employed*, OJ C 18, 19.1.2011 p. 44.

<sup>(36)</sup> OJ C 44, 11.2.2011, p. 28, op. cit.

<sup>(37)</sup> OJ C 306, 16.12.2009, p. 70, op. cit.

## 7. Balancing security and flexibility

7.1 Flexicurity should not be understood as measures to facilitate the dismissal of workers currently in employment or to undermine social protection, either in general or for the unemployed in particular. Measures enhancing the security side of flexicurity must currently be the top priority <sup>(38)</sup>.

7.2 The use of short-term work arrangements shows that in most countries there is sufficient flexibility on labour markets to enable companies to respond quickly when orders dry up. Calls for the watering down of existing labour protection rules are unfounded <sup>(39)</sup>.

7.3 Labour market changes have led to an increasing share of part-time and fixed-term work. These types of employment may have helped to ease entry into employment and increase employment rates in Europe. But workers in temporary employment tend to be less productive, receive less employer-supported training and are more prone to work-related accidents. They also risk getting stuck in temporary employment. New risks should be taken into account and transitions should be rewarded in the implementation of flexicurity, but permanent job contracts should not be systematically abolished. The European social partners have called for adequate security for workers under all forms of contracts <sup>(40)</sup>.

7.4 Flexicurity can only work if employees are properly trained. There is a strong link between new skills and the creation of new jobs. It is in companies' full interest to invest in the continuous training of their staff. It is the employees' responsibility to continue to undergo training <sup>(41)</sup>.

7.5 An employment strategy aimed at establishing a sustainable economy could be built on knowledge and know-how that is already well-developed in the Member States. The EU needs skilled jobs and must use these strong points to its advantage. Member States should therefore invest more in their education and continuing training systems, not least in promoting science, technology and engineering. The current level of public investment in education is totally inadequate; it should be part of a coherent life-long learning strategy <sup>(42)</sup>.

<sup>(38)</sup> See EESC opinion on *How flexicurity could be used for restructuring against the backdrop of global development*, OJ C 318, 23.12.2009, p. 1.

<sup>(39)</sup> OJ C 306, 16.12.2009, p. 70, op. cit.

<sup>(40)</sup> See 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 - Towards Common Principles of Flexicurity: More and better jobs through flexibility and security*, OJ C 211, 19.8.2008, p. 48.

<sup>(41)</sup> OJ C 318, 23.12.2009, p. 1, op. cit.

<sup>(42)</sup> See EESC opinion on *The employment impact of industrial change caused by ecological, energy and climate-related challenges*, OJ C 44, 11.2.2011, p. 40.

7.6 Temporary labour market measures must ensure that short-term employment is combined with appropriate training, especially in health and safety at work, and with guaranteed pay levels <sup>(43)</sup>.

7.7 It is urgent and vital to re-orientate young people towards technological and scientific subjects at all educational and training levels, in order to avoid values associated with production being destroyed and replaced with financial and speculative values <sup>(44)</sup>.

7.8 The Committee welcomes the Commission's initiative to enhance validation of non-formal learning and better visibility of competences acquired outside the formal education system (such as through a European Skills Passport).

7.9 The EESC calls for better professional management in educational innovation. Improving the EU's education and training systems is essential to increase employability and reduce inequality. The institutional changes in education hardly keep up with the society's needs. Institutions must take account of the need for a close relationship between changes, innovation, education and training <sup>(45)</sup>.

7.10 The EESC calls for the reintegration of education and training into real life, bringing it closer to both the public needs and the habits of the new generations of learners <sup>(46)</sup>.

7.11 The Committee supports the idea of setting up sector councils on employment and skills at European level, involving stakeholders in managing sectoral changes and in anticipating new jobs and skills adapted to supply and demand <sup>(47)</sup>.

7.12 European sectoral councils could support the management of sectoral changes and help meet the goals of the 'New skills for new jobs' initiative and would be useful when decisions are taken concerning sectoral changes at European level <sup>(48)</sup>.

<sup>(43)</sup> OJ C 318, 23.12.2009, p. 43, op. cit.

<sup>(44)</sup> Op. cit. OJ C 318, 23.12.2009, p. 43, op. cit.

<sup>(45)</sup> See EESC opinion on *Matching skills to the needs of industry and services undergoing change – In what way could the establishment of sector councils on employment and skills at European level contribute to this objective?* OJ C 347, 18.12.2010, p. 1.

<sup>(46)</sup> OJ C 347, 18.12.2010, p. 1, ibid.

<sup>(47)</sup> OJ C 347, 18.12.2010, p. 1, ibid.

<sup>(48)</sup> OJ C 347, 18.12.2010, p. 1, ibid.

## 8. Tapping the potential of the Single Market

8.1 A dynamic Single Market is both a pre-requisite and a support for a successful Europe 2020 strategy. The Committee therefore urges the EU Commission and Member States to take the necessary important and decisive steps for the completion of the Single Market whilst safeguarding and further developing economic, social and environmental standards. The EESC believes that the rules relating to the professions are consumer protection rules, which ensure that the European internal market and international markets are able to function and prevent market distortions, especially those which led to the international financial crisis <sup>(49)</sup>.

8.2 It is important that the Services directive is implemented in full compliance with the spirit and rules of the Single Market. Effective and clear implementing rules are needed for the proper application and achievement of the goals of the Posting of Workers Directive, namely fair competition between enterprises, respect for the rights of workers and avoidance of social dumping <sup>(50)</sup>.

8.3 The important role played by the service sector in economic and social development must be recognised as a matter of urgency. Priorities should be established in the following order:

— *Action on Business Services Policies and a High Level Group.* A High Level Group on Business Services should be set up to undertake deeper analysis of the sector.

— *Labour Market Policies in Business Services.* From a social perspective, an in-depth examination is required at sectoral level of the challenges being created by the new types of employment generated by interactions between business services and manufacturing industry. This analysis needs to encompass education, training and life-long learning, as well as the employment conditions of workers, including those involved in outsourcing processes. To achieve this objective the agenda for social dialogue should be extended to look at the specific changes in labour conditions and job opportunities resulting from structural changes affecting the business services.

— *Business Services in Innovation Policies.* R&D and innovation programmes and actions for service innovation should be strongly promoted.

<sup>(49)</sup> See EESC opinion on *The Lisbon Agenda and the Internal Market*, OJ C 347, 18.12.2010, p. 8.

<sup>(50)</sup> OJ C 347, 18.12.2010, p. 8, ibid.

— *Business Services Standards Development.* Enterprises should be encouraged to help establish standards through self-regulation after thorough consultation with users of business services.

— *Promoting Service Science* as a new discipline in education and training.

— *The Internal Market and Regulation affecting Business Services.* No impact assessment has been carried out of the Services Directive on business services. This deserves a major effort, especially once the directive has been transposed into national legislation.

— *Further Improvements in Business Services Statistics.* Member States are urged to collaborate more in order to improve statistics on business services <sup>(51)</sup>.

8.4 Consumer protection aspirations in the internal services market must play a greater role. The palpable uncertainty regarding the legal situation in cross-border services must be countered with an information strategy at national and EU level. The desire for accurate information on the service and the provider must not be underestimated <sup>(52)</sup>.

8.5 As regards the retail industry, it is important that commercial success is not penalised, except when practices are involved which are incompatible with the completion of the internal market, in particular the existence of clear evidence of abuse of market power or harm to consumers in contravention of Article 81 of the EU Treaty <sup>(53)</sup>.

8.6 As regards the a European framework for intellectual property, the Committee supports the establishment of an EU Counterfeiting and Illegal Copies Observatory, which would collate and disseminate useful information on how counterfeiters operate and offer support specifically geared to SMEs and SMIs. The Commission should regularly publish a report on the data collected by the Observatory and its activities <sup>(54)</sup>.

<sup>(51)</sup> See EESC opinion on *Developments in the business service sector in Europe*, OJ C 27, 3.2.2009, p. 26.

<sup>(52)</sup> See EESC opinion on *The internal market in services – requirements as regards the labour market and consumer protection*, OJ C 175, 27.7.2007, p. 14.

<sup>(53)</sup> See EESC opinion on *Developments in the retail industry and impact on suppliers and consumers*, OJ C 175, 28.7.2009, p. 57.

<sup>(54)</sup> See EESC opinion on the *Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee. Enhancing the enforcement of intellectual property rights in the internal market*, OJ C 18, 19.1.2011, p. 105.

8.7 The Committee rejects the idea of any special set of rules of the kind introduced into the legislation of some Member States for the exercise of copyright on the internet, and which may infringe the individual's privacy. Instead, it advocates active education and training measures for consumers, especially young people <sup>(55)</sup>.

8.8 The Committee advocates, essentially for orphan works, a harmonised system for the registration of copyright and related rights, to be updated periodically so that rights holders can easily be found. This system could detail the character and title of the work, as well as the various rights holders. It calls on the Commission to look into the feasibility of such an idea <sup>(56)</sup>.

8.9 The Committee reiterates its request that the European Union Patent be created and properly implemented in all Member States <sup>(57)</sup>.

8.10 The global dimension to the Internal Market requires further joint efforts. A suitable EU Action Plan should be aimed at:

— developing the EU's external policies and the external aspects of its other policies in accordance with a structural logic, strengthening their overall coherence and increasing the unity with which Member States act;

— ensuring a balanced opening of markets including the respect of the ILO core labour standards through the conclusion of the Doha round and structured dialogue with its key partners;

— enhancing its role as an international regulatory power and pursuing an international policy based on the promotion of rights;

— safeguarding the interest of workers, consumers and local producers in trading partner markets;

— strengthening the international dimension of the euro;

— adopting the goal of building a wide area of special development and economic growth, involving the rapid completion of the enlargement of the Union, the Neighbourhood Policy, the Mediterranean Union, and a stronger partnership with Africa <sup>(58)</sup>.

<sup>(55)</sup> OJ C 18, 19.1.2011, p. 105, *ibid.*

<sup>(56)</sup> OJ C 18, 19.1.2011, p. 105, *ibid.*

<sup>(57)</sup> OJ C 18, 19.1.2011, p. 105, *op. cit.*

<sup>(58)</sup> OJ C 347, 18.12.2010, p. 8, *op. cit.*, and EESC opinion on *The external dimension of the renewed Lisbon strategy*, OJ C 128, 18.5.2010, p. 41.

8.11 There are still impediments to the development of digital delivery that should be thoroughly investigated and solutions found so that European business service firms can be more aggressive and expand more outside EU borders. Such impediments include the lack of standards and interoperability, trust and security in e-commerce, the lack of investment in fixed and mobile broadband infrastructure and the still too low uptake of ICT by SMEs <sup>(59)</sup>.

8.12 Major barriers to e-inclusion must be addressed, by high-speed internet connectivity, ICT skills and development of products or services suitable to the needs of an ageing society and people with disabilities, funding for better coordinated ICT innovation, support for ICT products and services based on open standards, the Galileo programme in the Digital Agenda, and the development and availability of useful online content and services, with privacy guaranteed and personal data safely stored <sup>(60)</sup>.

8.13 Member States must develop powerful national R&D-programmes of their own in the fields of ICT and on FET, in order to become strong partners for European and for international cooperation. A larger part of the structural funds should be invested for this purpose <sup>(61)</sup>.

8.14 Regarding SMEs, the Committee reiterates its proposals for an ambitious European Small Business Act, including:

— a binding legal instrument to govern application of the *Think small first* principle, ensuring, by way of maximum compulsion, the effective, practical implementation of these governance principles, at EU level and in the Member States and regions;

— a *roadmap* accompanied by a precise timetable and suitable means for implementing specific, large-scale SBAE initiatives;

<sup>(59)</sup> See EESC opinion on *Services and European manufacturing industries: Interactions and impacts on employment, competitiveness and productivity*, OJ C 318, 23.12.2006, p. 26.

<sup>(60)</sup> See 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 - A Digital Agenda for Europe*, OJ C 54, 19.2.2011, p. 58.

<sup>(61)</sup> See 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 - Moving the ICT frontiers – a strategy for research on future and emerging technologies in Europe*, OJ C 255, 22.9.2010, p. 54.

— clear commitments on reducing red tape, particularly as regards the *once only* principle for all administrative formalities;

— reorganisation of the Commission's services to provide SMEs with a genuine partner and instruments to promote the *Europeanisation* of companies;

— European tools to act as a lever to promote capitalisation, networking, investment and life-long learning in SMEs;

— a coherent policy framework across all EU policies so that SMEs are considered the rule rather than the exception;

— national interpretation of the SBAE's objectives, including by means of legislation; and

— a return to the practice of permanent consultation of intermediary organisations and the social partners <sup>(62)</sup>.

8.15 The Committee calls for the introduction of a common consolidated corporate tax base (CCCTB) <sup>(63)</sup> in a bid to simplify and render more equitable and transparent tax practices across the Member States. It is also important to consider extending cooperation and coordination on corporation tax <sup>(64)</sup>.

8.16 The Committee highlights the need for a simple, harmonised indirect taxation system, reducing the administrative burden and bringing patent benefits for businesses and individuals, guaranteeing fair taxation and certain revenue for public finances, reducing the risks of tax fraud, and contributing to the development and completion of the internal market <sup>(65)</sup>.

<sup>(62)</sup> See EESC opinion on the *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - 'Think Small First': A 'Small Business Act for Europe'*, OJ C 182, 4.8.2009, p. 30.

<sup>(63)</sup> See the recent Commission Communication on *Implementing the Community Programme for improved growth and employment and the enhanced competitiveness of EU business: Further Progress during 2006 and next steps towards a proposal on the Common Consolidated Corporate Tax Base (CCCTB)* (COM(2007) 223 final, 2.5.2007).

<sup>(64)</sup> OJ C 120, 16.8.2008, p. 51, op. cit.

<sup>(65)</sup> See EESC opinion on the *Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax, with regard to the duration of the obligation to respect a minimum standard rate*, OJ C 51 of 17.2.2011, p. 67.

8.17 As regards VAT fraud, resistance to change is having detrimental effects on Member States' and the EU's finances; particular interests are taking precedence over the common good <sup>(66)</sup>.

## 9. Attracting private capital to finance growth

9.1 The Commission's proposals to attract greater levels of private capital to finance growth are somewhat tentative. At a time when most Member States' public finances are either severely constrained or being cut back, the need to find alternative sources of finance to stimulate growth should be given a much greater priority. The proposal to introduce EU project bonds will help with some important infrastructural investments but there should also be a more systematic effort to mobilise European pension fund investment. This could be achieved by encouraging member states to incentivise their pension funds to invest in and to co-finance national infrastructures.

9.2 By allowing the EIB to issue Eurobonds, or rather EU-bonds covering all 27 Member States, new capital could be raised for the public sector without total reliance of the private financial sector. Financial resources should be found upstream, for instance from Institutions of Occupational Retirement Provision (IORP) so that the EIB becomes an interface between these capital resources and its investments. Eurobonds are also possible instruments for long-term private savings. The Committee welcomes the rapid introduction of project bonds, but this must not be an alternative to or substitute for the creation of Eurobonds <sup>(67)</sup>.

9.3 Concerning financing structures for SMEs in the context of the current financial situation, the proposal to liberalise venture capital funds to enable them to operate across the Union is welcome but long overdue. Consideration should also be given to finding ways of increasing the supply of venture funding as the European market enlarges. For example the establishment of regional mini-platforms coordinated by a European Network would create a new tool that may be used to raise new capital for small companies. This would encourage further venture capital and business angel financing. It would also help small venture capitalists to assist small businesses <sup>(68)</sup>.

9.4 There is an acknowledged market failure in the provision of early-stage capital for technology spin outs and start-ups. In

an effort to correct this through initiatives such as business angels and seed capital funds have helped them but research centres and universities across Europe still struggle to transfer knowledge to the marketplace. The demand for such early-stage capital is growing but the supply remains fairly static. Greater effort should be made to incentivise capital rich individuals and institutions to contribute greater levels of risk finance for technology start-ups and for prototype activity.

9.5 Practical methods for assisting SMEs such as mediation, tax breaks, prompt payments and measures that facilitate the quick dispersal of funds through state aid exemptions are to be encouraged in particular for those sectors that are most exposed to globalisation and the ongoing effects of the economic and financial crisis <sup>(69)</sup>.

## 10. Creating cost-effective access to energy

10.1 The measures contained in the Third Energy Package must be implemented in order to establish a real energy market based on cooperation between States, better interlinking of networks and operators and greater powers for national regulators <sup>(70)</sup>.

10.2 Energy efficiency is the precursor to the technological leap which will allow the transition to a low carbon economy. Progress has been achieved but Member States must do more to develop renewables in their investment plans, to ensure that the private sector firms operating on energy efficiency products and services are given the right stable framework of regulation and incentives <sup>(71)</sup>.

10.3 The Committee has submitted to the Energy Council of 4 February 2011 a proposal to establish energy efficiency objectives for specific key sectors such as transport and the construction industry, including measures such as:

- internalising the external costs of all forms of energy so that the market turns naturally to those forms that produce the lowest carbon dioxide emissions;
- boosting information and training for new energy-efficiency technologies, e.g. in the construction sector, public works and transport;

<sup>(66)</sup> See EESC opinion on the Proposal for a Council Regulation on administrative cooperation and combating fraud in the field of value added tax, OJ C 347, 18.12.2010, p. 73.

<sup>(67)</sup> Op. cit. OJ C 48, 15.2.2011, p. 57.

<sup>(68)</sup> See EESC opinion on Financing structures for SMEs in the context of the current financial situation, OJ C 48, 15.2.2011, p. 33.

<sup>(69)</sup> See EESC opinion on How to support SMEs in adapting to global market changes, OJ C 255, 22.9.2010, p. 24.

<sup>(70)</sup> See EESC opinion on Energy poverty in the context of liberalisation and the economic crisis, OJ C 44, 11.2.2011, p. 53.

<sup>(71)</sup> See EESC opinion on Energy Strategy for 2011-2020, OJ C 54, 19.2.2011, p. 1.

— using the potential offered by ICTs more effectively so that energy efficiency is enhanced at every level of production and consumption.

10.4 The Committee recalls that buildings, accounting for 40 % of final energy demand in the European Union, represent the single largest consumer of energy. As much as half the potential for gains in energy efficiency can be secured in the built environment and at negative economic cost. Such savings could by themselves achieve the EU's commitments under the Kyoto Protocol. Moreover, these energy savings can be achieved using technologies that already exist today. Furthermore, raising the energy performance of buildings has only positive effects, creating useful employment, reducing running costs, increased comfort and a cleaner environment. This should be an absolute priority for the European Union. The Committee equally recognises the importance of new and further developed basic materials in domestic and office appliances as well as other sectors such as energy or transport <sup>(72)</sup>.

10.5 The energy-intensive industries must indeed contribute towards energy and climate policy aims. Energy and environment policy instruments must be carefully examined and designed in terms of the extent to which they impact on the competitiveness of these industries <sup>(73)</sup>.

10.6 The excellent environmental performance of many glass and ceramic products (insulation materials, double-glazed windows, etc.) should be promoted as an energy-saving benchmark for the EU construction industry. Furthermore, this technology should be included in any envisaged transfer of technology to those non-EU countries with high energy-saving potential <sup>(74)</sup>.

10.7 The Committee proposes to examine whether, given the current crisis and the need to adopt a sustainable approach, the current regulations (in the areas of telecommunications, postal services, electricity) are sufficient to prevent a reduction in the quality of services provided and the emergence of phenomena such as exclusion, social fragmentation and poverty. Equally, it would be useful to establish whether new areas should be subject to 'a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights' defined as Community principles by Protocol No 26 annexed to the Lisbon Treaty <sup>(75)</sup>.

<sup>(72)</sup> See EESC opinion on the *Impact of the ongoing development of energy markets on industrial value chains in Europe* OJ C 77, 31.3.2009, p. 88.

<sup>(73)</sup> OJ C 77, 31.3.2009, p. 88, *ibid.*

<sup>(74)</sup> See EESC opinion on *The competitiveness of the European glass and ceramics industry, with particular reference to the EU climate and energy package*, OJ C 317, 23.12.2009, p. 7.

<sup>(75)</sup> See EESC opinion on *What services of general interest do we need to combat the crisis?* OJ C 48, 15.2.2011, p. 77.

10.8 Studies should be carried on the feasibility of a European energy SGI which could be harnessed for the common energy policy. Caught between national disparities and the common need to build a European single market, the European institutions and the national governments or the Member States are, however, struggling to get to grips with the idea of Community services of general interest (whether economic or otherwise). The idea of establishing European energy services has, for example, not found favour with political decision-makers. Nonetheless, Community SGIs are necessary for the continued process of European integration. Services of this kind will be an expression of European solidarity and a response to the challenges which will face the Union. A 'Single European Grid' has to be established as well as joint projects and structures to plan and manage it. The grid will need to be capable of smart management and operation at all levels so as to optimise the matching of supply and demand <sup>(76)</sup>.

10.9 The energy-intensive industries require secure energy supplies, drawn from an appropriate European energy mix, which should not exclude any energy source (coal, renewable energy nuclear energy) and be based upon efficient competition on the electricity and gas markets ultimately resulting in reasonable prices of energy supplies. The interests of national energy policies should be more strongly embedded in an integrated European concept, because so far the energy market has not kept pace with the single market for industrial goods. Although some Member States have decided not to use nuclear energy, maintaining electricity generation based on fission in the EU would also mean keeping the know-how on this technology in Europe. Of course, continuing the nuclear option would require a high safety level and well-trained employees <sup>(77)</sup>.

10.10 In terms of the development of EU-wide standards for energy efficient products, the Committee points to Commission initiatives such as the Energy Star Regulation, the standards of which have become compulsory for public procurement for office equipment, the harmonised standards for the energy consumption of buildings and the increased powers of the national regulators in the area of energy efficiency. It considers voluntary agreements with national energy operators as useful, but it should be clear from any agreements approved that failure to meet the targets will result in the imposition of compulsory standards <sup>(78)</sup>.

<sup>(76)</sup> See EESC opinion on *Services of general economic interest: how should responsibilities be divided up between the EU and the Member States?* OJ C 128, 18.5.2010, p. 65.

<sup>(77)</sup> OJ C 77, 31.3.2009, p. 88, *op. cit.*

<sup>(78)</sup> See EESC opinion on the *Communication from the Commission to the Council and the European Parliament on a first assessment of national energy efficiency action plans as required by Directive 2006/32/EC on energy end-use efficiency and energy services - Moving forward together on energy efficiency*, OJ C 77, 31.3.2009, p. 54.

10.11 In the same context, the Committee considers it essential to carefully assess the impacts of high energy prices on poorer households and vulnerable people and shape EU and member state policies accordingly. Such households should be priority candidates for assistance with installing energy efficiency measures <sup>(79)</sup>.

10.12 The EESC supports the action taken to bring about effective co-modality and optimisation and the inclusion of different modes of transport in one network to establish an integrated transport system and ensure maximum transport fluidity <sup>(80)</sup>.

10.13 The EESC notes the transport sector's dependence on fossil fuels, with the consequences that this has as regards emissions and security and independence of supply, and is well aware that resources, particularly oil, are limited; it therefore considers that future European transport policy, while maintaining the sector's competitiveness as part of the strategy for 2020, must pursue four main objectives: the promotion of low-carbon modes of transport, energy efficiency, security and independence of supply and the reduction of traffic congestion <sup>(81)</sup>.

10.14 The main challenges to be faced and the issues to be integrated into a sustainable transport policy are (i) growing urbanisation and the demand for comfort in daily journeys, (ii) the preservation of public health, which means reducing emissions of pollutants and greenhouse gases, (iii) maintaining a trading economy that incorporates the need to reduce emissions, (iv) defining homogenous territories so as to build a real integrated transport policy and (v) getting stakeholders in the economy and the general public on board so that they contribute towards implementing new policies and new types of behaviour in the field of mobility <sup>(82)</sup>.

10.15 The Committee has also supported EU initiatives for clean and energy efficient vehicles and recommended further actions. It stresses there is keen competition between the industry players in the motor industry, battery industry and energy supply industry to develop the best technologies at the keenest prices. This competition is itself a powerful driver for innovation and should not be inhibited, but market incentives are needed to move decisively towards the next generation of plug in hybrids and all-electric vehicles <sup>(83)</sup>.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(79)</sup> OJ C 54, 19.2.2011, p. 1, op. cit.

<sup>(80)</sup> See EESC opinion on *European transport policy in the framework of the post-2010 Lisbon Strategy and the Sustainable Development Strategy*, OJ C 354, 28.12.2010, p. 23.

<sup>(81)</sup> OJ C 354, 28.12.2010, p. 23, *ibid.*

<sup>(82)</sup> OJ C 354, 28.12.2010, p. 23, *ibid.*

<sup>(83)</sup> See EESC opinion *Toward the wider uptake of electric vehicles*, OJ C 44, 11.2.2011, p. 47.



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Europe 2020 Flagship Initiative - Innovation Union’**

COM(2010) 546 final

(2011/C 132/07)

Rapporteur: **Gerd WOLF**

Co-rapporteur: **Erik SVENSSON**

On 6 October 2010, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Europe 2020 Flagship Initiative - Innovation Union*

COM(2010) 546 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 4 March 2011.

At its 470th plenary session, held on 15/16 March (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 184 votes to one with two abstentions.

## 1. Summary

1.1 Innovations lead to progress, growth, prosperity, social security, international competitiveness and employment. They must help us to overcome the great challenges facing society. They require and reinforce a social climate of confidence and self-belief that can generate further progress and a constructive dynamic with which to take on global competition. To flourish, they need a European approach and a European single market, in which the European Research Area with a powerful R&D Framework Programme plays a key role.

1.2 Accordingly, the Committee expressly welcomes and supports the Commission’s Communication and its aims, as well as the related Conclusions of the Competitiveness Council of 25-26 November 2010 and 4 February 2011. The concept of the Innovation Union is an essential element of the Europe 2020 Strategy.

1.3 The Committee welcomes in particular the fact that innovations are understood and defined in terms of their broader ramifications – in other words, that they span not only research, technology and products, but also all human interactions and kinds of organisations, including social services, business practices and models, design, branding and services, as well as the diverse interplay between them. With respect to social innovations, the Committee is also in favour of consulting the social partners.

1.4 The Committee supports the concept of innovation partnerships if – based on well-defined governance – they are made compatible with and build on processes and instruments already

initiated, and if they are in line with streamlining and simplification of administrative procedures. It recommends gaining experience by starting with the particularly desirable Innovation Partnership on Active and Healthy Ageing. This would also serve as a good example of the combination of social and scientific/technological innovation.

1.5 The Committee recommends adapting support measures, funding, and performance criteria to – on the one hand – the more incremental innovations which respond to prevailing market forces and societal needs and – on the other – more revolutionary innovations which shape market forces and create new societal needs, but often have to overcome a difficult barren period at the beginning.

1.6 In view of the pressing need for a European Community Patent, the Committee warmly welcomes and strongly supports the recent proposal by the Commission which would make it possible to drastically reduce the cost of patents in participating Member States and to take a decisive move forward on the path to the ultimate goal of an EU Community Patent.

1.7 The Committee emphasises the important role of SMEs and micro-enterprises in the innovation process and recommends tailoring support and measures to their specific demands in particular. It furthermore recommends considering whether and how start-ups could be exempted for an appropriate period from most of the otherwise normal procedures and regulations and whether further special incentives might be introduced. The same applies to social economy enterprises.

1.8 The essential political task is to create reliable, innovation-friendly Europe-wide boundary conditions and frameworks with sufficient leeway, thus relieving potential inventors and innovation processes of the burden of the present fragmentation and overloading of regulatory frameworks and bureaucracies diversified across 27 Member States plus the Commission. The discouragement and delays that this causes in turning good, new ideas into actual innovations is one of Europe's drawbacks in global competition and must be removed as a matter of urgency. This is why we need a mindset that sees progress and innovation not as a risk, but as an opportunity and a necessity that must be advanced and achieved with all the means that society has available.

1.9 The Committee therefore recommends concentrating much more effort on removing any obstacles opposing or hindering the swift introduction of innovations and the creation of an Innovation Union. While the Committee is pleased to see the opportunity for serious progress on the patent issue, most of what remains concerns those obstacles which also prevent a completion of the Single Market and the European Research Area. Do not give up simplifying, harmonising and providing reliability and leeway! The Committee welcomes the Commission's evident efforts in this direction in its recently published Green Paper <sup>(1)</sup>, on which it will issue a separate opinion. However, the Committee also – and above all – appeals to the Member States and civil society stakeholders to embrace this task and make their contribution to the solution.

## 2. Gist of the Communication

2.1 In the framework of the Europe 2020 Strategy, the Commission proposes an overall concept called Innovation Union as one of seven flagship initiatives. In this initiative, the EU should take collective responsibility for a strategic, inclusive and business-oriented research and innovation policy in order to tackle major societal challenges, raise competitiveness and generate new jobs. This complements other flagship initiatives such as the one on industrial policy, which aims to ensure a strong, competitive, and diversified manufacturing value chain, with particular emphasis on small and medium-sized enterprises.

2.2 The various actions to be taken are outlined in a ten-point list, which includes measures in the areas of strengthening the knowledge base, getting good ideas to market, maximising social and territorial cohesion, leveraging policies externally, reforming and measuring the research and innovation systems, and installing European Innovation Partnerships.

2.3 In order to achieve these goals, the Communication puts forward a 34-point programme – the main body of the text –

outlining the obligations of the Member States and the measures planned by the Commission.

2.4 Three annexes address the following subjects and put forward the following measures:

- Features of well performing national and regional research and innovation systems
- Performance scoreboard for research and innovation
- European innovation partnerships.

## 3. General comments

3.1 **Relevance of the subject.** Innovations lead to progress, growth, social security, prosperity, international competitiveness and employment. They must help us to overcome the great challenges facing society. They require and reinforce a social climate of confidence and self-belief that can generate further progress and a constructive dynamic with which to take on global competition. The concept of the Innovation Union is therefore an essential element of the Europe 2020 Strategy, which is of key importance for Europe's future. It should also help to achieve the objective that the EU set itself in the Lisbon Strategy: '[S]pending 3 % of EU GDP on R&D by 2020 could create 3.7 million jobs and increase annual GDP by close to EUR 800 billion by 2025.' Consequently, even at a time of budget constraints, the EU and the Member States must invest more in education, R&D and innovation.

3.2 **Innovation and its ambit.** Innovation, in its full scope, refers to all social, economic, educational, scientific, technical, workplace and organisational levels, cultural aspects and activities. The enlarged concept of innovation includes product, service, technical, social and functional activities in all sectors and in all kinds of organisations, including companies, voluntary organisations, foundations and public sector organisations. Innovations are not necessarily the consequence of a linear process, but derive from the networking and interplay of various initial positions; in other words, they develop and prosper in a sound economic and social ecosystem out of a combination of different approaches and competencies.

3.3 **Council working groups on competitiveness and research.** It is therefore important that the Council working groups on competitiveness and research act together and come to a joint conclusion, in line with related policy areas such as industrial policy, education, energy and the information society, plus a strong connection with other flagship initiatives, especially those concerning education, training and employment.

<sup>(1)</sup> COM(2011) 48 final, 9.2.2011.

**3.4 Overall endorsement and support.** Accordingly, the Committee welcomes and broadly supports the Commission's Communication and its aims, as well as the related Conclusions of the Competitiveness Council of 25-26 November 2010 and 4 February 2011.

This holds in particular for:

- establishing a definition of innovation <sup>(2)</sup> that covers science and technology but also business and organisational models and processes, design solutions, brands and services;
- tackling unfavourable conditions, removing obstacles, simplifying processes, facilitating European cooperation;
- involving all relevant players and all regions in the innovation cycle;
- enlisting public procurement as an additional significant potential for innovations;
- making full use of European regional and structural funds to develop research and innovation capacities;
- making full use of the European social fund to support social innovations;
- facilitating access by SMEs and micro-enterprises to the framework programme and finance;
- promoting excellence in education and skills development;
- promoting universities towards world-class level;
- making the European Research Area a reality by 2014; promoting open, top-flight and attractive research systems;
- creating a single innovation market;
- reaching agreement on the EU Community Patent;
- overcoming the social challenges.

**3.4.1 Focus of the opinion.** The Communication is too wide-ranging for every aspect of it to be dealt with here. This

<sup>(2)</sup> COM(2009) 442 final, 2.9.2009.

opinion will therefore mainly address those points which deserve special emphasis or need further clarification. However, this should not distract from the Committee's essential endorsement of the overall objective and of many of the individual measures proposed.

**3.5 Including processes and successes to date.** The Communication contains new elements and proposals, and forges links with the different policy areas, thus aiming for a holistic and consistent policy. However, many of the status analyses and targets cover problems and objectives that have been addressed by Communications (COM), Opinions (EESC) and Council Decisions (e.g. the Ljubljana Process) for quite some time. Moreover, comprehensive measures and processes have already been initiated <sup>(3)</sup>. These should be more clearly taken into account, taken further and acknowledged so as not to diminish but rather exploit and build upon what the Commission and the other stakeholders have achieved so far. The proposed new measures and instruments should be harmonised with processes already under way, additional complications and duplications should be avoided, and the necessary continuity, legal reliability and stability respected <sup>(4)</sup>.

**3.6 Streamlining.** Consequently, the newly proposed measures, such as innovation partnerships (see point 4.4), should create added value when compared with existing measures. This means that research and innovation funding instruments need to be harmonised and streamlined (see point 3.8.2) and access to programmes simplified, while excellence is preserved as the guiding criterion. Research results should be made more accessible and more widely available, i.e. through improving the transfer of knowledge and know-how <sup>(5)</sup> (see also point 3.8.3 and footnote 12).

<sup>(3)</sup> Innovation has been covered extensively in the Aho Report (Report of the Independent Expert Group on R&D and Innovation following the Hampton Court Summit and chaired by Mr Esko Aho, January 2006, EUR 22005) and in the opinion on *Investment in Knowledge and Innovation (Lisbon Strategy)* (OJ C 256, 27.10.2007, p. 17). A coordinated approach by the Member States and partnership-based measures are the subject of the Ljubljana Process (RECH 200 COMPET 216 - 'The Ljubljana Process is an enhanced partnership between the Member States, associated countries, stakeholders and the Commission to make European research more effective.'), numerous ERA-NET initiatives (under Article 181), 'Joint Technology Initiatives', the KICs of the EIT (Knowledge and Innovation Communities of the European Institute of Innovation and Technology), 'Joint Programme Planning' and the 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 - Towards joint programming in research: Working together to tackle common challenges more effectively* (OJ C 228, 22.9.2009, p.56). The EESC opinion on *Cooperation and transfer of knowledge between research organisations, industry and SMEs – an important prerequisite for innovation* (OJ C 218, 11.9.2009, p. 8) deals with cooperation between research and industry. The EESC opinion on *Communication from the Commission to the Council and the European Parliament: A strategic European framework for international science and technology cooperation* (OJ C 306, 16.12.2009, p. 13) refers to international cooperation and its opinion on *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Simplifying the implementation of the research framework programmes* (OJ C 48, 15.2.2011, p. 129) addresses simplification.

<sup>(4)</sup> OJ C 48, 15.2.2011, p. 129.

<sup>(5)</sup> OJ C 218, 11.9.2009, p. 8 (point 1.2).

**3.7 Providing for leeway.** The ideas, concepts and discoveries forming the breeding ground for innovations are by their very definition unpredictable. This is why sufficient leeway, with stimulating and reliable boundary-conditions, is required in order for them to flourish and for innovations to emerge; freedom, development and recognition are the foundations for creativity and innovation, together with independent action, entrepreneurship and a willingness to take and accept risks. The main political task is therefore to provide an innovation-friendly economic and social eco-system, to create these Europe-wide boundary conditions and to protect potential inventors and innovation processes from an overwhelming and diversified regulatory framework and bureaucracy (see also point 3.12 and 3.13).

**3.7.1 Concentration and broad scope.** There are certain clearly definable development goals, such as solving the energy and climate problem<sup>(6)</sup>, which may require a pooling of the resources available. However, it is equally important to have a sufficiently broad economic eco-system made up of multiple approaches and any possible interplay among them. Otherwise, there is the danger of prematurely excluding those very solutions which, while being fundamentally novel and innovative, may have a potential that is not initially acknowledged even by the experts. Then we would run the risk that, instead of becoming pioneers and creating the mainstream 'fashions' ourselves, we are always lagging behind other players and losing out in global competition. This is a typical feature of centrally planned economies. Such features should therefore be avoided at all costs and, at the same time, the subsidiarity principle respected.

**3.7.2 Market forces and demands.** The usual innovation process needs orientation from the prevailing market forces and consumer demands, and it aims for their improved satisfaction. By contrast, however, it is a characteristic of really major innovations that they shape the market forces and create novel consumer demands and market areas<sup>(7)</sup>. These types of innovations need particular help during the critically initial barren period before they achieve recognition and economic breakthrough, and before they demonstrate their enormous economic impact.

**3.8 Fragmentation.** The Commission argues again that the European research and innovation landscape is fragmented. While this statement describes the situation in several important features, it is only accurate in part and should be further specified.

**3.8.1 Existing cooperation networks.** The fact is that in both the industrial and research area<sup>(8)</sup>, as well as the social

<sup>(6)</sup> OJ C 21, 21.1.2011, p. 49.

<sup>(7)</sup> Examples are the aeroplane, or the revolutionary success stories of television, radar, laser, personal computer, micro-electronics, glass-fibre cables, internet/e-mail (plus search engines, trade, etc.), digital cameras, rocket-launched satellites, GPS – all of them interwoven and fertilising one other.

<sup>(8)</sup> e.g., through the instruments for cooperation in research, point 4.6.

and the creative industries area, there have long been European – and in many cases even worldwide – links and cooperation networks<sup>(9)</sup> which are continuously fine-tuning and redefining their boundaries in the interplay between cooperation and competition. These are important processes of self-organisation by the respective stakeholders and their organisations. They should be noted, acknowledged, supported and built upon by the Commission. It is with a particular view to promoting these very kinds of important processes that the remaining obstacles to the internal market should be removed for the benefit of the European Innovation Area.

**3.8.2 Rules – simplification and harmonisation.** What should be achieved is a gradual simplification and harmonisation of the legal, administrative and financial rules<sup>(10)</sup>, both among Member States and between them and the Commission, as an important step towards completing the European Internal Market, the European Research Area and the Commission's goal of a European Innovation Area. If the current diversity, over-regulation, overlapping and complexity of these rules are what is meant by fragmentation, then the Commission has the full support of the Committee.

**3.8.3 Previous opinions.** However, fragmentation plus confusion of rules and instruments is not only present between the Member States but also inside the Commission itself. The Committee has already dedicated an opinion<sup>(11)</sup> to this very issue and reaffirms the recommendations given there. Moreover, the Committee also supported these important goals through its opinions on joint programme planning<sup>(12)</sup> by Member States, on the R&D Framework Programme, on innovation policy in a changing world<sup>(13)</sup> and on cooperation between industry/SMEs and public research<sup>(14)</sup>. The Committee recalls its recommendations on the dissemination, transfer and use of research results, and in particular on developing a specific internet search engine devoted to this goal<sup>(15)</sup>.

**3.8.4 Research infrastructure.** Costly infrastructures can also be an example of fragmentation if not used and financed by an international community. Some of these may be beyond the scope of an individual Member State in view of both the required investments and operational resources and optimum exploitation and use. The Committee fully supports the Commission's view<sup>(16)</sup> (see footnote). Therefore, adopting a Community approach in these cases would result in clear added value<sup>(17)</sup>; consequently there should be joint overall funding by the Member States and by the EU.

<sup>(9)</sup> See, for example, *Forschung und Lehre* 11/10, pp. 788–796, statement by the Deutscher Hochschulverband, November 2010.

<sup>(10)</sup> OJ C 48, 15.2.2011, p. 129 (points 3.5 and 3.7).

<sup>(11)</sup> OJ C 48, 15.2.2011, p. 129 (point 1.4).

<sup>(12)</sup> OJ C 228, 22.9.2009, p. 56.

<sup>(13)</sup> OJ C 354, 28.12.2010, p. 80.

<sup>(14)</sup> OJ C 218, 11.9.2009, p. 8.

<sup>(15)</sup> OJ C 218, 11.9.2009, p. 8 (point 3.2.4).

<sup>(16)</sup> COM(2010) 546 final, 6.10.2010.

<sup>(17)</sup> OJ C 182, 4.8.2009, p. 40.

**3.9 Community Patent.** The lack of a Community Patent is an unacceptable, costly and damaging fragmentation that needs to be overcome in order to increase the EU's competitiveness and to send a positive signal to all other areas of the Innovation Union. This Achilles heel in Europe's industrial and innovation policy has led to repeated attempts by the Commission to find an acceptable solution. The Committee therefore congratulates the Commission on its recent (14 December 2010) proposal on enhanced cooperation between participating Member States – in accordance with the EU-treaties – in order to obtain a decisive partial solution on the way towards a final Community EU Patent (to be used by all Member States). The Committee appeals to Parliament<sup>(18)</sup> and Council to adopt the proposed procedure as a decisive and significant step forward on the path to a final EU patent. The Committee agrees<sup>(19)</sup> that this is 'economically indispensable and politically acceptable'.

**3.10 Innovations regarding human interactions and organisations.** There is a great potential for innovations in the whole spectrum of human interactions and organisations. The Committee supports the Commission's objective of promoting such innovations across the entire range of their social, economic, scientific, technical, environmental, organisational and workplace levels, and cultural aspects and applications. This encompasses the latest business and organisational models and processes, private services, public services and services of general interest, education and training, media, arts and entertainment – in fact, every aspect of human activity and co-existence.

**3.10.1 Companies and workplaces – The role of employees.** Optimal ways of organising work are important competitive assets. This is why innovative workplaces improve employee performance and increase business performance. The innovativeness of a company and its employees is reflected in the ability to develop and improve product, service, social or functional concepts so that they create added value for customers. Continued learning and cumulative experience play an important part here. Employees play an important role as sources of knowledge and ideas; better use should be made of this potential. An improved permeability between the various hierarchical levels would help to communicate new ideas and proposals.

**3.10.2 Cooperation between the social partners.** On the company level the key is trust and cooperation between the

<sup>(18)</sup> The European Parliament has now adopted the European Parliament legislative resolution of 15 February 2011 on the draft Council decision authorising enhanced cooperation in the area of the creation of unitary patent protection (05538/2011 – C7-0044/2011 – 2010/0384(NLE)).

<sup>(19)</sup> Letter from President Nilsson (7 January 2011) on his conversation with Commissioner Barnier.

social partners, far-sightedness, competence, motivation, commitment, and the capacity of efficient innovation management.

**3.10.3 Services and public procurement.** The public sector can also be a driver of innovations. The Committee supports the statement by the Commission (Annex I) that the public sector provides incentives to stimulate innovations within its organisations and in the delivery of public services. This includes the service sectors (private and public) proper, but also manufacturing industries which are trying to find new competitive advantages with the help of services. The Innovation Union needs to send a clear message that the EU is determined to make use of this potential (private and public).

**3.10.4 Social innovations.** Social innovations should meet those social needs which are not adequately addressed by the market or the public sector. This is about new behaviours, interactions, institutional arrangements and networks. In social innovations, technical and non-technical applications are often combined and may be linked to strengthening producer-user interactions, development of structures and supporting methods and technology. Versatile use of technologies (e.g. ICT) allows novel cooperative, operational and management methods. The Committee welcomes the fact that the Commission intends to consult the social partners in order to examine how the knowledge economy can be spread to all occupational levels and sectors.

**3.11 The concept of 'Innovation Union'.** The Committee believes that the concept of the Innovation Union is well suited to summarising and representing the Commission's objectives outlined in its Communication. It should be implemented together with – and granted the same importance as – the existing concepts of the Internal Market and the European Research Area. The Committee therefore supports point 2.2 of the Communication without reservation and welcomes the fact that many of its subsequent recommendations are addressed there.

**3.12 Removing obstacles.** One of the main aims outlined by the Commission is to remove the obstacles to innovation on a European level. While the Committee appreciates that this is a huge and complex task closely related to further progress in completing the internal market, there is nevertheless a lack of detailed information on what the Commission's precise intentions are on this crucial issue. The Committee therefore welcomes the Commission's evident efforts in this direction as set out in its recently issued Green Paper<sup>(20)</sup>, on which it will issue a separate opinion.

<sup>(20)</sup> See footnote 1.

### 3.13 Essential political task and key recommendation.

The essential political task and key recommendation is therefore to create reliable, innovation-friendly Europe-wide boundary conditions and frameworks with sufficient leeway. This will relieve potential inventors and innovation processes of the burden they face due to the present fragmentation, regulation and overburdening of regulatory frameworks and the varied bureaucratic hurdles across 27 Member States plus the Commission. This discourages initiative and perceptibly impedes and delays the process needed to turn good, new ideas into actual innovations. This is a serious drawback for Europe in global competition that must be removed as a matter of urgency. This is why we need a mindset that sees progress and innovation not as a risk, but as an opportunity and a necessity that must be advanced and achieved with all the means that society has available. However, the Committee also appeals to the Member States and civil society stakeholders to embrace this task and make their contribution to the solution.

**3.14 Better education and recognition.** The Committee supports the Commission in its goal of seeing our education system modernised at every level. To achieve this we need more world-class universities and better qualifications. Greater understanding for science and technology professions must be effectively fostered and these must receive greater recognition.

**3.15 Tight timetable.** Given the complexity and variety of aspects covered in the Communication, the significance of the objectives under examination and the points of view expressed in this document, the timetable proposed by the Commission is rather tight. The Committee therefore recommends a way forward that draws a distinction between the urgency of fundamental goals and the development of the particular measures and instruments proposed.

## 4. Specific comments

**4.1 SMEs as leading players.** The Committee agrees with the Commission that small and medium-sized enterprises are key players in the economy and as such should particularly benefit from the innovation initiative and its support measures. However, the definition and rating of small and medium-sized enterprises should be reconsidered, since new networking opportunities enabled through ICT mean that micro-enterprises, and even one-man operations, are taking on increased significance. Perhaps thought should also be given to the dividing line between these and the liberal professions. The Committee stresses the importance of innovations in the services and workplace sector especially for the competitiveness and productivity of SMEs (see points 3.10.1 and 3.10.2).

**4.1.1 Disadvantages for SMEs.** Many of the bureaucratic hurdles to innovation mentioned above put SMEs and start-ups at a particular disadvantage vis-à-vis big businesses, with their well-resourced legal departments, offices abroad, and so on, even if these are necessarily – because of these very

attributes – less agile. It is even possible that this is one of the reasons why, for example, the EU has now forfeited market leadership in innovative ICT products<sup>(21)</sup> to the USA.

**4.2 Evaluation indicators:** The Committee has already pointed out in an earlier opinion<sup>(22)</sup> that the EU has several instruments of analysis in this sphere. In the interests of consistency, it therefore recommended ‘setting up a single “European Innovation Observatory” which would incorporate all the existing tools, but render them more consistent’. The Committee also points out that:

- many social and economic criteria include sustainability;
- the crisis has demonstrated that unduly short-term planning goals and evaluation criteria can lead to undesirable outcomes and even crisis;
- slow but constant growth often delivers the greater overall success and economic benefit;
- small start-up SMEs are often bought out or taken over by large companies when they become successful and so cease to feature in the statistics;
- major innovations often experience a rather long barren period before they achieve an economic breakthrough and demonstrate their enormous impact;
- EU Member States and regions start from different positions (e.g., climate, infrastructure, resources) when it comes to innovation and hence must be assessed according to their particular strengths and weaknesses.

**4.2.1** The Commission should therefore continue its cooperation with the OECD and develop a single but coherent package of comprehensive and balanced indicators which also take into account the views expressed above and the long-term success of innovations. The Committee believes that the ‘Features of well-performing national and regional research and innovation systems’ described by the Commission in Annex 1 are helpful in this context.

**4.3 Accessibility.** Another example of an area with great potential for innovation is the accessibility of products and services so that also people with disabilities can be fully integrated into EU society, not only as citizens but also as consumers. This is an untapped market of great economic and social potential.

<sup>(21)</sup> From Google, Apple, Facebook etc. to mobile phones.

<sup>(22)</sup> OJ C 354, 28.12.2010, p. 80 (point 3.2.2).

**4.4 Innovation partnerships.** The European Innovation Partnerships (EIPs) proposed by the Commission may offer attractive features. Meeting the societal challenges with the help of innovation partnerships may provide new opportunities, despite the uncertainties concerning their details and the reservations expressed under points 3.5 and 3.6. By using its innovation policy instruments simultaneously from both the supply as well as the demand side, and by combining research and technology push with market pull, the EU may obtain new competitive advantages. In order to realise this potential, it is important that the EU focuses on those features where the EIPs may offer added value as compared to existing measures. Therefore, innovation partnerships should not be introduced as an obligatory, universally applicable, rigid framework for action by European innovation stakeholders (including participating funding bodies at regional and national level). The voluntary principle, variable geometry, transparency and a clear form of governance which is easy to administer must be ensured. Consequently, after having defined the required governance structure, it would be advisable to start with one carefully selected innovation partnership and use the knowledge gathered in selecting the next partnership.

**4.4.1 Active and healthy ageing.** The Committee therefore recommends beginning with a particularly appropriate and desirable innovation partnership, namely that on 'Active and Healthy Ageing'. This would also serve as a good example for the broad interaction between social innovations on the one hand and scientific and technological innovations on the other. For this area, in particular, the Committee would like to underscore the importance of pre-commercialisation and public procurement for innovative services. This can play a decisive role in opening up new markets and in improving the performance and quality of public service.

**4.4.2 Water-efficient Europe.** One of the innovation partnerships proposed in Annex III of the Communication is a 'Water-Efficient Europe'. Here the Committee recommends a more flexible approach that better distinguishes between those regions within the EU where water shortages are a serious major problem and those regions where rainfall and water supply are ample and sufficient. The Committee therefore proposes a different heading, namely **Sustainable water management**.

**4.5 The 'result-oriented' approach.** The Committee points out that innovation partnerships are to be supported, according to the Commission, on the basis of results. Since the Committee has voiced its strong misgivings about the definition of this concept in its opinion on simplification of the R&D Framework Programme (points 1.8 and 4.8) <sup>(23)</sup>, it recommends clarifying what is really meant here from a procedural point of view. The Committee reiterates that for important inventions the long-term aspect and sustainability may be essential.

**4.6 Core role of the R&D Framework Programme.** The EU's R&D Framework Programmes have contributed significantly to the successes achieved so far and should be further strengthened and given greater recognition for their own intrinsic importance in the future. Leaving aside here the need for further simplification, the R&D Framework Programme offers a successful range of instruments for structuring the European Research Area that are recognised throughout the world, much used and with procedures that are understood and accepted. Therefore, the importance of the Research Framework Programme and – complementing it – the Competitiveness and Innovation Framework Programme (CIP) needs to be more clearly emphasised in relation to the Innovation Union goals. The collaborative research instruments have helped to create more efficient European consortia, and they must be maintained to ensure the necessary continuity <sup>(24)</sup>. Moreover, in view of the innovation policy discussed here, support for socio-economic research should also be strengthened.

**4.7 Core role of the European Research Area – a Single Market for Researchers.** The core role (see also point 3.11) of the European Research Area and the requirements for its completion have been addressed in numerous previous opinions. The Committee reiterates that mobility of researchers and the recognition of academic and research qualifications is a key issue, including social security, adequate salaries and pension schemes. The present situation, in particular for young scientists and researchers, is still very unsatisfactory and discouraging. Therefore, the Committee welcomes and strongly supports the Council Conclusions <sup>(25)</sup> (of 2 March 2010) on 'European researchers' mobility and careers' and on 'Realising a single market for researchers'. The EU needs an attractive and functioning single market for researchers!

**4.8 Risk Capital.** Notwithstanding positive developments on the EIT side – and in this respect, the Committee most particularly welcomes the recent creation of the Risk-Sharing Facility by the European Commission and the EIT – there is still a shortage of adequate and readily available risk capital for the start-up and initial survival of innovative companies. This applies both to the phase of setting up itself and to the barren period before their first economic success. Small- and micro-credits are also needed here to both cushion risks and make it possible to share in success.

**4.9 Clusters.** The Committee highlights once again the knock-on effect that regional, crossborder clusters and innovation hubs have on stimulating innovation. This is more than just the 'traditional' linkage of research institutes and businesses: it is also the additional, productive network that emerges between the specialist firms that have been set up. The Committee recommends that Structural Fund resources continue to be used to support this.

<sup>(23)</sup> OJ C 48, 15.2.2011, p. 129.

<sup>(24)</sup> OJ C 48, 15.2.2011, p. 129 (point 3.12).

<sup>(25)</sup> 2999. Competitiveness Council meeting, Brussels, 2 March 2010.

4.10 **Facilitating and incentivising start-ups.** The Committee wonders whether it would be feasible to draft an exemption clause for start-ups which not only frees them for an adequate period from most of the otherwise normal administrative procedures and various regulations, but also provides other incentives (such as tax breaks). This would give them a breathing space and leeway during which the economic and technical potential for success could be demonstrated. The Committee is aware that this proposal requires a delicate and nuanced assessment of risks and interests, but one that could well be worth undertaking.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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

COM(2010) 608 final

(2011/C 132/08)

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

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

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

COM(2010) 608 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2011.

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

## 1. General remarks

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

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

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

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

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

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

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

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

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

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

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

## 2. Specific comments

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

<sup>(1)</sup> COM(2010) 603 final.

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

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

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

### 2.2 *Services (4 and 43)*

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

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

#### 2.2.1 *Retail financial services (40, 41)*

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

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

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

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

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

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

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

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

<sup>(3)</sup> OJ C 221, 08.09.2005, p. 17.

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

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

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

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

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

### 2.6 *Competitiveness (19, 20 and 21)*

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

### 2.7 *Standardisation (6)*

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

## 2.8 Digital Single Market (2, 5 and 22)

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

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

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

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

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

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

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

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

## 2.11 Public procurement legislation (17)

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

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

<sup>(6)</sup> OJ C 128 of 18.05.2010, p. 103.

<sup>(7)</sup> OJ C 44, 11.02.2011, p. 90.

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

#### 2.12 *External dimension (24)*

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

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

#### 2.13 *Access to justice/Collective redress (46)*

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

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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

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

## APPENDIX

to the Opinion of the European Economic and Social Committee

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

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

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

**Reason**

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

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

**Result of the vote**

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

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

**Opinion of the European Economic and Social Committee on the 'Proposal for a directive of the European Parliament and of the Council amending Directive 2000/25/EC as regards the application of emission stages to narrow-track tractors'**

COM(2011) 1 final — 2011/0002 (COD)

(2011/C 132/09)

Rapporteur-General: **Mr BURNS**

On 2 February 2011, the Council, and, on 20 January 2011, the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Directive of the European Parliament and of the Council amending Directive 2000/25/EC as regards the application of emission stages to narrow-track tractors*

COM(2011) 1 final — 2011/0002 (COD).

On 18 January 2011 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 Burns as rapporteur-general at its 470th plenary session, held on 15-16 March 2011 (meeting of 16 March 2011), and adopted the following opinion by 147 votes with 7 abstentions.

## 1. Summary and recommendations

1.1 The European Economic and Social Committee (EESC) believes strongly that reducing harmful emissions of carbon monoxide, nitrogen oxides, hydrocarbons and particulates from engines intended for agricultural and forestry tractors is a vital step towards achieving the EU's air quality targets.

1.2 The EESC believes that legislation aiming to benefit human health and the environment must be founded on robust technical, economic and social assessments.

1.3 The EESC considers that the independent studies and the data collected by the Commission prove that it is necessary to allow additional time for the development of suitable after-treatment systems and their installation on specialised tractors that meet the requirements for farming high-quality crops, with the main focus on vineyards.

1.4 The EESC supports the proposal by the Commission that the dates given in Article 4 of Directive 2000/25/EC for the type approval and initial entry into service of Stages IIIb and IV should be delayed by three years for tractors of categories T2, C2 and T4.1

1.5 The EESC further believes that the investigations that led to the drafting of this proposal do not show with sufficient certainty that it is feasible for these tractors to comply with Stage IV.

1.6 The EESC recommends that the European Commission carry out – with sufficient lead time (recommend end of 2014) – a further investigation into the feasibility of Stage IV once

technology has developed sufficiently and, if relevant, that it propose further amendments to the requirements or timeline of Stage IV for narrow-track tractors.

1.7 The EESC recommends that any future developments in the exhaust emission legislation for NRMM and tractors be subject to joint detailed impact assessment and that legislation not be extended to other equipment types without adequate examination and possible revision.

1.8 Since any developments in the legislation on exhaust emissions from NRMM engines in Directive 97/68/EC are automatically transposed into the equivalent tractors Directive (2000/25/EC), the EESC recommends that the European Commission take into consideration the specific features of tractors in general, and of narrow-track tractors in particular, as part of any impact assessment, even though they are not included in the scope of Directive 97/68/EC.

## 2. Introduction

2.1 Directive 2000/25/EC deals with compression ignition engines ranging from 18kW to 560 kW for use in agricultural and forestry tractors. It sets limits for emissions of carbon monoxide, nitrogen oxides, hydrocarbons and particulates. The Directive sets increasingly stringent limits for the various stages, with corresponding compliance dates for the maximum levels of exhaust gases and particulates. The next stages set are IIIB (beginning 1 January 2011) and IV (beginning 1 January 2014).

2.2 The limits on exhaust emissions from agricultural and forestry tractors were amended in 2005. At the time the provisions defined for NRMM engines (Directive 97/68/EC,

amended by Directive 2004/26/EC) were transposed to agricultural tractors without any impact assessment specifically concerning the technical feasibility of those requirements. On the other hand, Article 4(8) of the Directive provided for a feasibility study to be carried out prior to Stages IIIB and IV becoming compulsory.

2.3 Specialised tractors have been developed in Europe over the last 40 years in order to guarantee mechanised operation in the specific terrain and layout characteristics of specific types of cultivation such as vineyards, orchards and similar, mainly in central/southern Europe. These operational requirements are exclusive to European cultivation and these specialised tractors are developed only for this market. The agricultural and forestry tractors used in these types of cultivation are classified by the tractors framework Directive 2003/37/EC as T2, C2 and T4.1 and generically denominated as narrow-track tractors (NTT).

2.4 In parallel with the developments in tractors, the specialised cultivation has been restructured<sup>(1)</sup> to optimise the yield and quality of the crops. This restructuring has relied on the availability of NTTs, such that today there is complete interdependence between tractors and some of the highest quality and most profitable cultivations in the EU.

2.5 The stringent requirements of Stages IIIB and IV entail fitting the engines with after-treatment systems that are very large in comparison with the size of the engine itself and whose installation is severely limited by their operating requirements. The engines used in these tractors are the same as in other kinds of tractors; the main difference is the engine compartment size available and the limitation in the overall area around the engine compartment itself.

2.6 Tractor manufacturers cannot install the engines including the after-treatment systems and at the same time continue to meet the operational requirements in terms of size and manoeuvrability that represent the fundamental design specifications for these machines.

2.7 These conclusions were confirmed by various studies carried out on behalf of the Commission suggesting either a total exemption of these tractors from Stages IIIB and IV or a delay of at least 5 years.

2.8 These tractors have sales of about 26 000 units per year and represent about 16 % of the new tractors market in the EU. Action is needed otherwise no more modern Stage IIIA-compliant tractors would be allowed onto the market. This would stop the environmental improvement they provide; it

would also expose around 80 000 people employed in agriculture to more severe safety risks, as older tractors do not have many of the new safety features available today. 3 000 jobs, all of them located in the EU, could be lost from the tractor-manufacturing industry and its components supply chain.

### 3. The proposed amendment to the Directive

3.1 The proposal would amend Directive 2000/25/EC to postpone by three years all the requirements of Stages IIIB and IV for tractors classified under categories T2, C2 and T4.1.

### 4. General comments

4.1 The EESC supports the Commission's approach along the lines of the Sixth Environmental Action Programme (COM(2001) 31 final)<sup>(2)</sup>, confirming the need to achieve air quality improvements by reducing exhaust emissions at the source, but also to draw on sound scientific knowledge and economic assessments and reliable and up-to-date data and information in defining those reductions.

4.2 The EESC supports the Commission proposal, which applies these principles for Stages IIIB and IV.

4.3 On the other hand, the EESC believes that it remains uncertain whether it will really be possible to install Stage IV engines on NTT tractors and still maintain their operational requirements. In fact, the Commission considers it important to monitor technical advancements in the industry over time, in order to track progress towards meeting the Stage IIIB and Stage IV limits.

4.4 The EESC recommends that, as part of the monitoring process suggested by the Commission, a report should be issued in advance of Stage IV becoming compulsory, demonstrating the feasibility of Stage IV for NTT tractors and proposing possible amendments to the Directive.

4.5 The EESC believes that the extension of Stages IIIB and IV from NRMM to agricultural and forestry tractors in general, and specialised tractors in particular, via the 2005 amendment to Directive 2000/25/EC, was not submitted to any impact assessment, and that it was this omission that resulted in the need for this subsequent amendment.

Brussels, 16 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

<sup>(1)</sup> Also with significant Community economic support as part of its general agricultural policy.

<sup>(2)</sup> OJ C 154 E, 29.5.2001, p. 218.



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Youth on the Move — An initiative to unleash the potential of young people to achieve smart, sustainable and inclusive growth in the European Union’**

COM(2010) 477 final

(2011/C 132/10)

Rapporteur: **Pavel TRANTINA**

Co-rapporteur: **Juan MENDOZA CASTRO**

On 15 September 2010, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Youth on the Move (An initiative to unleash the potential of young people to achieve smart, sustainable and inclusive growth in the European Union)*

COM(2010) 477 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for the Committee's work on the subject, adopted its opinion on 24 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March 2011), the European Economic and Social Committee adopted the following opinion unanimously.

## 1. Summary of recommendations

1.1 The EESC is aware of the need to focus on young people who are seriously affected by the current economic crisis. It recognises the utility of the Youth on the Move initiative as an integral part of the Europe 2020 measures, and welcomes the overall provisions set out in the communication. The EESC is ready to contribute to their implementation by joining forces and heightening the initiative's profile with the social partners and civil society organisations and by identifying existing gaps in the initiative which are covered by the EU Youth Strategy.

1.2 The EESC stresses that the objectives proposed by the Youth on the Move initiative should be monitored, and the progress of implementation should be measured using clear indicators, so that the Member States can step up their efforts if these objectives are not met in time.

1.3 At a time when the economic crisis has forced a review of budgetary priorities, the EESC stresses the importance of maintaining and increasing, wherever possible, the effective use of resources assigned at national and EU level to the education and training and employment of young people. Economic recovery policies must encourage the creation of stable jobs and prevent any interruption of studies.

1.4 The EESC supports the creation of a quality framework for traineeships and applauds the measures geared towards removing legal and administrative obstacles to the free movement of young people for education, traineeships and apprenticeships.

1.5 The EESC welcomes the Commission's initiative to enhance the validation of non-formal learning and increase the visibility of skills acquired outside the formal education system (such as through the European Skills Passport). Discussion on ways of validation should also focus on the quality of the education and training provided and its supervision and monitoring. At the same time, the EESC reminds that everyone should benefit from measures which enhance non-formal learning, which therefore should not be limited to young people with fewer opportunities only.

1.6 The EESC welcomes the development of instruments at national level, such as the Youth Guarantee, which help young people to move from education to the labour market. However, the EESC is of the view that some of the other initiatives need to be examined further before they are implemented. This is the case for the comparison of higher education results, developing a Youth on the Move Card, establishing a 'Your first EURES job' initiative and working on the future of the European Progress Micro-Finance Facility.

1.7 The EESC backs the Commission's efforts to identify the most effective ways of supporting youth employment. These include training programmes, security measures and benefits combined with activation, recruitment subsidies and suitable wage and social security arrangements, as well as career guidance. The EESC stresses that these steps must be undertaken by using and enhancing social dialogue and dialogue with civil society.

1.8 The initiative does indeed highlight education and employment, but it does not place sufficient emphasis on developing social capital and youth participation in European civil society. Furthermore, inclusive growth should also be included as a matter of priority in strategies for young people, and the necessary means for implementation should be introduced, such as maintaining and strengthening the existing Youth in Action programme.

1.9 The EESC regrets that activities which strengthen and build up the social and civic dimension of youth in Europe were omitted from the initiative. The title 'Youth on the Move' should be reflected in the communication as being not only 'about' or 'for' youth, but rather 'with' youth, denoting the active participation of young people in implementing the proposed actions. The EESC asks the Commission to add the necessary activities to the initiative.

1.10 The EESC suggests that a new package of information on the special website of the initiative be included in existing sources of information such as the PLOTEUS, YOUTH and other existing portals. Integrating new information into existing websites might be more successful and help young people to access it more easily.

1.11 Traineeships should be made more attractive, should reflect the interests of everyone concerned and the Member States should, through different types of incentives, encourage employers to create more traineeship opportunities and subsequently more and better jobs for young people.

1.12 The EESC welcomes the importance given to the use of the European Social Fund (ESF). When negotiating with the Member States on the budgetary provisions within the new financial perspective, the Commission should particularly focus on whether or not there are sufficient funds for ESF initiatives, in particular for those which are youth-related.

1.13 The EESC will look closely at the potential contribution of the European system of student loans in accordance with the possibilities and instruments already available.

## 2. Gist of the Commission initiative

2.1 The Europe 2020 Strategy sets ambitious objectives for smart, inclusive and sustainable growth in the EU. Young people are key players in achieving this. Quality education and training for all, successful and sustained labour market integration, decent, and adequately paid work, and opportunities for greater mobility are essential elements in '**unleashing the potential of all young people**'<sup>(1)</sup> and thus achieving the objectives of the 2020 strategy. As a result, the set of measures in the **Youth on the Move** initiative makes it one of the strategy's flagship proposals.

2.2 Youth on the Move aims to strengthen the objectives and priorities which define the strategic framework for European cooperation on education and training (Education and training 2020) and to implement measures in order to achieve the following goals:

- improve the prospects for young people to successfully enter and remain in the labour market;
- give more young people access to higher education;
- adapt education and vocational training so that they match the needs of young people more closely;
- ensure that, by 2020, every European citizen can study or train abroad if they so wish;
- reduce youth unemployment, increasing the number of jobs accessible to young people, as well as company traineeships for students and work experience that fosters an entrepreneurial spirit in the student;
- provide more and better information about EU instruments which support mobility, particularly courses, training or traineeships abroad, etc.

2.3 For each of the priority areas, a series of **key new actions** has been drawn up. They comprise proposals which are designed to contribute specifically to achieving these priorities.

<sup>(1)</sup> COM(2010) 477 final.

### 3. General comments from the Committee on the Commission Communication

3.1 The flagship initiative 'Youth on the Move' is in line with the Europe 2020 strategy for smart, sustainable and inclusive growth. It underlines the new holistic approach, seeing policy on youth education and employment as being closely related to other flagship initiatives and the five EU level headline targets. The EESC stresses the need for coherence between the EU level and national policies and for non-governmental stakeholders to play a key role.

3.2 The EESC would like to stress that the initiative should be regarded in the context of the greatest economic crisis that Europe has faced in years. This cannot be disregarded, given that the stated aim is to '*unleash the potential of young people to achieve smart, sustainable and inclusive growth in the European Union*'. It is pertinent to ask how the crisis is affecting job security, social rights and all the plans and projects for student and labour mobility at present. The EESC deems it important to highlight the links that exist between economy-oriented measures being adopted and the impact that these might have on existing European plans and programmes which are of great value to young people. Any cuts should be avoided. On the contrary, available resources should be better targeted and possibly increased significantly.

3.3 The EESC recognises the value of the Youth on the Move initiative as an integral part of the Europe 2020 measures, and welcomes the overall provisions set out in the communication. The initiative should, first and foremost, interconnect more effectively the various existing and future measures and projects in order to improve the opportunities for reaching the goals mentioned above. The EESC regrets that activities which strengthen and build up the social and civic dimension of youth in Europe were omitted in the initiative. The title 'Youth on the Move' should be reflected in the communication being not only 'about' or 'for' youth, but rather 'with' youth, noting the active participation of young people in implementing the proposed actions. The EESC asks the Commission to add the necessary activities to the initiative.

3.4 As the initiative covers two main areas, education and employment, the EESC appreciates the fact that it emphasises mobility, attractiveness and quality, thus tying it in with the European strategic framework for European cooperation in education and training 2020 (ET 2020), in particular with strategic objectives 1 and 2. It is important that this initiative places particular emphasis on greater learning mobility, modernising higher education, enhancing and validating informal and non-formal learning and guaranteeing effective, lasting investment in education and vocational training.

3.5 The EESC also welcomes the fact that the initiative highlights the links between the objectives and the continued implementation of the European qualifications framework, more open education systems, improved guidance and partnership

between educational bodies and employers<sup>(2)</sup>. In the implementation of this initiative, the EESC recommends focusing mainly on opening up and adapting education systems to the needs of society and the labour market, by effectively integrating the Youth on the Move initiative with the existing instruments for learning mobility such as Europass and the European Credit Transfer and Accumulation System (ECTS), and enhancing cooperation between educational institutions and employers, as well as trade unions, students and other stakeholders.

3.6 The initiative does indeed highlight education and employment, but it does not place sufficient emphasis on developing social capital and promoting youth in European civil society. In this regard, the Youth on the Move initiative does not sufficiently match the objectives of the new EU Youth Strategy, 'Investing and Empowering' adopted in 2009, nor of the Lisbon Treaty (Article 165(2)) which strengthens the citizenship dimension and the need to encourage young people to participate in democratic life, and those activities aimed at young people. Key skills relating directly to the business world (such as innovation and entrepreneurial spirit), education on citizenship, solidarity and consolidating social cohesion – i.e. the full involvement of young people across the social agenda – have to be included and the support measures necessary have to be designed and added to the initiative.

3.7 Furthermore, inclusive growth should also be included as a matter of priority in strategies designed for young people, and the necessary means for their implementation should be introduced, such as maintaining and strengthening the existing Youth in Action programme.

3.8 Some aspects relating to non-discrimination should be incorporated more clearly in the initiative. The EESC suggests including measures which address the problem of the wage gap between young men and women. Differences between locals and people with a migrant background and their difficulties in achieving equal conditions and qualifications need to be addressed. The inclusion in the job market of disadvantaged young people should also receive proper attention.

3.9 The objectives proposed in the initiative should be monitored, and the progress of implementation should be measured using clear indicators, so that the Member States can step up their efforts if these objectives are not met in time.

3.10 In the following section, the EESC examines the priority areas established by the communication and sets out its comments and additional information for each of the new key actions proposed.

<sup>(2)</sup> This concept should be understood, in its broadest sense, to mean anyone employing someone else and in all sectors – private, public or non-governmental.

#### 4. Developing modern education and training systems to deliver key competences and excellence

##### 4.1 Propose a draft Council recommendation on combating early school leaving (2010)

4.1.1 Reducing early school leaving is a particularly important issue, for some Member States in particular. It is also one of the key objectives of the Europe 2020 Strategy, and derives directly from the set of benchmarks in the Education and training 2020 strategic framework. At a time when the economic crisis has caused cuts in budgets, the EESC stresses the importance of maintaining and increasing, wherever possible, those resources assigned at national level which are designed to prevent early school leaving.

##### 4.2 Launch a High Level Expert Group on Literacy (2010)

4.2.1 The EESC supports methods which have been proven effective in improving the abilities of schoolchildren and students and in eradicating illiteracy in the EU. Moreover, it stresses the importance of programmes which involve young people from socially disadvantaged and migrant backgrounds. It is important that the High Level Expert Group provide opportunities for dialogue and consultation with the social partners and civil society organisations.

##### 4.3 Boost the attractiveness, provision and quality of vocational education and training

4.3.1 Following consultations with Cedefop, the EESC flags up the necessity for a re-examination of our education, training and learning strategies – including vocational education and training (VET). There is a need for:

- more targeted education and training,
- to promote and value a broader range of knowledge, skills and competences,
- to reduce knowledge and skills mismatch,
- to support new learning environments,
- to open up education and training structures and institutions
- to take individual needs into account.

4.3.2 The EESC therefore welcomes the Bruges Communiqué, which aims to enhance European cooperation in VET, which defines 11 long-term strategic objectives for the next decade (2011-2020). The EESC supports improving

the quality of vocational training at EU level. VET should be one of the first new target areas to benefit from greater mobility.

##### 4.4 Propose a quality framework for traineeships

4.4.1 The EESC applauds measures which remove legal and administrative obstacles to the free movement of young people for traineeships. Structured dialogue with young people has identified another key problem: the quality of traineeships in each Member State. The European framework should therefore initiate a national debate on traineeships, apprenticeships and the quality of job contracts offered to young people. Traineeships should form a part of education curricula and incorporate a strong educational element, which enables young people to obtain stable, high-quality, adequately paid, non-discriminatory jobs thereafter.

4.4.2 The requirement of a quality framework for traineeships should apply to all forms of learning in a real work environment, regardless of whether or not these fall within formal education programmes or are carried out voluntarily outside any formal teaching framework. Traineeships should not be a replacement for jobs *per se* but, should offer trainees the skills needed for a smooth transition to the professional world. Young trainees should receive financial compensation for any real professional assignments and should also be covered by social security. For these traineeships to be efficient and relevant in the labour market, it is important that the **social partners** be involved in their design, organisation, delivery and funding.

4.4.3 Traineeships should be made more attractive, should reflect the interests of everyone concerned and the Member States should, through different types of incentives, encourage employers to create more traineeship opportunities and subsequently more and better jobs for young people, taking into account 'The Framework Agreement on Inclusive Labour Markets' adopted by the European social partners.

##### 4.5 Propose a draft Council Recommendation on the promotion and validation of non-formal and informal learning (2011)

4.5.1 The EESC has long considered this issue to be of major significance, and therefore supports additional measures in this regard. The EESC particularly welcomes the strong emphasis on validating non-formal learning outcomes. The discussion on ways in which validation may be carried out should also focus on the quality of non-formal education, its supervision and monitoring. Everyone should benefit from measures which enhance non-formal learning and therefore it should not be limited solely to disadvantaged young people (as indicated in the Communication). Non-formal learning provided mainly by NGOs through voluntary activities, is important as a way in which young people can build up the skills necessary in today's world, particularly with regard to creativity, teamwork, problem-solving, language skills, multicultural awareness, empathy, and a sense of initiative and responsibility.

4.5.2 With regard to the validation of informal learning; employers will play a key role in its gaining acceptance, and the role of both vocational and higher educational institutions will be crucial.

4.5.3 With regard to the recognition of non-formal and informal learning, a number of good practices already exist at national level, such as the 'Profipass' in Germany and the 'Keys for life' in the Czech Republic. These should be taken into account when the Council Recommendation is drafted. The Commission should contribute to the multiplication and analysis of good practices and take into account the wide variation in development, traditions and realities across the EU.

## 5. Promoting the attractiveness of higher education for the knowledge economy

5.1 *Support the reform and modernisation of higher education, by presenting a Communication (2011), which will set out a new enhanced agenda for higher education*

5.1.1 Higher education reform should play a much more significant role in the achievement of the 2020 Strategy objectives which seek to make EU society the leader in knowledge, innovation and development. The modernisation of systems of tertiary education – realisation of the European Higher Education Area and the objectives of the Bologna process, greater involvement of civil society and the private sector, reviewing and strengthening of quality assurance systems in higher education and recognition of the importance of the social dimension in education should help young graduates succeed in accessing the labour market and remove the barriers of equal participation in education that still exist in relation to social inequalities, gender, nationality, etc.

### 5.2 *Comparison of higher education results*

5.2.1 Whilst one of the aims is to define benchmarks in order to gauge the results and achievements of higher education, the EESC stresses the importance of carefully selecting criteria in close cooperation with education experts, civil society organisations and the private sector, as this is a very sensitive area. The EESC shares concerns about the potential extrapolation of assessment or classification methods used in other fields and doubts if creating a new multidimensional university ranking system or scale is an EU competence.

### 5.3 *Propose a multiannual Strategic Innovation Agenda (2011)*

5.3.1 With regard to the Strategic Innovation Agenda (2011), the EESC refers the Commission to the numerous opinions and recommendations from the recent years covering this topic (3).

(3) EESC opinions on 'Reviewing Community innovation policy in a changing world', OJ C 354 of 28.12.2010, p.80, and 'Investment in Knowledge and Innovation (Lisbon Strategy)', OJ C 256 of 27.10.2007, p. 17.

## 6. Supporting strong development of transnational learning and employment mobility for young people

6.1 *Set up a dedicated Youth on the Move website for information on EU learning and mobility opportunities (2010)*

6.1.1 The EESC proposes that a new package of information be included within existing sources such as the PLOTEUS, YOUTH and other existing portals, as integrating new information into existing websites might be more successful and make it easier for young people to access it. A unified database with vacancies for traineeships and voluntary work should also be developed and included in those websites.

6.2 *Propose a draft Council Recommendation on promoting the learning mobility of young people (2010)*

6.2.1 The EESC supports strengthening specific measures which aim to achieve greater learning mobility, and implementing the conclusions of the public consultations regarding the proposals of the Green Paper on *Promoting the learning mobility of young people*. It played an active part in this in 2009 and made several valuable recommendations (4). Support measures before, during and after mobility should be provided.

### 6.3 *Develop a Youth on the Move card*

6.3.1 The initiative is not sufficiently clear about whether or not it aims to develop a new card or give fresh impetus to the existing Youth 26 Card. The added value of any new card must be clearly identified and compared with the existing ones.

6.4 *Publish guidance on the European Court of Justice rulings on the rights of mobile students (2010)*

6.4.1 The EESC believes this to be a positive measure, and points out that the rulings should be published using flexible, easily accessible, understandable formats. Secondary school students must also find them user-friendly.

### 6.5 *Propose a European Skills Passport (2011)*

6.5.1 The EESC supports the creation of a European Skills Passport. It believes that the existing passports (Europass and the youth passport) should be combined into one overall instrument that would cover, on a single form, a traditional CV, formal education (Europass) and non-formal or informal education. Young people remain unconvinced about the large number of instruments constantly under review, and which ultimately remain not very efficient. The success of the

(4) EESC opinion on the 'Green Paper — Promoting the learning mobility of young people'. OJ C 255 of 22.9.2010, p. 81.

European Skills Passport will depend, amongst other factors, on how it is viewed by employers and used by young people, for whom the necessary advisory and support measures must remain available.

#### 6.6 Implement the initiative 'Your first EURES job'

6.6.1 The EESC welcomes any form of support which boosts young people's employment prospects. The EESC believes that strengthening EURES and other portals and improving their quality of service can help in this respect.

#### 6.7 Create, during 2010, a European Vacancy Monitor

6.7.1 The EESC welcomes the regular publication of the European Vacancy Monitor, as it provides a valuable and up-to-date overview of developments on the European job market.

#### 6.8 Monitor the application of EU legislation on workers' freedom of movement

6.8.1 The EESC agrees in principle that the application of EU legislation on the free movement of workers benefits young people and should be monitored more carefully (this measure has been in place for some time). However, the Commission does not state clearly how the monitoring of legislation and application of initiatives for young people on the move will be organised.

### 7. A framework for youth employment

#### 7.1 Identify the most effective measures of supporting youth employment

7.1.1 Youth unemployment, which was already alarming before the crisis, has now become one of the most worrying aspects of the European labour market. As the initiative states, **Youth unemployment is unacceptably high at almost 21 %. In order to reach the 75 % employment target for the population aged 20-64 years, the transition of young people to the labour market needs to be radically improved<sup>(5)</sup>.** The significance of measures that help to guarantee young people high-quality, permanent, and adequately paid employment from the outset can not be underestimated. The EESC welcomes the proposed initiatives and invites the Commission to obtain solid commitments from the Member States – in consensus with the social partners and other stakeholders – to create jobs for young people. The EESC also endorses the statement in the text that

**'Wage arrangements and non-wage labour costs can provide an incentive to employ new entrants, but should not contribute to precariousness. Collective bargaining can also play a positive role in setting agreed differentiated entry wages'**, whilst observing the principle of equal pay for equal work or work of equivalent value.

7.1.2 Tackling the situation of young people in today's labour markets is a key element in enhancing Europe's competitiveness. To be successful, we ultimately need to ensure that the talents of today's younger generations are better utilised and not wasted.

7.1.3 The EESC backs efforts to identify the most effective measures of supporting youth employment, such as training programmes, security measures and benefits combined with activation, recruitment subsidies and suitable wage and social security arrangements. The Commission also rightly places emphasis on career guidance. When young people have to decide on their future career, they should receive the necessary information on the various education options open to them, a clear idea of the skills and competences needed and information on possible developments in the job market in order to plan their future accordingly. This is particularly the case when preparing for and searching for a first job.

#### 7.2 Establish systematic monitoring of the situation of young people not in employment, education or training

7.2.1 Another consequence of the current crisis is the increasing number of young people not in employment, education or training. However, until now it has been difficult to gain an overall idea of how serious this phenomenon is at EU level and the impact on the mental health and well-being of young people. The EESC therefore welcomes the proposal to set up systematic monitoring in this area.

#### 7.3 Establish, with the support of the PROGRESS programme, a new Mutual Learning Programme for European Public Employment Services (2010)

7.3.1 The EESC endorses this action and recommends that it be geared above all to unifying existing activities, funding and exchanges of experience. It is crucial to have efficient, relevant public employment services. However, in certain Member States, private agencies are responsible for these services: some are insufficiently regulated and monitored. It is vital to offer stable, high-quality, work, and to ensure social rights. In this, as in other areas, the contribution of the social partners is of crucial importance.

<sup>(5)</sup> According to the Eurostat report for January 2011, the overall unemployment rate in the EU-27 was 9,6 %. Youth unemployment, (covering under-25s) stood at 21 %. The countries with the highest youth unemployment were Spain (43,6 %), Slovakia (36,6 %) and Lithuania (35,2 %).

#### 7.4 *Step up bilateral and regional policy dialogue on youth employment with the EU's strategic partners*

7.4.1 The EESC is in favour of stepping up bilateral and multilateral cooperation with organisations such as the OECD and the Union for the Mediterranean, the Eastern Partnership, Western Balkans and in the context of EU relations with Latin America and the Caribbean and other parts of the world with which cooperation could be envisaged. This applies particularly to issues regarding young people with migrant backgrounds.

#### 7.5 *Encourage young entrepreneurs to make greater use of the European Progress Micro-Finance Facility*

7.5.1 The EESC welcomes the micro-finance facility as a new way of fostering entrepreneurial spirit and of creating new jobs in micro-enterprises<sup>(6)</sup>. However, although there were no plans to extend the instrument as part of the EU's new financial perspectives post-2013, the EESC believes that an extension should be considered if proof of its merit is provided.

7.5.2 The structured dialogue currently underway with young people shows that young people who decide to start their own businesses require special support in two areas that have to be taken into account: i) the necessary start-up capital, and ii) coaching, mentoring and help with practical issues.

#### 7.6 *Propose that all young people are in a job, further education or activation measures within four months of leaving school and providing this as a 'Youth Guarantee'*

7.6.1 The EESC welcomes the idea of developing an instrument at national level that could help young people to overcome the obstacles involved in moving from education to the labour market. The positive experiences of some Member States should be shared as an example. In the long term, the proposed 'youth guarantee' could make a key contribution to the European social model and the Europe 2020 objectives.

#### 7.7 *Guarantee a good balance between rights to benefits and targeted activation measures based upon mutual obligation*

7.7.1 The EESC supports the mutual obligation measure, including activation policies for young people at risk of social exclusion, and modernising the social protection system, etc. It

also endorses strengthening the activation and motivation functions of welfare systems, in order to prevent young people from becoming dependent on social benefits for too long.

#### 7.8 *In segmented labour markets, introduce an open-ended 'single contract' with a sufficiently long probation period and a gradual increase of protection rights*

7.8.1 The concept of the open-ended single contract might be one of the measures which could contribute to a reduction in inequalities between those joining the labour market and those excluded from it. The EESC is aware of the significant differences existing between Member States with regard to young people's entry into the labour market. Some of the more rigid systems prevent young people from getting a job at all; in others there are more offers for short term contracts which are too flexible and which do not offer full access to social benefits. The EESC stresses that the measures to be adopted must aim to secure stable contracts offers for youngsters that avoid any discrimination based on age, gender or any other grounds.

### 8. **Exploiting the full potential of EU funding programmes**

#### 8.1 *Better showcase the assistance that the ESF can bring to young people, and fully tap into its potential*

8.1.1 The EESC welcomes the importance that the communication gives to the use of the European Social Fund (ESF). When negotiating with the Member States on the budget division within the new financial perspective, the EC should particularly focus on whether or not there are sufficient funds for ESF initiatives, especially the ones related to youth. Strengthening the youth dimension in other programmes should be explored.

#### 8.2 *Ensure that the Fund benefits young people in the immediate future and is used swiftly to reach the Europe 2020 objectives*

8.2.1 The EESC believes that efforts should be made to make exhaustive use of the current possibilities offered by the ESF but other funds should also include the goals mentioned above as horizontal priorities.

#### 8.3 *Undertake a review of all EU programmes fostering learning mobility and education in this area*

8.3.1 The EESC endorses the proposal to organise public consultations in order to monitor the contribution of mobility to learning. It will pay close attention to activities in this field, bearing in mind the new financial perspectives.

<sup>(6)</sup> EESC opinion on 'Investment in Knowledge and Innovation (Lisbon Strategy)', OJ C 256 of 27.10.2007, p. 17-26.

8.3.2 The Commission communication does not refer to the role played by European learning programmes in supporting active citizenship and the involvement of young people. It is clear that quality education and a solid labour market contribute to growth in Europe, but they should be accompanied by instruments promoting youth participation in society, so that young people take 'ownership' of and responsibility for relevant policies. Youth workers and youth organisations can play a stronger role here. Possibilities for civic voluntary activities should be widened.

8.3.3 The EESC believes that the anti-crisis measures should not mean that support for non-formal learning is sidetracked, for its role is gaining in significance and is already a decisive factor in the future and development of young people.

8.4 *Examine the feasibility of a European system of student loans to increase their cross-border mobility*

8.4.1 The EESC will look closely at the potential contribution of this action with regard to the possibilities and instruments already available. Evaluation reports of the mobility programmes shows that the main barrier for increasing mobility is student financing; however, to effectively support the goal for mobility – 20 % by year 2020 – the accessibility and size of grants should be prioritised. The procedure for granting loans needs to be carefully drawn up, and young people informed of it, as it is important to prevent them, as far as possible, from becoming trapped in a spiral of debt.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: The CAP towards 2020 — Meeting the food, natural resources and territorial challenges of the future’**

COM(2010) 672 final

(2011/C 132/11)

Rapporteur: **Mr Franco CHIRIACO**

On 18 November 2010 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions — The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future*

COM(2010) 672 final.

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 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 16 March), the European Economic and Social Committee adopted the following opinion by 197 votes to 26 with 17 abstentions.

## 1. Conclusions and recommendations

1.1 The European Economic and Social Committee welcomes the Commission's proposals and notes that many recommendations set out in earlier EESC opinions have been reflected in the Communication. The EESC calls on the Commission to take steps to explain more clearly the existing links between the post-2013 CAP objectives, instruments and financial resources. The CAP reform must be implemented in a way which guarantees the profitability of agriculture and a fair income for farmers throughout the EU.

1.2 The main task of the CAP is to value the role of farmers as producers of daily foodstuffs and, increasingly, of sustainable green energy. Furthermore, agriculture and forestry must build on their significant contribution to the sustainable management of natural resources, offering concrete solutions to the key challenges of fighting climate change and the water crisis, and in the areas of environmental protection, biodiversity<sup>(1)</sup> and territorial development.

1.3 The EESC agrees with the proposal to stop using historical reference periods as the basis for determining the amount of support, and stresses the importance of direct payments under the CAP in preserving the European agricultural model. These payments are critical to offset the socially desirable high standards in the EU and as compensation

for services provided by agriculture that are not remunerated by the market. They also still serve to safeguard farmers' incomes and protect them from risks in increasingly volatile markets. According to the EESC, public goods and services delivered to the community concern sustainable development, environmental protection, rural vitality, poverty reduction, food security and employment and consumer protection.

1.4 The EESC also believes that the review process must not disrupt CAP objectives and functioning mechanisms to support operators along the agricultural, food and environmental supply chain in long and medium-term programming. The EESC sees the need here for an adequate transitional period that is consistent with the duration of the new programming period set to end in 2020, in order to give farmers - especially those who have already made investments under particular conditions - time to adapt to the discontinuation of the historical reference period as the means for quantifying the value of single payments. With regard to the new Member States, the Committee recalls that the period for moving away from the simplified Single Area Payment Scheme ends in 2013. The EESC calls for confirmation of a national and regional flexibility instrument, along the same lines as Article 68<sup>(2)</sup> for granting specific support, and for complete consistency with measures under the second pillar, the common organisation of the market in fruits and vegetables and the promotion funds.

<sup>(1)</sup> COM(2010) 548 *The 2010 assessment of implementing the EU biodiversity action plan.*

<sup>(2)</sup> Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

1.5 The EESC agrees that CAP support should only be granted to active farmers and promote the European agricultural model through measures under the first and second pillar. All payments under the first and second pillar should aim to solve social, environmental and economic problems. As a result, the EESC asks the Commission to provide an EU-wide definition of 'active farmer'. The EESC suggests that the definition of an active farmer should include among its requirements the production and marketing of agricultural products, also through direct local marketing, and the creation of public goods and services of social interest.

1.6 The EESC takes it for granted that the European Council's political decision to guarantee the conditions for agriculture throughout the EU must continue to be an explicit goal of the reform. The EESC believes that it would be inadvisable to abolish second-pillar support for farmers operating in geographically and climatically disadvantaged areas. Additional area-based support for farmers operating in Less Favoured Areas could prevent farmers from giving up agricultural production in the EU and therefore contribute to achieving the security of food supply objective. The EESC calls on the Commission to publish its proposal on the review of criteria for identifying other Less Favoured Areas (i.e. intermediate areas) as soon as possible in order to allow for sufficient consultation of all stakeholders.

1.7 The EESC is in favour of capping direct payments on the basis of the country's and the specific region's agricultural structure. The EESC advocates capping in accordance with a farm's salaried and unsalaried labour intensity, also taking the farmer's work into consideration and thereby also providing social justification for economic resources spent on the functioning of the CAP. Furthermore, the EESC considers it necessary to take into account the specificities of businesses set up by cooperatives and farm producer associations, and to make the payment to all the partners.

1.8 The new CAP will have to make a priority of ensuring that the EU has a competitive and innovative agricultural and food sector, which can contribute to improving farm workers' socio-economic and employment conditions and their security by using full social cross-compliance as a reference, with special regard to labour law and contracts.

1.9 The Commission should clarify the application of the greening component to direct payments by presenting a final assessment of this proposal's impact on existing second-pillar environmental programmes. The EESC calls on the Commission to consider alternative solutions. One suggestion could be to make the greening component of direct payments conditional upon compulsory participation in specific agri-environmental measures with a real impact on the area of land in question, providing the financial incentives fully cover the higher costs

and that the bureaucratic processes are minimal. To this end, the Commission should draw up a list of corresponding measures from which farmers could select the ones best suited to their specific situation. The implementation of these measures would have to be structured at the regional level in order to have a positive impact on income.

1.10 The EESC considers an effective post-2013 CAP reform to be impossible without clear indications on decisions taken regarding the scale and make-up of the EU budget. The EESC nevertheless believes that it should at least be necessary to guarantee confirmation of the budget quota already allocated by the EU to the CAP at this stage.

1.11 The EESC points out that further opening up the EU's agriculture markets will lead to even greater competitive pressure and to producer prices being more and more heavily influenced by the volatility of the international markets. The EESC is concerned that existing instruments cannot ensure sufficient market stabilisation. This must be taken into account in the forthcoming reform, not only in the revamp of direct payments but also when amending the market stabilisation instruments.

## 2. Gist of the Communication

### 2.1 Objectives of the Common Agricultural Policy (CAP)

2.1.1 The European Commission believes that the post-2013 CAP should contribute to the following objectives <sup>(3)</sup>:

- viable food production;
- sustainable management of natural resources and climate action;
- maintaining the territorial balance and diversity of rural areas.

### 2.2 Future CAP instruments

2.2.1 According to the Commission, decoupled direct payments will remain the key instrument for supporting European agriculture (decoupled direct payments of equal amounts for all producers in a given region or Member State). In order to improve efficiency and fairness, it is

<sup>(3)</sup> European Commission press release IP/10/1527, 18 November 2010.

proposed to switch from historical payments to a fixed and uniform area-based payment (basic payment). Nevertheless, the varying economic and natural conditions facing farmers in different regions in the EU call for an equitable distribution of direct payments. This payment will be based on transferable entitlements to be activated by matching them with agricultural land, subject to cross-compliance requirements, which should be simplified and aligned with the objectives of the Water Framework Directive. The EESC advocates considering an upper ceiling for direct payments received by farms ('capping'), the impact of which could be mitigated on the basis of employment levels.

2.2.2 The Commission considers that the post-2013 CAP should include two other types of direct payments to promote greener farming (the greening of direct payments): 1) per-hectare payments applicable across the whole of the EU rewarding farmers for adopting agri-environmental practices that go beyond basic cross-compliance (e.g. permanent pasture, crop rotation and ecological set-aside 2) an additional area-based payment for farmers operating in disadvantaged areas and/or areas with specific natural constraints as a complement to the support given under the second pillar of the CAP.

2.2.3 A number of exceptions to decoupling are foreseen. In some regions and in order to take account of specific types of farming, coupled support may be granted within clearly defined financial limits. A simple and specific support scheme will be introduced for small farmers to avoid loss of rural employment. In order to respond to the criticism of the European Court of Auditors regarding the functioning of direct payment mechanisms, support should be targeted to active farmers only.

2.2.4 The Commission believes that a number of market measures need to be maintained. It must be possible to activate these measures in times of crisis as precautions against emergency situations. In particular, the extension of the intervention period, the application of the disturbance clause and private storage to other products, and lastly the improvement of controls are being proposed. In this context, the Commission has announced the publication of proposals aimed at stabilising the milk market and has stressed the need to discuss the future of the sugar sector. The post-2013 CAP will also provide for the adoption of specific measures on the functioning of the food supply chain and for improving the bargaining power of farmers.

2.2.5 According to the Commission, the overall architecture of the CAP will continue to be structured around two pillars. Rural development support is to focus more on competitiveness and innovation, climate change mitigation and the environment, in line with the Europe 2020 Strategy. With this in mind, a risk

management toolkit is to be introduced under the second pillar, which Member States could use as a production and agricultural income stabilisation tool.

### 3. General comments

3.1 The EESC notes that the Communication reflects the following recommendations from earlier EESC opinions (4):

— the need for fair distribution of resources among Member States;

— the need to abandon the use of historical reference periods for quantifying the value of single payment entitlements;

— the greening of single payments to tackle new challenges, especially climate change, renewable energy, water resource management and biodiversity (5), to bring the amount of support received by farmers more into line with the level of public goods and services that agriculture delivers to the community and which are not normally remunerated by the market and to compensate farmers operating under adverse climatic and natural conditions for their higher costs;

— the need to restrict direct payments to active farmers only, and under arrangements that take account of existing and generated employment in each farm and, in particular, taking into account salaried and unsalaried labour intensity, including agricultural and forestry contractor work.

3.2 In its opinion on reform of the common agricultural policy in 2013 (NAT/449), the EESC urged 'the Commission, the Council and the European Parliament to start by setting out in unequivocal terms the precise aim of the CAP, followed by an indication of the tools needed to achieve it and the requisite cost involved'. The EESC points out that the Commission does not follow the same logical sequence in its Communication. As a result, the EESC calls on the Commission to provide clearer indications of the links between the post-2013 CAP objectives, instruments and financial resources.

(4) EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p.35, point 5.6.11).

(5) Council Decision of 19 January 2009 amending Decision 2006/144/EC on the Community strategic guidelines for rural development (programming period 2007 to 2013) (OJ L 30, 31.1.2009, p. 112).

### 3.3 Objectives

3.3.1 In opinion NAT/449, the EESC recalled that the post-2013 CAP must be driven 'by the European agricultural model, which must be based on the principles of food sovereignty, sustainability and the real needs of farmers and consumers'. The EESC aims to draw attention to what the key objectives of the CAP should be:

- to contribute to the quantitative and qualitative security of food supplies in Europe and the world <sup>(6)</sup>;
- to contribute to market stabilisation <sup>(7)</sup>, mainly by limiting fluctuations in the prices of agricultural products;
- to support the incomes of European farmers, which are below those of operators in other European economic sectors <sup>(8)</sup>;
- to work together to create a system of trade rules that preserves the European agri-food model and avoids competition distortions;
- to allow farmers to win back market power from retailers, especially large-scale commercial chains <sup>(9)</sup>;
- to promote the sustainable use of resources and the conservation of natural habitats and biodiversity, thereby giving agriculture and forestry a more active role in fighting climate change <sup>(10)</sup>;
- to support the production and marketing of quality local products in rural areas by promoting alternative retail channels <sup>(11)</sup>;
- to create the legal conditions for management by farmers of short and transparent supply chains;

<sup>(6)</sup> EESC Opinion on *The future of the Common Agricultural Policy after 2013*, (OJ C 318, 23.12.2009, p. 66, point 2.3).

<sup>(7)</sup> EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, point 5.2); and EESC Opinion on the *Health check of the CAP and its future after 2013* (OJ C 44, 16.2.2008, p. 60, point 7.4.2).

<sup>(8)</sup> EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, point 3.7).

<sup>(9)</sup> EESC Opinion on *A better functioning food supply chain in Europe* (OJ C 48, 15.2.2011, p. 145, point 3.6).

<sup>(10)</sup> EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, point 4.7).

<sup>(11)</sup> EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, point 5.5.15).

- to promote, with reference to the Europe 2020 strategy, education and innovation (smart growth), the development of renewable energy (sustainable growth), and the strengthening of rural employment potential (inclusive growth), in compliance with good employment practices in contracts and EU and non-EU seasonal farm work, with reference to the Europe 2020 strategy.

3.3.2 Food security at reasonable prices remains a priority objective for EU agriculture in a global context of demographic pressure and growing consumption that require a political and strategic response based on development and global food security.

3.3.3 The EESC points out that European farmers expect 'to secure a fair income from the sale of their products on the market and as remuneration for the services they provide to society under the European agricultural model' <sup>(12)</sup>. As a result, the CAP cannot restrict itself to distributing funding. The EESC therefore asks the Commission to clarify how the new CAP will respond to the issue of market stabilisation, and how more specifically it will propose to solve the problem of prices and farm incomes.

3.3.4 European agricultural policy and rural development policies should be geared to innovation and competitiveness. The EESC believes that EU rural development and forestry policies should make a stronger contribution to the conservation of biodiversity, carbon sequestration, energy production and savings, and the development and promotion of food products and balanced territorial development. Rural development can create new business opportunities and jobs in rural areas, promoting opportunities for agricultural income diversification. Finally, we need to remember that food processing is a key economic activity in rural areas. This is why rural development should not neglect to support rural agri-food businesses engaged, in conjunction with farmers, in research and development, training, innovation, export promotion and business cooperation initiatives (e.g. joint ventures) in order to improve their competitiveness on the market.

3.3.5 The EESC recalls that agricultural market price volatility, albeit endemic in the sector, has been aggravated in recent years as a consequence of various factors including extreme meteorological conditions, energy prices, speculation and increased world demand caused by demographic growth. In this context, the EESC recalls that the price of agricultural products, which rose sharply during the 2006-2008 period and then fell back substantially, have started to rise again in recent

<sup>(12)</sup> EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, point 5.3).

months. The EESC considers these extreme price fluctuations in agricultural prices to have a negative impact on producers and consumers. The EESC is also concerned that, in the EU too, non-agricultural investors are increasingly engaged in buying up land for investment and speculative purposes, which is certainly not consistent with the European model of agriculture.

3.3.6 Finally, the new CAP should promote and support new holdings, especially in order to attract young people into the sector, not least in order to ensure a future for European agriculture. Generational renewal in agriculture is necessary considering that only 7 % of European farmers are under 35. Moreover, in some Member States, the situation is even more critical. At present, one in three farmers in EU27 is over 65 and many are due to retire in the next few years. The CAP therefore must contribute to developing an EU-wide policy to set up farmers, in parallel with an ambitious and synergetic agricultural employment policy.

#### 3.4 Instruments

3.4.1 The EESC stresses that direct payments are important in order to safeguard the European agricultural model. Indeed direct payments support European farmers that offer public goods and services of high value to society, which, however, are not adequately remunerated by prices formed on the agri-food markets.

3.4.2 There is a need to simplify functioning arrangements for the new CAP instruments and, in particular, for single payments. The EESC agrees that there is a need to simplify environmental cross-compliance requirements, which calls for the system of controls and procedures for reducing payments to be rationalised. The EESC points out that the arrangements for access to the greening of direct payments should facilitate and promote the access of farms to CAP support. In this regard, and with a view to the possible imposition of new conditions (e.g. the Water Framework Directive), the EESC asks the Commission to carefully assess the impact of this measure and identify implementation procedures that will not involve further complications for farmers.

3.4.3 The EESC agrees with the principle whereby basic payments to be differentiated at the regional level must necessarily be linked to specific environmental services. Ongoing discussions indicate that it may potentially prove difficult to separate the first-pillar environmental component (the greening of direct payments) from second-pillar agri-environmental measures.

3.4.4 The EESC agrees that a new criterion for defining the amount of direct payments should be introduced. In this context, the EESC advocates holding discussions to identify the reference territory for determining the basic component of direct payments (European, national or regional). Furthermore, the EESC recommends studying the possibility of making one component of direct payments conditional upon the level of labour intensity and other good practices in the areas of competitiveness, labour and innovation.

3.4.5 The EESC is in favour of introducing a simple and specific support system for small farm holders. The EESC asks the Commission to clarify the requirements that will be adopted to identify small farm holdings. In particular, the EESC calls for account to be taken of the structural differences that characterise farming in different Member States.

3.4.6 The EESC is uncertain about the repercussions of the process for adapting current market instruments (guaranteed prices, duties, export subsidies, public storage, quotas, set-aside, etc.). For this reason, the EESC emphasises that safety nets alone cannot ensure agricultural product market stabilisation or solve, in particular, the dairy sector's problems<sup>(13)</sup>. In order to strengthen the position of agricultural producers in the added value chain and to counter price volatility and the disproportionate power of retail supermarket chains, the EESC believes that the post-2013 CAP should include specific instruments to be directly managed by farmers or their representatives in order to group supply and improve trade relations through measures and instruments that have already been tested in some common market organisations.

3.4.7 The EESC calls for stronger CAP measures aimed at enhancing and promoting local and quality agri-food products on EU and third country markets, also in order to improve the functioning of the agri-food sector, raise awareness of the range of EU food products, meet consumer demands and open new external markets. For the same reasons, the EESC would be in favour of introducing good labelling practices for agricultural products, in part to respond to the growing public demand for information and transparency.

3.4.8 The EESC would like to recall that the number of people in need in the EU who do not have enough to eat stands at 40 million. For this reason, the EESC also calls for the Commission to strengthen CAP measures aimed at distributing food supplies to most deprived people in the EU.

<sup>(13)</sup> EESC Opinion on the *Health check of the CAP and its future after 2013* (OJ C 44, 16.2.2008, p. 60, points 7.4.13 to 7.4.15; and EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, point 5.5.9).

3.4.9 Rural development can contribute to the needs of sectors and rural areas. The EESC is in favour of keeping the current CAP structure, which distinguishes between two pillars, but recommends the redistribution of measures under each of the two pillars as well as greater complementarity of the measures being promoted <sup>(14)</sup>.

3.4.10 As part of the European agricultural model, maintaining agricultural production in all parts of the EU is an essential task of the CAP. In this connection, the EESC stresses the special importance of measures for less favoured regions carried out in the framework of rural development. Tried and tested measures, in particular those intended to compensate for natural or climatic disadvantages, should at all events be retained in the interests of the greatest possible continuity.

### 3.5 *The EU Budget and financial resources for the CAP*

3.5.1 The EESC believes that the objectives set by modern society for European agriculture are extremely ambitious and difficult. These require a lasting future CAP that is effectively tooled to deliver the set objectives through efficient applications systems and adequate financial resources <sup>(15)</sup>. Moreover, it is absolutely necessary to integrate the CAP into all other EU policies (business, climate action, intersectoral, economic, finance and tax, employment and social rights, energy and natural resources, environment, consumer and health, external relations and foreign affairs, regional policy and local development, science and technology).

3.5.2 The EESC believes that the 'CAP towards 2020' debate should take account of the fact that, in the light of the financial perspectives and in the absence of budgetary adjustments, it will be difficult to achieve the Communication's objectives for the CAP and to defend the European agricultural model.

3.5.3 The EESC believes that the post-2013 CAP reform is the right time to address the discussion on the redistribution of financial resources under both the first and second pillars. In particular, it is necessary to resolve the issue of imbalances in the distribution of CAP resources at the national level, which are particularly unfavourable to new Member States. In this context, the abandonment of the historical reference period makes it necessary to identify a new criterion for defining the national ceiling for direct payments for each Member State. The EESC therefore urges – in a spirit of pragmatism and bearing in mind the diversity of situations in the Member States – that other criteria should be considered in addition to national agricultural land use. In particular, adopting criteria relating to cost

of living, employment, added value, and to differences in agro-climatic conditions and in production costs could enhance agriculture's contribution to territorial development <sup>(16)</sup>.

3.5.4 The EESC endorses the Commission's decision not to introduce forms of national co-financing for first-pillar measures. For the second pillar, the EESC considers that national co-financing for implementing rural development measures should be confirmed. The EESC also considers it necessary to promote a discussion on the decisions taken so far with regard to the level of national co-financing for rural development, in order to take into account the budgetary difficulties of many Member States and to promote better spending performance for investment at the national level <sup>(17)</sup>.

## 4. **Specific comments**

4.1 The EESC calls for discussions to be held on a possible review of the EU competition rules applied to the agri-food sector with a view to improving the agri-food sectors' functioning mechanisms and re-balancing the market power of operators in the food supply chain, especially with respect to retailers.

4.2 The EESC agrees to the reinforcement of the risk management tools implemented under the CAP. The EESC believes that these instruments must contribute to reducing income fluctuations and market instability. Strengthening insurance instruments and creating mutual funds should help farmers to cope with health and weather risks, which are set to rise in the near future. The EESC recalls the grave crisis that has struck international financial institutions and asks the Commission to clarify the operational arrangements to be adopted for the implementation of these instruments as soon as possible. The EESC has doubts about the advisability of including risk management actions in the second pillar and would point out that the national co-financing obligation could create a disincentive for Member States to implement these new instruments.

4.3 The EESC is following closely the Commission's proposal to promote alternative retail channels aimed at enhancing local resources through second-pillar measures for spreading and consolidating direct sale practices and local markets. The EESC believes that these alternative marketing practices should receive support, even by establishing an ad hoc EU legislative framework.

<sup>(14)</sup> EESC Opinion on *The future of the Common Agricultural Policy after 2013* (OJ C 318, 23.12.2009, p. 66, point 4.3).

<sup>(15)</sup> EESC Opinion on *The future of the Common Agricultural Policy after 2013* (OJ C 318, 23.12.2009, p. 66, point 2.5).

<sup>(16)</sup> EESC Opinion on the *Reform of the common agricultural policy in 2013* (OJ C 354, 28.12.2010, p. 35, points 5.7.4, 5.8.4 and 5.8.5).

<sup>(17)</sup> EESC Opinion on the *Health check of the CAP and its future after 2013* (OJ C 44, 16.2.2008, p. 60, point 7.6.11).

4.4 The EESC hopes that WTO trade negotiations will be resumed and have a positive outcome. It recalls the impact - in terms of further opening agricultural markets - that trade negotiations, especially with Mercosur, can have on the efficient functioning of the CAP<sup>(18)</sup>. The EESC intends to show how this will intensify competition and agricultural price volatility on international markets, which the CAP reform process must take into consideration when amending market stabilisation instruments and re-orienting the direct payment instrument. Furthermore, international trade can contribute substantially to food availability by increasing the quantity and range of food products on the market<sup>(19)</sup>. The EESC recalls that mandatory EU production standards put European farmers at a disadvantage to non-European farmers. The EESC calls for stronger monitoring of imported raw

materials. These products must be subject to the same requirements as European products, not only in order to avoid unfair competition and social dumping, but also serious repercussions on the quality of agricultural production and food processing.

4.5 The EESC calls on the Commission to adopt the necessary provisions to address the shortfall in protein fodder crop production that typifies European agriculture and which limits the development of some EU production segments. In this context, the EESC is paying close attention to the implementation of actions to create synergies between agri-energy programmes and actions to promote protein crop production in Europe.

Brussels, 16 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(18)</sup> EESC Opinion on the *Health check of the CAP and its future after 2013* (OJ C 44, 16.2.2008, p. 60, point 7.4.9).

<sup>(19)</sup> COM(2010) 127 Communication on *An EU policy framework to assist developing countries in addressing food security challenges*.

## APPENDIX

to the Committee opinion

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

**Point 1.5 Delete the last sentence:**

*The EESC agrees that CAP support should only be granted to active farmers and promote the European agricultural model through measures under the first and second pillar. All payments under the first and second pillar should aim to solve social, environmental and economic problems. As a result, the EESC asks the Commission to provide an EU-wide definition of "active farmer". The EESC suggests that the definition of an active farmer should include among its requirements the production and marketing of agricultural products, the creation of public goods and services of social interest, and direct local marketing.'*

**Result of the vote**

For:	74
Against:	125
Abstentions:	29

**Point 1.7 Delete and replace by the following text:**

*The EESC is in favour of capping direct payments on the basis of the country's and the specific region's agricultural structure. The EESC advocates capping in accordance with a farm's salaried and unsalaried labour intensity, also taking the farmer's work into consideration and thereby also providing social justification for economic resources spent on the functioning of the CAP. Furthermore, the EESC considers it necessary to take into account the specificities of businesses that are jointly owned or set up by cooperatives and farm producer associations, and to make the payment to all the partners. The EESC cannot accept the introduction of a cap on aid. All farmers must be treated equally, regardless of the size of their farm or its legal form. The EESC will therefore consider any aid cap as contrary to the principle of equal treatment, since there can be no objective basis for any capping of aid.'*

**Result of the vote**

For:	62
Against:	155
Abstentions:	20

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorous compounds in household laundry detergents’**

COM(2010) 597 final — 2010/0298 (COD)

(2011/C 132/12)

Rapporteur working alone: **Nikos LIOLIOS**

On 10 and 24 November 2010 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 648/2004 as regards the use of phosphates and other phosphorous compounds in household laundry detergents*

COM(2010) 597 final — 2010/0298 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 174 to one with nine abstentions.

## 1. Conclusions

1.1 The EESC recognises the need to review Regulation (EC) 648/2004 with respect to the limits on using phosphates and other phosphorous compounds in household laundry detergents, for the following reasons:

— Even if the phosphates present in detergents make only a rather small contribution to eutrophication compared with other sources, limiting their use seems to be the most effective policy option to reduce the risk of eutrophication across the European Union.

— It is absolutely essential to ensure a fully harmonised internal market in household laundry detergents so as to eliminate any additional cost for the industry and public authorities of market fragmentation and the need for mutual recognition of phosphate-containing detergents, whereby products may be imported and approved for use in one EU country, even if that country has legislation setting limits on phosphate levels, as long as they are legally available on the market of any other European Union country.

— National authorities in the Member States that have adopted legislation on phosphates in detergents in order to counter eutrophication are likely to have more problems implementing it, owing to their obligations under the mutual recognition provisions of Regulation No (EC) 764/2008.

— Harmonised action at EU level would be much more effective than multiple actions by the Member States.

1.2 The EESC welcomes the European Commission's general approach, where the desired reduction in the risk of eutrophication in the aquatic environment is accompanied by a review of technical and socio-economic viability and of the implications of replacing phosphates for the effectiveness and performance of detergents.

1.2.1 In accordance with this reasoning, the EESC favours option 4, which advocates limits only on phosphates in household laundry detergents, not in automatic dishwasher (ADW) or industrial and institutional (I&) detergents.

1.3 The proposal does not add much that is new, but simply sets legal requirements at EU level and consolidates the existing downward trend in the use of phosphates and other phosphorous compounds in household laundry detergents. The EESC points to the Commission's undertaking to minimise the environmental impact of this category of product that is in wide use. The proposal would be more cogent if the recommendations made by the EESC in this opinion were taken on board. The EESC recognises that by adopting, in general voluntarily, alternatives to phosphates, manufacturers of household laundry detergents have contributed substantially to limiting the environmental impact of their products.

1.4 The EESC believes that sufficient time must be given to adapt and prepare after the revision of Regulation (EC) 648/2004 on limiting phosphates and other phosphorous compounds in household laundry detergents and before implementation of the relevant provisions. The EESC believes that one to two years are needed, especially for small and medium-sized companies, to reformulate their products and make the changes required to their equipment and production processes.

## 2. Introduction

2.1 Phosphates, in particular sodium tripolyphosphate, are used in detergents to soften water so that the product can work more effectively. However, phosphates can have adverse effects on the aquatic environment and upset the ecological balance, contributing to the growth of algae, a phenomenon known as eutrophication. Although phosphates in detergents are only the third-largest contributor to the increase in phosphates in the aquatic environment, restricting the amount of phosphates in laundry detergents is regarded – from a technical and economic point of view – as the most effective way of reducing the risk of eutrophication.

2.2 Regulation (EC) No 648/2004 on detergents harmonises the placing on the market of detergents with respect to their labelling and the biodegradability of the surfactants they contain. In the light of concerns about eutrophication, Article 16 of the Regulation instructs the Commission, by 8 April 2007, to 'evaluate, submit a report on and, where justified, present a legislative proposal on the use of phosphates with a view to their gradual phase-out or restriction to specific applications'. In its report, presented in 2007<sup>(1)</sup>, the Commission concluded that the state of knowledge concerning the contribution of phosphates in detergents to eutrophication was still incomplete, but was developing rapidly. Scientific studies subsequently carried out, as well as information on the economic and social impact of possible restrictions, formed the basis for the final impact assessment report<sup>(2)</sup>, which analyses a number of policy options to address the use of phosphates in detergents.

2.3 The Commission initiated a series of studies to establish whether restrictions on phosphates in detergents would be justified to reduce eutrophication in the EU. These studies formed the basis for further consultations with the Member States, industry and non-governmental organisations, during meetings held by the working group of authorities responsible for implementing the detergents regulation (the 'Detergents Working Group') in November 2006, July and December 2007, July 2008 and February and November 2009.

2.3.1 A specific consultation of small and medium-sized detergent producers was held through the Enterprise Europe Network in 2009 in order to gain more insight into the current use of phosphates and alternatives when formulating detergents and into the impact of potential restrictions on phosphates for these SMEs.

2.3.2 The above-mentioned studies and consultations, together with the impact study, formed the factual basis for drawing up Commission proposal COM(2010) 597 amending Regulation (EC) No 648/2004, on which the opinion of the European Economic and Social Committee has been sought.

<sup>(1)</sup> COM(2007) 234.

<sup>(2)</sup> SEC(2010) 1278.

## 3. Main points of the commission document

3.1 The proposal concerns the amendment of Regulation (EC) No 648/2004 on detergents, introducing limits on the content of phosphates and other phosphorous compounds in household laundry detergents, in order to decrease the contribution of detergents to the overall eutrophication of EU surface waters, further to the findings from the evaluations and the impact assessment performed by the Commission pursuant to Article 16 of the regulation in question.

3.1.1 The general objective is to ensure a high level of protection of the environment from the potential adverse effects of phosphates and other phosphorous compounds in detergents and to ensure a well-functioning internal market for detergents.

3.2 Five policy options were considered in terms of their impact:

- Option 1: no action at EU level, leaving the responsibility to act to the Member States or to regional cooperation (baseline option)
- Option 2: voluntary action by industry
- Option 3: total ban on phosphates in detergents
- Option 4: restriction/limitation on phosphate content in laundry detergents
- Option 5: setting limit values for the content of phosphates in detergents

The impacts of the different policy options were analysed with reference to the findings from the scientific analysis of the contribution of phosphates in detergents to eutrophication risk in the EU, and to the criteria of effectiveness and efficiency (including practicality, socio-economic impacts and monitorability). The information came mainly from the above-mentioned studies and further direction consultation with stakeholders.

The evaluation and impact analysis of the options showed that introducing Europe-wide limits on the use of phosphates and other phosphorous compounds in household laundry detergents would reduce the contribution of phosphates to the risk of eutrophication in EU waters, while reducing the cost of removing phosphorous for waste water treatment plants. This cost reduction would far outweigh the cost of reformulating household detergents with alternatives to phosphates. On the other hand, restricting phosphates at EU level would not make sense at the moment for automatic dishwasher (ADW) detergents or for industrial and institutional (I&) detergents, because the available alternatives on the whole do not meet the more rigorous technical requirements in these applications.

#### 4. General observations

4.1 The EESC welcomes the Commission proposal and, given the lack of alternatives that are satisfactory from a technical and economic point of view for categories of detergent other than household laundry detergents, endorses the introduction of limits on the use of phosphates and other phosphorous compounds for the time being in household laundry detergents only. However, as correctly provided for in the amendment to Article 16, limits must also be considered for phosphates in household automatic dishwasher detergents. Manufacturers are given ample time to examine existing alternatives or develop new ones and to make these technically and economically viable. Commission initiatives to consult stakeholders might help in encouraging industry to make progress towards this goal.

4.2 The EESC's evaluation of the options is as follows:

- Options 1 and 2: although if current trends continue these would lead to a gradual reduction in the use of phosphates, they do not meet the goal of ensuring a well-functioning internal market for detergents. Of course a reversal in the trend towards substituting phosphates with other compounds, which would have negative effects on the environment, cannot be excluded.
- Option 3: although this looks like the most attractive option in terms of reducing eutrophication risk, it would not be advisable to implement it, firstly because it would lead to a disproportionate reduction in the performance of household automatic dishwasher detergents, for which there are currently no technically and economically feasible alternatives, and secondly because alternatives for phosphates in household laundry detergents sometimes include other chemical compounds that themselves contain phosphorous, specifically phosphonates, which although added in only small quantities, are very effective, both in terms of water-softening and in stabilising bleaching agents. It is thus impossible to completely eliminate phosphorous from detergents.
- Option 4: this is the most appropriate option, since it covers only household laundry detergents, for which alternatives are already available and widely used, while also setting a minimum permissible limit for phosphates that would allow the use of phosphonates, whose importance is explained in the preceding paragraph. Restricting phosphates in laundry detergents would be less effective in reducing eutrophication than option 3, since laundry detergents account for only 60 % of phosphate use. However, this option would give producers of household automatic dishwasher detergents sufficient time to develop alternatives that are technical and economically viable for this particular type of detergent. This option would also allow specifications to be harmonised at EU level and ensure the smooth functioning of the internal market in household laundry detergents, which at the moment is fragmented.

- Option 5: this last option may seem to broadly meet the goals (reduction of eutrophication and smooth functioning of the internal market for all categories of detergent), by setting different limits for laundry detergents, automatic dishwasher (ADW) detergents and industrial and institutional (I&) detergents. However, it would not be easy to reach agreement on the limit values for ADWs, and even less easy for I& detergents, owing to the multiplicity of technical requirements (many I& detergents were developed specifically for the industrial plant of a particular customer). Imposing any given limit value would be likely to prompt many derogation requests under Article 114 TFEU, with consequent red tape for national authorities and the Commission.

4.3 The EESC recognises that the risk of eutrophication is not the same in all the Member States and therefore welcomes the Commission's proposal to retain the existing provisions, while amending them so as to allow the Member States to keep their national rules or introduce new ones on limiting the amount of phosphates or other phosphorous compounds contained in detergents other than household laundry detergents, where this is justifiable in order to protect the aquatic environment and provided alternatives are available that are technically and economically viable.

#### 5. Specific comments

5.1 The EESC agrees with setting a limit of 0.5 % by weight for the content of phosphorous (P) in household laundry detergents, covering all phosphates and phosphorous-containing compounds. Specifying the limit in this way ensures that it will not be easy to violate the proposed ban on phosphates.

5.2 The EESC welcomes the Commission's proposal to review at a later stage (after adoption of the proposal in question) the contribution of household automatic dishwasher detergents containing phosphates to the risk of eutrophication, to submit a report to the European Parliament and the Council and, if deemed appropriate, to propose restrictions on the phosphate content of these detergents. However, the EESC considers the five-year time frame for the report to be rather generous, and therefore recommends:

- that the report on the contribution of household automatic dishwasher detergents containing phosphates to the risk of eutrophication be completed within three years or even earlier if possible;

— that industrial sectors producing automatic dishwasher detergents and those producing alternative ingredients both be given information and encouragement with a view to their developing and enhancing existing, but possibly still imperfect, alternatives to phosphates and making these alternatives technically and economically viable;

— that, if the phosphates contained in automatic dishwasher detergents make only a small contribution to the risk of eutrophication, and at the same time no alternative has been found that would be satisfactory for consumers, a limit should be set on the phosphorous content expressed as a percentage per weight or grams per wash, a limit that is low enough not to be too harmful for the environment, but high enough to ensure that the detergent works effectively.

5.3 As regards the consistency of the Commission's proposal with the policies pursued by other bodies and with EU goals, the EESC agrees with the Commission's assessment, set out below, that the necessary coherence has been achieved to a satisfactory degree.

5.3.1 The proposal under discussion is fully consistent with the objectives of the Water Framework Directive (Directive 2000/60/EC), which requires Member States to achieve a good ecological and chemical status for surface water by 2015. There has been coordinated action by the Member States concerned and cooperation strategies at regional level in certain vulnerable regions of the EU, but progress to date has been slow. Thus the Commission's proposal is a complementary measure that is essential to the success of activities that are part of regional cooperation initiatives to combat the cross-border problem of eutrophication.

5.3.2 The proposal also complements the Urban Waste Water Treatment Directive (91/271/EEC), which aims to limit concentrations of nutrients such as phosphorous and nitrogen in surface waters in order to counter eutrophication.

5.4 The Commission notes that the legal basis for the proposal is Article 114 of the Treaty on the Functioning of the European Union (TFEU), whose aim is to establish an internal market while ensuring a high level of protection of human health and the environment.

5.4.1 The Commission states that the subsidiarity principle as set out in Article 5(3) of the Treaty on European Union applies in so far as the proposal does not fall under the exclusive competence of the Union.

5.4.2 The Commission also states that the proposal does not go beyond what is necessary in order to achieve the intended objectives, in accordance with the principle of proportionality as set out in Article 5(4) of the Treaty on European Union.

5.4.3 Finally, the Commission concludes that the legal instrument must be a regulation, since the aim is to harmonise the level of phosphates and other phosphorous compounds contained in laundry detergents. The proposed regulation amends the existing regulation on detergents.

5.4.4 The EESC endorses the Commission's approach. With a view to the proportionality principle also being upheld in the penalties provided for, the EESC makes the following recommendations:

— If when checks are carried out a household laundry detergent is found on the market with a phosphorous content of over 0,5 % but less than 2,0 %, and provided the formulation filed with the competent authorities gives a phosphorous content of less than 0,5 %, withdrawal of the product from the market should not be required (unless of course there is a risk to health), but only an administrative fine imposed. The fine can be progressive to reflect the amount by which permissible limit has been exceeded. It is likely that the 0,5 % limit will be exceeded, not deliberately, but because the formulator will probably also be legally producing phosphate-containing detergents for non-EU countries in the same plant, and minor contamination is possible despite measures taken to isolate production batches. It would be left to the Commission's discretion to require a fuller account of any such incident from the producer, to prevent the proposed measure being used to infringe the 0,5 % limit. It should be noted that withdrawing products without serious reason (e.g. health, safety) could eventually lead to greater environmental stress owing to the repeated transportation, destruction of packaging and discarding of the product without it having been used as intended, despite being completely safe and fit for purpose.

— In cases where the phosphate content exceeds 2,0 % by weight, the penalties and measures provided for should be applied.

Brussels, 15 March 2011.

*The President*  
of the European Economic and Social Committee  
Staffan NILSSON

**Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament and the Council: Mid-term review of the LIFE+ - Regulation'**

COM(2010) 516 final

(2011/C 132/13)

Rapporteur: **Mr RIBBE**

On 30 September 2010 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament and the Council Mid-term review of the LIFE+ Regulation*

COM(2010) 516 final.

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 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 185 votes to two with seven abstentions.

## 1. Summary

1.1 Because the first LIFE+ projects only began in January 2009 as a result of implementation difficulties, the mid-term review of the LIFE+ Programme (period: 2007 to 2013) being considered provides insufficient information to make a qualified assessment for the current programming period.

1.2 Nevertheless, the EESC has always stressed the high importance of the LIFE Programme, which has been running for nearly 20 years, for developing and shaping European environmental policy. It believes that it is also necessary and appropriate to continue and further develop the programme during the next funding period (2013–2020).

1.3 The LIFE Programme must be as flexible an instrument as possible to enable the Commission to play an effective shaping role. LIFE accounts for around 0,2 % of the EU budget and can provide valuable contributions and suggestions for possible solutions. However it can neither correct failures arising from other EU policy areas nor finance all EU environment-related strategies.

1.4 The requirements stemming from problems in implementing EU environment policy should be the deciding factor in future choices for LIFE projects. Concern for balanced allocation of funding between Member States should not play any role in this respect in future.

1.5 Environmental policy is more developed in Europe than in other parts of the world because of the demands of an actively involved civil society. In this respect, the Commission rightly emphasises the role of nature and environmental protection organisations which is also acknowledged by the EESC. But other sectors of civil society should also be encouraged to cooperate more closely in LIFE projects in the future. The LIFE+ funding mechanisms should be organised in such a way that good projects do not founder because of rigid co-financing conditions.

## 2. General Comments

2.1 To date, the EU's environmental finance instrument LIFE has clearly been an extremely important programme which has provided the crucial impetus in implementing, developing and shaping the European Union's environmental policy and legislation. It was established in May 1992 by Regulation (EEC) No 1973/92 - the *Financial Instrument for the Environment (LIFE)*.

2.2 LIFE I ran from 1992 to 1995 and had a budget of EUR 400 million (EUR 100 million per year). In the wake of its success, Regulation (EC) No 1404/96 launched a second phase (LIFE II) which ran from 1996 to 1999 with a total budget of EUR 450 million (EUR 112,5 million per year). LIFE III was established by Regulation (EC) No 1655/2000 to run from 2000 to 2004 (EUR 128 million per year). This was extended to the end of 2006 by Regulation (EC) No 1682/2004.

2.3 Regulation (EC) 614/ 2007 launched LIFE+, a new phase in LIFE covering the 2007 to 2013 period with a total budget of around EUR 2,17 billion (around EUR 340 million per year).

2.4 Environmental aid has been completely restructured under LIFE+. Parts of existing EU support programmes included under the old title 07 (Forest Focus, support for NGOs, URBAN, the development of new policy initiatives, aspects relating to environmental policy implementation, and elements of LIFE-Environment and LIFE-Nature) have been merged. On the other hand it was decided that traditional, tangible environmental investment projects would no longer be promoted. These would instead be covered for environmental projects through heading 1a, and for nature protection projects through heading 1b and parts of heading 2. Support for international activities has been transferred from heading 4 (measures for the marine environment) to heading 3.

2.5 LIFE+ focuses on promoting measures that support environmental policy (having a uniquely European dimension) such as exchange of best practice, capacity building of local and regional authorities and support for NGOs having a Europe-wide vocation.

2.6 The Commission therefore envisages that in this financing period investment projects will be covered by the (new) headings 1a, 1b, 2 and 4, rather than by LIFE.

2.7 Since the corresponding LIFE+ Regulation only entered into force in June 2007, the tender procedure for projects could not be launched until October 2007. The first projects from the new LIFE+ phase could thus only commence in January 2009, which means that the mid-term assessment submitted by the Commission and commented on in this opinion can only be a reflection on a relatively small number of projects which have moreover only just got off the ground. The Commission rightly observes that 'limited information on results is thus available'.

### 3. Specific comments

3.1 The mid-term assessment mentions several times how important the LIFE programme is. It is described as being 'an effective tool' that 'achieves added value' and it is emphasised that 'beneficiaries as well as Member States consider that the Programme should be continued as crucial for the implementation of EU environmental policy'.

3.2 The EESC wonders whether these claims from the mid-term report examined by this opinion can be made on the basis of an assessment of projects which only began in January 2009. Although the Committee has never wavered in its belief that the LIFE Programme is very important, the limited amount of data on which the mid-term assessment is based still does not allow any real conclusions to be drawn on the LIFE+ phase.

3.3 However, since the possibility of a new programming period after 2013 is already beginning to be considered, the Committee would like to take this opportunity to go into some basic questions and put forward proposals.

3.4 The Committee would therefore like to point out that, in its view, a proper mid-term assessment of the new phase of the LIFE+ Programme is still not possible at this point.

3.5 In its opinion <sup>(1)</sup> on the draft LIFE+ Regulation that was subsequently adopted, the EESC sounded several warnings which now seem to have been confirmed.

3.6 The Committee said that the LIFE Programmes could clearly be deemed to be very effective steering instruments on the part of the Commission. Such significant success was

achieved using such limited resources because the EU Commission was able to set conditions and because both potential project participants and also Member States were to some extent 'competing' for LIFE funds: Member States (or rather, public and private project promoters from Member States) needed to design and develop innovative projects which fitted in with the objectives of the LIFE programme. A selection procedure was put in place in which projects were subjected to critical analysis before being either approved, or rejected because of poor quality or insufficient funding. This meant that, as far as allocation of funding was concerned, there was both a certain degree of European transparency and clear steering by the Commission.

3.7 The EESC believes that the Commission should have an instrument which it is exclusively responsible for shaping in order to support its environment policy which is clearly making slow progress in some sectors. It should not have to concern itself, for example, with the allocation of funding to the regions.

3.8 Nevertheless, in its mid-term assessment, the Commission notes that the indicative national allocations introduced in the new programme phase have improved the 'geographical distribution of projects', but that the evaluation hints that these national allocations may 'lead to selecting projects of lower quality'.

3.9 This is precisely what the EESC had feared. It therefore calls on the Commission and the Council to fundamentally reconsider the approach to the LIFE Programme. It should not be a question of transferring EU funds to Member States to finance environmental projects with a European dimension. The Programme should clearly be applied where the Commission services perceive the greatest need for taking EU environment policy forward.

3.10 Environmental policy in Europe is now strongly influenced by EU legislation, which can only be justified on the basis of a functioning internal market. But there is little point in making the legislation more European if the instrument intended to take the policy forward is to some extent being made more country-focused.

3.11 The EESC believes that the projects and processes funded by LIFE should be directed more specifically than before towards implementing strategies adopted by the EU (in particular the EU sustainable development strategy – which we are hearing remarkably little about – the biodiversity strategy, the climate protection strategy and the environmental aspects of the Europe 2020 Strategy). Special importance should be placed on the projects serving as models, which does not mean that each individual project must necessarily be innovative – as is currently required in the 'biodiversity' area. Often, it is not that innovation is lacking, but simply that existing solutions are not made known or applied.

<sup>(1)</sup> CESE 382/2005, OJ C 255 of 14.10.2005, p. 52.

3.12 The Commission will need a high level of flexibility as regards both content and financing, including co-financing rates, when selecting projects in the future. The EESC considers that 100 % EU funding should also be possible.

3.13 The Commission rightly observes that contributions from civil society are vital to developing environmental policy. Europe's environmental policy is often considered more progressive than that of other parts of the world, precisely because the debate within society calls for greater protection of the environment and nature. It is in the EU's interest to stimulate that debate which must not founder solely because of fixed co-financing rates.

3.14 The EESC is in favour of the LIFE+ programme being implemented through constructive cooperation with all NGOs both in the Member States (business associations, trades unions etc.) and at EU level. Members of these organisations are often active in areas in which the EU would like to see greater environmental protection and implementation of EU environmental policy. A corresponding raising of awareness and commitment should not just be the responsibility of the environmental organisations, but also of businesses.

3.15 The EESC would therefore like to point out expressly that, along with the traditional associations for protecting nature and the environment, business associations and trades unions should also be encouraged to play an active part in LIFE Projects.

3.16 The EESC agrees with the Commission's view that '*more prioritisation and focus ... and establishing annual focus areas*' are required. In this respect, importance should also be placed on cross-sectoral approaches. Similarly, cross-border projects with third countries should not be categorically ruled out.

3.17 Although the EESC greatly values the LIFE programme, it warns against overestimating its possibilities. The approximately EUR 340 million provided annually can fund many projects that can deliver valuable pointers for positive approaches in environmental policy. But this money, which represents around 0,2 % of the EU budget, cannot, for example, solve all the problems arising from mistakes made in the management of other EU policy areas.

3.18 The EESC is sceptical about the statement in the mid-term review that the 'biodiversity' strand of the LIFE+ Programme could be '*a major instrument to specifically finance the implementation of the Biodiversity Action Plan*'. The LIFE Programme should, must and will help to show how the maintenance of biodiversity can be reconciled with the use of natural resources. However, other financing instruments should be used to achieve this.

3.19 In its communication, the Commission itself states <sup>(2)</sup> that 'the Common Agricultural Policy (CAP) is the policy tool having the most significant impacts on biodiversity in rural areas' and that 'the European Agricultural Fund for Rural Development (especially under Axis 2) remains the most important Community funding source for Natura 2000 and biodiversity in the EU', i.e. not the LIFE Programme.

3.20 Currently, only 20 % of all the funding needs for managing Europe's nature reserves, including Natura 2000, are covered. This problem cannot be solved by LIFE alone, but rather by the often mooted integration of environmental and nature protection into other policy areas. In other words, the real role and task of the LIFE Programme need to be clearly redefined.

Brussels, 15 March 2011.

*The President*  
*of the Economic and Social Committee*  
Staffan NILSSON

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<sup>(2)</sup> Report from the Commission to the Council and to the European Parliament: The 2010 Assessment of Implementing the EU Biodiversity Action Plan COM(2010) 548.

**Opinion of the European Economic and Social Committee on the 'Review of the Community Strategy Concerning Mercury'**

COM(2010) 723 final

(2011/C 132/14)

Rapporteur: Ms LE NOUAIL MARLIÈRE

On 7 December 2010 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Review of the Community Strategy Concerning Mercury*

COM(2010) 723 final.

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 28 February 2011.

At its 470th plenary session, held on 15 and 16 March (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 173 votes to 6 with 12 abstentions.

## 1. Conclusions

The implementation of the 2005 Mercury Strategy is in an advanced stage, having delivered on almost all actions and will certainly be continued and reinforced.

1.1 Supporting the Council Conclusions on the issue <sup>(1)</sup>, the EESC however recommends to the Commission, to the Member States and the Social Partners:

- a) to recognise the need and importance that the EU should keep its advanced position at the global level by actively taking further commitments to reduce mercury use, supply and emissions;
- b) to consider that an overall objective should go hand in hand with a comprehensive reduction, derogations being granted for situations that might require them (specific technical or financial difficulties), instead of basing the approach on applying separate restrictions to each product and application and to each stage in mercury's life-cycle;
- c) to continue and enhance support for the implementation of projects in developing countries and countries with economies in transition, concurrently with the work of the intergovernmental negotiating committee, as part of the international work in the areas mentioned under UNEP GC decision 25/5, paragraph 34;
- d) to conclude that mercury use in the chlor-alkali sector should come to an end and requests the Commission to

present a proposal by 1 January-2012, for *legally binding measures including a sunset date* for the use of mercury in the sector *as soon as possible* and before 2020;

- e) to draw the attention that specific measures should be taken with respect to mercury emissions from industrial sources and invites the Commission to adopt rapidly Best Available Technique (BAT) conclusions as well as BAT Associated Emission Limits for all relevant to mercury industrial processes, in view of supporting the implementation of the newly adopted Industrial Emissions Directive;
- f) to assess the possibilities for restricting the use of mercury in button cell batteries and to propose restrictions in their placing on the market by 1 July 2012;
- g) to further assess the possibility for a mercury phase out in the use of mercury in dentistry by 1 July 2012, considering all available studies and developments as well as availability of alternatives;
- h) to take measures to ensure that highly efficient amalgam separators are installed in all dental clinics in the EU;
- i) to investigate the use of mercury in vaccines, the existing alternatives and the extend to which mercury can be appropriately eliminated from such a use to better protect public health, by 31 December 2012;
- j) to take action to carry out a first testing programme for methyl-mercury in fish and update the EU-wide risk communication as appropriate, by 31 December 2012;

<sup>(1)</sup> Council Conclusions on the Review of the Community Strategy Concerning Mercury adopted on 14 March 2011 (7774/11).



- k) to take action to further raise awareness and increase knowledge on the fact that energy efficient lamps contain mercury and should be separately and safely collected avoiding physical breakage;
- l) to push forward guarantees for eliminating mercury residues in waste;
- m) to see emissions from cremations and from small combustion plants to be covered by Community legislation;
- n) to increase the appropriate steps to ensure the health of all workers potentially coming into contact with mercury;
- o) to implement measures, in such a framework, related to the potential impact on jobs, making it possible to mitigate the effects of industrial change, applying to all employees regardless of their qualifications;
- p) to take measures to ensure separate safe collection of products containing mercury which is not currently requested by law and to undertake large scale information campaigns to acknowledge users and consumers of the specific volatile and toxic nature of the mercury element.

## 2. Introduction

2.1 Mercury and most of its compounds are considered to be highly toxic substances that are harmful to biodiversity, ecosystems and human health. Mercury is also a bioaccumulative substance, which means that it can accumulate in organisms and cross the different stages of the food chain. Mercury also evaporates at ambient temperatures and can be converted to methylmercury, which is its most common, but also its most toxic form. Mercury is therefore a persistent substance, which can spread over considerable distances, in water, soil and air or in organisms <sup>(2)</sup>.

2.2 The origin of anthropogenic mercury releases is linked to its various applications, such as its use in certain products and production processes, and atmospheric emissions or accidental releases; the main users of mercury are chlor-alkali plants, the chemical polymers industry and dental amalgam manufacturers, accounting for 86 % of annual volumes.

2.3 The mercury emissions to air from thermal power stations and other combustion installations, mainly coal combustion plants represent over 50 % of the total mercury emissions <sup>(3)</sup> from industrial sources.

<sup>(2)</sup> UNEP Chemicals, Global Mercury Assessment, December 2002-2010.

<sup>(3)</sup> <http://prtr.ec.europa.eu/PollutantReleases.aspx>.

## Origin of potential anthropogenic mercury releases

- a) Use in products
  - Measuring devices
  - Dental amalgam
  - Fluorescent lighting tubes, energy-efficient light bulbs
  - Batteries
  - Switches
  - Vaccines (thiomersal, or thimerosal)
- b) Use in production processes
  - As a catalyst for polymers and polyurethane
  - Chlor-alkali manufacturing
  - Gold mining
- c) Atmospheric emissions
  - Power stations (coal-fired)
  - Cremation (ingested mercury and dental amalgam)
  - Non-recycled and incinerated waste (containing mercury)
- d) Accidental releases
  - Industrial leaks (in processing, storage, etc.)

## 3. General comments

3.1 Globally, the United Nations Environment Programme commissioned a study in 2001 on the presence and impact of mercury, which concluded that the evidence of significantly adverse effects was sufficient to warrant international action <sup>(4)</sup>. In February 2009, world governments at the UNEP Governing Council decided to develop a legally binding treaty on mercury by 2013.

3.2 In December 2002, the Commission presented a report to the Council on mercury from the chlor-alkali industry; further to that report, the Council asked the Commission to take a broader look at the issue and present a 'coherent strategy (...) containing measures to protect human health and the environment from the release of mercury based on a life-cycle approach, taking into account production, use, waste treatment and emissions'.

<sup>(4)</sup> UNEP – Chemicals, Global Mercury Assessment, December 2002.

3.3 On the basis of these approaches, the Community Strategy Concerning Mercury was adopted by the Commission on 28 January 2005. Its key aim was to 'reduce mercury levels in the environment and human exposure, especially from methylmercury in fish' <sup>(5)</sup>.

3.4 This strategy has six strands (and 20 priority actions), with the aim of:

- reducing mercury emissions,
- reducing the circulation of mercury in society by reducing supply and demand,
- resolving the long-term fate of mercury surpluses and reservoirs (in products still in use or in storage),
- protecting against mercury exposure,
- improving understanding of the mercury problem and its solutions,
- supporting and promoting international action on mercury.

3.5 This strategy contained an assessment and review clause for 2010: The Commission sent the Council and Parliament the present review of the Community strategy concerning mercury on 7 December 2010.

3.6 In tandem, the ECHA tabled proposals to extend restrictions on measuring equipment containing mercury and intended for professional or industrial use <sup>(6)</sup> under the review clause contained in the REACH regulation. A public consultation was held on 24 September 2010, and the opinions of the relevant committees under the REACH regulation are due to be presented to the Commission in September 2011.

3.7 Two EESC opinions published on these developments have supported the Commission's active commitment to reduce mercury production and use, in the EU and throughout the world, and guarantee its safe storage, and its aim of fully eliminating mercury in certain measuring devices <sup>(7)</sup>.

3.8 The EESC's opinions have, however, urged the Commission to 'implement the other elements of its mercury strategy as soon as possible, and to develop measures to further reduce the use of mercury in processes and products within Europe, and to ensure that mercury in waste streams is disposed of safely', while calling on the Commission to

ensure that professional and industrial users of measuring devices containing mercury are required to comply with the objective of not releasing mercury into the environment.

3.9 The exhaustive assessment carried out in 2010 <sup>(8)</sup> and supporting documents from the different parties concerned <sup>(9)</sup> have highlighted the genuine progress made on implementing the Community strategy concerning mercury and the EU's major contribution to supporting international initiatives and negotiations for a legally binding treaty under UNEP.

#### 4. Specific comments

4.1 The Community strategy concerning mercury, uses a number of more general legal instruments (the RoHS <sup>(10)</sup>, REACH, the Framework Directive on Water and the IPPC Directive, in particular), in some places adapting these tools to the aim of reducing mercury throughout the EU:

- Best Available Techniques reference documents (BAT - 'BREF') and adoption of the new Industrial Emissions Directive (IED), has updated and recast seven directives, including the IPPC, strengthening the role of BATs (with compliance mandatory from 2012 onwards for new installations and from 2016 for existing installations);
- Directive 2006/66/EC on batteries and accumulators and on battery and accumulator waste, reduced the maximum level authorised in comparison to the previous directive from 1991.

4.2 Implementing this strategy has also generated its own tools and rules, which have made the European Union a world leader in mercury reduction:

- a ban on exports of metallic mercury and certain mercury compounds and mixtures, and mandatory safe storage of metallic mercury (Regulation (EC) 1102/2008, 22 October 2008), to enter into force in March 2011;
- Directive restricting the sale of measuring devices containing mercury to the general public (such devices may not be placed on the market unless a derogation has been granted; this mainly concerns porosimeters), adopted on 25 September 2007, now appended to Annex XVII of the REACH regulation (Entry 18a). The process of extending the ban to cover professional uses (industrial, medical, etc.) is now under way.

<sup>(5)</sup> COM(2005) 20 final.

<sup>(6)</sup> European Chemicals Agency - Annex XV Restriction Report, June 2010.

<sup>(7)</sup> OJ C 168, 20.7.2007, p. 44 – OJ C 318, 23.12.2006, p. 115.

<sup>(8)</sup> <http://mercury.biois.com> (p. 74).

<sup>(9)</sup> ZMWG (Zero Mercury Working Group) [www.zeromercury.org/](http://www.zeromercury.org/)+ EEB (European Environment Bureau) [www.eeb.org](http://www.eeb.org).

<sup>(10)</sup> Directive 2002/95/EC - Restriction on the use of certain hazardous substances in electrical and electronic equipment.

Lastly, Euro Chlor is working on phasing out the use of mercury in the chlor-alkali industry by 2020 through a voluntary agreement.

4.3 The EESC underlines the importance at the time of the review of the Regulation (EU) 1102/2008 to extend the export ban to cover also other mercury compounds and products containing mercury and the safe storage of metallic and/or solidified mercury as relevant.

4.4 The EESC emphasises the following points:

— The DG ENV Expert BIO-IS 2010 study <sup>(1)</sup> proposed the strategy's key aim to be an overall goal of protecting 'human health and the environment from the release of mercury and its compounds by minimising and, where feasible, ultimately eliminating anthropogenic mercury releases to air, water and land'.

— Moreover, there is now an opportunity to make further progress on the overall aim of reducing mercury use, in that most products and applications have mercury-free (and economically viable) alternatives and also because most companies manufacturing products containing mercury also produce alternative products, which makes it possible:

— to lessen the economic and social impact (in terms of jobs) of a major reduction in mercury use,

— to increase EU position at innovative and economic level (technology advance),

— to consolidate its position in the international and global discussion including RIO+20 and the EU Commission initiative for the external dimension of the European environmental policy.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(1)</sup> <http://mercury.biois.com> (p. 74).

**Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation (EU) No ... of the European Parliament and of the Council laying down specific measures in favour of agriculture in the smaller Aegean islands'**

COM(2010) 767 final — 2010/0370 (COD)

(2011/C 132/15)

Rapporteur working without a study group: **Christos POLYZOGOPOULOS**

On 18 and 20 January 2011 the Council of the European Union and the European Parliament, respectively, decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the:

*Proposal for a Regulation (EU) No ... of the European Parliament and of the Council laying down specific measures in favour of agriculture in the smaller Aegean islands*

COM(2010) 767 final — 2010/0370 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 174 votes to six with 17 abstentions.

## **Conclusions and recommendations**

### **1. Conclusions**

The EESC welcomes this draft proposal for a regulation recasting Regulation (EC) No 1405/2006, for the following reasons.

1.1 The previous regulation was subject to many amendments to reflect developments in Community legislation and to bring it into line with the Lisbon Treaty. The legislative text needs to be restructured so as to better highlight the central role of the support programme, focusing on:

a) the specific supply arrangements, and

b) the special measures for local production.

1.2 The recast regulation refers explicitly to the key elements of a specific scheme for agricultural products of local importance in the smaller Aegean islands, with the aim of effectively addressing the difficulties caused by these regions' isolation, remoteness, insularity, small size, mountainous terrain and climate, and their economic dependency on a small number of products.

1.3 Article 2 of the new regulation emphasises that the measures will contribute to achieving the goal of guaranteed supply to the smaller islands of products essential for human consumption or for processing and as agricultural inputs by mitigating the additional costs due to remoteness, insularity

and small size, and to that of preserving and developing agricultural activities in the smaller islands, including the production, processing and marketing of local products.

1.4 The aim is to ensure that Greece applies the programme in a uniform manner to the smaller Aegean islands in relation to other similar arrangements in order to avoid unfair competition or discrimination between operators.

1.5 Sound budgetary management is ensured by requiring Greece to indicate in its programme the list of aid constituting direct payments for local products, specifically setting out how the amount is calculated.

1.6 The ceiling for financing the specific supply arrangements is increased by 20 %.

1.7 The Commission is granted the power to implement the uniform conditions relating to introducing the system of certificates and the commitment of operators concerning supply arrangements and a general framework of checks which Greece must perform.

1.8 Under Article 11(2), the Commission may also adopt, by delegated act, the conditions for entering operators in the register of certificates and require that a security be lodged for issuing certificates, as well as adopting measures for introducing the procedure for approving amendments to the programme.

## Statement of reasons

### 2. Introduction

2.1 In line with the objectives of the measures and the principles applying to programming, compatibility and consistency with other EU policies, also in accordance with Regulation (EC) No 1782/2003, common rules are set for the direct support scheme within the framework of the common agricultural policy.

2.2 The Commission thus adopts the necessary regulatory provisions using its implementing powers, under Article 291(2) of the Treaty, to ensure uniform application of the programme by Greece in the smaller Aegean islands in relation to other schemes, and with the aim of avoiding unfair competition and discrimination between operators.

2.3 The Commission ensures uniform conditions with respect to introduction of the certificates system and operators' commitment regarding the specific supply arrangements (Article 11(3)).

2.4 It determines the uniform conditions for implementing the programme (Articles 6(2), 15(3) and 18(3)), and a general framework of checks which Greece must perform (Articles 7, 12(2) and 14(1)).

2.5 The EESC believes that the considerations, positions and proposals set out in sections 4, 5, 6 and 7 of this opinion should be drawn on in order to flesh out the content of the regulation to be adopted and with a view to framing an integrated policy for the scattered islands of the Aegean.

### 3. Summary of the proposal for a regulation

3.1 The new regulation repeals and replaces the preceding one, Regulation (EC) 1405/2006, owing to the large number of amendments and to ensure conformity with the Lisbon Treaty.

3.2 In accordance with the subsidiarity principle, the content of the support programme for the smaller Aegean islands (Chapter II, Article 5) is clarified. The programme must be established by Greece and submitted to the Commission for approval. By the same token, Greece is free to amend the programme (Chapter II, Articles 3 and 6) to bring it into line with requirements.

3.3 Specific supply arrangements are established for the EU's agricultural products, which are essential in the smaller islands of the Aegean for human consumption, for the manufacture of other products or as agricultural inputs (Article 3). Greece is required to draw up a supply balance covering the supply requirements of the islands.

3.4 Support is granted for each agricultural product in the smaller islands based on the marketing costs calculated from the ports in mainland Greece that ship the products, plus any additional costs relating to insularity and small size.

3.5 The particular geographical situation, the extra costs of transporting products and the additional burden of isolation create disadvantages for these regions that can only be countered by reducing the prices of the products in question, which calls for special supply arrangements. The products covered by these supply arrangements will be quality, marketable products in order to avoid any speculation.

3.6 So as to maintain the competitiveness of EU products, support must be granted for the supply of EU products to the smaller Aegean islands, taking the extra costs of transport into account.

3.7 The products in question may not be dispatched or exported in the case of economic advantage resulting from the specific supply arrangements. Products may nevertheless be exported to third countries, provided the economic advantage is reimbursed. They are also subject to administrative checks (Article 14).

3.8 To benefit from support, operators must present a certificate stating that they are entered in the relevant registers.

3.9 The proposal aims to encourage trade in processed products between the smaller Aegean islands and exports of those products to the rest of the European Union and non-EU countries.

3.10 Support for local production is furthered through the support programme first established by Regulation (EC) 1405/2006. That regulation promoted the production, marketing and processing of a wide range of products, and the measures it provided for proved positive for agricultural activity.

3.11 Measures are introduced for funding studies, demonstration projects, and training and technical assistance (Article 15).

3.12 Agricultural production and marketing of quality products are encouraged.

3.13 The proposal fixes Commission's powers to adopt delegated acts, which must be notified to the European Parliament and the Council.

#### 4. Recommendations

The EESC believes that the following measures should be prioritised and adopted:

4.1 The issue of agricultural products should be addressed in conjunction with setting up an appropriate development framework for island tourism; in particular, the islands should draw consumers from Europe and beyond who appreciate the particular value of the Mediterranean diet and local organic products.

4.2 Similarly, the necessary steps should be taken to exploit more effectively traditional farm products for which demand has also increased in other sectors, partly because of their therapeutic properties (mastic gum from Chios, olive oil, honey, various types of herbs, etc.), specifically in the pharmaceuticals, cosmetics and homeopathic sectors.

4.3 The local island population must be made aware of the dietary and economic value of their products. The EESC recommends that an interregional school be set up in a strategically placed island based on the idea of an Erasmus programme for students and workers in the tourism sector.

4.4 Measures should be envisaged to organise educational programmes involving national and external universities in projects to draw up studies and conduct academic research on highlighting the economic value of island products and capitalising on them.

4.5 The vulnerable population of the islands, especially in inaccessible areas, should be approached with great sensitivity with a view to maintaining that population and providing incentives – chiefly economic and aimed at young people – by setting up programmes, without repayment of surpluses, to subsidise business activity in remote regions; these efforts would focus on highlighting ways to harness the economic potential of the islands based on their unique and special features, and in accordance with their geographical and geological profile.

4.6 The importance of improving quality must be stressed, along with reducing the production costs of agricultural products.

4.7 Various criteria must be introduced to reflect the particular morphology of a territory and its geological composition.

#### 5. General comments

The EESC recognises the particular factors that determine the development of agriculture in the Aegean islands, and therefore believes that it would be useful if the regulation under discussion also took the following factors into account.

5.1 Because basic resources such as water, energy and raw materials are in short supply, resources in the Aegean islands must be managed rationally. This applies in particular during the summer months, when the increased number of tourists and summer visitors in the islands create problems with access to water reserves, energy, etc. These issues must be taken into account so that they can be addressed by ensuring improved management of resources and a well-balanced natural environment. Here the regulation could provide for supporting policies that address these specific serious problems.

5.2 **Changes in land use in the islands:** The amount of agricultural land in the islands is steadily decreasing through conversion to other uses, e.g. construction, or because land is left fallow, or is infertile and uncultivated (now regarded as permanent 'set-aside'). Land use should therefore be improved through the support programmes for agricultural production, and the regulation could establish the framework for this.

5.3 The decline and abandonment of agricultural holdings, and the accumulation of dead biomatter (dead branches and plants) in deserted woods and olive groves, encourage the occurrence of forest fires, which prevent land being used for a long period of time.

5.4 It is also necessary to restore the balance between land allocated to tourism development and agricultural land. The two spheres of activity must complement each other.

5.5 Particular attention must be paid to the primary sector, where unemployment is very high, in contrast to the tertiary sector where employment is rising.

#### 6. Specific comments

6.1 Crete and Evia should be included in the scope of this regulation.

6.2 Twelve-month initiatives should be implemented with the aim of improving the production, marketing and promotion of agricultural products. The aim of such measures would be specifically to increase production, while enhancing quality.

6.3 An area payment should be introduced for land regeneration and redistribution with a view to maintaining traditional olive groves and citrus orchards in the smaller Aegean islands.

6.4 There should be increased economic support for products such as potatoes (for eating and sowing), Tinos artichokes, Skopelos plums, Santorini cherry tomatoes, citrus fruits, edible pulses (fava) of the *Lathyrus* species, beans, barley from Lemnos, lines of traditional cheeses (e.g. Graviera from Naxos, Kalathaki cheese from Lemnos (PDO), lemon liqueur, rakomelo from Amorgos, almond biscuits from Sifnos and Lesvos, and Kalloni sardines).

Honey and olive oil are two superior products that exemplify the identity and quality of agricultural production in the smaller islands.

6.5 There is reason to highlight the traditional cultivation of mastic trees on Chios, as well as vineyards for the production of wines with protected geographical indication in areas of traditional cultivation in the smaller Aegean islands.

6.5.1 Financial support should be provided for land that is leased.

6.5.2 It is necessary to provide more support for protecting geographical indications and designations of origin for agricultural products and foodstuffs.

6.5.3 Funding should be provided to support ways of improving the basis for wine-growing, storage, standardisation and distribution of wines and olive oil produced.

#### Requirements

6.5.4 Cultivation, exploitation and production per hectare should not exceed a fixed profit ceiling.

6.5.5 Cultivation techniques should be implemented as provided for under national law.

6.5.6 Products should carry a designation of origin, or superior quality.

6.5.7 The provisions of national and Community law must be respected.

### 7. Recommendations

7.1 The EESC thinks that the regulation should facilitate interconnection with other sectors of the local economy – tourism, biotechnology, commerce – while emphasising the change of approach in tourism.

7.2 The EESC believes there should be a focus on learning about cultivation methods and harvesting processes, discovering places of geological interest, familiarisation with animal species living in agricultural ecosystems, the Mediterranean diet, healthy eating and organic products.

7.3 In the EESC's view, enjoying the experience offered by the shade and peace of olive and orange groves, contact with the earth, tranquillity and absence of noise, visiting an authentic rural location while the combined economic potential of these things is being harnessed, represents a mix of specialised and alternative forms of tourism (cultural and ecological, agritourism, health tourism, sightseeing, gastronomy, etc.).

This would be a way of creating a different tourism product that is directly linked to agricultural products, which themselves are directly linked and relevant to high-quality tourism – featuring gastronomy (the Mediterranean diet), organic products and agritourism - which allow people to avoid the standard mass tourism formula of sun, sea and sand. **The regulation will help to support these options.**

7.4 The EESC believes that a service or agency for continuing training programmes on promoting the healthy Mediterranean diet and gastronomy could operate on one of the Aegean islands within the framework of EU policies relating for example to organic products, parapharmaceuticals and cosmetics, with a view to developing Mediterranean products.

7.5 The EESC proposes that Chios's Association of Mastic Producers, a cooperative society, could be used as a model of technical expertise for a pilot project with the principal aim of developing a network of shops ('mastihasops') in Greece and across Europe to publicise and promote mastic, and its different uses and properties, through mastic products made in Chios, Greece and the European Union.

7.6 In its previous opinions ECO/213 (10.7.2008) and ECO/262 (15.7.2010), the EESC advocated prioritising the promotion of agritourism in conjunction with providing support for employment.

7.6.1 It therefore considers that the regulation should encourage part-time employment of islanders in agriculture through practical support in the form of rights to invest and profit from agritourism. Safeguarding the dual role of land as an agricultural (or forestry) and agritourism asset is key when it comes to supporting to both activities. However, such rights should not attach to farming plots but to farming operations.

7.6.2 Favourable provisions should be introduced for agritourism, i.e. the right to erect and operate small-scale agritourism units on a farm, a right which should be granted and renewed on condition that production be maintained and continued (olive-growing, wine-growing, cultivation of oranges, mandarins, mastic, honey, figs, etc.).

7.6.3 In disadvantaged island regions which are depopulated and where farmland has been abandoned, developing part-time farming is the most effective and reliable way of maintaining the population and protecting the environment of the islands.

The regulation could contribute here by serving as a catalyst in preserving the life, character and environmental wealth of these island regions for the benefit of all the people that visit them and, of course, their residents.

7.7 Finally, the EESC believes that the main pillars of island development are agriculture and tourism. The islands also have economic activities such as stock-rearing, fishing, shipping and

culture. These sectors can be used concurrently to promote and publicise local agricultural products on the market. This can be achieved by supporting research efforts, as well as setting up agricultural colleges, in a strategic development drive based on knowledge, research and innovation, to release new positive competitive forces by drawing on the educational and research resources of the Aegean islands. Thus an integrated strategic framework would emerge for all economic sectors, to create a new, modern development model for agriculture, and for the smaller Aegean islands more generally. This would go beyond the familiar island-central government model, epitomised by Malta and Cyprus, or that of islands that are powerful regions in their own right, such as Sardinia and Corsica.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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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 Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the Common Agricultural Policy’**

COM(2010) 772 final — 2010/0372 (COD)

(2011/C 132/16)

Rapporteur working alone: **Mr MIRA**

On 18 January the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 378/2007 as regards the rules for the implementation of voluntary modulation of direct payments under the Common Agricultural Policy*

COM(2010) 772 final — 2010/0372 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 176 votes to two with 14 abstentions.

## 1. Conclusions and recommendations

1.1 The alignment of Regulation No 378/2007 (voluntary modulation of direct payments under the CAP) to the Lisbon Treaty makes a distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of legislative acts (delegated acts), and the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts (implementing acts). The EESC is a firm believer in consultation of stakeholders and Member States during the preparation of Community legislation, and underscores the need for it to continue.

1.2 The EESC agrees that the Commission should fix the net amounts resulting from voluntary modulation by means of implementing acts without the assistance of a committee, so as to ensure that procedures are swift and effective.

1.3 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Rural Development Committee in order to ensure the integration of voluntary modulation in rural development programming.

1.4 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Committee on Agricultural Funds in order to ensure the financial management of voluntary modulation.

## 2. Comments

2.1 Voluntary modulation is an optional instrument involving the transfer of up to 20 % of total direct aid under the first pillar to be assigned directly to rural development, without any redistribution. In other words, the modulated sum (taken from the first pillar) is exactly the same as the sum which ‘enters’ the second pillar in each Member State: there is no obligation for co-funding.

The only Member States to request use of this provision have been Portugal and the United Kingdom, although Portugal has never actually applied it as it already has a balance between the two pillars of the CAP.

2.2 The UK is the only Member State which uses voluntary modulation to transfer a percentage of direct payments under the first pillar for rural development purposes. This transfer boosts the amount which the UK has available for funding rural development.

2.3 The Commission proposals to amend Regulation No 378/2007 (voluntary modulation of direct payments under the CAP) involve the following types of amendment:

— Amendments relating to alignment with the Lisbon Treaty

- Granting the Commission powers to adopt implementing acts to ensure that voluntary modulation is applied uniformly in all Member States
- Granting the Commission powers to fix the net amounts resulting from the application of voluntary modulation by means of implementing acts, without the assistance of a committee.

2.4 The Lisbon Treaty establishes two new categories of judicial acts: delegated acts and implementing acts

2.5 In the case of delegated acts, the legislator delegates to the Commission the power to adopt acts which amend non-essential elements of a legislative act. Delegated acts may specify certain technical details or consist of a subsequent amendment to certain elements of a legislative act. The legislator can thus concentrate on policy direction and objectives without entering into overly technical debates. However, this delegation has strict limits as only the Commission can be authorised to adopt delegated acts. Furthermore, the legislator sets the conditions under which the delegation may occur. Article 290 of the Treaty on the Functioning of the European Union (TFEU) thus stipulates that the Council or the European Parliament may revoke a delegation or limit its duration.

2.6 In the case of implementing acts, the Lisbon Treaty also strengthens the Commission's implementing powers. The application of EU law in the Member States is in principle a matter for the Member States. However, certain EU measures need to be applied uniformly across the EU and in these cases the Commission may adopt implementing acts on their application.

Until the Lisbon Treaty came into force, implementing power lay with the Council, which delegated the adoption of implementing acts to the Commission. Article 291 TFEU now recognises the conferred power of the Commission. Thus,

when EU measures need to be applied uniformly in the Member States the Commission is directly authorised to adopt implementing acts.

### 3. Final comments

3.1 Although this does not concern alignment with the Lisbon Treaty, the EESC draws attention to the importance of the forums represented by advisory bodies in the consultation of civil-society stakeholders. The role of these dialogue forums must not be called into question: they play an essential role in relaying specialist knowledge and positions to the Commission, and in familiarising stakeholders with legislation under preparation at an early stage.

3.2 The EESC notes that the Council and Commission have differing interpretations of the borderline between delegated acts and implementing acts. It therefore considers that the choice of procedure for each act must be based on clear criteria.

3.3 Other decisions may require prior consultation of the Member States in order to ensure good mutual understanding. This also enables the Commission to benefit from the specialist knowledge of the Member States.

3.4 The EESC agrees that the Commission should fix the net amounts resulting from voluntary modulation by means of implementing acts without the assistance of a committee, so as to ensure that procedures are swift and effective.

3.5 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Rural Development Committee in order to ensure the integration of voluntary modulation in rural development programming.

3.6 The EESC agrees that the Commission should be empowered to adopt implementing acts with the assistance of the Committee on Agricultural Funds in order to ensure the financial management of voluntary modulation.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)’**

COM(2010) 799 final – 2010/0385 final

(2011/C 132/17)

Rapporteur: **Mr NARRO**

On 18 January 2011, the European Parliament and the Council decided separately to consult the European Economic and Social Committee, under Articles 290 and 291 of the Treaty on the Functioning of the EU, on the

*Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)*

COM(2010) 799 final – 2010/0385 final.

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 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 174 votes to 5 with 15 abstentions.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the potential for simplification and transparency that alignment with the Treaty of Lisbon might offer for the complex legislation flowing from the single CMO. Nevertheless, the general public needs to have greater simplification and clarity.

1.2 The EESC believes firmly in the consultation of stakeholders and Member States during the preparation of EU legislation, and is convinced that this should continue. In order to deal with the new system of delegated and implementing acts, it is essential to encourage transparency and dialogue with the sector's representatives.

1.3 The Commission should lose no time in making clear how experts are to be consulted and how the Management Committee's new operating procedures will work as regards the implementing acts.

1.4 The EESC calls for a clear definition of delegated acts and of the term 'non-essential', which characterises such acts, for the length of time for which the delegation is valid to be stipulated, and for a careful case-by-case evaluation. It is imperative that the Parliament and Council be given detailed information of the acts to be adopted as a matter of urgency, thus making it easier to repeal the delegation if required.

## 2. Background to the opinion

2.1 The purpose of the proposal is to align Council Regulation (EC) No 1234/2007 on the Single Common Market Organisation with the differentiation between delegated and implementing powers of the Commission introduced by Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU). The proposal consequently limits itself to bringing the Single CMO into line with the new requirements of the Lisbon Treaty without affecting the Union's existing approach.

2.2 Articles 290 and 291 of the Treaty of Lisbon seek to amend the decision-making procedure between the European Commission, the Council and the European Parliament concerning the implementing rules for the Union's legislative texts.

2.3 Article 290 TFEU gives the Commission the power to supplement or amend certain non-essential elements of its rules. As a result, a delegated Commission act can set out the additional and 'non-essential' elements needed for the common market organisation to operate properly. The Commission may adopt delegated acts to establish the conditions under which economic operators can take part in a procedure, the obligations arising from the issuing of a licence, eligibility criteria for products as regards market intervention, and certain definitions.

2.4 In accordance with Article 291 TFEU, it is the Member States that are responsible for implementing the arrangements established by the Legislator. Nevertheless, this article requires the rules to be applied uniformly in the Member States. Therefore, the Legislator confers on the Commission implementing powers as regards uniform conditions for the implementation of the common market organisation and a general framework of checks that Member states must implement.

2.5 Exceptionally, Article 43(3) TFEU is an autonomous basis for the adoption of legal acts by the Council. This article stipulates that 'The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aids and quantitative limitations (...)'. This provision is an exception from Article 43(2) TFEU, which requires the ordinary legislative procedure to be used to establish the common organisation of agricultural markets.

2.6 The Commission proposal includes the content of four other proposals:

- a) The legislative resolution as regards the aid granted in the framework of the German Alcohol Monopoly (COM(2010) 336 final).
- b) The proposal for a Regulation as regards distribution of food products to the most deprived persons in the Union (COM(2010) 486 final).
- c) The proposal amending Regulation (EC) 1234/2007 on marketing rules.
- d) The proposal amending Council Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector.

### 3. General comments

3.1 Whilst the changes to the structure for adopting implementing acts are perhaps not revolutionary, they nevertheless represent a major step towards a new model that alters the implementing powers for EU legislation. Member State involvement in implementing decisions will be limited exclusively to those cases in which harmonisation between the Member States is essential for transposing a text.

3.2 The Commission must draft new rules setting out the powers and workings of the bodies replacing the Committees in the framework of the now-abolished comitology procedure, to ensure that the new system operates properly.

3.3 Looking forward, it is crucial to encourage Member States and representatives from the relevant sectors to be involved in adopting legislation. The process of dismantling the longstanding comitology procedure must not lead to the role of operators in the sector being marginalised.

3.4 As fora for consultation between stakeholders within civil society, consultative groups form an essential part of the Union's decision-making process. These interface bodies should clearly not be called into question, given their role as a conduit for channelling knowledge of the sector and its daily reality to the Commission.

3.5 Delegated acts, intended for non-essential elements of the legislative act, are a thorny issue in discussions between the Council, the Parliament and the Commission. Delegated acts are of major importance and the 'non-essential' nature of the legislative act should consequently be defined in greater detail and the length of time for which the delegation is valid should also be stipulated, and there should be a careful case-by-case evaluation.

3.6 The EESC is concerned by the exception from the general rule requiring the ordinary legislative procedure to be used to establish the common organisation of agricultural markets. Article 43(3) TFEU stipulates that 'The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aids and quantitative limitations (...)'. The European Parliament's role in agricultural matters should be safeguarded and therefore a restrictive and coherent interpretation of this article is called for.

### 4. Specific comments

4.1 The Commission has made considerable and very complex efforts to align the extensive body of provisions covering the CMO with the new requirements of the Treaty of Lisbon. In this simplification process, it is very important that not only governments benefit from the new system, but also that those governed by them can see the reduction in red tape and complexity.

4.2 The proposal for a Regulation amending the single CMO contains 300 delegated acts and 294 implementing acts. In this case, unlike others, such as aid for rural development through the EAFRD, or the common rules for direct support schemes for farmers, in which the rules have been aligned with the Treaty of Lisbon, the Commission has restricted itself to making a 'formal' amendment without including new provisions.

4.3 The EESC welcomes the fact that, in the interests of transparency, the European Commission has clearly set out in various articles certain decisions that can be adopted without the help of the Management Committee. The process was similar in the past but was not contained in any legislative text. An example of this exercise involving implementing acts can be found in Articles 255 and 270 of the proposal, with respect to managing import quotas and export licences.

4.4 The classification of certain decisions as delegated acts could cause problems in some sectors. In the case of the wine sector, decisions concerning oenological practices will no longer be the responsibility of the Member States and, since they are considered to be delegated acts, responsibility for them will lie exclusively with the Commission. In this respect, the Commission should clearly indicate those points where, in spite of a mere legal amendment to the text, a substantial shift in responsibilities has occurred in practice.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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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 amending Directive 2000/75/EC as regards vaccination against bluetongue'**

COM(2010) 666 final — 2010/0326 (COD)

(2011/C 132/18)

Rapporteur: **Mr Ludvík JÍROVEC**

On 26 January 2011, the Council of the European Union decided to consult the European Economic and Social Committee, under Article 43(2) of the Treaty on the Functioning of the European Union, on the

*Proposal for a Directive of the European Parliament and of the Council amending Directive 2000/75/EC as regards vaccination against bluetongue*

COM(2010) 666 final — 2010/0326 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 185 votes to two with 12 abstentions.

## 1. Conclusions and recommendations

1.1 The Committee recommends also amending for the same purpose Commission Regulation (EC) No 1266/2007 of 26 October 2007 on the implementing provisions to Council Regulation 2000/75/EC regarding the rules for the control, monitoring, surveillance and restrictions on movements of certain species of animals that are susceptible to bluetongue.

1.2 The Committee draws attention to the situation which arose when vaccinations against foot-and-mouth disease and classical swine fever were halted. One of the main arguments used at the time was that eradicating sporadic outbreaks would be less costly than vaccination.

1.3 The Committee considers it important to highlight the option of leaving this matter to the discretion of each individual Member State, as the epidemic situation in regions with a temperate climate is different to that in Mediterranean regions, as are the types of bluetongue in these regions. Those countries that decide not to vaccinate have a better chance of detecting the disease. This approach is not risk-free, however, because exotic new strains of the disease from Asia will be more difficult to detect.

1.4 The Committee is of the opinion that the amended Directive has fully taken on board the latest technological developments regarding the production of vaccines which can also be successfully used outside areas subject to animal movement restrictions. The proposed amendment to the Directive includes an assurance that it will not increase the administrative burden for the Member States, except for information regarding the introduction of a vaccination programme. No significant

social impact is expected. The Committee fully endorses this objective and welcomes the proposal based on this assurance.

## 2. Introduction and gist of the Communication

2.1 The purpose of the proposed Council directive is to amend the rules on vaccination currently laid down in Directive 2000/75/EC, to make them more flexible, taking into account the fact that inactivated vaccines are now available, which can also be successfully used outside areas subject to animal movement restrictions.

2.2 The Commission considers that the amendment of the legislation is necessary to reflect the technological progress in the field of vaccine development. The proposed amendment will facilitate decision-making on bluetongue control strategies on the basis of the specific situation within the Member States without unnecessary intervention by the Union.

2.3 It is now widely agreed that vaccination with inactivated vaccines is the preferred tool for bluetongue control and prevention of clinical disease in the EU. Their use renders the current obstacles to preventive vaccination outside areas subject to animal movement restrictions unnecessary.

## 3. Comments

3.1 In the past three years modern inactivated vaccines against bluetongue have become available which could be safely used outside restricted zones. This will allow the Member States to develop their own national strategies on the prevention and control of the disease without the intervention of the Union.

3.2 The proposal is expected to reduce the adverse economic and social impact by increasing the number of options available to control the disease. Nonetheless, it is difficult to quantify these benefits precisely, as they will depend on the unpredictable nature of the evolution of the disease in Europe, which is no longer an exotic occurrence in Europe.

3.3 The proposal does not have an effect on existing control measures for the disease. The proposal will not, therefore, have a direct impact on the EU annual and multi annual programmes

for the eradication, control and monitoring of certain animal diseases.

3.4 By allowing the wide use of vaccination in the Union, this proposal has the potential to reduce the negative economic impact of bluetongue caused by both direct and indirect losses resulting from this disease.

3.5 The proposal will allow a wider use of vaccination and a potential increased market for the pharmaceutical companies who produce the inactivated vaccines against bluetongue.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a European road safety area - policy orientations on road safety 2011-20’**

COM(2010) 389 final

(2011/C 132/19)

Rapporteur: **Mr SIMONS**

On 20 July 2010, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a European road safety area: policy orientations on road safety 2011-2020*

COM(2010) 389 final.

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 1 March 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 16 March), the European Economic and Social Committee adopted the following opinion by 158 votes to two with four abstentions.

## 1. Conclusions and recommendations

1.1 The Committee considers reducing the number of road fatalities to be very important for society and endorses the Commission’s ambitious goal of reducing the figure to half of 2010 levels during the period 2011 to 2020.

— availability of standardised and detailed statistical data;

1.2 The Committee points to the desirability of introducing differentiated reduction targets for the Member States, since risks vary between countries.

— formulation of targets for seriously injured road users and a definition of ‘serious injury’;

— more rigorous Community policy as regards harmonising and adopting road safety measures;

1.3 In the Committee’s view, a special European road safety agency, or umbrella monitoring and oversight centre, should be set up to oversee the programme. This body would include road safety experts appointed by the Member States.

— more focus on targeted education, e.g. of vulnerable road users such as young people, the elderly and people with disabilities, and drivers of powered two-wheelers, cyclists and pedestrians;

1.4 This agency or umbrella monitoring and oversight centre would be responsible for ensuring annual monitoring to guarantee that the targets fixed in the programme are reached.

— involving all employers with their own car fleet in implementing best practice;

1.5 The Committee highlights the following conditions that must be met if the Commission’s objective of cutting the number of road fatalities by half is to be met:

— introducing new Community legislation for vulnerable road-user groups;

— strong political leadership;

— improving levels of safety in the trans-European road network and bringing at least 25 % of the rest of the road network to TEN-T levels;



- providing special training for police, ambulance, fire-fighting, civil protection and towing services staff - i.e. anyone who provides accident and breakdown assistance - to ensure that these people's skills are maintained at a high level and that vehicles are used professionally and to improve administrative procedures;
- ensuring the rapid expansion of safe and secured parking places for professional drivers;
- relating contracts to the professional skills of the driver rather than to performance (EESC recommendation).

1.6 With respect to the human factor in road traffic, the Committee agrees with the Commission that continuous education, training and enforcement are essential to achieving the objectives, but the Committee is particularly concerned about vulnerable groups in this context.

1.7 As far as enforcement is concerned, the Committee notes again that this must be understood to include cross-border enforcement.

1.8 The Committee advocates introduction of the following measures:

- extending the legislation on drivers' journey times and working hours to include commercial vehicles under 3.5 tonnes;
- fitting of speed limiters in light commercial vehicles;
- installing alcohol interlock devices in HGVs, light commercial vehicles and private cars in the case of convictions for drink-driving and tools for detecting drug use;
- introducing active and passive safety measures for powered two-wheelers;
- drawing up by each Member State of 'black spot' maps and yearly updating of these maps;
- extending the eCall system to other vehicles, e.g. motorised two-wheelers;
- translating the strategic policy guidelines into a detailed action programme.

## 2. Introduction

2.1 With the publication of this communication, the Commission is fleshing out its vision of how road safety should develop during the period 2011-2020.

2.2 Through the policy orientations contained in the communication, the Commission intends to develop a general governance framework and challenging objectives to guide national and local strategies, so that the actions described can be implemented at the most appropriate level and by the most appropriate means as efficiently as possible.

2.3 The Commission considers that the following actions should be undertaken as a priority:

- establishment of a structured and coherent cooperation framework which draws on best practices across the Member States, as a necessary condition to implement effectively the road safety policy orientations 2011-2020;
- developing and providing for a strategy for injuries and first aid to address the urgent and growing need to reduce the number of road injuries;
- addressing the issue of improving the safety of vulnerable road users, in particular motorcyclists, whose accident statistics are particularly worrying.

2.4 The Commission states that the proposed policy orientations take into account the results of the third road safety action programme (2001-2010), which showed that, regrettably, the ambitious objective of halving the number of fatalities will not be achieved. Nevertheless, steady progress has been made, in particular over the last couple of years.

2.5 To achieve the objective of creating a common road safety area, the Commission proposes to maintain the target of halving the overall number of road deaths in the European Union during the period 2011-2020, based on the number of fatalities in 2010.

2.6 In relation to progress made during the third action programme (a 35-40 % reduction in the number of fatalities), the Commission sees halving the number of fatalities over the next ten years as substantially more ambitious, given that the objectives of the third action programme were not met.

2.7 The Commission is seeking to reach the objective for 2020 by continuing to focus intensively on the following seven targets:

- improving education and training of road users;
- strengthening the enforcement of road rules;

- making road infrastructure safer;
- ensuring that vehicles on the road are safer;
- promoting the use of modern technology to increase road safety;
- improving emergency and post-injuries services;
- protecting vulnerable road-users.

2.8 The Commission has linked specific actions to each of the above targets, with the aim of achieving the desired reduction in the number of road deaths. These actions will be discussed in the general and specific comments sections of this opinion.

2.9 As regards how the objectives are to be achieved, the Commission is thinking less in terms of introducing new legislation than of stepping up monitoring of the EU road safety *acquis*, creating a framework for cooperation between the Member States and the Commission, and providing for Community instruments for monitoring and evaluating the effectiveness of road safety policy.

### 3. General comments

3.1 The Committee considers reducing the number of road fatalities to be a matter of substantial importance for society. This is made clear from the opinions it has adopted over the years on the subject <sup>(1)</sup>. Moreover, during the previous action period there was actually a significant fall in the number of road fatalities. So it may be appropriate that the Commission has again set an ambitious objective, namely to reduce the number of road deaths during the period 2011-2020 by half compared with 2010 levels.

3.2 By replacing 'policy guidelines' with 'policy orientations', the Commission wishes to mark a shift in philosophy, indicating that the emphasis for the next ten years will be not so much on producing proposals for new legislation as on developing and applying the following three principles: shared responsibility, integration of road safety into other policy areas and achieving the same level of road safety in all EU countries.

<sup>(1)</sup> EESC opinions on *Road Safety 2003-2010*, OJ C 80, 30.3.2004, p. 77; *Road infrastructure safety management*, OJ C 168, 20.7.2007, p. 71; *Facilitating cross-border enforcement in the field of road safety*, OJ C 77, 31.3.2009, p. 70; and *Strategic guidelines for road safety up to 2020*, OJ C 48, 15.2.2011, p. 27.

3.3 The EESC recognises that this signals a shift in philosophy in the Commission, as the legislative framework is largely complete, but the Commission's plan alone, namely the development of a general governance framework and setting of ambitious goals to guide national and local strategies, is not sufficient. In the Committee's view, as well as completing the legislation that is still lacking <sup>(2)</sup>, progress should be monitored regularly (annually) and effectively.

3.3.1 The EESC also thinks that it would be a good idea to translate the policy guidelines into a detailed action programme providing for timetables, monitoring instruments and an interim review.

3.4 The EESC believes that the best way of doing this is by gathering data in consultation with the representatives appointed by the Member States for road safety and by monitoring implementation of the Fourth Road Safety Action Programme <sup>(3)</sup>, bearing in mind the points raised by the Committee in its opinion addressed to the European Parliament that was actually drawn up before publication of the Commission communication under discussion. The EESC does not mind whether this happens through a European road safety agency or a European monitoring and oversight centre, which already exists in embryonic form in the Commission. The EESC makes the following recommendations for ensuring that the 2011-2020 programme is effective.

3.4.1 Strong political leadership should be ensured given that responsibility will be shared between the EU and Member States.

3.4.2 There should be an even greater level of harmonisation and detail in road safety statistics across all EU Member States.

3.4.3 Targets must be set for the number of severely injured road users, with a common definition of serious injury.

3.4.4 A more stringent Community policy is recommended with regard to harmonisation and regulation of road safety measures, so that the Member States can implement those measures better and faster.

3.4.5 There should be more focus on differentiated education and training for all road users, especially younger and elderly road users, as well as drivers of powered two-wheelers, cyclists and pedestrians.

<sup>(2)</sup> For a list of measures needed, see point 4.8 of the EESC opinion on *Strategic guidelines for road safety up to 2020*, OJ C 48, 15.2.2011, p. 27.

<sup>(3)</sup> OJ C 48, 15.2.2011, p. 27, point 1.5 ff.

3.4.6 Involvement of all employers with their own car fleet in projects relating to reducing commuting collisions by developing fleet safety policies and encouraging staff to make greater use of public transport.

3.4.7 Developing EU legislation for vulnerable categories of road user, e.g. new type approval for powered two-wheelers, ABS for powered two-wheelers of over 150 cc, mandatory automatic headlights on, and introducing roadworthiness tests and second-stage training as part of the revision of the driving licence directive.

3.4.8 Raising safety levels on the trans-European road network and bringing at least 25 % of the non-TEN-T network to TEN-T levels should, in the Committee's view, be included as a target in the new programme.

3.4.9 As far as the programme's general objective of halving the number of road fatalities is concerned, the Committee notes that risks vary widely between Member States and therefore believes that it would be preferable to introduced differentiated reduction targets.

3.5 The Committee understands that, in view of the differences in road casualty risks between the Member States, measures may vary between Member States. Member States in which there has been a substantial reduction in road traffic victims should focus mainly on the 'human factor': training, including continuing training, and enforcement should be the top priorities. On the other hand, Member States where there has not been a substantial reduction in road traffic victims should also focus on the 'hard' elements of road safety policy, such as improving infrastructure and vehicle safety requirements in addition to education, training and enforcement.

3.6 The Committee agrees with the Commission's view that it is ultimately the behaviour of road users that determines the effectiveness of road safety policy and that for this reason continuing education, training and enforcement are of critical importance.

3.7 Particular attention must be paid to vulnerable road users: young novice drivers and older people who are unaware of changes in road traffic rules because they have not received continuing training.

3.8 The Committee also thinks that each Member State should organise regular information campaigns in order to

combat drink-driving. The enforcement campaign, including cross-border enforcement, must also be stepped up.

#### 4. Specific comments

4.1 The EESC recommends that a common definition of serious and minor injuries be established as soon as possible, to be used as the basis for a common target for reducing the number of road injuries, so that these data can be included in the 2011-2020 programme.

4.2 The EESC supports the Commission's proposal to improve education and training of road users by framing a common educational and training road safety strategy.

4.3 Driving instruction should also cover assistance and response in road accident situations.

4.4 The EESC points in particular to the importance of 'continuing education', bearing in mind that traffic rules can change over time.

4.5 This applies to ordinary road users, but especially to police, ambulance, fire-fighting, civil protection and towing services staff - i.e. anyone who provides accident and breakdown assistance, when their special skills are called upon. The Committee attaches great importance to special training and continuing education for these people, in both vocational and administrative areas, so that the quality of the services they provide is even further enhanced.

4.6 The EESC approves of stepping up efforts to enforce road traffic rules, including cross-border enforcement. In its opinion on *Facilitating cross-border enforcement in the field of road safety* <sup>(4)</sup> the EESC explicitly stated that without cross-border enforcement of road traffic rules it would be impossible to achieve the target set in the Commission's third road safety action programme. The EESC stands unreservedly by the conclusions it drew in the above-mentioned opinion.

4.7 The EESC endorses the Commission's proposal to complement the mandatory fitting of speed limiters in HGVs with speed limiters for light commercial vehicles, given that the number of light commercial vehicles on the roads is steadily increasing, especially in the courier sector, where prompt delivery is important and where vehicles often therefore drive very fast. Journey times and working hours must also be adapted to meet the rules for transport of goods by HGVs that exceed the maximum total weight of 3.5 tonnes.

<sup>(4)</sup> EESC opinion on *Facilitating cross-border enforcement in the field of road safety*, OJ C 77, 31.3.2009, p. 70.

4.8 Since drink-driving is still a major factor in road accidents, the Committee recommends that alcohol interlock devices be fitted in HGVs, light commercial vehicles and private cars where the driver has been convicted of drinking and driving.

4.9 Powered two-wheelers are a particular concern. Drivers of these vehicles are 18 to 20 times more at risk of suffering a serious injury on the road than car drivers. The Committee urges the Commission to submit proposals as soon as possible on improving the active and passive safety of powered two-wheelers.

4.10 Since most fatal accidents occur in urban areas and on minor and country roads, the Commission proposes that EU funding should be allocated for infrastructure projects that are compliant with the road safety and tunnel safety Directives. The EESC agrees with this and believes that a European road safety agency could play a key role in assessing which minor or rural roads are eligible for co-financing.

4.11 In previous opinions, the Committee has called for:

- inclusion in the programme of a requirement that each Member State should submit a map of accident 'black spots', updated annually, to the competent European body;
- with respect to safety in the context of road transport in 2020, 'harmonised checks and fines, genuine single market integration, enhanced efficiency not least through modular systems where appropriate, [...] and studies on cruising speeds and better tyres'.

The EESC reiterates the importance of these points.

4.12 The EESC advocates more rapid introduction of advanced technologies in vehicles and urges that all Member States extend the eCall system to other types of vehicle, such as motorised two-wheelers.

4.13 The EESC endorses the Commission's efforts to draw up a strategy for action on road injuries in conjunction with the Member States and other public and private stakeholders.

4.14 As the EESC has noted in previous opinions on the subject <sup>(5)</sup>, the programme must prioritise the protection of vulnerable road users. In the EESC's view, this category should include drivers of powered two-wheelers, pedestrians and cyclists, young people, the elderly population, whose number is increasing, and people with disabilities.

4.14.1 In accordance with a previous opinion <sup>(6)</sup>, the EESC calls for rapid expansion of safe and secured parking places for professional drivers for reasons of road safety, road freight crime and health and safety of truck drivers. The EESC also calls for contracts to be related to the professional skills of the driver rather than to performance.

4.15 The Committee highlights the dangers faced by HGV drivers at a number of border crossings. In some cases, especially at the external borders of the EU, it is common for drivers to have to remain inside or right next to the vehicle during an x-ray inspection. It goes without saying that this obligation poses a significant risk to the drivers concerned. The answer would be to allow drivers to leave their vehicles and remain at a safe distance during the inspection. The EESC calls on the Member States specifically to address this issue and find a solution to the problem at the upcoming meeting in Geneva of the UN's Working Party I on Road Traffic Safety.

Brussels, 16 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(5)</sup> EESC opinions on *Strategic guidelines for road safety up to 2020*, OJ C 48, 15.2.2011, p. 27 and *Facilitating cross-border enforcement in the field of road safety*, OJ C 77, 31.3.2009, p. 70.

<sup>(6)</sup> Point 1.1 in the EESC opinion on *Road safety- professional drivers*, OJ C 175, 27.7.2007, p. 88.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a directive of the European Parliament and of the Council establishing a Single European Railway Area’**

COM(2010) 475 final — 2010/0253 (COD)

**and the ‘Communication from the Commission concerning the development of a Single European Railway Area’**

COM(2010) 474 final

(2011/C 132/20)

Rapporteur: **Mr HENCKS**

On 4 October 2010, the Council decided to consult the European Economic and Social Committee, under Articles 91 and 304 of the Treaty on the Functioning of the European Union, on the:

*Proposal for a Directive of the European Parliament and of the Council establishing a Single European Railway Area*

COM(2010) 475 final — 2010/0253 (COD) and the

*Communication from the Commission concerning the development of a Single European Railway Area*

COM(2010) 474 final.

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 1 March 2011.

At its 470th plenary session, held on 15 and 16 March 2011 (meeting of 16 March), the European Economic and Social Committee adopted the following opinion by 168 votes to 21 with 13 abstentions.

## 1. Recommendations

1.1 The EESC endorses the intention in the proposal for a recast directive for the first railway package of reducing differences in interpretation of legislation and eliminating the deficiencies of certain provisions in the body of railway legislation. However, the recast directive does not just amend existing provisions but also contains a substantial number of new regulatory provisions.

1.2 The EESC notes that the purpose of legislation on the Single Railway Area is to create a European railway area that is able to compete (sustainably) with other modes of transport. The EESC therefore supports all new provisions that serve this objective, while still having certain reservations about provisions that go beyond or fall very short of it.

1.3 The EESC regrets the fact that the proposal does not address either interoperability (although establishing a single European railway area is heavily dependent on progress in technical interoperability) or imbalances in the management of railway traffic, which frequently prioritises passenger trains at the expense of freight.

1.4 During a time of considerable budgetary constraints it will be necessary to find new sources of funding for railway infrastructure. Given that most funding from the European structural and social cohesion funds is earmarked for road infrastructure, while TEN-T funding is directed mainly at rail, the EESC can endorse the setting-up of a single transport fund only if that fund is neutral and ensures a level playing-field with respect to all transport modes. The EESC would like to see this funding explicitly provided for in the review of cohesion policy post-2014.

1.5 As regards other sources of funding, the EESC refers to proposals 15 and 16 of the communication *Towards a Single Market Act*, and also recommends exploring the option of setting up a compensation fund similar to those already existing in various network industries.

1.6 The EESC deplores the delay in creating the conditions to ensure a level playing-field between rail and other transport modes, and the absolute inadequacy of measures to internalise the external costs and effects of transport by taking external social costs into account when setting tariffs.

1.7 As regards conditions of access to railway service facilities, the EESC cannot endorse any requirement of legal, organisational and decision-making independence that would jeopardise current structures which cannot be replaced.

1.8 Nor can the EESC approve of provisions contained in the annexes of the proposal for a recast directive that are clearly essential being amended by the Commission through delegated acts.

1.9 Finally, the EESC considers that absolute priority should be given to general implementation of the European signalling and traffic management system (ERTMS) in conjunction with the European Train Control System (ETCS).

## 2. Progress with legislation on the European Railway Area

2.1 The EU has been rising to the challenge of creating a single railway area that can compete (sustainably) with other modes of transport since the first directive of 29 July 1991 on the development of the Community's railways (91/440/EEC), which was followed by a White Paper entitled *A strategy for revitalising the Community's railways*.

2.2 Directive 91/440/EEC (subsequently amended and consolidated) deals with the management of railway infrastructure and all international rail transport services, both freight and passenger, by railway undertakings established or to be established within the Union, with the exception of undertakings whose activity is limited to the provision of solely urban, suburban or regional services.

2.3 The EU considers the common transport policy to be a cornerstone of the single market and is concerned to promote rail transport, emphasising its competitive advantages against other modes of land or air transport, notably with respect to energy consumption, pollution, environmental impact and safety. This is based on two principles:

- market liberalisation and free competition;
- interoperability of the trans-European rail system.

The first railway package, in 2001, was followed by two further packages and a large number of directives and recommendations.

## 3. Transposition of European legislation into national law

3.1 Significant problems and delays occurred in many Member States with the transposition into national law of the

directives in the first railway package, which according to the Commission was not implemented or implemented only incompletely and incorrectly. The Commission initiated infringement proceedings in June 2008 against 24 of the 25 Member States concerned (Malta and Cyprus do not have railway networks).

3.2 Further to three Member States amending their national legislation, in October 2009 the Commission sent three reasoned opinions to 21 of the Member States concerning the outstanding infringements. On 24 June 2010, the Commission decided to bring proceedings before the Court of Justice of the European Union against 13 Member States, while clarifications were provided for the remaining eight Member States in receipt of a reasoned opinion.

3.3 The Commission laments above all the unfair competition situation resulting from the setting of access charges that are considered too high, discriminatory allocation of network capacity, the (historically) dominant position of network managers also operating rail services, and the lack of independent regulatory bodies.

3.4 However, the Commission recognises that development of free competition in the rail sector is also hindered in part by the ambiguity of the body of rail legislation and the weakness of certain provisions that require clarifications and adjustments to reduce differences in interpretation between the Member States.

## 4. Gist of the Commission's recast directive

4.1 The proposal for a recast directive for the first railway package is intended to simplify and consolidate existing legal texts, eliminate cross-references, harmonise terminology and resolve problems relating to international passenger and freight transport, including cabotage.

4.2 The proposal for a recast directive also contains new provisions, of which the most important are:

- compulsory legal, organisational and decision-making independence in the management of transport services and management of ancillary railway infrastructure services (e.g. servicing, maintenance, access to terminals, passenger information, ticket vending in stations, etc.);
- ban on service providers collecting infrastructure access charges;

- introduction of the ‘use it or lose it’ principle to avoid artificial saturation of infrastructure;
- obligation on the Member States to draw up infrastructure development plans as part of their long-term national strategies;
- modulation of infrastructure access charges introduced to take account of environmental and interoperability effects;
- strengthening the independence and powers of regulatory bodies.

### 5. General comments on the recast directive

5.1 As the Commission correctly notes in its Communication *Towards a Single Market Act* (COM(2010) 608), transport is the ‘nervous system’ and one of the key pillars of a modern economy in terms of its capacity to convey goods and passengers as smoothly as possible to where they need or want to be at a given time.

5.2 However, this proposal for a directive does not address the imbalance in the management of railway traffic, where priority is often given to passenger trains. In this context, the EESC points to its proposals for introducing more flexibility in the allocation of train paths to freight.<sup>(1)</sup>

5.3 In its opinions the EESC has always supported the Union’s efforts to establish the basic conditions for an efficient European rail passenger and freight transport sector that gives travellers, users and operators a service which is reliable, safe, sustainable and accessible, with transparent, competitive and affordable prices.

5.4 The EESC continues to believe that there are development opportunities for rail transport in a context of increased trade, road congestion and the increasingly pressing concern to protect the environment and reduce greenhouse gas emissions in the transport sector.

5.5 However, it is only too apparent that the directive under discussion, though it contains an impressive legal toolkit, falls far short of the objective of creating a European railway area that can strengthen its position in relation to other modes of transport.

5.6 After a long period of decline, the modal share of rail compared with other modes of land transport has stabilised somewhat during the last ten years, although the pace of change varies widely between the Member States. Only

services on the high-speed networks can be claimed to have developed significantly, with the introduction or planned introduction of additional lines and an increase in the number of operators.

5.7 As far as freight is concerned, in the absence of a properly integrated network, operators must rely on the 15 existing or planned ‘international freight corridors’<sup>(2)</sup> linking the main industrial regions of the EU, which provide an effective operational solution, though one that is limited to the international corridors.

### 6. Problems and obstacles associated with developing the railway network and rail services

6.1 The railway network has not managed to meet customer expectations and quality requirements to the extent that it has been able to compete effectively with other transport modes, particularly in terms of prices, flexibility, journey times and punctuality. However, transforming existing structures to meet future requirements is not easy and has proven to take longer than expected. Therefore further measures are needed to promote the development of an effective EU rail infrastructure, establish an attractive rail market, remove administrative and technical barriers and ensure a level playing field with other transport modes.

6.2 The Committee notes that 24 of the 25 Member States have been, or still are, having problems transposing into national law EU railway legislation which they have previously approved. Of course, it falls to the Court of Justice where necessary to rule on whether a Commission complaint is well-founded. It is all too easy to blame network and rail service development problems on the suspected protectionist concerns of the Member States. The Committee believes that there are certain to be other underlying issues.

6.3 Rail infrastructure has the characteristics of a natural monopoly. It is important that this infrastructure be subject to real public control and that it have the requisite capacity and provision for cross-border coordination so as to allow seamless transport services throughout Europe and with neighbouring countries. Rail transport services also require an effective balancing between economic, social, labour, safety and environmental conditions on the one hand and economic and competition conditions on the other.

6.4 Moreover, the national policies of the Member States are more sensitive to the fears and grievances of the general public, since ‘the sense of disillusionment felt by some towards the internal market may also be the result of the perception that successive liberalisations have been carried out at the cost of the social rights acquired by various economic operators’, as the Monti Report puts it.

<sup>(1)</sup> OJ C 27, 3.2.2009, p. 41.

<sup>(2)</sup> OJ L 276, 20.10.2010, p. 22.

6.5 The provisions of the Treaties (i.e. Article 14 and Protocol 26 TFEU) and secondary legislation on services of general interest, as well as Article 93 TFEU, apply to transport in general, whereas Regulation 1370/2007 specifically concerns rail and road passenger transport services. The EESC deplores the Commission's failure to explicitly refer to these provisions and situate the sectoral issues of rail transport within this general dimension.

## 7. Specific comments

### 7.1 Infrastructure financing

7.1.1 Establishing a single railway area depends not just on political will and the business dynamism of railway undertakings, but also on extending and modernising the network, replacing obsolete equipment, removing bottlenecks, ensuring technical interoperability, extending and harmonising security systems, etc., which require major investment in the network that cannot be expected to bring financial returns until very far into the future.

7.1.2 In the current economic climate of required public deficit reduction and budget balancing in Europe, Member States' latitude with regard to public investment is very limited, which also discourages private investors.

7.1.3 Investor interest is consequently focused mainly on the profitable infrastructure of high-speed networks and trans-European freight networks, while conventional rail transport is relatively neglected.

7.1.4 The draft directive would require the Member States to publish a rail infrastructure development strategy with a view to meeting future mobility needs based on sound and sustainable financing over a period of at least five years. Based on this strategy, the infrastructure manager in turn must adopt a business plan that includes investment and financing programmes. The regulatory body for the railway sector is required to issue a non-binding opinion on the business plan.

7.1.5 In addition, the Member States concerned are required, jointly with the existing publicly owned railway undertakings, to introduce appropriate mechanisms to help reduce the indebtedness of such undertakings to a level which does not impede sound financial management and to improve their financial situation.

7.1.6 The EESC welcomes the obligation for the Member States to introduce a multiannual programme of medium- and long-term investment in railway networks that would give managers and operators the planning certainty and flexibility

that they need. However, the EESC believes that this obligation should be supported by new sources of funding, otherwise there is a risk that it will have no impact. The EESC would like to see such funding explicitly provided for in the review of cohesion policy post-2014. Given that most funding from the European structural and social cohesion funds is earmarked for road infrastructure, while TEN-T funding is directed mainly at rail, the EESC can endorse the setting-up of a single transport fund only if that fund is neutral and ensures a level playing-field with respect to all transport modes.

7.1.7 The EESC endorses the principle of multiannual contractual agreements (link between financing and outcomes, business plans) required under the draft directive, but considers the content of such agreements to be subject to the subsidiarity principle. These agreements should also contain provisions to ensure that cost savings are passed on to users in the form of lower tariffs.

7.1.8 In addition, the EU would not be able to require a Member State to select certain partners, in this case the regulatory body for the railway sector, to give an opinion on its investment programme, or to have that regulatory body check that the budget envelope envisaged for achieving infrastructure performance targets is adequate, or to produce documentary evidence if it is not following the recommendations of the regulatory body.

7.1.9 Public-private partnerships can be used to mobilise at least some long-term investment, subject to legislation being in place that creates a favourable EU framework for such partnerships, and provided a balance is struck between the diverging interests of public and private investors and that, in the interests of public service and safety, railway infrastructure assets remain public property.

7.1.10 In order to find adequate sources of funding, the EESC would consider it appropriate to discuss investment incentives in relation to proposals 15 (*encouraging the creation of project bonds to finance European projects*) and 16 (*explore measures with the potential to encourage private investment – particularly in the long term – to make a more active contribution towards achieving the objectives of the Europe 2020 Strategy*) in the communication *Towards a Single Market Act*.

Another source of railway infrastructure funding could be created by setting up a compensation fund along the lines of the one provided for under the postal directive, to which all users of the railway network would contribute, on terms to be fixed.



## 7.2 Internalising external costs and effects

7.2.1 Rail transport calls for initiatives coordinated between the EU, the Member States and subnational authorities to promote it in all cases where its comparative advantages can be realised.

7.2.2 In this respect, the Commission is right to emphasise the need to ensure 'a level playing field with other transport modes', in particular based on 'measures to internalise the external costs of transport in a coordinated and balanced manner across modes so that the charges reflect the level of the external cost imposed on society at large'. However, the Commission proposals fall far short of the EESC's recommendations. <sup>(3)</sup>

7.2.3 The internal market and competition issues must be addressed first and foremost in the context of this intermodal competition, rather than just within the railway sector.

Until tariffs for using transport infrastructure reflect external, environmental and social costs, competition will be distorted to the detriment of rail transport.

7.2.4 The EESC is disappointed that although internalisation of environmental costs was recommended in the White Paper *European transport policy for 2020: time to decide*, a decision has not yet been taken on the matter.

7.2.5 To encourage railway undertakings to invest in more sustainable rail technologies, the proposal for a directive would introduce differentiated network access charges based on the noise emission characteristics of rolling stock.

According to the Commission (although this is not stated specifically in the proposal for a directive), this differentiation of charges will be applied by lowering access charges for companies that reduce the noise emissions of their rolling stock. Although this measure is commendable, the EESC nevertheless considers that it should only be applied if also compulsory (not merely optional) for other transport modes.

7.2.6 The EESC obviously welcomes this as a first step in the right direction, but fears that the impact in terms of reducing distortion of competition will be limited unless Member States are required, in accordance with the draft 'Eurovignette' directive, to apply not just an infrastructure charge but also a charge for all external costs.

## 7.3 Management of railway undertakings according to commercial principles

7.3.1 Under the draft directive, if a Member State directly or indirectly owns or controls a railway undertaking, its controlling

rights in relation to management are limited to general policy and may not interfere with specific business decisions of the management.

7.3.2 The EESC considers that the directive should not make assumptions about the supervisory powers of management boards, given that, as shareholders in railway undertakings, Member States should have neither more nor fewer controlling rights than any private shareholder.

## 7.4 Conditions of access to services

7.4.1 Companies with a dominant position must be organised in a way that ensures their independence in legal, organisational and decision-making terms in order to guarantee non-discriminatory access to service facilities, i.e. stations (passenger stations, marshalling yards, train formation facilities, storage sidings), freight terminals, maintenance and technical and towing facilities, etc. operated by such companies.

7.4.2 The EESC regards such a requirement with respect to legal, organisational and decision-making independence as disproportionate in relation to the objective of non-discrimination; it jeopardises current activities and structures that could not be replaced.

7.4.3 The EESC believes it would be enough to require compliance with the current rules obliging operators of such service facilities to guarantee non-discriminatory and transparent access. This provision is more than adequate, since the controlling authority only intervenes in cases of non-compliance with the relevant legislation.

7.4.4 The EESC points out that the purpose of providing public financing for these service facilities was to meet public needs. Access to such services should therefore only be provided if it serves the public interest and in cases where the service facilities receive public funding.

## 7.5 Market surveillance

7.5.1 Under Article 14 of the draft recast directive, cross-border agreements between Member States must be notified to the Commission, although it is not specified which agreements are intended. The EESC would like the directive to specify that public service contracts are not referred to here.

7.5.2 The proposal for a directive would also give the Commission the power for an indeterminate period of time to adopt delegated acts allowing amendment of the provisions contained in the annexes to the directive.

<sup>(3)</sup> See OJ C 317, 23.12.2009, p. 80.

7.5.3 Since some of the annexes cover certain essential points, whereas the Treaty only authorises use of a delegated act to supplement or amend non-essential elements of a legislative act, the EESC considers that the ordinary legislative procedure provided for in the EU treaties should be used here.

7.5.4 The basic principles of contractual agreements between competent authorities and infrastructure managers set out in Annex VII of the proposal for a directive include the principle that the contract should specify the rules for dealing with cases of major disruptions of operations, including a minimum service level in the case of strikes, if any.

7.5.5 So as to avoid any uncertain interpretation of national labour law in the Member States or any suggestion of encroachment on that law (and consequent breach of the subsidiarity principle), the EESC recommends stipulating that this denotes a minimum service in those Member States where such a service is provided for under national legislation.

## 8. Gist of the communication on the Commission's rail strategy 2011-2015

8.1 The communication presents the Commission's railway strategy and further initiatives that it could take over the next five years, including:

- mobilising funding for development of railway infrastructure;
- developing more dedicated networks;
- removing administrative and technical barriers;
- guaranteeing conditions of fair competition with other modes of transport;
- promoting general implementation of the ERTMS system in conjunction with the European Train Control System (ETCS).

## 9. Comments on the communication on the rail strategy 2011-2015

9.1 Absolute priority should therefore be given, in the EESC's view, to general implementation of the ERTMS system in conjunction with the European Train Control System (ETCS). Since implementing this system will require substantial investment, financing through the European funds will be required.

9.2 The communication notes: '*Since a very large part of domestic passenger services is provided under public service contracts, the Commission will also examine the conditions for awarding public service contracts for rail transport in Member States. An evaluation of the current practices under Regulation (EC) No 1370/2007, which entered into force in December 2009, is already underway.*'

9.3 The EESC is surprised at the Commission's decision to evaluate a regulation that has only been in force since 3 December 2009 and which is only partially applicable because it contains many transitional provisions. The Commission's haste here must be considered a cause for concern, in view of the fact that it accepted certain clauses of Regulation 1370/2007 only after lengthy and difficult discussions with the European Parliament and the Council.

9.4 In view of this, the EESC calls for the provisions of Article 8(2) of Regulation 1370/2007/EC to be respected and for the Commission to produce a report on the implementation of that Regulation within six months of 3 December 2014. Any corrections should be made on the basis of that report.

9.5 The EESC points out that competition is not an objective *per se*, but a means of meeting objectives set by the EU. The treaties stress the need to reconcile competition rules with objectives of general interest. A detailed analysis is therefore required not just of the 'rail market' but also of the sub-markets it comprises, which have different features and may require different rules according to, among other things, their local, regional, interregional, trans-European, passenger and freight particularities (cf. Protocol 26). The specific nature of rail transport may also necessitate initiatives relating not to competition, but to cooperation between railway undertakings.

Brussels, 16 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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## APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendments were rejected by the plenary session but received at least one quarter of the votes cast.

**Point 7.1.9**

Amend as follows:

*"Public-private partnerships can be used to mobilise at least some long-term investment, subject to legislation being in place that creates a favourable EU framework for such partnerships, and provided a balance is struck between the diverging interests of public and private investors and that, in the interests of public service and safety, public control of railway infrastructure assets can be ensured ~~remain public property.~~"*

**Reason**

Infrastructure assets such as railway track facilities etc. should be submitted for negotiation by public-private partnerships. It is important that railway service facilities be controlled as part of European and national infrastructure.

**Outcome of the vote:**

For:	67
Against:	88
Abstentions:	22

**Point 7.2.3**

The amendment to point 7.2.3 is linked to the amendment to point 1.6, and they were voted on together.

Amend as follows:

*"~~The internal market and competition issues must be addressed first and foremost in the context of this intermodal competition, rather than just within the railway sector. Generally speaking, rail transport is a safe, environmentally friendly and energy-efficient transport mode. Until tariffs for using transport infrastructure fully reflect external, environmental and social costs in all modes of transport, competition will be distorted to some extent to the detriment of rail transport.~~"*

**Reason**

The first sentence is in direct contradiction with EU transport policy and should be deleted. Competition in the rail sector is an integral part of the railway package. As no transport mode – including railways – has yet fully internalised its external costs, the second paragraph should be reworded accordingly.

**Point 1.6**

Amend as follows:

*"The EESC deplores the delay in creating the conditions to ensure a level playing-field for all ~~between rail and other~~ transport modes, and the absolute inadequacy of measures to internalise the external costs and effects of transport by taking external social costs into account when setting tariffs."*

**Reason**

There are external costs in the rail sector as well, in particular noise pollution, which are not internalised and tax differences etc. which vary between transport modes.

**Outcome of the vote:**

For:	55
Against:	103
Abstentions:	23

**Point 7.2.5**

Amend as follows:

*"To encourage railway undertakings to invest in more sustainable rail technologies, the proposal for a directive would introduce differentiated network access charges based on the noise emission characteristics of rolling stock.*

*According to the Commission (although this is not stated specifically in the proposal for a directive), this differentiation of charges will be applied by lowering access charges for companies that reduce the noise emissions of their rolling stock. The Committee believes that although this measure is commendable, but notes the importance of introducing it in such a way that the competitiveness of railway companies is not damaged. The EESC nevertheless considers that it should only be applied if also compulsory (not merely optional) for other transport modes.*

**Reason:**

In view of what is stated in previous points, internalisation of noise costs should not be opposed, but on condition that it takes place without competitiveness being damaged in relation to competing transport modes.

**Outcome of the vote:**

For:	57
Against:	110
Abstentions:	16

**Point 7.4.2**

The amendment to point 7.4.2 is linked to the amendment to point 1.7, and they were voted on together.

Combine points 7.4.2 and 7.4.3 and amend as follows:

*"The EESC feels that it is not self-evident where exactly the line can be drawn between public infrastructure and private operators' resources and that this is a matter for discussion. However, it is clear from experience that access to, for example, terminals, stations and marshalling yards can be critical for the establishment of new operators and thus for market development.*

*The EESC believes, in principle, that it ought to ~~it would~~ be enough to require compliance with the current rules obliging operators of such service facilities to guarantee non-discriminatory and transparent access. ~~This provision is more than adequate, since the controlling authority only intervenes in cases of non-compliance with the relevant legislation. In view of the experience gained and taking into account the importance of open access to central infrastructure nodes, the~~ The EESC therefore regards such a requirement with respect to legal, organisational and decision-making independence to be justified in some cases. It is, however, important that it does not as disproportionate in relation to the objective of non-discrimination; it jeopardises current activities and structures that could not be replaced.*

**Reason:**

See also the reason for point 1.7. Access to major intermodal terminals and marshalling yards etc. must be completely competition neutral in order for a European rail market to be created. This is one of the key demands of the emerging number of independent rail operators, together with fair allocation of track capacity.

**Point 1.7**

Amend as follows:

*"As regards conditions of access to railway service facilities, the EESC ~~cannot~~ endorses any requirement of legal, organisational and decision-making independence that is necessary to ensure a level playing field for rail market operators ~~would jeopardise current structures which cannot be replaced.~~*

**Reason:**

Terminal resources and marshalling yards etc are, of course, part of the common infrastructure in a free market. Experience shows that without clear independence where terminal resources etc. are concerned new rail operators cannot be guaranteed equal treatment in comparison with former national monopoly operators. The risk of abuse of a dominant position cannot be ruled out. Compare also the Commission's own assessment of the railway packages (point 3.3).

**Outcome of the vote:**

For:	54
Against:	111
Abstentions:	21

**Point 7.4.4**

Delete:

~~"The EESC points out that the purpose of providing public financing for these service facilities was to meet public needs. Access to such services should therefore only be provided if it serves the public interest and in cases where the service facilities receive public funding."~~

**Reason:**

If these facilities are financed with public funds they should be regarded as infrastructure and thus be open to all rail operators who use this infrastructure.

**Outcome of the vote:**

For:	51
Against:	119
Abstentions:	20

The following passages of the section opinion were rejected in favour of amendments adopted by the assembly but obtained at least one quarter of the votes cast.

**Point 6**

Amend the heading as follows:

~~"Problems and obstacles associated with switching to rail~~ achieving a competitive rail market"

**Outcome of the vote:**

For:	97
Against:	42
Abstentions:	18

**Point 6.2**

Amend as follows:

~~"In many cases r~~Rail infrastructure is has the characteristics of a natural monopoly. It is important that this infrastructure be subject to real public control and that it have the requisite capacity and provision for cross-border coordination enabling seamless transport services throughout Europe and with neighbouring countries. Rail transport services and therefore also requires an effective balancing between economic, social, labour, safety and environmental conditions on the one hand and economic and competition conditions on the other. There is still a need to ensure real public control and evaluation of the efficiency of rail services, which implies democratic involvement of all stakeholders."

**Outcome of the vote:**

For:	118
Against:	36
Abstentions:	18

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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 energy market integrity and transparency’**

COM(2010) 726 final

(2011/C 132/21)

Rapporteur-general: **Mr IOZIA**

On 22 December 2010 the Council decided to consult the European Economic and Social Committee, under Article 194(2) of the Treaty on the Functioning of the European Union, on the

*Proposal for a regulation of the European Parliament and of the Council on energy market integrity and transparency*

COM(2010) 726 final.

On 18 January 2011 the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee’s work on the subject.

Given the urgent nature of the work (Rule 59 of the Rules of Procedure), the European Economic and Social Committee appointed Mr IOZIA as rapporteur-general at its 470th plenary session, held on 15 and 16 March 2011 (meeting of 16 March), and adopted the following opinion by 150 votes with five abstentions.

## 1. Conclusions and recommendations

The EESC:

1.1 supports and endorses the Commission proposal to promote measures to prevent the manipulation of wholesale energy markets and to make them more transparent. This provision is based on a joint study that the Committee of European Securities Regulators (CESR) and the European Regulators Group for Electricity and Gas (ERGEG) were asked to carry out, which highlighted a number of regulatory gaps concerning the wholesale gas and energy market;

1.2 supports the choice to use a regulation on the legal basis of Article 194 TFEU, owing to the need for a completely common set of rules and to the importance of the provisions of the new Lisbon Treaty article on energy in general and the development of the internal market in particular, as set out in point 2;

1.3 welcomes the decision to use delegated acts, which bring needed clarity to important aspects of the regulation such as the definition and timeframe for collecting data, under Article 290 TFEU which introduces this new administrative instrument in order to simplify the work of the European institutions. These delegated acts must be issued in full compliance with the provisions of the Treaty and with sufficient public notification; suggests that a specific period be set when issuing the delegated acts, as laid down in Article 290, in order to allow the regulation to be applied swiftly and uniformly. Without delegated acts, countering market manipulation will be problematic in the future; recommends that civil society stakeholders be involved in preparing the delegated acts and suggests that examples be included in the recitals;

1.4 feels that the efficiency of cross-border markets bolsters security of supply, optimal crisis management and a lower risk of additional costs, which are inevitably passed on to the final user. Steady improvements in the internal market in energy generate considerable savings, benefiting both companies and private users;

1.5 considers that the powers to be conferred on the national regulatory authorities are comprehensive and penetrating, and calls for the establishment of a procedure to monitor, relatively rapidly, the Member States’ pledge to grant the national regulatory authorities effective powers of inspection and investigation, on a common, harmonised basis. Differences in regulatory systems have been and continue to be a factor in the delay in completing the single energy market;

1.6 welcomes the regulation’s aim of enhancing coordination between the national authorities which regulate energy markets, those which regulate financial markets, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators. The EESC has been calling for this steady process of integration and cooperation for some time;

1.7 believes strongly that steps must be taken to increase participants’ confidence in the market as participants must be sure that they are operating in a market which punishes market abuse with effective, dissuasive and proportionate penalties; recommends that the Commission monitor the regulation’s implementation by the Member States which must work together to ensure that the energy market does not repeat the events which occurred in the financial markets through regulatory arbitrage, whereby transactions take place in places where regulation is more flexible or tolerant with regard to penalties;

1.8 questions whether the costs incurred in implementing the regulation should all be paid from the public purse or whether market operators should bear part of them; in some countries, for example, the authorities which monitor the financial markets are partly funded by those they monitor;

1.9 believes that it is vital to step up cooperation and coordination between transmission system operators. Setting up a European Network of Transmission System Operators (ENTSO) will boost the possibility of creating network codes which will ensure effective and transparent access to transmission networks. These network codes must be consistent with the framework guidelines, which do not have binding force, to be issued by the Agency;

1.10 notes that the playing field is not level and discrimination persists in the EU's wholesale energy markets; market integration is completely inadequate partly as a result of structural deficiencies in the network and especially in cross-border interconnection. There are still major obstacles impeding non-discriminatory access to the network and the sale of electricity. Checks conducted by regulators have not yet achieved a uniform level of effectiveness and some markets are still isolated and closed to penetration by other operators;

1.11 therefore supports the Commission's efforts to abolish barriers to achieving an efficient and integrated internal market, with the advantages to be shared between generators, operators and consumers;

1.12 believes that it is imperative to continue building a Europe of energy, in which the general interests of the EU and of consumers are protected, energy supply is guaranteed, social, environmental and economic sustainability is safeguarded by means of well-designed policies which share out the benefits and ensure that the costs are reasonable, and market integrity is defended as a crucial component in the development of the social market economy;

1.13 being aware of the gradual financialisation of energy markets with financial markets, the EESC believes that close cooperation is essential between the various European agencies and authorities which preside over and protect the markets and welcomes the fact that the regulation on electricity and gas market manipulation and transparency has drawn on the general rules on market abuse which are already in force in the financial sector and which will be updated in the near future; consequently, deems that this regulation should be coordinated with the revision of the Market Abuse Directive (MAD);

1.14 calls for the guiding principles on which the new MAD draft directive is based to be included in the final text of the

regulation; in particular calls for the following aspects to be taken into account: increased market integrity, more vigorous implementation of the legislation against market abuse, diminished national discretion in respect of the application, suitability and dissuasive capacity of penalties, the introduction of harmonised standards and the scaling back of unfounded administrative obligations particularly for SMEs, the need to increase transparency, and the efficiency of oversight authorities;

1.15 stresses the importance of relations with third countries and is pleased that the Agency conducts such relations and can sign agreements with international organisations and third-country administrations.

## 2. Introduction

2.1 There have been several major changes in the internal market in electricity and gas, one of the most important of which has undoubtedly been to grant multiple stakeholders access to power exchanges and extending cross-border trading within the EU, helping to optimise the use of power generation and expanding the demand base.

2.2 Many obstacles remain to the completion of an efficient, functional and reasonably-priced internal market. Consumers have not benefited particularly from the development of the internal market, which is struggling to gain speed owing to resistance from some monopoly holders supported by their respective national governments. A case in point is the debate on unbundling ownership of generation from that of transmission and distribution, which has not yet been settled in several major Member States but which cannot remain as it is after 3 March 2013.

2.3 The five legislative measures on energy and gas known as the 'third package', which must be incorporated into all national legislation by 3 March 2011, help to establish better conditions for the completion of the internal market.

2.4 Partly owing to the decrease in the consumption of electricity and gas, there have been significant delays in the programme to develop interconnection between Member States, and between the EU and its third-country partners. This is one of the primary factors hindering the completion of the internal market and which the Agency must monitor constantly.

2.5 Legislative delays have resulted in a situation whereby the wholesale energy and gas market is vulnerable to potential manipulation and suffers from a lack of transparency, which in the long term has the damaging effect of undermining the market's credibility and the operators' confidence.

2.6 The efficiency of cross-border markets bolsters security of supply, optimal crisis management and a lower risk of additional costs, which are inevitably passed on to the final user. Steady improvements in the internal market in energy generate considerable savings, benefiting both companies and private users in terms of consolidating generation, matching supply and demand easily in a fluid and efficient market and tailoring supply to specific needs.

2.7 In this context and after careful analysis, the Commission has issued a proposal for a regulation to promote market integrity and transparency and prevent market manipulation.

### 3. Commission proposal

3.1 The EU will certainly gain from being able to count on a wholesale electricity and gas market which is fluid, orderly and functional and above all protected from manipulation which would have a heavy impact on the final user. If the objective of an efficient European wholesale energy market by 2015 is to be met, measures must be adopted promoting orderly and smooth market development.

3.2 In 2007, the Commission asked the Committee of European Securities Regulators (CESR) and the European Regulators Group for Electricity and Gas (ERGEG) to study the gaps in the markets' regulatory framework and to present proposals to improve its transparency and integrity in transactions and contracts to supply gas and electricity, as well as in derivatives.

3.3 This study was extremely valuable and formed the basis for the Commission proposal.

3.4 The Commission proposes that a regulation be adopted which explicitly prohibits any form of abuse in the wholesale electricity and gas markets, particularly insider trading and market abuse, in line with the Market Abuse Directive; the regulation does not however apply to the related financial instruments which are already governed by the directive. This proposal is based on Article 194(1)(a) TFEU, which gives the EU the responsibility of ensuring that the internal market in energy functions properly.

3.5 The prohibition on insider trading is accompanied by the obligation for market operators to divulge all inside information available to them pertaining to their activities and which relate to the capacity of the facilities for the generation, storage, consumption or transport of electricity or natural gas.

3.6 In accordance with the provisions of the new Treaty, as set out in Article 290 TFEU, the Commission plans to issue delegated acts, a new legislative instrument which enables the

Commission to amend the technical elements of a directive or regulation by means of a simplified procedure.

3.7 The specification of the definition of market manipulation or attempted manipulation will be drawn up on the basis of delegated acts of the Commission. They will take into account the functioning of the markets, the potential impact on wholesale energy markets of generation, consumption, the use of transmission or the use of actual or planned storage capacity, network codes and the framework guidelines adopted in accordance with Regulations 714/2009 and 715/2009.

3.8 The regulation in question makes the Agency for the Cooperation of Energy Regulators responsible for monitoring negotiations and collects the data needed to assess market performance.

3.9 The Agency collects information partly through the record of wholesale energy market transactions, including orders to trade. This information is shared with the national regulatory authorities, the financial regulators, the competition authorities and other competent authorities.

3.10 The trade repositories will make their information available and in turn the financial regulators will forward reports on transactions in energy products to the Agency.

3.11 The regulation envisages close cooperation between national authorities, between these authorities and the ESMA (the European Securities and Markets Authority), and between the Agency and the ESMA, should it suspect present or past conduct constituting market abuse.

3.12 Penalties are a matter for the Member States, which must adopt effective, proportionate and dissuasive measures (for the definitions, see Article 2 of the regulation).

### 4. Comments by the EESC

4.1 The EESC endorses the Commission proposal, which would remedy market opacity and which would indirectly support the development of the wholesale internal market in electricity and gas.

4.2 The Committee entirely agrees with the choice of legal basis for the regulation: Article 194 implicitly authorises the Commission to issue acts intended to develop and consolidate the internal energy market. A regulation is certainly the most appropriate instrument to guarantee uniform standardisation which is both immediately applicable and consistent with the objectives of harmonisation which are vital for the smooth functioning of the internal market.



4.3 The playing field is not level and discrimination persists in the EU's wholesale energy markets. Market integration is completely inadequate partly as a result of structural deficiencies in the network and especially in cross-border interconnection. There are still major obstacles impeding non-discriminatory access to the network and the sale of electricity. Checks conducted by regulators have not yet achieved a uniform level of effectiveness and some markets are still isolated and closed to penetration by other operators. The EESC recommends that the Commission monitor the Member States' implementation of European legislation, supporting interconnection projects and removing obstacles, in particular by penalising obstacles to the completion of an internal market which is efficient and transparent, with justified costs.

4.4 The national regulatory authorities and the Commission judge that market performance is affected by the inadequate rules on transparency regarding access to infrastructure, which make it impossible to guarantee an effective, functional, open and efficient internal market.

4.5 The proposed measures would facilitate market development: countering market manipulation and abuse, providing operators with complete sensitive information on the efficiency and material state of the system including electricity generation, supply and demand, including forecasts, network and interconnection capacity, anticipated network bottlenecks, flows and maintenance, balancing and reserve capacity.

4.6 Having all necessary information available at the same time will enable all market operators to assess overall supply and demand on an equal footing, and to have a more accurate grasp of the dynamics of wholesale prices in the electricity and gas market.

4.7 The Agency should establish a data collection department and an inspection department with specially trained staff. The regulation provides for additional staff to cope with the tasks created by the new roles assigned to the Agency.

4.7.1 The EESC calls for the Agency to publish an annual report on initiatives underway, results delivered by the regulation and the development of the wholesale energy market.

4.8 The EESC questions whether the costs incurred through the implementation of the regulation should all be paid from the public purse or whether market operators should bear part of them; in some countries, for example, the authorities which monitor the financial markets are partly funded by those they monitor. The advantage to the operators is clear, and the collection and dissemination of market data ensures transparency guaranteed for all by the public authority, which constitutes an immediate advantage for operators. Furthermore, the anticipated costs would not strain a healthy and well-developed market.

4.9 The competent authorities should also check regularly that transmission system operators comply with the rules. The EESC believes that it is vital to step up cooperation and coordination between transmission system operators. Setting up a European Network of Transmission System Operators (ENTSO), the draft statute for which will be presented in the Spring of 2011, will boost the possibility of creating network codes which will ensure effective and transparent access to transmission networks, as laid down in Regulation (EC) 714/2009. These network codes must be consistent with the framework guidelines, which do not have binding force, to be issued by the Agency.

4.10 The ENTSO must operate in full compliance with competition rules and gradually harmonise and integrate cross-border network codes, without replacing national network codes. Regional cooperation can guarantee the best progress towards an integrated single market in energy. The EESC is in favour of the ENTSO being organised regionally as part of the overall cooperation.

4.11 Regional cooperation has got off to an encouraging start: the Gas Regional Initiative (GRI) and the Electricity Regional Initiative (ERI) are yielding excellent results. The EESC supports and praises the commitment shown by regulators and operators to resolve the complex problems relating to interconnection and the establishment of a transparent and efficient market.

4.12 The signing of an agreement to this effect, for instance between authorities and transmission system operators in Italy and Slovenia, has laid the groundwork for dealing with issues relating to bottlenecks and balancing, with advance warning systems for the areas concerned and balanced, transparent solutions using the market coupling method. This method brings together forecasts for supply and demand by means of a central operator in order to improve the efficiency of the day-ahead market.

## 5. Specific comments

5.1 The EESC supports the use of delegated acts to identify the specifications of definitions and data collection; these acts must be issued in strict compliance with the provisions of the TFEU. The EESC is of the opinion that the definitions set out in Article 2 are overly vague for a regulation. The procedure for issuing delegated acts which will set out the specifications for the definitions of insider information and market manipulation, as laid down in Article 5 of the regulation, must establish a specific period for issuing delegated acts, as required by Article 290 TFEU, and a system for ensuring sufficient public notification.

5.2 The EESC wishes to point out that without uniform interpretative rules, there is a risk that implementing the regulation may disrupt the market unless the national authorities are helped to form a common assessment procedure and unless they develop a comprehensive and accepted set of rules on abusive practices. The EESC suggests that a set period be specified for delegated acts of the Commission in order to bring certainty to the market. If necessary, the Commission can always update the acts.

5.3 Article 7 gives rise to the same concerns. The EESC believes that a deadline should be set for the Commission to issue delegated acts on data collection, timing, and the form and content of the information to be transmitted. The shorter the deadline after the adoption of the regulation by the EU decision-making bodies, the more effective the regulation.

5.4 The EESC believes that the powers that are to be conferred on the national regulatory authorities are both comprehensive and penetrating; however, it calls for greater certainty of enforcement of the regulation in this area and asks whether it might be appropriate to allow a relatively short period for Member States to fulfil their obligation to

guarantee that the authorities are granted these powers of investigation. Differences in regulatory systems have been and continue to be a factor in the delay in completing the single energy market.

5.5 The EESC hopes that penalties will be substantially aligned in all Member States and that there will be no instances of regulatory arbitrage, whereby stakeholders choose to sign contracts in the country with the mildest penalty regime. The legislation on market abuse (MAD) has already identified common standards in penalty regimes and the Commission makes a recommendation to this effect in recital 23 of the regulation. The wholesale energy market trades in energy to meet import/export requirements and therefore the location of the offices in which gas or electricity transactions are processed is irrelevant.

5.6 The EESC stresses the importance of relations with third countries and is pleased that the Agency conducts such relations and can sign agreements with international organisations and third-country administrations. The EESC recommends that Article 14 be reworded to confer on the Agency a general mandate of representation which is specifically linked to the aims of the present regulation.

Brussels, 16 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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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 coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent’ (recast)**

COM(2011) 29 final — 2011/0011 (COD)

(2011/C 132/22)

On 15 February 2011, the Council and, on 14 February 2011, the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union (TFEU), on the

*Proposal for a Directive of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (Recast)*

COM(2011) 29 final — 2011/0011 COD.

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 470th plenary session of 15/16 March 2011 (meeting of 15 March), by 180 votes to two with 21 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 15 March 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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