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I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

479TH PLENARY SESSION HELD ON 28 AND 29 MARCH 2012

Resolution of the European Economic and Social Committee against discrimination on the grounds of race or ethnic origin, adopted at its 479th plenary session

(2012/C 181/01)

At its plenary session of 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the present resolution by 148 votes and 3 abstentions.

'On 8 February 2012, the Partij voor de Vrijheid PVV (Party for Freedom), launched a website inviting people to express their greviences about people from Eastern and Central Europe working in the Netherlands.

In a resolution of 15 March 2012, the European Parliament roundly condemned this denunciation website. As the representative of organised civil society, the European Economic and Social Committee (EESC) denounces this action and the xenophobia and racism it embodies. The EESC calls on the Dutch people and the Dutch government to take decisive action against this initiative, which can no longer be tolerated.

The EESC and its members affirm the following points:

— The European Union Treaties and European Charter of Fundamental Rights are based on the principle of non-discrimination. The message sent out by this website goes against this principle, by discriminating against European citizens on grounds of nationality.

— The EESC condemns all activities that go against fundamental European values, including freedom, equality and respect for human rights.

— The EESC supports the EP in its call for the Commission and the Council to do their utmost to stop the spread of xenophobic attitudes in the EU.'

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

479TH PLENARY SESSION HELD ON 28 AND 29 MARCH 2012

Opinion of the European Economic and Social Committee on 'Young persons with disabilities: employment, inclusion and participation in society' (exploratory opinion)

(2012/C 181/02)

Rapporteur: **Mr VARDAKASTANIS**

In a letter dated 9 December 2011, and in accordance with Article 304 TFEU, Ms Karen Hækkerup, Danish Minister for Integration and Social Affairs, asked the European Economic and Social Committee, on behalf of the Danish Presidency, to draw up an exploratory opinion on

Young persons with disabilities: employment, inclusion and participation in society.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March 2012), the European Economic and Social Committee adopted the following opinion by 148 votes with 3 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC:

1.1.1 Recommends that the United Nations' Convention on the Rights of Persons with Disabilities, (UNCRPD) be implemented to enable persons with disabilities including young persons, both women and men to exercise their fundamental rights to the full.

1.1.2 Requests that the Member States strive to encourage persons with disabilities to participate fully in society and the economy, as part of the National Reform Programmes (NRPs) under the Europe 2020 Strategy, by putting in place effective antidiscrimination measures.

1.1.3 Calls for accessible and inclusive education for persons with disabilities pursuant to Article 24 of the UNCRPD. The Committee believes that young persons with disabilities should be able to access primary, secondary and tertiary education on an equal basis with others and stresses the importance of non-formal education and the need for this to be recognised.

1.1.4 Urges that information about universities or educational opportunities be adequately disseminated in alternative formats such as Braille, audio, video easy-to-read versions or speech to text/palantype. Libraries should hold Braille and audio books in their collections.

1.1.5 Considers that the arts, sports and leisure play a key role in the development of skills and the inclusion of young persons with disabilities and should thus be fully accessible.

1.1.6 Calls on the Member States and the European institutions to promote best practices and positive actions for the inclusion of persons with disabilities in education and employment. These should include investment in social entrepreneurship and SMEs and financial incentives for employers to recruit young persons with a disability.

1.1.7 Recommends that the Member States, the European Commission and the Parliament combat discrimination against young persons with disabilities.

1.1.8 Calls for accessibility and reasonable accommodation in order to get young persons with disabilities into jobs.

1.1.9 Believes in the key role of the social partners in promoting the employment of young persons with disabilities by including accessibility and reasonable accommodation in their negotiations.

1.1.10 Recommends using Structural Funds to promote the inclusion of young persons with disabilities. The Committee calls for the current regulation to be properly implemented and the future one to comply with the UNCRPD and include accessibility in Article 7 as a horizontal principle, alongside antidiscrimination and inclusion.

1.1.11 Calls upon the Member States to implement the Directive establishing a general framework for equal treatment in employment and occupation (1) and urges that the directive be interpreted in the light of the UNCRPD.

1.1.12 Recommends that the European Commission, the European Parliament and the Council support organisations representing young persons with disabilities and consult them in the relevant political processes.

1.1.13 Recalls that the economic crisis and austerity measures should not hamper the rights of young persons with disabilities and calls upon the Member States to take positive measures to protect such individuals.

1.1.14 Recommends that the right of young persons with disabilities to live independently be promoted and calls on the Member States and the European Commission to use the structural funds to encourage de-institutionalisation and community-based care.

1.1.15 Welcomes the European Commission's commitment to develop a European Accessibility Act and recommends that this legislation be robust and ensure full accessibility to goods, services and the built environment in the EU.

1.1.16 Calls for an inclusive European standardisation system and welcomes the adoption of Mandate 473 as a positive measure to promote accessibility.

(1) OJ L 303, 2.12.2000, p. 16–22.

1.1.17 Welcomes the Audiovisual Media Services Directive (2) and calls for the directive to be properly implemented (3).

1.1.18 Calls for the effective application of the Regulation concerning the rights of passengers in bus and coach transport in the European Union (4). The Committee calls upon the Member States to enforce the regulation and adopt additional measures to ensure the freedom of movement of young persons with disabilities (5).

1.1.19 Welcomes the commitment given by the European Commission in the Digital Agenda to ensure that public sector websites and websites providing basic services to citizens are fully accessible by 2015.

1.1.20 Considers it crucial to mainstream the needs of young persons with disabilities in all EU youth policies and programmes and calls for positive actions to raise awareness about their needs.

2. **Introduction**

2.1 The EESC:

2.1.1 Would point out that young persons with disabilities are subject to various forms of discrimination on the grounds of gender, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, membership of a national minority, property, birth, age, sexual orientation and others.

2.1.2 Calls upon the Member States to move ahead with negotiations on the anti-discrimination directive (6), in order to ensure legal protection against any form of discrimination in the EU.

2.1.3 Acknowledges that young persons with disabilities are 2 to 5 times more at risk of violence than their non-disabled peers.

2.1.4 Regrets that young persons with disabilities face prejudice and negative attitudes in society which hinder their participation, self-determination and inclusion.

2.1.5 Affirms that young women with disabilities, persons in need of high-level support and persons with psychosocial disabilities encounter numerous forms of discrimination.

(2) OJ L 95, 15.4.2010, p. 1–24. OJ L 303, 2.12.2000, p. 16–22.
(3) Accessibility of online media visual content should be provided in light of the Directive.
(4) OJ L 55, 28.2.2011, p. 1–12.
(5) Such as accessibility of buses in rural areas should be compulsory.
(6) COM/2008/0426 final.

2.1.6 Calls for the political rights of young persons with disabilities to be recognised and for such individuals to be able to exercise these rights on an equal basis with others and considers that voting procedures, facilities and materials should all be accessible.

2.1.7 Proposes that youth disability policies be mainstreamed into all the relevant budget lines of the Multiannual Financial Framework so as to guarantee adequate resources to promote accessibility and inclusion.

2.1.8 Proposes to gather evidence on the impact of policy instruments relevant to young persons with disabilities and suggests that EU projects, studies and research in this field be funded.

2.1.9 Recalls the recommendations of previous EESC opinions on, inter alia, employment and accessibility, the disability strategy and the consequences of demographic change.

3. **Employment and Education**

Education

3.1 The EESC:

3.1.1 Acknowledges the importance of inclusive mainstream education and calls for sign language to be taught in primary schools, the introduction of speech-to-text (palantype) and induction-loop technologies and the recruitment of teachers qualified to use Braille and any appropriate support for pupils with disabilities, such as augmentative and alternative communication (AAC).

3.1.2 Welcomes the Youth on the Move and Youth in Action programme adopted by the Commission as part of the Europe 2020 Strategy, and calls on the Member States to ensure that young persons with disabilities benefit fully from these programmes.

3.1.3 Welcomes the use of Erasmus for all EU programmes in the fields of education, training, youth and sport and recommends using Erasmus to boost the personal development and job prospects of young persons with disabilities.

3.1.4 Calls for effective measures to combat early school-leaving, given that persons with disabilities are only half as likely as non-disabled persons to reach tertiary education. The Committee wishes to see universities become more inclusive and implement positive actions such as scholarships for students with disabilities and quota systems.

3.1.5 Wishes to see effective measures to ease the transition from school to employment for young persons with disabilities.

3.1.6 Welcomes the European Parliament's resolution on the Mobility of persons with disabilities [7] and its focus on inclusive education.

3.1.7 Recognises the importance of non-formal education [8] for young persons with disabilities and calls for the European Quality Framework for traineeship to be developed and to include accessibility criteria.

3.1.8 Acknowledges that young persons with disabilities have the right to benefit from EU exchange programmes and opportunities to study and learn abroad and benefit from EU tools for the validation of skills and recognition of qualifications.

3.1.9 Calls for educational content, ICTs and buildings to be accessible, as a prerequisite for enjoying the right to education. The European Commission and the Member States should encourage schools, universities, and youth counselling services to incorporate accessibility into their actions.

3.1.10 Urges that information about universities or educational opportunities be adequately disseminated in alternative formats such as Braille, audio, video, easy-to-read versions or speech to text/palantype. Libraries should hold Braille and audio books in their collections.

3.1.11 Envisages the use of European funding, including the European Social Fund (ESF), and Lifelong Learning, to support the use of consultants for both pupils with disabilities and teachers.

Employment

3.2 The EESC:

3.2.1 Acknowledges that persons with disabilities are two to three times more likely to be unemployed than persons without disabilities.

3.2.2 Supports the use of Structural Funds to provide adequate financial support to the European Disability Strategy. In particular, more effective use should be made of the ESF in order to boost the employment of young persons with disabilities and of the ERDF in order to attain a high level of accessibility in Europe.

3.2.3 Calls upon the Member States to promote the employment of young persons with disabilities by giving financial support to employers and by investing in SMEs, social entrepreneurship and self-employment.

(7) 2010/2272(INI).
(8) Non-formal education is not provided by an education or training institution and typically does not lead to certification.

3.2.4 Suggests that reasonable accommodation, flexible working hours, teleworking and access to ICT be made available, to support employment for young persons with disabilities and would point out that denial of reasonable accommodation is an act of discrimination ([9]).

3.2.5 Recommends that the European Commission provide accessibility for young workers and trainees with disabilities, whilst promoting and developing cross-border professional and vocational opportunities and lowering barriers to the free movement of labour across the EU.

3.2.6 Believes that the social partners should play a key role in promoting and protecting the employment of young persons with disabilities, by including this issue in their collective bargaining.

3.2.7 Calls on the Member States to invest in young workers with disabilities, to help them deal with the effects of the economic crisis, as they face greater difficulties in finding and remaining in employment.

4. **Participation and inclusion**

4.1 The EESC:

4.1.1 Reaffirms that young persons with disabilities, and especially with intellectual disabilities, have the right to recognition everywhere as people before the law.

4.1.2 Calls for awareness of the situation of persons with disabilities to be raised by gathering consistent data in line with Article 31 of the UNCRPD and emphasises the duty of the media to combat stereotypes.

4.1.3 Recommends that the Member States recognise the legal capacity of young men and women with disabilities on an equal basis with others, in all aspects of life.

4.1.4 Stresses the need to ensure that young persons with disabilities enjoy full freedom of movement and hopes to see specific proposals to remove barriers to the portability of disability benefits.

4.1.5 Requests that the Member States strive to encourage persons with disabilities to participate fully in society and the economy, as part of the National Reform Programmes (NRPs) under the Europe 20202 Strategy, by putting in place effective anti-discrimination measures.

4.1.6 Calls for a European Disability Committee ([10]) to contribute to EU policies and legislation by addressing inclusion and accessibility for young persons with disabilities.

4.1.7 Stresses the key role played by sports in promoting the participation of young persons with disabilities and calls for financial and political support for positive initiatives such as the Paralympics.

4.1.8 Suggests peer reviews by the Social Protection Committee, the Employment Committee and the Economic Policy Committee in order to share best practices in equality for young persons with disabilities within the Open Method of Coordination, the Employment Strategy and the economic policies of the NRPs.

4.1.9 Wishes to see financial and political support for organisations representing young persons with disabilities in order to promote participation and combat prejudices through awareness-raising.

4.1.10 Calls for the training of officials, teachers, employers and service providers to comply with accessibility and equality legislation at both EU and national level.

4.1.11 Recommends that the right of young persons with disabilities to live independently be promoted and that Structural Funds be used to support de-institutionalisation and encourage community living.

5. **Accessibility**

5.1 The EESC:

5.1.1 Calls on the European Parliament and the Council to include accessibility as a horizontal principle in Article 7 of the draft general regulation of the Structural Funds 2014-2020.

5.1.2 Welcomes the steps taken by the European Commission to develop a European Accessibility Act and reiterates the urgent need for strong binding legislation to ensure access by persons with disabilities to goods, services and the built environment. The Committee calls for strong enforcement and monitoring mechanisms to be identified at both European and national level.

5.1.3 Urges effective application of the Regulation on the rights of passengers in bus and coach transport in the European Union ([11]) and calls upon Member States to enforce the regulation and to adopt robust measures to ensure the freedom of movement of young persons with disabilities.

([9]) OJ C 376, 22.12.2011, p. 81–86.

([10]) OJ C 376, 22.12.2011, p. 81–86.

([11]) OJ L 55, 28.2.2011, p. 1–12.

5.1.4 Envisages a specific plan to make all EU institutions accessible in terms of infrastructure, recruitment procedures, meetings, websites and information.

5.1.5 Welcomes the commitment given by the European Commission in the Digital Agenda to ensure that public sector websites and websites providing basic services to citizens are fully accessible by 2015.

5.1.6 Is pleased to note the European Union Regulatory Framework for Electronic Communications Networks and Services and believes that electronic communications products and services are crucial to ensuring that the new mobile generations are able to remain informed and to communicate.

5.1.7 Acknowledges the importance of access to the Information Society and to Information and Communication Technologies (ICTs), including access to content, as a fundamental right of persons with disabilities.

5.1.8 Recognises the added value of the Audiovisual Media Services Directive ([12]) and calls for the directive to be enforced and implemented, especially the measures concerning persons with disabilities.

5.1.9 Welcomes the European Commission's Proposal for a Regulation on European Standardisation ([13]) as well as the Communication on a strategic vision for European standards ([14]).

5.1.10 Calls for an inclusive European standardisation system and is pleased to note the adoption of Mandate 473 as a positive measure to promote accessibility.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([12]) OJ L 95, 15.4.2010, p. 1–24.
([13]) COM(2011) 315 final.
([14]) COM(2011) 311 final.

Opinion of the European Economic and Social Committee on 'Specific problems facing islands' (own-initiative opinion)

(2012/C 181/03)

Rapporteur: **Mr ESPUNY MOYANO**

On 20 January 2011, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

Specific problems facing islands.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 129 votes to 4, with 8 abstentions.

1. Conclusions and recommendations

1.1 Island regions have common and specific permanent characteristics and features that clearly distinguish them from mainland regions. Article 174 of the Treaty on the Functioning of the European Union (TFEU) recognises that island regions as a whole face practical handicaps that require special attention. Nevertheless, the EESC considers that there is a need for further work to secure the adoption of an appropriate strategy for addressing the specific needs of these island regions.

1.2 The EESC considers that the definition of islands used by the EU is inappropriate and should be revised and brought up to date to take into account the new realities of an enlarged European Union which includes island Member States. In earlier opinions ([1]), the EESC recommended changing this definition, and it would once again put forward this recommendation.

1.3 Migration, an ageing population and depopulation are issues that have a particular impact on islands. This can lead to cultural heritage being lost, ecosystems becoming fragile, and have serious economic implications (employment, young people, etc.).

1.4 Some islands are faced with the emigration of their populations to more prosperous regions; others receive immigrants who contribute to local economic development; yet others, on account of their geographical location, receive immigrants in excess of their reception capacity.

1.5 The EESC considers that accessibility to islands and the connections between them absolutely have to be improved. Since accessibility is a vital element in enhancing the attractiveness of island regions, goods and passenger transport costs should be reduced by applying the principle of territorial continuity and improving Regulation 3577/92.

1.6 Agriculture, livestock breeding and fisheries, that form a major part of the local economy and are a supply source for most of the agrifood industry, are fragile on account of their remoteness, the small size of holdings and low diversity of production, as well as climate conditions.

1.7 This leads to a weak island agrifood industry that struggles to compete with mainland or third country products, which in turn further weakens the primary sector.

1.8 The EESC recommends that the CAP should consider islands as disadvantaged areas in the same way as mountain areas, with specific mention of insularity where financing is concerned.

1.9 Many European islands have found tourism to be an essential factor for the survival of the local population, their identity, cultural traditions and values, and landscapes. It has generated economic growth, created more jobs and brought considerable diversification to their economic foundations through tourism-related services. Island economies have, however, become too dependent on tourism: diversification towards activities that are complementary to tourism is needed, facilitating the economic development of islands in the face of crises such as the present one which have a powerful impact on tourism.

([1]) *A better integration in the internal market as key factor for cohesion and growth for islands*, OJ C 27, 30.2.2009, p. 123; and *Innovation in tourism: Defining a strategy towards sustainable development in islands*, OJ C 44, 11.2.2011, p. 75.

1.10 The EESC joins with the European Parliament in calling for the implementation of comparable strategies for islands, mountain areas and other vulnerable areas as part of the Commission's initiative to develop a strategy for sustainable coastal and marine tourism, as set out in its Resolution of 27 September 2011 ([2]).

1.11 The EESC considers that islands experience difficulties in taking part in EU R+D+I programmes, due to small scale of the internal market and the restricted capacity of available research and development structures. The EESC also believes it is of the greatest importance that the EU continue assisting islands in developing information and communication technologies (ICT), support the creation of research and development structures and facilitate island SME involvement in R+D+I programmes including, if necessary, by means of contributions from the Structural Funds.

1.12 Where island regions are concerned, European energy policy should prioritise security of supply, funding to design and implement energy production projects using new technologies and renewable sources, and promoting efficient energy use, at the same time protecting the environment and nature.

1.13 Water scarcity, together with sea water desalination and other technical options for capturing and supplying water, should be included within the EU's regional policy framework, in keeping with the specific nature of island regions.

1.14 The EESC attaches particular importance to permanent training programmes implemented specifically for islanders working in a range of sectors, chiefly the tourism sector, which is one of the most economically significant sectors in island regions. These programmes should be financed by the European Social Fund and the Cohesion Fund, with the commitment of the Member States, the institutions, and socio-economic actors.

1.15 Education, occupational training and lifelong learning play a vital role in the EU's economic and social strategy within the Lisbon process and the Europe 2020 strategy. The EESC urges that account be taken of the specific nature of island regions in order to ensure that education and lifelong learning opportunities in every region and for all inhabitants are reflected in the national strategies.

1.16 The EESC urges implementation of the measures envisaged in the Bruges Communiqué on the coordination of vocational training in Europe, adopted by the ministers for education of all the Member States and the European social partners.

([2]) See 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: Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe*, OJ C 376/ 22.12.2011 p. 44 and the European Parliament Resolution on *Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe* (2010/2206 (INI)).

1.17 The EESC calls upon the European Commission to set up a dedicated 'interservices group' for islands or, where appropriate, to include islands in other existing interservices groups.

1.18 The Commission is asked to ensure that island regions benefit from specific provisions under the new 2014-2020 multiannual financial framework and that these regions be covered by specific regional development programmes that more accurately reflect their specific characteristics. Consideration should be given to the possibility of increasing EU co-financing levels in areas of priority concern to islands.

1.19 Bearing in mind that the Europe 2020 strategy will mark future EU action, the EESC believes it is necessary to analyse the strategy's impact on island regions, and how it helps to alleviate the inherent disadvantages of insularity.

Given the seasonal nature of the tourist business in islands, the EESC calls on the Commission and the European Parliament to press ahead with the CALYPSO programme on social tourism, as previously argued in its opinion on *Innovation in tourism: Defining a strategy towards sustainable development in islands* ([3]). The social partners should be involved, in the light of the impact the programme can have on the tourism sector and its multiplier effect on other economic areas.

2. **Introduction**

2.1 *Island regions*

2.1.1 According to the Eurostat definition, an island is any territory meeting the following five criteria:

— having an area of at least one square kilometre;

— being located more than one kilometre from the mainland;

— having a permanent resident population of at least 50 people;

— having no fixed link with the continent;

— not containing an EU capital.

2.1.2 When defining islands, reference should be made to Declaration 33 of the TFEU, which states that 'the Conference considers that the reference in Article 174 to island regions can include island States in their entirety, subject to the necessary criteria being met'.

([3]) OJ C 44, 11.2.2011, p. 75.

2.1.3 As pointed out in an earlier opinion ([4]), this definition fails to take into account the new realities of an enlarged European Union which includes island Member States.

2.1.4 According to this definition, 14 ([5]) of the 27 EU Member States have islands within their territory. The EU's various islands should be considered important due to their large number of inhabitants, who total some 21 million. They account for approximately 4 % of the EU-27's total population.

2.1.5 Island regions have common and specific permanent characteristics and features that clearly distinguish them from mainland regions.

2.1.6 All of the EU's islands have certain features that differentiate them from the others, but the factors common to these regions are greater than each one's individual differences and are especially marked in areas such as transport, the environment, tourism and access to essential public services.

2.1.7 Article 174 of the TFEU includes a new paragraph, stating that 'particular attention shall be paid to regions which suffer from severe and permanent natural or demographic handicaps, such as the northernmost regions with very low population density and island, cross-border and mountain regions'.

2.1.8 This article recognises that island regions as a whole face practical handicaps that require special attention.

3. **Demographic situation in island regions**

3.1 Migration, an ageing population and depopulation are issues that have a particular impact on islands.

3.2 A number of islands or areas of island territories currently face a serious threat of depopulation due to the departure of the working population, mostly its younger elements, an ageing resident population or difficult climate conditions. This can lead to cultural heritage being lost, or ecosystems becoming fragile.

3.3 Other islands, due to their geographical location on the Union's external borders, must deal with population flows in the other direction and are exposed to irregular immigration from non-EU countries that is often out of all proportion to their reception capacity.

3.3.1 Extreme humanitarian emergencies are occurring on some islands and these must be dealt with on a basis of European Union solidarity, including the need to continue sharing the ensuing operational burden by combining national and European resources.

3.3.2 In other opinions, the EESC has proposed that the Dublin Regulation should be amended within the framework of a common asylum policy, in order to facilitate the mobility of asylum seekers within the EU.

3.4 There are also islands that experience a strong presence of foreign residents with considerable purchasing power who contribute to local economic and social development, but who may push up housing prices when the market is saturated and thus make access more difficult for the local population with less economic resources.

4. **Accessibility and insularity**

4.1 Some of the handicaps faced by island regions arise from their lack of physical unity and their remoteness. These handicaps are reflected in higher transport, distribution and production costs, greater insecurity of supply and the need to hold more stocks and have greater storage capacity.

4.2 This is reflected in complete dependence on sea and air transport. Island regions are thus less well-placed than other regions to take advantage of the single European market as a homogenous area of competitive economic relations, with regard to resizing businesses to boost innovation and achieving economies of scale and external economies.

4.3 It is therefore important to point out that in the context of the Single European Sky Community initiative it might be useful to study air traffic management mechanisms specifically designed to ensure permanent access to and from the island regions.

4.4 Nor should we forget the situation created by the movement of the ash-cloud from the Icelandic volcano Eyjafjallajökull, which affected huge swathes of European airspace in April and May 2010, causing many airports to close in central and northern Europe and even in southern Europe.

4.5 The most worrying problem was not so much the fact that tourists were unable to reach the islands but that those already on islands were unable to return to their home countries and no one knew for sure how long the situation might last.

([4]) *A better integration in the internal market as key factor for cohesion and growth for islands*, OJ C 27, 3.2.2009, p. 123, point 2.2.
([5]) Spain, Ireland, France, Denmark, Italy, Finland, Sweden, United Kingdom, Greece, Netherlands, Malta, Cyprus, Estonia and Portugal.

4.6 This particular case reflects the extreme vulnerability of island regions in situations of this kind: although virtually the whole of Europe was affected, the closure of European airspace had the greatest (negative) impact on the island regions involved.

4.6.1 A further matter for consideration is the Commission's plan to impose a CO_2 tax on air transport with effect from 2012. If this tax were eventually to come into force, the Commission would have to devise a specific formula for island regions, as they are far more dependent on air transport. This would aggravate their inherent disadvantages.

4.7 Accessibility is a vital element in enhancing the attractiveness of island regions. Trans-European Transport networks (TEN-T) should encompass a genuine multimodal policy that must also apply to the islands. Establishing sea and air corridors between the European mainland and islands by funding fixed and mobile infrastructure can help to achieve this.

5. **Agriculture and fisheries**

5.1 Agriculture, livestock breeding and fisheries form a major part of the local economy, especially in terms of employment, and also provide strong support for local agrifood industries, which account for the bulk of industrial production in the islands.

5.2 However, agricultural and fisheries production in the island regions is extremely fragile, mainly because of the problems created by remoteness, the small size of holdings and low diversity of production, dependence on local markets, their fragmented nature, and climate conditions. This has an impact on the island agrifood industry, which depends on island products. The consequence of weak agricultural and livestock production is that the island agrifood industry is also weak.

5.2.1 Taken together, all these factors mean that island production is less competitive than production from mainland European and third countries.

5.3 What is more, local agriculture is highly dependent on the outside world both for the supply of raw materials and inputs and to sell its products, yet it is very isolated from the sources of supply and from markets.

5.4 Farm producers on islands consequently compete on an unequal basis with producers from other regions. Local producers should receive the support they need to ensure that farming in the island regions is put on an equal footing by means, for example, of specific CAP instruments for islands, and that local production is given greater encouragement and recognition.

5.5 With regard to the adoption of measures specifically designed to compensate for handicaps relating to island status in this area, the most appropriate solution would be a dedicated legislative programme. This applies to the primary sector, which is particularly important to the islands. The European Fisheries Fund does not provide for special measures, except for the outermost regions and the smaller Aegean islands.

5.6 The same applies to direct aid schemes under the Common Agricultural Policy (CAP). The most recent reforms of the CAP, rural development and EAFRD direct aid schemes have failed to take account of island status.

6. **The internal market and tourism**

6.1 The limited size of island regions in comparison with mainland regions has a significant impact on their production and market structure. Consequently, most of the production fabric located in these regions consists of small and micro businesses that are more vulnerable than large businesses.

6.2 Tourism has been and continues to be a basic economic resource for main island territories. In spite of the many differences between them, many European islands have found tourism to be an essential factor for the survival of the local population, their identity, cultural traditions and values, and landscapes.

6.3 The establishment of tourism in European island regions has generated economic growth and jobs for them and has brought considerable diversification to their economic foundations through tourism-related services. It has also made it possible to recover and safeguard local traditions and culture, together with natural areas and historic monuments.

6.4 Although tourism has in general clearly been a factor for good, the negative impact it has had on some island regions must also be recognised: this includes the insecure nature of employment, seasonality, the low skill levels of workers, soaring property speculation and a higher cost of living for the local population. It has also given rise to water supply problems and difficulties in providing basic public services (waste processing, health, etc.), with a powerful impact on the environment. Island economies are now highly dependent on tourism: diversification towards other activities, and not only ones that are complementary to tourism is needed, facilitating the economic development of islands in the face of crises such as the present one which have a powerful impact on tourism.

6.5 Following the adoption of the TFEU, explicit recognition is given to the importance of tourism in the EU. In June 2010, the Commission presented a communication promoting a new framework for coordinated action in the EU to make European tourism more competitive and increase its capacity for sustainable growth [6]. This recognition provides an opportunity to make Europe's tourism industry more competitive, thus contributing to the new Europe 2020 Strategy for smart, sustainable and inclusive growth.

6.6 In point 55 of its resolution of 27 September 2011 [7], the European Parliament '*welcomes the Commission initiative to develop a strategy for sustainable coastal and marine tourism, and calls for the development of similar specific strategies for the islands, mountain regions and other vulnerable areas*'.

7. **Research, development and innovation (R+D+I)**

7.1 Innovation is a key objective of economic policy both at EU level – with the Lisbon and the Europe 2020 strategies – and at regional level, by increasing the percentage of public investment in research, education, training and support for the 'most innovative sectors' (including transport, energy, green industry, etc.). The same also applies to services, particularly those requiring a level of know-how and qualifications that is considered usual in most tourist sectors (including accommodation, catering, real estate services, etc.).

7.2 The information society and the new technologies must be promoted and boosted, as they offer means for islands to diversify economic activity and further knowledge. Using ITC mitigates remoteness by enhancing business management procedures and systems as well as external relations, to the benefit of competitiveness and productivity.

7.3 The main difficulty facing island regions in building their capacity for innovation lies in the weakness of the business fabric, training levels, access to the European market, the small scale of investment in research infrastructure, etc. Innovation in island regions must be looked at from a broad viewpoint encompassing, for example, processing, marketing methods and innovative techniques in business management or organisation. Island companies should seek to enhance their production capacity and the quality of their products, and their access to the European market should be facilitated under competitive conditions similar to those of mainland EU regions.

7.4 The difficulties experienced by islands in taking part in EU R+D+I programmes should also be highlighted. The small scale of the internal market and the restricted capacity of available research and development structures mean it is much more difficult for island regions to participate in these programmes.

8. **Energy and water**

8.1 As a result of islands' strong dependence on fuel imports, fluctuations in energy costs have a greater impact on island regions.

8.2 Where island regions are concerned, European energy policy should prioritise security of supply, funding to design and implement energy production projects using new technologies and renewable sources, and promoting efficient energy use, at the same time protecting the environment and nature.

8.3 Electricity generation, storage and distribution are important not only for primary energy needs, but also for seawater desalination: this could resolve drinking water supply problems in many islands.

8.4 As a result of the small surface area of islands and, above all, their rocky formation, most islands experience a scarcity of water. This hinders economic development (especially tourism), quite apart from the impact on health, agriculture and livestock breeding.

9. **Training and employment**

9.1 According to a recent Euroislands study [8], human capital is a serious problem on European islands, especially those in the Mediterranean. Education levels are particularly low, even in those islands with greater per capita GDP and where a university is present. On Nordic islands, human capital is better prepared to face new challenges, but even there the conversion from traditional occupations is challenging.

9.2 Education, occupational training, lifelong learning and knowledge of foreign languages play a vital role in the EU's economic and social strategy within the Lisbon process and the Europe 2020 strategy. Securing education and lifelong

[6] *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe* (COM(2010) 352 final).

[7] European Parliament Resolution on *Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe* (2010/2206 (INI)).

[8] *The Development of the Islands – European Islands and Cohesion Policy (EUROISLANDS)*, ESPON 2013 European Programme.

learning opportunities in every region and for all inhabitants has to be the cornerstone of national strategies. The scarcity of human resources and the need for a wide range of services means that island inhabitants must be multi-skilled in occupational terms. This can be achieved through proper vocational training programmes funded by the EU.

10. **Regional policy**

10.1 Regional policy is the main Community instrument available to island regions to overcome their structural limitations and to make the most of their potential for development and growth. This policy needs to be improved, however, to enable islands, which form an integral part of the single European market, to take maximum advantage of it, both economically and socially.

10.2 By and large, island regions are at a disadvantage vis-à-vis mainland regions. Island status is not a priority theme on the European regional policy and cohesion agenda. Furthermore, enlargement has radically shifted the focus of this policy agenda, with European island policies not receiving special treatment.

10.3 What is needed is an integrated framework that effectively addresses the limitations faced by Europe's islands. Measures and policies that could affect the islands should therefore always be preceded by the relevant impact assessments, as is done for the outermost regions; this will ensure that there are no negative repercussions or contradictions and that territorial cohesion is strengthened. Such impact assessments are particularly necessary for policies in the fields of transport, the environment and energy.

10.4 In the 2007-2013 programming period, per capita GDP has been used as the sole indicator for establishing the eligibility of regions under the objectives set by regional policy. This indicator overlooks the fact that cohesion encompasses a much broader dimension, which includes social, environmental and territorial components and others related to innovation and education. New indicators, based on more relevant statistical data, should provide a sharply-focused picture of islands' level of development and a sound understanding of regions with permanent natural handicaps.

10.4.1 To this end, the benchmarks contained in the Europe 2020 strategy should be incorporated as references, in line with the EU's general policy framework.

10.5 While the 2007-2013 programming has recognised European islands to be eligible for cross-border cooperation, setting a criterion for the maximum distance between regional borders at 150 km has resulted in three archipelagos (the Cyclades, the Hebrides and the Balearic Islands) currently being excluded.

10.6 The EESC urges that the distance-related criterion (150 km) used for the purpose of classifying islands as border regions eligible for financing under cross-border cooperation programmes covered by cohesion policy's Territorial Cooperation Objective or the European Neighbourhood Policy be dropped.

10.7 Particular attention needs to be paid to islands affected by not just one but several of the handicaps referred to in Article 174, such as mountainous islands or those with very low population density. The same applies to archipelagos affected by double or multiple insularity. These regions suffer additional disadvantages resulting from their fragmentation and limited size. We would also highlight the situation faced by a substantial number of coastal islands, which suffer serious handicaps linked to their micro-island status. All of these factors accentuate the constraints arising from island status and mean that the population often experiences poor services.

10.8 Islands therefore need an approach that integrates the different policies, both horizontally (by means of an inter-sectoral approach to the main policies with a territorial impact, such as the CAP, the CFP, state aid, etc.), and vertically (drawing together the regional, national and Community dimensions). This approach must also reflect the new policy directions taken by the EU Treaty and the importance given to specific areas such as energy and the climate, the external projection of the EU, and justice and home affairs ([9]).

11. **Strengths and attractiveness of island regions**

11.1 According to the conclusions of the ESPON Euroislands study ([10]) concerning the strengths of islands, the main comparative advantages are the quality of life and their natural and cultural assets. Islands have a high density of natural and cultural capital and a strong cultural identity. An important limitation, however, is that the natural and cultural heritage are irreplaceable and non-renewable resources.

11.2 According to the recommendations contained in the study, the new communication and information technologies diminish the negative impact of island status (small scale and isolation). The new technologies can also be beneficial for small- and medium-sized companies and services such as education and research, healthcare services, information, cultural and

([9]) Areas identified in the *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 – The EU Budget Review*, COM(2010) 700 final.

([10]) *The Development of the Islands – European Islands and Cohesion Policy (EUROISLANDS)*, ESPON 2013 European Programme.

other creative activities. Other technological changes (development of new forms of renewable energy, technologies for the partial substitution of natural resources, progress in the transport field, etc.) can have a moderating effect on the limitations caused by island status.

11.3 Numerous examples of best practice are to be found in island regions:

— Business sector initiatives: a range of island farm and manufactured products (food products and beverages) have stood up to competition within the EU and the world market, despite their relatively high prices, because of their quality (local inputs and traditional production methods) and/or their uniqueness, and the creation of brands.

— Initiatives undertaken to tackle general environmental problems, such as climate change or specific problems relating to island status. Noteworthy efforts to produce renewable energies include the island of Kitnos (Cyclades), Samsø, Eigg (Scotland), Gotland, Bornholm, the Canary Islands, etc.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'GDP and beyond — the involvement of civil society in choosing complementary indicators' (own-initiative opinion)

(2012/C 181/04)

Rapporteur: **Mr PALMIERI**

On 20 January 2011, 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

GDP and beyond — the involvement of civil society in choosing complementary indicators.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 172 votes to 5 with 12 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) echoes the views of the representatives of organised civil society at the EESC Conference *Go sustainable. Be responsible! European civil society on the road to Rio+20* (7 and 8 February 2012) who, in point 8 of the concluding Conference message, declared that they 'appreciate that the zero draft recognises the limitations of GDP as a means of measuring well-being and call for the involvement of civil society in the urgent development of complementary indicators'.

1.2 The EESC recognises the advances made in recent years in devising complementary indicators to Gross Domestic Product (GDP), at world and European level, and especially in shaping indicators that reflect people's quality of life and social conditions in relation to the sustainability of economic systems.

1.2.1 The EESC continues to view the development of this work as crucial, in particular by means of a comprehensive approach that puts the European Union (EU) at the forefront, not least with a view to major forthcoming international events (Rio+20) and, most importantly, in response to possible progress in the new European strategies for stability and economic growth, for development and social cohesion, and for environmental sustainability. The first agenda against which the preparation of complementary indicators to GDP should be measured is the Europe 2020 strategy.

1.3 The EESC would argue that the complex path leading to a new definition of well-being and the progress of societies – beyond economic growth alone – cannot be separated from concurrent European policies to tackle the renewed impact of the economic and financial crisis.

1.3.1 Economic recovery and, indeed, overcoming the crisis require a new benchmark that bases development on well-being and the progress of societies. This is the only way of focusing greater attention on the origins of the crisis and its recent recessionary effects in Europe in order to measure them and prepare the most appropriate policies, in both the short and the medium-long term. EU policies represent a particularly worthwhile challenge in this respect.

1.4 The EESC therefore emphasises that resistance to introducing and officially monitoring economic, social and environmental sustainability indicators – alongside conventional, more strictly economic and financial indicators – and the temptation to water them down must be overcome, because the current crisis can indeed be contained and better governed.

1.5 The gap between economic policies at both national and European level and policies for well-being and social progress has widened considerably. However, given the now widespread adoption of indicators complementary to GDP by official national statistical services, the possibility of narrowing this gap is linked to the capacity to process the large quantities of information available in terms of public knowledge and awareness.

1.5.1 In this regard, a debate needs to be fostered on the fundamental meaning of progress. As well as redefining the concept of development, this debate should touch upon aspects of political accountability. This new approach requires that the various dimensions that comprise progress be identified by

i) extending national accounts to cover social and environmental aspects;

ii) using compound indicators, and

iii) creating key indicators.

1.6 The EESC therefore believes that statistics have taken on a decisive role in filling the continuing knowledge gap:

— between economic and social processes stemming from political decisions, and advances in terms of well-being and social progress

— between political institutions as such and forums for citizenship, especially given the present-day development of information and communication technologies.

1.7 The EESC is convinced that the transparency of democratic decision-making processes requires independent statistical governance that returns to its fundamental role of directing measurement and the methodology it employs towards factors stemming from the new economic, social and environmental demands. Eurostat is, in this regard, set to take on a key role in integrating and harmonising national and regional statistics.

1.8 The EESC also considers that civil society, together with the other social and institutional players, should determine the arenas in which the progress of societies is to be gauged, identifying specific areas and salient facts (in the economic, social and environmental spheres). This can be done by means of dedicated information, consultation and participation instruments.

1.8.1 The EESC believes that the legitimacy of public decisions cannot be assured only by official guarantees and systems – whether institutional, legal or constitutional – emanating from the State, but must necessarily be based on the contribution of civil society.

1.8.2 Civil society's particular contribution to mapping out the prospects for development and well-being represents a necessary policy input not only into combining the participatory dimension with the knowledge dimension, but also into pursuing the objectives set.

1.9 What is lacking, however, is any development of the enforcement and accountability instruments that are needed in order to bind political choices, particularly relating to economic and budgetary policy, to the performance of the indicators themselves.

1.10 In the light of the consultation and participation exercises in the different countries, the EESC considers that the 'deliberative paradigm' (a process of exchanging information and opinions regarding a shared decision in a forum for discussion where collective preferences are formed and expressed), which should serve as the foundation for future well-being and progress indicators, should itself be rooted in:

— face-to-face meetings between institutional actors and representatives of civil society,

— the involvement in the decision-making process of all the interests at stake when envisaging the measurement and pursuit of well-being and social progress,

— constant pursuit of the common good, particularly in outcomes emerging from debate.

1.11 The EESC undertakes to continue monitoring activities that, at national and European level, entail the involvement of civil society in preparing indicators complementary to GDP.

1.12 The EESC emphasises its willingness to act as a meeting place between organised civil society and official European bodies as part of a participatory decision-making process to identify and design indicators of progress for the European Union.

2. **Introduction**

2.1 The present opinion sets out to represent the EESC's own contribution to the debate on how to involve civil society in the process of creating indicators for well-being and the progress of societies, with a view to both the United Nations Conference on Sustainable Development (*Earth Summit – Rio+20*), to be held in Rio de Janeiro from 20 to 22 June 2012 [1], and the 4th OECD (Organisation for Economic Co-operation and Development) World Forum, which will take place in New Delhi, India, from 16 to 19 October 2012, on *Statistics, Knowledge and Policies Measuring Well-Being and Fostering the Progress of Societies.*

2.2 The EESC intends to continue along the path set out in two earlier opinions, carrying forward the process of monitoring the progress made – at European level – in preparing complementary indicators to Gross Domestic Product (GDP). The aim is to produce indicators that can express economic and social development in full compliance with environmental sustainability [2].

2.3 In its opinion on *Beyond GDP – measurements for sustainable development* [3], the EESC discussed the limitations of GDP, possible corrections and additions, and hence the need to come up with new criteria for identifying complementary well-being and sustainability indicators (economic, social and environmental), in order to move 'towards a more balanced policy'.

(1) http://www.earthsummit2012.org/.

(2) See the EESC own-initiative opinion *Beyond GDP – measurements for sustainable development*, OJ C 100, 30.4.2009, p. 53, and the opinion on the *Communication from the Commission to the Council and the European Parliament: Beyond GDP – Measuring progress in a changing world*, OJ C 18, 19.1.2011, p. 64.

(3) OJ C 100, 30.4.2009, p. 53.

2.4 Two years later, in response to the debate and preparations carried out at European level, the EESC drew up an opinion on *Beyond GDP – Measuring progress in a changing world* [4] in which it welcomed the European Commission's communication on the subject [5], emphasising the importance of taking a long-term view when selecting the most appropriate reference parameters and statistical instruments for extending national accounts to more specific social and environmental spheres – here again, in accordance with the strategic choices made by official policy-makers.

2.4.1 In that opinion, the EESC highlighted the need to look more closely at indicators reflecting people's quality of life and social conditions by adopting a comprehensive approach that puts the European Union at the forefront of this initiative.

3. **From economic growth to the progress of societies: a complex path**

3.1 Work has been going on for more than 50 years to devise new composite, alternative or, more accurately, complementary indicators compared to the conventional indicator of economic growth – GDP. This is a measurement that 'specialises' in a particular segment of activity – essentially market-based – of a given society. Only by means of a 'lazy' interpretation could this indicator switch from being an 'indicator of production' to an 'indicator of social well-being' [6].

3.1.1 Between the 1960s and the 1990s indicators of a social nature were designed as complements or alternatives to GDP, which could reveal areas of enquiry in addition to the traditional economic domain. This might be defined as the 'social phase' of indicators of the progress of societies.

3.1.2 Towards the end of the 1980s the Brundtland Report (1987) brought the issue of sustainable development to the world's attention [7]. The ensuing 1992 UN Conference on Environment and Development (Rio Earth Summit) put environmental issues on the agenda, marking the shift to a 'global phase' in researching and designing indicators with the capacity to measure the progress of society [8].

[4] OJ C 18, 19.1.2011, p. 64.
[5] COM(2009) 433 final.
[6] Even Simon Kuznets – responsible for widely introducing GDP in the United Sates – had warned against the possible abuses or misunderstandings that misuse of this instrument could cause, and was concerned to set limits to its scope. Costanza, R., Hart, M., Posner, S., Talberth, J., 2009, *Beyond GDP: The Need for New Measures of Progress*, Boston University.
[7] United Nations, 1987, *Report of the World Commission on Environment and Development*.
[8] Research will focus essentially on four different methodological approaches: i) GDP corrective indicators; ii) alternative indicators; iii) composite indicators; iv) the system of indicators.

3.2 The requirement to measure the level of well-being achieved by a society while ensuring its (economic, social and environmental) sustainability has, however, been voiced more strongly over the last decade.

3.3 A key role has been played in recent years by the OECD with its Global Project on measuring the progress of societies, launched in 2003 [9]. The Global Project has represented, and continues to represent, a real instance of participatory debate at world level that has generated an awareness of the need to change the paradigm of societal progress and the ensuing overall development model.

3.3.1 The Global Project has led to the establishment of a network of private and public operators interested in pursuing intensive discussion of i) studies and analyses concerning social well-being, environmental sustainability and economic growth; and ii) information and communication technology instruments that can turn statistics from information into knowledge [10].

3.4 On 20 August 2009, the European Commission published its major communication on *GDP and beyond – Measuring progress in a changing world* [11], recognising the need to complement GDP with environmental and social indicators and drawing up a programme of work extending to 2012.

3.5 Scarcely a month later [12], the *Report by the Commission on the Measurement of Economic Performance and Social Progress* (generally known as the *Stiglitz-Sen-Fitoussi Report*) [13] was published, with the explicit objectives of:

a) identifying the limits of GDP as an indicator of economic performance and social progress;

b) assessing the possibility of using alternative instruments for measuring social progress;

c) promoting a discussion on how to present statistical information properly.

[9] The project was launched in Palermo in 2004 during the OECD's first World Forum on *Statistics, knowledge and policy*; three years later (2007) in Istanbul the second forum was held on *Measuring and fostering the progress of society*, at which the Istanbul Declaration was signed by the representatives of the European Commission, OECD, UN, UNDP, the World Bank, and the Organisation of the Islamic Conference. The third OECD Forum was held in 2009 in Busan (South Korea) on *Charting progress, building vision, improving life*.
[10] At the annual forum on 24-25 May 2011, the OECD presented its Better Life Index, an indicator that measures wealth, well-being and the quality of life with the help of eleven parameters (housing, income, jobs, community, education, environment, governance, health, life satisfaction, safety and work-life balance): OECD, 2011, *How's Life? Measuring well-being*, OECD Better Life Initiative. http://www.oecdbetterlifeindex.org/.
[11] COM(2009) 433 final.
[12] 14 September 2009.
[13] http://www.stiglitz-sen-fitoussi.fr/en/index.htm.

3.5.1 To this end, 12 recommendations were set out in the report, capable of leading to the preparation of measurement instruments to highlight social, material and non-material well-being in all their multiple dimensions [14].

3.6 On 25 September 2009, the debate on GDP and the need for complementary indicators of social and environmental well-being gained greater authority at the Pittsburgh G-20 summit. Its final declaration emphasised that: 'As we commit to implement a new, sustainable growth model, we should encourage work on measurement methods so as better take into account the social and environmental dimensions of economic development.'

3.7 In December 2010, the European Commission presented the *Fifth Report on Economic, Social and Territorial Cohesion Policy* [15] containing a section on 'Improving well-being and reducing exclusion' in the chapter on 'Economic, social and territorial situation and trends' (pp. 73-117), in which a series of indicators for well-being are set out.

3.8 In spite of the renewed focus on the progress of societies, strong resistance apparently persists – at official European level – when it comes to implementing the social and environmental indicators in particular.

3.8.1 Between the spring and autumn of 2010, the European Commission presented a plan to strengthen European economic governance in order to redress fiscal and macroeconomic imbalances in the EU Member States [16]. The system is to be based on a scoreboard with an alert mechanism for imbalances of this kind, enabling appropriate corrective measures to be taken in the relevant Member States [17]. Unfortunately, the debate on the system of indicators to be adopted has been lacking in transparency. Important indicators that can also be used to understand financial, social and environmental imbalances remain completely absent from the Commission's choice.

3.8.2 The same choice seems to have been made with the Euro Plus Pact and the recent 'fiscal compact' intended to counter financial speculation and safeguard the competitiveness of the euro area.

3.8.3 As previously argued – in both the opinion on strengthening and coordinating European policies [18] and the opinion on macroeconomic imbalances [19] – the EESC considers that if macroeconomic imbalances are understood as persistent mismatches between demand and aggregate supply (such as to lead to surpluses or deficits in overall consumption and savings in an economy), then it would be advisable at the least to include social indicators, such as: the income and wealth inequality index; the incidence of lower incomes; the 'working poor' component; pay and profits as a proportion of GDP; etc. [20]. These indicators highlight the existence of macroeconomic imbalances arising from excessive savings from higher incomes and excessive indebtedness from medium and low incomes. These are unarguably among the origins of the world economic and financial crisis that began in 2008 [21].

3.8.4 In other words, a little less than two years after the above-mentioned communication [22], the European Commission itself, while pursuing new ways of seeking development and social progress and being brought back to its role of managing, coordinating and, above all, monitoring the Member States, is still employing conventional tools and approaches that focus on only certain dimensions of the economic aspect and leaving out the bulk of social or environmental aspects.

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(14) A conference on *Two years after the Stiglitz-Sen-Fitoussi report: What well-being and sustainability measures?* was held in Paris on 12 October 2011 by the OECD, the French National Institute of Statistics and Economic Studies (Insee) and the French Ministry for the Economy, Finance and Industry.
Insee, 2011, *Two years after the Stiglitz-Sen-Fitoussi report: What well-being and sustainability measures?*, Insee contributions, Paris.

(15) http://ec.europa.eu/regional_policy/sources/docoffic/official/reports/cohesion5/index_en.cfm.

(16) *Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance*, COM(2010) 367 final. *Reinforcing economic policy coordination*, COM(2010) 250 final.

(17) *Proposal for a Regulation of the European Parliament and of the Council on enforcement measures to correct excessive macroeconomic imbalances in the euro area*, COM(2010) 525 final - 2010/0279 (COD).
Proposal for a Regulation of the European Parliament and of the Council on the prevention and correction of macroeconomic imbalances, COM(2010) 527 final - 2010/0281 (COD).

(18) 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, 6.4.2011, p. 7.

(19) Opinions on the *Proposal for a Regulation of the European Parliament and of the Council on enforcement measures to correct macroeconomic imbalances in the euro area*, COM(2010) 525 final – 2010/0279 (COD), and on the *Proposal for a Regulation of the European Parliament and of the Council on the prevention and correction of macroeconomic imbalances*, COM(2010) 527 final - 2010/0281 (COD) – OJ C 218, 23.7.2011 p. 53.

(20) As also proposed in the European Parliament report on the *Proposal for a Regulation of the European Parliament and of the Council on the prevention and correction of macroeconomic imbalances*, by the rapporteur Elisa Ferreira (2010/0281 (COD)) of 16 December 2010.

(21) ILO-IMF, *The Challenges of Growth, Employment and Social Cohesion*, discussion paper for the joint ILO-IMF conference, Oslo, 13 September 2010 (pp. 67-73).

(22) *Communication from the Commission to the Council and the European Parliament on GDP and beyond – Measuring progress in a changing world*, COM(2009) 433 final.

3.8.5 In the light of this fact, the EESC – together with the European Parliament and the Committee of the Regions – feels that the debate on the idea of social progress cannot be kept within restricted circles, but must necessarily encompass society as a whole.

3.9 A feeling emerges from all the national and international work on indicators complementary to GDP that, if greater attention had been paid to indicators of economic, social, environmental, intergenerational and public and private financial sustainability too, then the current crisis could have been detected in good time and thus certainly better handled.

3.9.1 Measuring well-being and progress is not an exclusively technical issue. The concept of well-being itself touches upon the underlying preferences and values of society and of the individuals that make it up.

3.9.2 One of the most significant aspects to have emerged from the studies and debates on the causes of the crisis and the possibility of 'measuring' it with more thorough-going indicators is the greater focus on the aggregate demand (and not only supply) side. The international debate on material well-being has highlighted the need for greater attention to income and consumption rather than production and to take account of wealth concentration indicators too, has recalled the influence that the quality of goods has on well-being, and has placed special emphasis on inequalities, how to measure them and the absolute need not to take only 'average' values into account.

3.9.3 There can be no doubt that the prolongation of the economic and financial crisis of 2008-2009 up to the present double-dip makes this discussion all the more relevant, particularly with regard to the origins of the crisis and how to redefine the type of growth, development and progress that the various country-systems and, more broadly, society, wish to create or restore.

4. **The new benchmark: the progress of societies**

4.1 The debate on the need to use new indicators that extend the economic sphere and take account of social and environmental issues is now warming up, as society's benchmark has changed. Economic growth – although a factor of vital importance to any country – is no longer enough to ensure real progress for the community, unless it is inclusive and sustainable.

4.1.1 The concept of progress is complementing that of economic growth. This is a far wider-reaching and more complex concept, whose multidimensional character entails a range of: i) objectives to be pursued; ii) policies and actions to be planned; iii) and therefore indicators to monitor the state of progress towards these objectives. The concept of progress itself may imply different interpretations and meanings in different places, for different populations, cultures and religions.

4.2 Far from simplifying matters, the change of benchmark from economic growth to progress tends if anything to complicate them. That is why it is more necessary than ever to promote a debate on the meaning of progress that in addition to redefining the concept of development, by identifying the objectives to be pursued and the tools to achieve them, should also touch upon aspects of political responsibility. In other words, a debate that enables society, in all its individual parts, to focus on what it considers essential for its own existence.

4.3 This entirely new approach requires the various dimensions that comprise progress to be identified, so that the appropriate indicators can then be designed. The three predominant approaches to measuring progress involve:

1) extending national accounts to social and environmental aspects;

2) using compound indicators; and

3) creating key indicators.

4.4 The most recent and comprehensive work on the progress of societies suggests that it is made up essentially of two systems: the human system and the ecosystem ([23]). These two systems are closely linked through two different channels: 'resource management' and 'ecosystem services' ([24]).

4.4.1 Within this framework, 'human well-being' (as conceived individually and socially) performs the dominant function and represents the fundamental aim of societal progress. Human well-being is thus supported by three domains: *economy*, *culture* and *governance* (which can in turn be considered as 'intermediate goals'). The ecosystem also consists of a domain represented by the 'ecosystem condition' (Figure 1).

4.4.2 In this context, 'social well-being' can be defined as the sum of the human well-being and the ecosystem condition and the related 'progress of societies' as the improvement in human well-being and the ecosystem condition. This evaluation must, however, be accurate, combining it with the role played by inequalities in human well-being and ecosystem conditions.

([23]) Hall J., Giovannini E., Morrone A., Ranuzzi G., 2010, *A Framework to Measure the Progress of Societies*, Statistics Directorate, Working Paper No 34. OECD, STD/DOC (2010)5, Paris.

([24]) While resource management represents the effects of the human system on the ecosystem (resource depletion and pollution), ecosystem services link the two systems in both directions (food, water, air, impact of natural disasters, etc.), Hall J., Giovannini E., Morrone A., Ranuzzi G., 2010.

The inequalities to be considered are those across and within societies or geographical regions and between generations. In this way, fair and sustainable social progress can be defined.

4.5 The debate on complementary indicators to GDP falls within this broader field of discussion. The reappearance of this debate, and the requirement to measure phenomena other than economic growth alone, stem from the fact that a renewed awareness of the importance of these phenomena has finally put them on the political agenda. Measuring them means that they can be known and consequently can be managed.

4.5.1 These phenomena represent political choices: consequently, they should be monitored so that citizens can be properly informed. This explains why independent, high-quality official statistics have a crucial role to play.

5. Information, consultation and participation in the process of preparing progress indicators

5.1 The resumption of the debate on preparing complementary indicators to GDP is essentially based on the fact that, over the last decade, a real gap has opened up between:

— the measures taken by official statistics bodies (comprising national and supranational statistical institutions) to identify a number of phenomena;

— and the economic, social and environmental trends that affect communities, and which European citizens must contend with daily.

The disruptive economic and social effects of the global crisis have also helped to widen this gap.

5.1.1 In other words, the existence of a gap between reality as captured and represented by official statistics (via its traditional indicators, GDP being the most representative of them) and reality as perceived by the public inevitably gives rise to a series of questions on the role to be played by official statistics in the 21st century.

5.2 All this comes just at a time when, as a result of developments in information and communication technologies (ICT), nothing less than a revolution in communications is taking place, making information flows more accessible. The key question is to what extent these developments are reflected in real social awareness, and this is where official statistics have a key role to play. The aim must be to pave the way for a shift from *information* to *knowledge*.

5.2.1 The greater availability of information favours transparency in democratic decision-making processes (for example, statistical indicators facilitate an understanding of the dynamics of specific phenomena such as employment, unemployment, inflation, etc.). But the sheer scale of the flow of information can be disruptive to the attention of users, whether they are members of the public or policy-makers (because a greater flow of information does not necessarily lead to better understanding).

5.3 This dilemma has served to make it clear that independent, high-quality governance is needed in statistics. Statistics must return to their basic guiding role in measurements and the relevant methodology, geared to the phenomena determined by the new economic, social and environmental requirements ([25]).

5.3.1 The EESC considers that the Communication from the Commission *Towards robust quality management of European Statistics* ([26]) is highly relevant here, as it emphasises that present-day statistics, as well as providing knowledge of the facts, must enable them to be managed now and in the future. Citizens must be in a position to make informed, rational and democratic choices in this regard.

5.3.2 Eurostat is therefore set to take on a key role in integrating and harmonising national and regional statistics from the 27 EU Member States, particularly in areas concerning the quality of life, sustainability and distribution of income and capital, in order to measure changes in well-being linked to public action.

5.3.3 Eurostat should ensure methodological support in order to provide institutional and social actors, as well as EU citizens, with tools so they can be properly informed and consulted and consequently take part effectively in the public debate ([27]).

([25]) Giovannini, E., 2007, Statistics and Politics in a Knowledge Society, OECD, STD/DOC(2007)2, 29 May 2007, taken on 28.1.2010 from: http://www.2007oecd.org/dataoecd/39/53/41330877.pdf.
Giovannini, E. 2009, Measuring Society's Progress: A key issue for policy making and democratic governance, taken on 28.1.2010 from: http://www.oecd.org/dataoecd/6/34/41684236.pdf.

([26]) (COM(2011) 211 final.

([27]) This is the thinking behind the establishment within the European statistical system of the Sponsorship Group on Measuring Progress, Well-being and Sustainable Development with a remit to coordinate work on the issue and to implement the recommendations of the Stiglitz, Sen and Fitoussi commission, with due consideration to the objectives of the Europe 2020 strategy.

5.4 In this new setting, civil society, together with the other social and institutional players, should – by means of round tables and forums on the matter – determine the arenas in which the progress of societies is to be gauged, identifying specific areas and salient facts (in the economic, social and environmental spheres). Statistics, for its part, has a 'technical' support role to play, supplying a suitable methodology and pointing to efficient indicators for surveying events.

5.5 Involving the public enables 'forms of collective intelligence' to be built up: by allowing active citizenship practices to become embedded, they help to redefine democracy:

— firstly 'participatory democracy' with greater interaction and forums for priority-setting by means of progressive understanding and consideration of different points of view regarding the general interest ([28]);

— and then 'preparatory democracy' in order to specify the criteria determining the concept of well-being itself as a shared objective of social progress, identifying the appropriate variables for preparing indicators to measure well-being and map out paths for the progress of societies that can be understood by stakeholders and can therefore facilitate their involvement in pursuing widespread well-being ([29]).

5.5.1 Practices of this kind help to flesh out the concept of 'social capital' ([30]) that underpins Europe's objectives of a knowledge-based economy and social cohesion: the ability to fine-tune the concept of well-being for all through greater trust, understanding and cooperation between civil society and public authorities. This can only come about through strong civic, political and social participation, which the public authorities should foster by means of active consultation ([31]).

5.5.2 A considerable number of countries have recently launched structured deliberative processes involving civil society (Australia, Canada, France, Germany, Ireland, Italy, Luxembourg, Mexico, the Netherlands, the United Kingdom, the United States and Switzerland).

5.5.3 Experience consistently reveals significant differences in the structure and scope of processes to involve civil society actors. These differences emerge more at the interactive discussion stage (public debate and setting of values and priorities) than in the first phase of consultation.

5.5.4 The consultation phase, in contrast, often takes the form of intensive use of specific websites, a number of working groups charged with looking into specific thematic areas, and consultation programmes relying heavily on the use of social networks, blogs and surveys (mainly on-line). No country has yet, however, added an official and meaningful link between the deliberative creation of indicators on the one hand, and economic and financial programming on the other.

5.5.5 The EESC, however, is convinced that civil society can be involved in identifying indicators of well-being and progress through its active participation in both choosing political priorities and in selecting the information that is to be monitored.

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([28]) For more information on this question, see the EESC Conference on *Participatory democracy as a means of combating the crisis of confidence in Europe*. See also *The Citizen's Handbook* (http://www.vcn.bc.ca/citizens-handbook) and the *European Citizens' Initiative* (http://www.citizens-initiative.eu/), campaigning to promote participatory rights for EU citizens.

([29]) In analysing the dynamics of participatory democracy, it is customary to distinguish between top-down and bottom-up processes. The use, in both cases, of a reference to interaction between two different levels of organisation and decision-making (absent, on the other hand, from forms of direct democracy) establishes participatory democracy as a dialogue- and process-based entity which is in practice most effectively applied in conflict resolution. The aim here is to bring the two processes together.

([30]) *The well-being of nations: the role of human and social capital*, OECD, Paris, 2001.

([31]) *Citizens as partners: Information, consultation and public participation in policy-making*, PUMA (Public Management Service), OECD, Paris, 2001.

Opinion of the European Economic and Social Committee — The role of civil society in EU-Kosovo relations

(2012/C 181/05)

Rapporteur: **Mr Ionut SIBIAN**

In a letter dated 22 September 2011, Commissioner Maroš Šefčovič and Commissioner Štefan Füle asked the European Economic and Social Committee to draw up an exploratory opinion on

The role of civil society in EU-Kosovo relations.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on the 6 March 2012

At its 479th plenary session, held on 28-29 March 2012 the European Economic and Social Committee adopted the following opinion by 145 votes to 5 with 13 abstentions.

1. **Conclusions and recommendations**

The EESC's exploratory opinion on the role of civil society in EU-Kosovo relations takes into consideration the United Nations Security Council Resolution 1244 (1999).

This opinion includes a set of recommendations which are addressed to both the European Commission and Kosovan authorities. The EESC is ready to support the European Commission's actions aimed at strengthening the role of civil society in Kosovo as well as the relations between the EU and Kosovan civil society.

1.1 The EESC calls on the Kosovan government to take appropriate measures for the safe and free movement of ethnic minorities throughout its territory as a precondition for reconciliation and mutual trust.

1.2 The European Commission should work with the Kosovan government and media organisations in the country to support media freedom and the professionalization of journalism.

1.3 The EESC encourages the Kosovan government to consult civil society and social partners in the formulation of a national strategy for economic development. The Kosovan government and the European Commission should give maximum priority to the inclusion of youth and women on the labour market. A particular attention should be given to supporting rural development, sustainable agriculture and farmers' associations.

1.4 The EESC should help strengthen the Social Economic Council of Kosovo by engaging with the main social actors and by sharing its know-how and expertise. The European Commission should also provide strong support to the Social Economic Council of Kosovo. The government of Kosovo should secure a specific budget line for the functioning of the Social Economic Council of Kosovo.

1.5 The EESC recommends the Kosovan Ministry of Labour to set up a transparent and fair mechanism of funding for social partners' initiatives.

1.6 Although Kosovo's status prevents it from being a party to ILO Conventions, the Kosovan government should align its legislation and practices to them.

1.7 In the EESC's view, it is mandatory that the representatives of the social partners participate in the setting-up of an inclusive National Council for European Integration.

1.8 The Kosovan government should strengthen law enforcement on secure free access to public information.

1.9 In the context of the launch of Kosovo's National Council Against Corruption in February 2012, the EESC expresses its hope that civil society will be provided with genuine means to have an effective contribution to the fight against corruption.

1.10 The Kosovan government should take into consideration the Strategic Framework prepared by civil society and create the legal and institutional framework for a structured dialogue and its involvement in the decision making process. The Kosovan Assembly should develop an institutional platform that would allow for a regular dialogue with civil society organisations.

1.11 The European Commission should further support the creation of civil society networks in Kosovo in view of easing the dialogue with the authorities and connecting to the existing European civil society platforms.

1.12 The European Commission should support the Kosovan government to develop a legal and fiscal framework conducive to long-term sustainability for civil society in Kosovo. The Kosovan government should create transparent public funding mechanisms for civil society organizations. Additionally, the EESC recommends the Kosovan government to establish a State Fund for Civil Society.

1.13 The EESC recommends that the EC funding available for civil society under IPA be balanced between those promoting democracy and rule of law, and those promoting socio-economic development. The calls for proposal under IPA should be planned in such a way that gaps of funding can be avoided.

1.14 The European Commission should consider identifying ways to ease the access of smaller civil society organizations to its programs and to support longer-term initiatives.

1.15 The European Commission should find solutions to ease the access of social partners to the funds earmarked for civil society under IPA. Specific programmes for the social partners under the Civil Society Facility (CSF) could be created. Trade unions need to have targeted programmes under IPA that would allow them to reinforce their capacities

1.16 The EESC strongly supports the involvement of CSOs and social partners in defining the national priorities for IPA assistance.

1.17 The EESC reaffirms its interest and willingness to co-chair with the European Commission the civil society plenary meetings which take place on a yearly basis within the Stabilisation and Association Process Dialogue (SAPD).

2. **Background of the opinion**

2.1 *External actors in Kosovo*

2.1.1 On 17 February 2008, the Kosovo Assembly, declared independence. Kosovo's authorities pledged to fully implement the provisions of Ahtisaari's Comprehensive Status Proposal (CSP) and adopted a new Constitution reflecting this commitment. The Assembly invited the European Union to deploy its rule of law mission (EULEX). It also invited a group of states [1] to establish the International Civilian Office (ICO) to supervise the implementation of Ahtisaari's plan. The International Civilian Representative (ICR) retains the power to override legislation and decisions deemed to be at contrary to the Ahtisaari CSP.

2.1.2 With a gradually reduced presence, KFOR, the NATO-led military presence, continues to provide security throughout Kosovo, while the Kosovo Police has taken over responsibility for the protection of most cultural and religious sites and of the largest part of the borders.

2.1.3 In July 2010, the International Court of Justice adopted its advisory opinion on the independence of Kosovo and found that its declaration of independence did not violate international law.

2.2 *The EU approach in Kosovo*

2.2.1 22 of the 27 EU Member States have recognised Kosovo's independence, but the absence of a European consensus on Kosovo's status does not prevent the EU from engagement with Kosovo. The level of engagement with Kosovo authorities of the five states who have not recognised it - Cyprus, Greece, Romania, Slovakia and Spain – varies.

2.2.2 Kosovo is part of the Stabilisation and Association Process (SAP), yet it remains the only country in the region that has no contractual relations with the EU, a status which prevents it from signing a Stabilisation and Association Agreement (SAA). Within the SAP Dialogue (SAPD), eight meetings (seven sectoral ones followed by one plenary) were held in 2010 - 2011, including consultations with civil society organisations, on the main chapters of the EU *acquis*.

2.2.3 In line with the United Nations resolution on Kosovo that was passed in September 2010, an EU facilitated dialogue has started between Belgrade and Prishtina in March 2011. This dialogue aims at finding practical solutions on regional cooperation, trade, freedom of movement and the rule of law (see 3.3).

2.2.4 In July 2010, the European Parliament adopted a resolution on Kosovo encouraging EU Member States to step up their common approach towards Kosovo. The European Parliament underlined that the prospect of accession to the EU is a powerful incentive for the necessary reforms in Kosovo and called for practical steps to make this prospect more tangible both to the government and to citizens.

In January 2012 the European Commission launched the visa liberalisation dialogue with Kosovo.

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[1] Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Slovenia, Switzerland, Sweden, Turkey, the United Kingdom and the United States of America.

2.2.5 Kosovo benefits from the Instrument for Pre-accession Assistance (IPA), the Instrument for Stability (IfS), and the European Instrument for Democracy and Human Rights (EIDHR), and other sources of funding. Kosovo is participating in the IPA multi-beneficiary programmes. The multiannual indicative planning document for 2011-2013 was adopted on 27 June 2011. In 2011, a total of EUR 68,7 million granted in the IPA annual programme for 2011 was allocated in close coordination with the Ministry for European Integration and government institutions. The EU pre-accession assistance is focusing on support for the rule of law, the economy, trade and industry, and for public administration reform.

2.3 *Activities of the European Economic and Social Committee in relation to civil society in Kosovo*

2.3.1 EU enlargement and the progress made by the Western Balkans countries in moving closer to European Union membership is one of the EESC's external relations priorities. The External Relations Section has developed efficient tools for meeting its main objectives to support civil society in the Western Balkans and to enhance its capacity to be a partner for governments on the road to EU accession.

2.3.2 The Western Balkans Contact Group – a permanent internal body established by the EESC in 2004 – is the main instrument for coordinating the EESC's activities in this regard. The role of the Contact Group is also to monitor the changes in the political, economic and social situation in the Western Balkan countries and in EU-Western Balkans relations. Furthermore, the Contact Group promotes cooperation between the EESC and Western Balkans civil society organisations.

3. **Political developments in Kosovo**

3.1 *Main facts and figures about Kosovo*

3.1.1 By end 2011, Kosovo had been recognised by 86 UN Member States, including 22 EU Member States.

3.1.2 Kosovo, with a population of roughly 2 million, is one of the poorest countries in Europe. The World Bank estimates that the Gross Domestic Product (GDP) per capita is EUR 1 760. 45 % of the population is estimated to be living below the national poverty line, while 17 % are extremely poor, according to latest available data, of 2006. It has a large diaspora and one of the youngest populations in Europe.

3.1.3 Albanians constitute 90 % of the population, Serbs 6 % and Bosniaks, Turks, Roma, Ashkali and Egyptians together the remaining 4 % of the population. The Albanian majority and non-Serb minority accept the Kosovo state as legitimate. Most of the Serbian community opposes the statehood of Kosovo. The social distance between Kosovan Albanians and Kosovan Serbs remains significant. Kosovan Serbs maintain a strong de-facto autonomy in the northern part of the country. In the other parts of Kosovo, they have become concentrated in rural enclaves. Aside from political motivations, language remains a serious cause of isolation of the Serbian community. Kosovan Serbs living in the enclaves suffer from discrimination, which affects their day-to-day life, and are missing job opportunities. Their access on an equal basis with Kosovan Albanians to Kosovan administration and various social services, such as hospitals, is precarious. Their freedom of movement throughout Kosovo is limited in practice. Serb population continues to leave Kosovo.

3.1.4 In northern Kosovo and in most Serbian populated areas, parallel institutions in health care, education, justice and social services have been functioning since 1999. They receive aid from Serbia and are largely under its control. A large part of Serbian Kosovans continue to boycott national elections and cooperation with Kosovan authorities, particularly in the north. In the rest of the country, Serbian Kosovans have shown increased participation in elections and are represented in local and national institutions (including the government and the Assembly). A decentralisation process foreseeing the creation of new municipalities in which ethnic minorities would constitute a majority with enhanced municipal powers has been boycotted in the Serbian-majority municipalities.

3.2 *Relations with neighbouring countries*

3.2.1 Of all neighbouring countries Kosovo maintains the best relations with Albania. Albania has been and continues to be very active in securing recognitions for Kosovo and lobbying for Kosovo's inclusion in regional initiatives.

3.2.2 Kosovo has proper relations with the former Yugoslav Republic of Macedonia. The demarcation of the border has been completed and good diplomatic relations have been established.

3.2.3 Kosovo and Montenegro have agreed to complete the border demarcation process with Montenegro. Montenegro has previously requested for the Montenegrin minority to be constitutionally recognised in Kosovo before both countries exchange ambassadors and demarcation is completed. The Montenegrin community has been recognised by the Law on Communities and the two countries are expected to establish diplomatic relations in the near future.

3.2.4 Bosnia and Herzegovina and Serbia are the only neighbouring countries with which Kosovo has no formal political relations. Economic relations continue to be asymmetrical as while Serbia is the biggest exporter in Kosovo, until recently, Kosovo could not export to this country. The EU is acting as a mediator for technical negotiations between Prishtina and Belgrade. The agenda of the negotiations with Serbia includes the unblocking of trade with Kosovo, the use of air space over Serbia, the transit of passengers with Kosovo passports or vehicles with a Kosovan registration, the participation of Kosovo in regional fora At the end of February 2012, Kosovo and Serbia reached an agreement on regional cooperation and management of border crossings.

3.3 *The current issues*

3.3.1 There continue to be tensions in interethnic relations caused by the instability of northern Kosovo and the refusal of the Kosovo Serb minority and Serbia to accept the independence of Kosovo and its new institutions. There are also Kosovo Albanian groups that do not accept the international supervision of Kosovo independence.

3.3.2 At the end of July 2011, the situation escalated in northern Kosovo when Kosovo decided to impose an embargo on Serbian goods in retaliation to a Serb blockade of goods since 2008 on the grounds of the non recognition of the 'Kosovo Customs' stamp. The unilateral deployment of Kosovo police at two northern border checkpoints with Serbia led to violence, resulting in the death of a Kosovo police officer. Calm was restored with the help of KFOR, the NATO-led military presence.

3.3.3 In September 2011, the issue of customs stamps was resolved in the context of the EU mediated Belgrade/Prishtina dialogue. The implementation of the agreement resulted in widespread blockades in the north. Violent incidents also occurred. In the light of the situation in northern Kosovo, Serbia interrupted its participation in the above mentioned EU mediated dialogue at the end of September, and reverted to the negotiation table in November 2011.

4. **Economic situation in Kosovo**

4.1 *Post-conflict state of play*

4.1.1 With an official rate of over 40 %, Kosovo has the highest share of unemployment in the region and it is far above European Union average. These data should be considered with cautiousness as being lower than reality, in the context of Kosovo's large informal sector of economy. The rate of unemployment is higher among women and is particularly affecting the young population. Some 30 000 young people enter the job market each year, a rate which is impossible to sustain through the current economic growth. Poverty is also a critical issue, with around 20 % of the population living on less than one euro per day.

4.1.2 The economy remains largely dependent on remittances and donor aid. The economy of Kosovo is affected by post-war uncertainties, broken trade links and insufficient investment in infrastructure. Fuelled by a huge emergency and reconstruction effort led by international donor aid, economic growth was in double digits in the first years of 2000. The growth has proven to be unsustainable due to an extremely high trade deficit and lack of foreign direct investments (FDI). The amount of net foreign investments in Kosovo since 2007 has continually decreased from 19 % to 7,1 % of GDP. The informal sector is large, and tax collection is poor.

4.1.3 Although the global financial and economic crisis has had relatively little impact on the economy, due to Kosovo's limited international integration, its negative effects were transmitted mostly through a decrease in remittances, exports and FDI.

4.1.4 Kosovo's economy is overwhelmingly based on the service sector (68 %), while other fields have relatively low shares: industry (20 %), and agriculture (12 %). Most of Kosovo's population lives in rural areas. Agricultural activities are fragmented on small plots causing a mostly inefficient, subsistence farming. This situation prevents also the development of a strong and representative civil society working on agriculture and rural development issues.

4.1.5 Corruption remains widespread and is heavily influencing the economic growth prospects of the country. In the Transparency International Corruption Perceptions Index, Kosovo is ranked 110th, assessed as one of the most corrupt countries in Europe.

4.1.6 The government lacks a national strategy for economic development that should be drafted in consultation with social partners and other actors of civil society.

5. **The current state and role of civil society organisations**

5.1 *Social dialogue*

5.1.1 It is estimated that the total number of trade unions' members is around 60 000. The unionisation of the public sector is very high, with an estimated 90 % of the public servants belonging to a trade union [2]. Now that the law allows for trade unions to be set-up in the private sector, establishing them at enterprise level is the key challenge for the trade unions in the period ahead. Surveys indicate that 5,09 % of the population declare their affiliation to labour unions [3].

5.1.2 The **Labour Law**, which came into force in December 2010, was considered in Kosovo one of the most crucial legislations that have ever been passed [4]. Various consultations took place on the draft of this law, mainly between the associations of employers and trade unions, but also with the involvement of the specialised assembly committee and civil society organisations. The law was approved unanimously in the last plenary session of the third legislation period, the same day of the assembly's dissolution in spite of repeated opposition by the government concerned with its high budgetary burden. Trade unions threatened to boycott the election process if the law was not approved.

[2] Kushtrim, Shaipi (2011), Annual Review 2010 on Labour Relations and Social Dialogue in South East Europe: Kosovo, Regional Project for Labour Relations and Social Dialogue in South East Europe, Friedrich Ebert Stiftung, January 2011.

[3] Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

[4] Labour Law: its implementation in the first six months, GAP Policy Brief, The Institute for Advanced Studies GAP, September 2011.

5.1.3 The **Social Economic Council of Kosovo** (SEC) was established in 2009. Since its very establishment its activity has been disrupted by the opposition of the Kosovo Chamber of Commerce and the Union of Independent Trade Unions of Kosovo (BSPK) to the participation of other employers' organisations (Kosovo Business Alliance) and trade unions (Confederation of Free Trade Unions of Kosovo – KSLK). Despite internal disagreements, the SEC has held its regular meetings.

5.1.4 The Social Economic Council of Kosovo lacks the capacity and resources in order to effectively operate.

5.1.5 **Social partners do not play an important role in European integration process and economic development process.** The Kosovan government should create an adequate legal base in order to increase the role and representation of the social partners into the above mentioned processes.

5.1.6 The Ministry of Labour is currently funding social partners' projects but there are no transparent criteria and rules of procedure in place.

5.2 *Civil dialogue*

5.2.1 The origins of civil society in Kosovo date back from the late 1980s and beginning of the 1990s, following the fall of communism in Central and Eastern Europe. Due to the very specific situation in Kosovo at that time, civil society developed itself as an important part of an entire parallel system and civil resistance to the Serbian regime. Humanitarian aid and human rights protection, as well as civic movements with a widespread support from society were the main fields of activities of civil society. Following the boycott of Serbian institutions by the entire Albanian population in Kosovo and the absence of social and health services, civil society positioned itself as the main service provider (5).

5.2.2 After the war civil society swiftly adapted in order to respond to the new needs, such as emergency aid and reconstruction, or interethnic reconciliation. In the context of large scale financial and technical support from international donors, the number of CSOs increased substantially. At present, however, from more than 6 000 registered NGOs in 2010, less than 10 % are estimated to be still active or partially active (6).

5.2.3 At present Kosovo CSOs face similar challenges as in other countries of the region (7) as most of the sector remains highly dependent on international funding (it is estimated that over 70 % of CSOs' resources come from foreign donors). Consequently CSOs have become more donor driven, less responding to the needs of the community and with a questionable sustainability in a context of any future decrease of international funds for civil society. Instead CSOs are facing a problem of legitimacy as they have become less connected to their constituencies.

5.2.4 Many donors have started to withdraw from Kosovo and the total amount of the funds available for civil society is decreasing. The dominance of short-term project based support in comparison to institutional long-term support makes CSO financial and human resources sustainability a very difficult task to be accomplished (8).

5.2.5 In December 2011, the European Commission committed to find an agreement on Kosovo's participation in EU programmes, without prejudice to Member States' positions on status. In this regard, both the EC and Kosovo government should make sure that civil society organisations are involved in developing and implementing specific projects.

5.2.6 The problems with the international recognition of Kosovo have a direct impact on the international linkages of Kosovo's civil society. A number of international and EU based networks do not accept members from Kosovo. In spite of these obstacles, Kosovan civil society is represented in different regional and European platforms and forums and it enjoys a higher international exposure than any sector of the country. The participation of Kosovan civil society organisations in regional programmes should be facilitated

5.2.7 The 2008 Constitution protects freedoms of expression and the press, with exceptions for speech that provokes ethnic hostility. Civil society considers itself generally free to engage in criticism of the government, with few CSOs reporting illegitimate restrictions or attack by local or central government. Nevertheless, there are reports of media close to the government being used against civil society initiatives and individuals who criticise the government. Although a wide variety of print and electronic media operate in Kosovo, investigative journalism is rare due to fear of retribution. The media's financial dependence on government advertisement calls into question its editorial independence.

(5) Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

(6) Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

(7) The 2010 NGO Sustainability Index for Central and Eastern Europe and Eurasia, United States Agency for International Development (USAID).

(8) Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

5.2.8 The basic **NGO law** allows for a quick and easy registration procedure and ensures the main principles of establishing, operating and dissolution of NGOs. The complementary legal framework for civil society is considered unsatisfactory: public benefit organisations have very limited benefits, there are few tax exemptions for potential donors and civil dialogue processes are still not formalised. Laws on value added tax (VAT), customs, corporate income tax and personal income tax are needed to specify the fiscal benefits for NGOs with Public Benefit Status. Local philanthropy is still in a nascent phase. Changes in the corporate culture are needed for philanthropic giving to make a real impact. There is a great need for an enabling environment for the financial sustainability of NGOs enabling them to access public funds through legislation on sponsorship, corporate income tax, and personal income tax.

5.2.9 Cooperation with civil society tends to be limited to advocacy on legislative initiatives, while attempts by CSOs to tackle transparency and corruption are less successful. Access to information remains a barrier to cooperation between NGOs and the government, mainly because of a poor enforcement of the Law on Access to Public Documents.

5.2.10 **A formal dialogue between civil society and government is not happening**. The European Commission should support the Kosovan government to create formal structures for cooperation with civil society. Public authorities should establish regular mechanisms and bodies for consultation with civil society and public servants should be appointed and trained to act as liaison contacts with CSOs.

5.2.11 Following efforts of civil society organizations, the government has initiated the drafting of a *Strategy for cooperation between government and civil society*. This process is in its early stage and is coordinated by CiviKos Platform, a civil society network.

5.2.12 There are no specific mechanisms for the government to contract with civil society and no legal framework governing selection for the few government grants given to NGOs, which are awarded on rather personal preferences. The European Commission should provide technical assistance to the Kosovan government for the creation of such mechanisms.

5.2.13 Without clear regulatory provisions providing incentives for volunteers, it is extremely difficult for NGOs to attract individuals or groups to volunteer. European models of legislation in the field of volunteering can be recommended to the Kosovan government.

5.2.14 In the field of environmental protection, cooperation between government and civil society should be strengthened and CSOs should be consulted and involved in a structured way in policy-making and public debates.

6. **Civil society organisations in Kosovo and IPA**

6.1 *Access to IPA funds*

6.1.1 Between 1998 and 2009, the EC's assistance to Kosovo totalled over EUR 2,3 billion, including the financing of the EULEX mission, the EUSR, and the International Civilian Office. The main bilateral cooperation partners of the European Commission have been Germany, Switzerland, Norway, Sweden (Sida), the Netherlands, UK (DFID) and USAID.

6.1.2 According to the Multi-annual Indicative Planning Document for 2009-2011, adopted by the European Commission in 2009, four major cross-cutting issues to be tackled in Kosovo were identified: **Civil society**, Environment, Equal opportunities, and Good governance. IPA funding is following three major axis: supporting the achievement of political criteria, economic criteria and European standards.

6.1.3 As the most influential donor in terms of the amount of assistance and in its funding categories, the EU has the potential to determine the focus of democracy promotion agendas and assistance. It also means that the effectiveness of the Commission's intervention is a critical driver of how international assistance in Kosovo is perceived and legitimized.

6.1.4 Under the political criteria, the IPA funding supports the improvement of administrative capacity and institution building in Kosovo, the rule of law and the fight against corruption and organised crime, promoting human rights and the protection of the Serb and other minorities, contributing to the consolidation of civil society and the public media through mainstreaming civil society issues in all programmes. **For the period 2009-2011, 2 - 5 % of the total assistance for Kosovo has been earmarked to support civil society.**

6.1.5 Although the European Union funding for civil society has continuously increased, complex bureaucratic application procedures and relatively high minimum grant amounts exclude most organisations from benefiting from these funds. The same conditions have deepened the gap between large and small CSOs. The language and the technicality of the applications remain barriers for community and grass roots CSOs to access EU funding.

6.1.6 The EC funding available for civil society is targeting actions promoting democracy and rule of law, and less those promoting socio-economic development.

6.1.7 Under IPA assistance, there are no initiatives of the social partners supported nor targeted programmes that would allow them to reinforce their capacities.

6.1.8 There are still concerns regarding the limited capacity of Kosovo authorities for the absorption of IPA funds. The government should involve the CSOs in defining the priorities for IPA assistance.

6.1.9 Taking into consideration that a structured dialogue between CSOs and the government is missing in Kosovo, the EESC welcomes the European Commission plans to finance projects in 2012 that will set-up up networks of CSOs in view of easing the dialogue with the authorities.

6.1.10 The EESC recommends that the calls for proposal under IPA be planned in such a way that gaps of funding can be avoided.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on 'Civil society involvement in the EU's development policies and in development cooperation' (exploratory opinion)

(2012/C 181/06)

Rapporteur: **José María ZUFIAUR NARVAIZA**

In a letter dated 20 October 2011, the European Commission asked the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, to draw up an exploratory opinion on:

Civil society involvement in the EU's development policies and in development cooperation.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 167 votes to 15 with five abstentions.

1. Conclusions and recommendations

1.1 In a situation in which the economic, environmental and social crises will determine the future of humanity, the EESC considers it a matter of priority to obtain agreement and a common approach between the various cooperation actors on the type of development to be promoted [1].

1.2 If cooperation is to be effective, it is essential to coordinate all EU policies with development policy. Civil Society Organisations (CSOs) should also be motivated towards more and better coordination and coherence with these policies.

1.3 The CSOs are leading players in development in their own right and should play the same part in cooperation policies. They need to be involved in the drafting, implementation and monitoring of cooperation policies and programmes and be among the strategic bodies through which finance is channelled.

1.4 The EESC advocates more strategic cooperation between the Community institutions and the CSOs, by way of political dialogue, framework agreements and more effective mechanisms for channelling funds.

1.5 The European Commission and all the governments should support the Istanbul Principles for CSO Development Effectiveness.

1.6 The CSOs should be given greater recognition in new cooperation arrangements like South-South cooperation and triangular cooperation.

1.7 Development and cooperation policies, especially European ones, must take account of the unique features and diversity of the CSOs, as well as their experience in relations with partner countries.

1.8 In a globalised world it is necessary to recognise the global character of some CSOs and exploit their potential as global actors.

1.9 Changes are needed in the system for granting European development funding through CSOs. It is necessary to introduce, as a matter of urgency, arrangements such as the 'framework agreements', operational grants, cascading subsidies, multiannual agreements, emergency funding and implementation of the 'toolbox' defined in the Structured Dialogue. CSO networks, federations and confederations should, in the EESC's view, be the main recipients of this type of funding.

1.10 CSOs should be guaranteed a favourable environment for carrying out their work in all countries. This requires respect of basic principles like freedom of association, freedom of speech, assembly and action. This objective should be incorporated into public cooperation policies.

1.11 The participation of civil society should be a real component of governance, and as such be adopted by the EU as a criterion for action in its relationship with partner countries.

1.12 The EESC, while welcoming the involvement of local authorities in EU development policy [2], believes that linking CSOs and local authorities in development and cooperation policies, despite their necessary complementarity and cooperation, is a source of conceptual confusion and operational difficulties.

[1] OJ C 376, 22.12.2011, p. 102, point 1.5, rapporteur: Mr H.J. Wilms.

[2] Increasing the impact of EU development policy: an agenda for change, OJ C 113, 18.4.2012, pp. 52–55.

1.13 Involving the private sector in development policies is essential for increasing its impact. However, it must be ensured that this is not used as a pretext for reducing the public contribution and that the participation of the private or any other sector does not entail the establishment of new 'conditionalities' for cooperation projects. A framework should also be established, based on already defined international standards, for any sector's effective involvement, in accordance with development cooperation objectives.

1.14 Transparency mechanisms and the accountability of cooperation should be stepped up, including where they affect CSOs, as should the fight against corruption.

1.15 The CSOs should also involve the European Voluntary Humanitarian Aid Corps, envisaged in the Lisbon Treaty, in development policy.

1.16 The EESC's international activities over a long period of time have contributed, as in the case of the mandate given to the EESC in the framework of the Cotonou agreement, to the recognition of the institutional dimension of the CSOs. This was among the key attributes of the Cotonou Agreement. For the first time in an international treaty signed by the EU, the essential role of 'non-state actors' as partners in development cooperation was explicitly recognised (3). Crucially, the Agreement also states that non-state actors should receive financial resources for capacity-building in order for them to become effective partners in the Agreement. This mandate facilitated the creation of the ACP-EU Follow-up Committee, establishing for the first time a joint body of CSO representatives from ACP countries and EESC members, financed by the EDF. The Follow-up Committee's role is to follow up the implementation of the Cotonou Agreement and Economic Partnership Agreements. It has also played a key role in establishing the sustainable development clause. This modus operandi has served as a point of reference for the EESC's work in other geographical areas and has proved very productive, contributing for example to the reinforcement of CSOs' organisational capacities, and to the establishment of platforms and contact points with CSOs in EU delegations, as well as facilitating their access to Community finance and their participation in the negotiation of trade agreements.

1.17 The EESC considers that experiences of this kind should be consolidated and extended to support cooperation policies. And, above all, taking on board the views of many of the major CSOs, it calls on the European External Action Service to ensure that the EU delegations undertake to support them effectively, enter into contact with them and familiarise themselves with and promote their activities both in Europe and in partner countries. In the light of the strengthening of the EU External Action Service's delegations, it is more necessary than ever that they make this undertaking as a binding commitment and not a voluntary act dependent on goodwill.

1.18 In the context of the decentralisation of European development cooperation, the EESC believes that it can cooperate very effectively with the European External Action Service in the EU Delegations' dialogue with the CSOs. This is partly because the EESC is the European counterpart of the various consultative bodies that are being set up under the economic (Cariforum), trade (South Korea) and association (Central America, Chile) agreements. It is also because of the long-standing and stable relations that the EESC maintains with civil society organisations and their institutional representatives from all continents, but especially with the ACP, Latin American and Mediterranean countries (4).

1.19 The EESC reiterates the important role of the CSOs in promoting awareness-raising and education of the EU population in cooperation, at a time of crisis which threatens to cause development policy commitments to be forgotten. These activities should be sufficiently funded with a specific budget heading, subject to sufficient safeguards regarding transparency and accountability.

2. **General principles and objectives**

2.1 Over the last decade the European Union has paid increasing attention to the dialogue with the CSOs. The European Consensus on Development, the Development Cooperation Instrument and the report of the European Court of Auditors, as well as the Structured Dialogue, have broadened the scope of the dialogue so that it now includes, among others, the European Commission and the European Parliament, the Committee of the Regions and the EESC, the Member States and civil society organisations: among others, trade unions, cooperatives and social economy organisations, farmers' organisations, business organisations, NGO platforms and member organisations from the partner countries.

2.2 Nevertheless, despite these gains and international agreements (5), the general perception is that such progress is still very abstract and that practical progress has been much less. In many donor and developing countries, the CSOs are still encountering major difficulties and their work has lost impetus. This is true of trade union organisations for example that have more difficulties in accessing official development assistance (ODA) in the donor countries, whilst access in the

(3) Thus the second paragraph of Article 4 of the Cotonou Agreement stipulates that the EU and the authorities of the ACP countries must inform and involve non-state actors in consultations on cooperation policies and strategies and that these actors must be involved in implementing such strategies.

(4) http://www.eesc.europa.eu/?i=portal.en.external-relations-other-continents.

(5) Paris Declaration on Aid Effectiveness, March 2005; Accra High Level Forum 2008; Istanbul Development Principles (http://www.cso-effectiveness.org/IMG/pdf/final_istanbul_cso_development_effectiveness_principles_footnote_december_2010-2.pdf); International Framework for CSO Development (http://www.cso-effectiveness.org/IMG/pdf/final_framework_for_cso_dev_eff_07_2011-3.pdf); Declaration of the Busan High Level Forum 2011.

partner countries is limited or non-existent as regards both funding and political dialogue. There are threats to support for CSOs, and for their role as actors in development (the measures recently adopted by the government of Zimbabwe are an example of this).

2.3 The EESC understands that greater and better recognition of the CSOs' role requires accepting a series of criteria, principles and values in development and cooperation policies.

2.4 The first and fundamental principle is the need to achieve convergence between CSOs themselves, and also between CSOs and the European institutions, as to **what is understood by development**. This is an extremely necessary and urgent goal in a context in which three crises are enmeshed: the environmental crisis (climate change, loss of biodiversity etc), the social crisis (increased inequalities) and the economic crisis (unemployment, growing job insecurity, the dominance of the financial sector over the real economy etc). The first three crises have given rise to a fourth, the food crisis. The figures reflecting the depth of these three crises – which feed on each other – show that our future, indeed everybody's future, is in danger and that the only way of minimising the damage is a qualitative leap in the areas of equality, cooperation and care. Nevertheless, development cannot be understood as being synonymous with economic growth and prosperity and progress cannot be equated with GDP indicators.

2.5 The EESC still feels that, without prejudice to the need to overhaul the criteria for action, **development cooperation is one of the essential instruments for taking development forward**, and especially for the poorest countries.

2.5.1 In this respect, the EESC reiterates the need to meet the development funding commitments entered into at international level which must continue to be something that the donor countries and the European Union in particular cannot go back on. Development cooperation **is a public policy** in the donor countries, based on best practice, which must have the necessary funding to see it through.

2.5.2 As stipulated in the Lisbon Treaty, the EESC reiterates that care must be taken to ensure **consistency between cooperation and development policies and other policies – trade, investment, financial**. CSOs should also be motivated towards more and better coordination and coherence with these policies.

2.6 There have been fundamental changes over the past decade in terms of cooperation, including the relevant developments such as South-South cooperation, or triangular cooperation. The role of the CSOs **and their networks should be given greater recognition as regards these new forms of cooperation**.

2.7 Similarly, some of the ways of channelling funds aimed at improving ownership and budgetary support have resulted in the marginalisation of civil society in the partner countries. **The EESC stresses the need to sufficiently involve local CSOs in democratic ownership and in thematic programmes, also as regards the financial aspect**.

2.8 The involvement of the EESC in various EU Strategic Associations (with Brazil and China), the recognition of its role in international agreements like Cotonou and its participation in global programmes like Rio+20 suggests that it should be involved in the EU's thematic cooperation and development policy programmes.

2.9 The agreements reached at international level and set out in the Paris Declaration, the Accra Agenda for Action (AAA) and the Busan High Level Forum represent significant steps in establishing aid effectiveness. Nevertheless, **the CSOs think that some of the concepts and criteria set out in these documents should be broadened**. For example, what is to be understood by ownership, harmonisation, alignment, result-focused management, mutual responsibility and aid effectiveness. A definition more in keeping with these criteria should take shape in a dialogue between the CSOs and the European institutions.

2.10 The aim is to address aid effectiveness using an approach based on the various components of the concept of human rights and to assess it in terms of its contribution to reducing poverty and inequality and ending aid dependency itself.

2.11 The approaches set out by various organisations and in international declarations show that **CSOs are development actors in their own right** [6]. The EESC calls on the European Commission and all the governments to support the Istanbul Principles for CSO Development Effectiveness.

2.12 **Development and cooperation policies must take account of the CSOs' specific characteristics and diversity**. Some examples of the wide range of forms that CSO contributions to development can take, backed with the appropriate cooperation policies, include the added value that an NGO focused on protecting the environment or human rights can bring to development; a trade union organisation that protects labour rights, the primary distribution of wealth through wage negotiations and social protection for workers; an agricultural cooperative that has a direct effect on food sufficiency and sovereignty; an association of immigrants with their contribution to co-development; or an organisation of employers or the self-employed, with their crucial contribution to creating the fabric of production and job-creation. The EESC deems it essential that the public institutions' development and cooperation policies take advantage of all the options that this diversity offers.

[6] Article 20 of the AAA, Busan conclusions of 1 December 2011. Istanbul Principles.

2.13 The EESC calls for a legislative and institutional climate that empowers and favours the existence, development and involvement of CSOs in all countries. The involvement of civil society organisations should become an essential part of democratic governance ([7]).

2.14 **Cooperation with the private sectors is crucial to ensuring that development cooperation policy has a broader impact**. The great diversity of the private sector (including social economy organisations and non-profit associations) together with the major gains which can arise from socially responsible (CSR) initiatives needs to be emphasised. The challenge is how to maximise their input to economic and social development and human security in a globalised world. Nevertheless, there is a certain debate about the public-private partnership, or the exclusively private support of major companies in development cooperation, as regards the degree to which these partnerships might affect development goals. Public-private partnerships may be instruments to bring together the development agendas of different partners and effective tools for sharing knowledge and resources from different partners. In this respect, it would be necessary to establish a framework for effective and responsible input from the private sector, based on already accepted international principles such as the ILO labour standards, the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. Reference should also be made to international transparency initiatives like the Extractive Industries Transparency Initiative (EITI) and the Kimberley Process in the context of international business and investment.

2.14.1 The participation of the private sector should also not lead to a reduction in government financing of development cooperation, nor should aid, for example, be made conditional on the privatisation of strategic sectors or services which are essential to the community.

2.14.2 On the other hand, in line with point 1.13, encouraging the participation of CSOs in public-private partnerships is key, as is the role of the social partners and social dialogue.

2.15 **Mechanisms for transparency and accountability for all involved in cooperation must be further enhanced**. And the United Nations Convention against Corruption needs to be applied, as corruption damages popular support for cooperation policies. The CSOs are well placed to do this, from the dual aspect of accounting for their own actions, as well as acting as social monitoring mechanisms in terms of cooperation in general. The established development goals can be achieved only if a link and interaction with the general public are maintained.

([7]) Final declaration of the 10th Regional Seminar of ACP-EU Economic and Social Organisations, 28, 29 and 30 June 2009,. (http://www.eesc.europa.eu/?i=portal.en.acp-eu-tenth-regional-seminar-reports.6271).

2.16 In a globalised world, it is necessary to recognise the international nature of CSOs and take advantage of their potential as responsible global actors. At the same time, in a multipolar world there is less and less sense in maintaining the distinction between CSOs from the North and the South. Support for the CSO networks, coordination platforms, federative mechanisms and support for their members, *inter alia*, should therefore be included in the development activities funded by donors and more particularly by EU cooperation.

3. **Strengthening the role of civil society organisations**

3.1 The results of the **Structured Dialogue**, set out in the final document of the Budapest Conference ([8]), include ideas and proposals of great relevance for all the actors involved. The EESC considers that this dialogue should be consolidated and that some coordination mechanism or contact group should be set up which would meet periodically and represent the components of the EDF, to ensure that the recommendations are complied with and implemented ([9]). A forum of this kind should be a **permanent political body** (debate on cooperation policies, with resources and instruments provided by the European Commission); it should also be **representative** (CSOs, Commission, EP, Member States etc.). The EESC considers that it should have a specific role in this forum for dialogue in the light of its institutional mandate and experience.

3.2 It must be ensured that the CSOs participate and can contribute to the design, implementation and monitoring of development policies. In order to help strengthen globally active CSOs and strengthen cooperation by European organisations, the EU should look at the possibility of establishing a legal status for European CSOs based on precise criteria and shared by the participants in the Structured Dialogue.

3.3 Since the entry into force of the Cotonou Agreement, the EESC has played a pivotal role in strengthening the participation of non-state actors, largely due to the mandate that it received ([10]). In practice, this has taken the form of a permanent ACP-EU Follow-up Committee participating in regular regional

([8]) https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/f/fb/Joint_Final_Statement_May_2011.pdf.

([9]) As is the case in various European Commission directorates dealing with other topics.

([10]) 'Consultation meetings and meetings of ACP-EU economic and social operators shall be organised by the Economic and Social Committee of the European Union' (Protocol 1 of the Cotonou Agreement). This mandate was complemented by the request of the former EU Commissioner for Trade, Mr Pascal Lamy, for the EESC to monitor the negotiations on the Economic Partnership Agreements. Within this context, the EESC supported the inclusion of social and environmental chapters within the CARIFORUM-EC EPA and the creation of a civil society consultative committee to monitor the implementation of this EPA, all of which were incorporated in the final trade agreement with the region. Thus, it can be seen that the institutional provisions established in both the Cotonou Agreement and in the EPA with the Caribbean, in addition to the mandates given to the EESC have indeed strengthened the role of civil society organisations in development cooperation

seminars and all ACP conferences or similar events. Over the years, this has helped directly with implementing the principles of transparency, good governance and association enshrined in the Cotonou Agreement [11].

3.4 When establishing a permanent political dialogue in a beneficiary country, it is also important to take account of the specific features of each civil society actor and organisation.

3.5 The Structured Dialogue should lead to **more strategic cooperation between the EU institutions and the CSOs**. In this respect, the EESC feels that there is a need to establish frameworks for relationships and participation beyond project funding. Or how, for example, the tool-box referred to in the Structured Dialogue can be put to use, not only at local level (EU delegations), but also at central level. This would result in a more flexible and effective partnership between the EU and the CSOs at global level.

3.6 With the impetus they provide and their demands, the CSOs play a decisive part in promoting the coherence of development policies and the establishment of a new, post-2015 global pact including the development agenda issues such as reducing inequalities, universal social provision, fair wealth distribution and the safeguarding of natural resources.

3.7 **CSOs are very diverse and disparate entities**, which could make it necessary to define more precisely what is meant by CSOs. Moreover, this diversity, experience and relationship with partner countries should be reflected in EU cooperation, making use of the potential and specific characteristics that each actor can bring.

4. CSO involvement in the various EU instruments and programmes for external aid

4.1 The EESC has already made clear its position on the task of CSOs with regard to the Development Cooperation Instrument (DCI) [12]. Furthermore, **the EESC believes that civil society should be active in relation to all the cooperation instruments** in line with the positions adopted in the Structured Dialogue and the provisions set out in the recently approved Agenda for Change.

4.2 In accordance with the proposal set out in the Structured Dialogue, the EESC considers that there should be changes to the system of granting EU development funds through the CSOs. The instruments provided for in the 2014-2020 financial perspective should provide for new arrangements going beyond the traditional subsidy mechanisms for projects. Other arrangements such as 'framework agreements', operational grants, cascading grants and multiannual agreements should be introduced as a matter of urgency; these are medium and long-term arrangements which would guarantee a greater development impact.

4.3 Similarly, special funds should be created for urgent cases, for example, for the democratic processes in the Mediterranean, which cannot wait for grant applications to be approved and which can only be effectively put to use by the networks of various CSOs, such as trade unions, NGOs, cooperatives, small businesses, women's organisations etc.

4.3.1 Following on from that, the CSO networks, federations and confederations should be the main recipients of these types of funding. In this respect, mechanisms such as operational grants and cascading grants would constitute an appropriate instrument that would boost the added value generated by networks of CSOs involved in development.

4.3.2 In the context of the Agenda for Change, EU cooperation should examine and rethink its planning and project cycle management mechanisms to focus on areas such as the more timely disbursement of funds and flexibility reflecting the circumstances. Similarly, greater emphasis should be placed on support for analyses and viability studies for development initiatives as a means of ensuring successful outcomes more effectively.

4.3.3 The financing models should include three kinds of incentives to promote: 1) accountability on development results; 2) integration and mergers of organisations and the establishment of global CSOs; 3) new types of networks and multi-actor alliances.

4.3.4 The Lisbon Treaty includes the European Voluntary Humanitarian Aid Corps (EVHAC) which is currently in its pilot stage at DG ECHO and results of this pilot stage should be carefully evaluated before launching the EVHAC. The EESC is convinced of the **potential CSOs have for channelling voluntary activity in every sector and, more particularly, development**. The EESC feels that, on the basis of clearly defined criteria, volunteering should be understood as a contribution in kind to projects subject to co-financing [13].

[11] For a full assessment of the role of non-state actors in implementing the Cotonou Agreement, see the Final Declaration of the 11th Regional Seminar of ACP-EU Economic and Social Interest Groups, Ethiopia 2010 at http://www.eesc.europa.eu/resources/docs/f_ces6152-2010_decl_en.doc

[12] EESC opinion on the Development Cooperation Instrument of the European Union OJ C 44, 11.2.2011, pp. 123-128. EESC opinion on Increasing the impact of EU Development Policy: an Agenda for Change, COM(2011) 637 final, (not yet published in the OJ).

[13] EESC opinion on the Communication on EU policies and volunteering. Recognising and Promoting Crossborder Voluntary Activities in the EU (See page 150 of this Official Journal).

5. **Strengthening civil society and CSOs in partner countries**

5.1 CSOs often have to deal with situations of extreme political, institutional or economic vulnerability and this makes their work difficult; in some cases they may be harassed, intimidated or criminalised in the course of their activities. This is often the result of restrictive government practices. The EESC reiterates the need for including an element of supervision over the legislative frameworks, fundamental freedoms and support measures for CSOs in development cooperation policies, as well as regulations governing development and cooperation.

5.2 The EESC is aware that the regulatory frameworks governing CSOs are very different both within the EU and in partner countries. This should not prevent progress from being made as regards compliance with international rules (such as the right of association, free speech, assembly, the freedom to act, communicate and cooperate, seek financing and receive state protection) in all cases and at all levels. The presence and involvement of civil society and CSOs does not compromise representative democracy but actually enhances it if the means exist to carry it forward [14]. **Civil society involvement must be a real component of governance and must consequently be adopted by the EU as a criterion in its relations with partner countries**.

5.3 **The institutional dimension and the strengthening of the organisational capacities** of partner organisations in non-EU countries in general deserve greater recognition in the context of EU cooperation. In addition to their project management skills, helping to strengthen CSOs contributes to the integrated development of the respective societies. Efforts should thus be made to **help establish and strengthen the capacities of CSOs in partner countries** in general terms and as regards procedures for accessing EU funding, including smaller local projects, and for taking part in trade agreement negotiations, for example.

5.4 At the same time, the EESC argues that EU development cooperation policy should exclude organisations which, although ostensibly belonging to civil society, are in reality undemocratic or directly dependent on the State.

5.5 **There should be encouragement for CSOs in partner countries to join together in groups and for their legal recognition as participation bodies**. As has been suggested in the framework of the Cotonou Agreement or in Latin America, for example, they should continue to organise themselves to create platforms or representative networks at various levels to create synergies and improve their methods for dealing with public bodies.

5.6 The fact that EU Delegations have contact points or people specially dedicated to relations with civil society in the partner countries has proved useful in various contexts. The role of these contact points and their ability to analyse the situation in the respective countries and step up contacts with the CSOs should be developed. There should be greater coordination between these contact points and the EESC in order to take advantage of what has been learned and the good practices that have evolved.

5.7 Promoting the concept of democratic ownership should in turn mean better opportunities for access to Community cooperation funds for CSOs in the partner countries, especially for the most representative groups, networks and organisations.

5.8 At the same time, progress should be made with **new forms of cooperation between CSOs** opening up possibilities for triangular cooperation, South-South cooperation or through exchanges of know-how, technical assistance from European CSOs and management technology, for example. These new forms of cooperation could be crucial for CSOs in medium-income countries that will see traditional EU cooperation cut back. CSOs play a key role in this cooperation in consolidating democracy, promoting recognition of civic rights, reducing inequalities, promoting civic participation, gender equality, fiscal redistribution, transparency and protection of environmental rights.

6. **Raising public awareness and development education**

6.1 The EU has maintained its role of donor for development even during periods of economic crisis. Continuing to honour this undertaking is a challenge for all the EU states and institutions. This commitment will depend, to a large extent, on public support and providing information and raising public awareness as regards development and the global problems affecting all countries.

6.2 CSOs offer the perfect vehicle for raising public awareness and providing development education. The EESC reiterates the importance of focusing attention on this area, particularly at a time of crisis. Development education calls for innovative approaches that reflect its ability to change mindsets and to carry its message to broader audiences than just children and young people. Innovation in this area requires the establishment of alliances with multiple stakeholders. This is particularly important in countries that have recently joined the EU, where the development cooperation tradition is less well established and CSOs less developed.

6.3 The European CSOs and the EESC, because of its links with European civil society, are in a position to address this task of raising public awareness. Moreover, they can deliver the credibility that comes from working with the EU in the widest range of social sectors, including the most vulnerable. In this connection, it is essential that awareness-raising objectives include the profile of projects carried out by CSOs in partner countries and the EU Neighbourhood Policy countries.

(14) The AAA and the Busan Conclusions are binding on all the countries.

6.4 Maintaining specific funding headings for awareness-raising and development education, and carrying out Europe-wide campaigns for publicising development and cooperation issues are fundamental in this respect.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

479TH PLENARY SESSION HELD ON 28 AND 29 MARCH 2012

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on establishing the Creative Europe Programme'

COM(2011) 785 final — 2011/0370 (COD)

(2012/C 181/07)

Rapporteur-General: **Mr FORNEA**

On 30 November 2011 and 15 December 2011 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 173(3) and 166(4) 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 establishing the Creative Europe Programme

COM(2011) 785 final — 2011/0370 (COD).

On 6 December 2011 the Committee Bureau instructed the Consultative Commission on Industrial Change to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Fornea as rapporteur-general at its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), and adopted the following opinion by 168 votes to 1 with 3 abstentions.

1. **Conclusions and recommendations**

1.1 The creative industries should be addressed in relation to the new industrial development cycle and viewed not in isolation, but in a cross-cutting manner, in close connection with other services and production processes. Accordingly, the creative industries should be seen as a catalyst for innovation in industry and in the services sector.

1.2 The cultural and creative sectors should play a prominent role in the Europe 2020 strategy as they are contributing to a new type of growth in the EU. It should be emphasised that the current developments in the creative industries are desirable throughout Europe and should not be limited to certain countries or regions.

1.3 The Committee highlights the importance of the economic dimension of the Creative Europe programme and supports the idea that the programme should encourage all operators in the cultural and creative sectors to aspire to economic independence. However, it seems that the programme is overly concerned with the general objective of competitiveness, while the goal of promoting European cultural and linguistic diversity is less visible.

1.4 The Committee strongly endorses the proposal to increase the budget and believes that the total allocation of EUR 1,8 billion for the Creative Europe programme should be retained. While this constitutes a significant increase, the amount appears relatively modest when seen in relation to the total EU budget or the funds allocated by some Member States to support cultural activities.

1.5 The proposal to merge the Culture and MEDIA programmes is acceptable as long as the proposed strands are clearly defined and their status guaranteed. This could be

achieved by setting out a breakdown, on a legal basis, of the percentage of the budget and minimum allocation attributed to each strand. Moreover, to make the budget more transparent and intelligible, annual action lines should be established.

1.6 The Committee believes that the success of the Creative Europe framework programme is largely dependent on cooperation between the MEDIA and Culture strands, coupled with the development of a horizontal approach that fosters the emergence of common action areas across the various EU-funded programmes (1).

1.7 The Committee feels that the document lacks clarity as regards how the Commission intends to involve the relevant stakeholder representatives in the implementation process. Article 7 is not sufficiently clear (2). Access to finance should be facilitated for all private law organisations engaged in cultural and creative activities falling under the regulation. Social economy organisations working in these sectors and other relevant civil society organisations should also have access to this facility.

1.8 The administrative procedures should be simplified by developing faster online applications and procedures for monitoring and managing the programmes (3). It is also necessary to improve the procedures and technical capacities for communication and the submission of interim and final reports, while the files of programme grant recipients should be more efficiently processed.

1.9 Given the very open and flexible format of the regulation, the proposed comitology does not guarantee that Member States will have sufficient control during the programme implementation process. Committee procedures should be changed to give Member State experts the opportunity to meet regularly to discuss the selected projects. Provision should also be made for a simplified procedure for adjusting the parameters of specific areas of action following a periodic assessment.

1.10 Furthermore, the open and flexible format means that the Programme Guide will take on considerable importance as it will set out exactly what actions are to be taken, the application conditions, the levels of co-financing, etc. The Committee calls on the Commission to draw up the guide in an open and transparent manner, and would like to be involved in this process.

(1) As set out in Article 13(1)(b) of the proposal for a regulation.

(2) Article 7 of the proposed regulation refers to the facility for facilitating access to finance for small- and medium-sized enterprises and organisations in the European cultural and creative sectors.

(3) The current process is considered quite onerous, as all documentation must be sent by post and there can be a 3-4 month wait for a reply.

1.11 Regarding the Commission's proposal to merge the cultural contact points and the MEDIA desks into the Creative Europe desks, the Committee believes that a more flexible approach is required, which takes account of the specific situations in the regions of the Member States. The Committee stresses the importance of staying close to the operators on the ground working in these two sectors, and maintaining separate bodies of expertise for the Culture and MEDIA strands, given that the two sectors are very different in nature and modus operandi. The new Creative Europe desks should be built on the experience already gained by the cultural contact points and MEDIA desks.

1.12 The proposed financial facility is a step in the right direction and should be publicised in order to help bring about a change in the way financial institutions perceive and assess entrepreneurs in the cultural and creative sectors. The facility should ensure balanced geographical coverage and its operation should not adversely affect forms of support such as grants.

1.13 Intellectual property is a key factor in stimulating creativity and investment in the production of cultural and creative content, as well as in remunerating creators and increasing employment opportunities in these activities. The Committee thus stresses the importance of effective enforcement of intellectual property rights at EU and global levels.

1.14 The selection and implementation of projects funded by the Creative Europe programme should be done in full compliance with the EU's principles and values on democracy, human rights, workers' rights and social responsibility. Moreover, a mechanism is needed to prevent violence and discrimination during the implementation of projects financed under this instrument.

2. **The Commission's proposal for a regulation**

2.1 This regulation establishes the Creative Europe programme, which is designed to support Europe's cultural and creative sectors for the period from 1 January 2014 to 31 December 2020. The programme is intended to support only those actions and activities presenting a potential European added value and contributing to the achievement of the objectives of the Europe 2020 strategy and its flagship initiatives.

2.2 The general objectives of the programme are to foster the safeguarding and promoting of European cultural and linguistic diversity and to strengthen the competitiveness of the cultural and creative sectors with a view to promoting smart, sustainable and inclusive growth.

2.3 The specific objectives of the programme are:

— to support the capacity of the European cultural and creative sectors to operate transnationally;

— to promote the transnational circulation of cultural and creative works and operators and reach new audiences in Europe and beyond;

— to strengthen the financial capacity of the cultural and creative sectors, and in particular small and medium-sized enterprises and organisations; and

— to support transnational policy cooperation in order to foster policy development, innovation, audience building and new business models.

2.4 Structure of the programme:

— a cross-sectoral strand addressed to all cultural and creative sectors – 15 % of the total budget;

— a Culture strand addressed to the cultural and creative sectors – 30 % of the total budget; and

— a MEDIA strand addressed to the audiovisual sector – 50 % of the total budget.

3. **General comments**

3.1 In 2008, the cultural and creative sectors employed 3,8 % of Europe's workforce and accounted for some 4,5 % of EU GDP. The Committee is convinced that the Creative Europe framework programme will help implement the Europe 2020 strategy, and agrees with the Commission that innovation, creativity and culture should play an essential role in the modern education of Europeans, and thus help to foster entrepreneurship, smart, sustainable growth and social inclusion in the EU.

3.2 The complex relationship between culture and the economy and the contribution of the cultural and creative sectors to the development of the Member States, to increasing social cohesion and to strengthening the feeling of belonging to the European space, should prompt politicians to reassess the role of culture in national and EU policies. The new financial facility should thus reflect the needs of the cultural and creative sectors in the digital age by taking a more pragmatic and comprehensive approach.

3.3 The cultural sector is not uniform in nature and operates in various unique ways. For example, there is a specific economic model for music production and the record industry, which operate in an environment that is radically different from that of the performing arts. It is thus important that the various strands of the Creative Europe programme enable a flexible approach that is conducive to facilitating access to the programme and its effective use by the potential beneficiaries targeted by this proposed regulation.

4. **Specific comments**

4.1 The European Economic and Social Committee has already set out its views on the cultural and creative industries in the opinion of that title adopted at the October 2010 plenary session, for which the rapporteur was Mr Cappellini and the co-rapporteur was Mr Lennardt. That opinion was drawn up in the context of the consultation on the Green Paper on *Unlocking the potential of cultural and creative industries.*

4.2 This opinion on the *Proposal for a Regulation of the European Parliament and of the Council establishing the Creative Europe Programme* does not intend to cover the same issues dealt with in the opinion on the Green Paper, but will try to assist the Commission by commenting directly on the proposed text set out in COM(2011) 785 final on 23 November 2011.

4.3 The increase in the budget to EUR 1,8 billion for the period 2014-2020 has been welcomed by operators in these sectors, even though this increase must be seen in the context of a greater number of beneficiary countries and the expansion of the programme's scope to include the creative industries. The term *creative industries* is not clearly defined in the regulation; the text should set out precise details as to the areas of action and operators covered by the programme.

4.4 The proposal to merge the current Culture 2007-2013, MEDIA and MEDIA Mundus programmes into a single framework programme entitled *Creative Europe* is welcomed by operators in the cultural and audiovisual sectors as a positive and constructive initiative by the Commission. However, particular attention should be given to the way in which policies or general processes are transposed into each of the two strands in the context of the programme: consideration needs to be given to the specific characteristics of the individual sectors, as the key players and the financial, production and distribution systems of the two strands vary considerably.

4.5 Operators in the cultural sector will focus primarily on the types of public funding available and the programme's access conditions and eligibility criteria. Their degree of involvement and support for the policies proposed in the new framework programme will largely hinge on these criteria.

4.6 From a professional viewpoint, it seems that in the audiovisual sector there is general satisfaction with the effectiveness of the current MEDIA programme, and also with the new policies set out in the Creative Europe framework programme. The MEDIA programme is appreciated by professionals in the industry for the support it provides and its relevance to the audiovisual market. The MEDIA strand envisaged in the new programme does not differ much from the current programme. However, the text of the new regulation could be more precise, and include appendices detailing each individual action area along with the budget allocated thereto.

4.7 The Committee welcomes the Commission's move to simplify the procedures for managing the Culture and MEDIA programmes through greater use of flat rates, framework partnership agreements and electronic procedures, and by reforming the modus operandi of the Education, Audiovisual and Culture Executive Agency.

4.8 Suitable measures should be devised to ensure *a more level playing field in the European cultural and creative sectors by taking account of lower production capacity countries and/or countries or regions with a restricted geographical and linguistic area* [4].

4.9 The Committee believes that there is a need to reintroduce among the priorities measures to promote artist mobility, intercultural dialogue and arts education, in order to synchronise the regulation with other EU documents related to these sectors and to develop incentive-based schemes for artists participating in cultural activities or tours outside of their home country.

4.10 The proposal for a regulation focuses particularly on SMEs and on individual creators. However, the trade unions complain that the regulation sees culture creators – the industry's creative individuals and companies – as mere service providers and stress the need to make the granting of financial aid conditional on compliance with social protection standards that can eliminate the job insecurity that is often encountered in the short-term contracts typical of projects in this industry.

Challenges and shortcomings in the new proposal for a regulation

In general terms:

4.11 The proposal to increase the budget is good news. However, the following aspects should be borne in mind:

— the number of beneficiary countries has increased;

— the funding is to cover an expanded remit;

— new needs have arisen from the digital shift;

— currency depreciation;

— the budget proposed in the regulation of some EUR 1,8 billion for the period 2014-2020, should be compared to the annual budgets allocated by France (EUR 7,5 billion) and Germany (EUR 1,1 billion) and should be seen in relation to the total EU budget.

[4] Article 3(2)(d) of the proposal for a regulation

4.12 Major disparities between Member States' policies tend to distort the accessibility of publicly funded programmes targeting the audiovisual and cultural sectors between operators in one country and the next.

4.13 With regard to the creative industries, there is little or no synergy between the programmes dedicated to the innovation and competitiveness of companies and SMEs and the Creative Europe programme. The possibilities offered by developments in digital technologies should facilitate moves to more closely interlink these programmes.

At operational level:

4.14 Operators face complex bureaucracy in managing and monitoring implementation of the programme. This complexity will generate significant management costs, and thus in practice reduce the budget allocated for producing and distributing projects.

4.15 One recurrent problem that industry operators bemoan, and which particularly affects small businesses, is the length of time it takes for grants to be approved.

4.16 With regard to the new financial facility designed to facilitate access to credit for SMEs and other operators, the use of this kind of financial instrument is not common in the cultural sector. There is a risk that financial institutions will not be interested in participating, given the small amounts involved, a lack of awareness of the problems specific to the cultural sector, and the low profitability of some of the cultural projects concerned, which could not exist without the aid of public funds.

4.17 Operational monitoring and management of the guarantees granted through the financial facility is to be carried out by the European Investment Fund (EIF), which does not yet have specific expertise in the cultural sector.

4.18 The experience of the MEDIA Production Guarantee Fund, which was launched by the Commission in 2010 and benefits from recognised expertise, shows that there is a need for greater synergy between the new financial facility and existing organisations [5].

4.19 Merging the cultural contact points and the MEDIA desks into a single Creative Europe desk is a good idea in theory. The purpose of this merger is to centralise information on the programmes available and to achieve economies of scale by pooling resources.

[5] Such as the IFCIC (French institute for financing film and the cultural industries) and *Audiovisual SGR* in Spain (founded in late 2005 on the initiative of the Spanish culture ministry, and involving the Spanish Institute of Cinematography and Audiovisual Arts (ICAA) and a number of bodies that manage the rights of audiovisual producers in Spain).

4.20 At operational level, while synergies are possible, particularly with regard to joint management and communication, it is important to bear in mind that some countries, such as France and Germany, have developed a network of regional desks that reflect their cultural diversity and which are intended to be close to the operators on the ground. Moreover, the core activities of the cultural and audiovisual sectors differ considerably, with different production and distribution networks, and the key players requiring different types of expertise.

4.21 From this perspective, it may be detrimental to assimilate the competences by imposing this centralisation. The savings achieved may be insignificant and thus not justify the proposed structural changes. Moreover, there is some wariness about expanding the remit of the desks to include providing statistics or supporting the Commission in ensuring proper communication and disseminating the results and impact of the programme, without, however, the requisite funds being provided to do this work.

4.22 The proposed comitology changes could offend certain sensibilities, with the Commission proposing procedural changes in the committees for all programmes. Member State representatives would lose the power of co-decision and co-management to the Commission, and have their role reduced to validating pre-selected projects.

Brussels, 28 March 2012.

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, the Council and the European Economic and Social Committee — Double Taxation in the Single Market'

COM(2011) 712 final

(2012/C 181/08)

Rapporteur: **Mr FARRUGIA**

On 11 November 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — Double Taxation in the Single Market

COM(2011) 712 final.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March 2012), the European Economic and Social Committee adopted the following opinion by 135 votes to 1 with 10 abstentions.

1. **Conclusions and recommendations**

1.1 Double taxation is a serious obstacle to cross-border activity impeding the effective functioning of the Single Market with negative economic implications on investment and employment. Double taxation discourages investment and jeopardises competitiveness thus impinging negatively on economic growth and the attainment of the EU2020 targets.

1.2 The EESC has through a number of opinion papers stressed the importance of the removal of double taxation. It has supported proposals aimed at speeding up measures to avoid double taxation as well as the enhancement of administrative simplification in cross-border situations, and towards encouraging an internal market where fair competition prevails.

1.3 In consideration of this, the EESC is in favour of initiatives towards the removal of double taxation as outlined in the communication by the Commission ([1]) by promoting the efficient interfacing of different tax regimes.

1.4 The EESC is also of the opinion that the removal of double taxation should be undertaken in a manner which is proportional to the objectives being sought and respects the fiscal sovereignty of individual Member States.

1.5 The EESC is furthermore of the opinion that issues which arise from double taxation have a disproportionately higher impact on individuals and small and medium sized firms which typically do not have the resources to deal with such problems. As a result, while the EESC is in favour of the communication, it stresses that proposals aimed at dealing with double taxation need to be coherent with measures which deal with double taxation for citizens as well as encompass solutions for individuals and SMEs.

1.6 The EESC agrees that the establishment of the EU Forum on Double Taxation is based on the same principles on the effective Joint Transfer Pricing Forum. It however proposes that the forum is considered as a first step towards the establishment of an EU Commission observatory which the EESC has already recommended as a means of dealing with the removal of cross-border obstacles for citizens ([2]). Towards this end, the functions of the observatory could be extended further to include an investigative role on the on-going effectiveness of efforts to remove double taxation for citizens, SMEs as well as large businesses.

1.7 The EESC recommends that the EU Forum on Double Taxation also includes representation from organised civil society.

1.8 The EESC also supports the establishment of a code of conduct which would allow for a common understanding and application of tax concepts between different Member States, so as to avoid situations of double taxation and reduce instances where DTC are not effective. In turn, this would also avert the resort to arbitration.

([1]) COM(2011) 712 final.

([2]) See EESC Opinion on *Removing Cross Border Tax Obstacles for EU Citizens*, OJ C 318, 29.10.2011, p. 95.

1.9 While the EESC is in favour of studying the feasibility of an efficient dispute resolution, it highlights the importance of ensuring that efforts should be aimed at ensuring limited need for arbitration.

1.10 The EESC is in favour of studying the full scale of the double non-taxation phenomenon and its economic and social implications, as well as those that would potentially occur through measures aiming at its removal.

1.11 Finally, the EESC stresses that all proposals should be assessed by means of thorough social and economic assessments and that such assessments should present impacts on each Member State.

2. **Content and background of the proposal**

2.1 Double taxation results in legal uncertainty impeding economic activity by citizens and businesses. It results in a higher overall tax burden and deadweight welfare losses, unnecessarily high administrative burden and renders a negative impact on investment and the operation of the Single Market which in turn dent competitiveness and employment. Consultation by the Commission reveals the significance of the problem of double taxation, as more than 20 % of the reported cases are above EUR 1 million for corporate taxpayers and more than 35 % of the cases are above EUR 100 000 for individuals.

2.2 The communication [3] presented by the Commission underlines the importance of tackling double taxation [4] as a means of ensuring the effectiveness of the Single Market and as a means of ensuring that the goals outlined in the Europe 2020 strategy are reached.

2.3 The communication calls for greater coordination in taxation as a means of ensuring a stronger economic policy framework in the euro area. This is outlined in the Single Market Act [5] which highlights the importance of removing cross-border obstacles for EU citizens as well as the tax administrative burden for businesses. The latter challenge is currently being addressed through the Commissions proposal for a common consolidated corporate tax base for business (CCCTB) [6]. The Communication also refers to the need for an effective network of Double Tax Conventions between Member States and to the importance of addressing issues related to double taxation on inheritance.

2.4 The communication focuses on addressing obstacles related to double taxation noting that this issue is even more important during a period of economic crisis. The communication notes that the removal of double taxation and targeting double non-taxation, may, from a dynamic perspective, be a source of taxation revenue for governments.

2.5 The communication acknowledges that while a number of Member States (MS) already address the issue of double taxation through the operation of unilateral, bilateral and multilateral agreements, the EU Treaty does not oblige MS to eliminate double taxation.

2.6 The communication lists a number of areas which have already been explored by the Commission as a means of dealing with double taxation including the Parent Subsidiary Directive, the Interest and Royalties Directive, the Arbitration Convention (AC), the Joint Transfer Pricing Forum (JTPF), recommendations on withholding tax relief procedures and the proposal on the Common Consolidated Corporate Tax Base (CCCTB).

2.7 The communication also notes that while these efforts have been relevant, they do not operate in a sufficiently effective manner. As a result, the communication refers to the following possible solutions without however delving into detail in any of these proposals:

— Strengthening existing instruments particularly in terms of the interest and royalties directive. The Commission has proposed a recast of the Directive simultaneously with COM(2011) 712 suggesting for the treatment of withholding tax to reduce double taxation on such payments. The EESC has just adopted an opinion on the recast of the directive [7].

— Extension of the coverage and the scope of double tax conventions in terms of addressing triangular solutions and how to treat entities and taxes not covered by Double Tax Conventions (DTC) within the EU, with a proposal for enhanced dialogue between MS in case of disputes.

— Steps intended to come to a more consistent interpretation and application of DTC provisions between MS. This refers to the potential adoption of an EU Forum on Double Taxation which develops a code of conduct on taxation to address interpretation conflicts of concepts contained in the DTC applicable between MS.

[3] COM(2011) 712 final.
[4] Double taxation is defined as the imposition of comparable taxes by two or more tax jurisdictions in respect of the same taxable income or capital.
[5] COM(2011) 206 final.
[6] COM(2011) 121 final.

[7] See EESC opinion (OJ C 143 of 22.05.2002, p. 46) on the *Proposal for a Council Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (recast)*, COM(2011) 714 final.

— To address the lack of an overall binding dispute mechanism, the Commission proposes a solution contained in the latest version of Article 25 of the OECD Model Tax conventions (2008) which refers for a mutual agreement procedure with a binding dispute resolution procedure for all unresolved double taxation procedures.

2.8 Finally the communication outlines further steps to be undertaken including:

— work to develop the options presented in the communication mainly the establishment of a forum, the development of a code of conduct and determining the feasibility of an efficient dispute resolving mechanism;

— presentation of possible solutions to tackle cross-border inheritance tax obstacles within the EU which has been recently launched by the Commission ([8]);

— continue to make use of the recently renewed JTPF to address transfer pricing double taxations issues;

— present solutions throughout the year on cross-border double taxation of dividends paid to portfolio investors;

— launch a fact finding mission to establish the magnitude of double non-taxation.

3. **General comments**

3.1 The EESC is in favour of addressing double taxation, which is considered as a detriment to investment and thus the generation of jobs and economic activity. Indeed, the EESC has through a number of opinion papers stressed the importance of the removal of double taxation. It has supported proposals aimed at speeding up measures to avoid double taxation as well as the enhancement of administrative simplification in cross-border situations ([9]), and towards establishing common principles to encourage an internal market where fair competition prevails ([10]).

3.2 The EESC has also endorsed the Commission's efforts aimed at eliminating, or at least reducing the legal and economic double or multiple taxation of profits distributed by subsidiaries in the country in which the parent company is established ([11]). This is further substantiated the EESC through its support for the proposal for a CCCTB as a means of an alignment of principles in corporate taxes noting however that the draft directive requires further clarification in its details ([12]).

3.3 The EESC also stresses the importance for a revenue neutral approach on a country-by-country basis in the application of the CCCTB and stresses that the adoption of the CCCTB should not make Europe less flexible and less competitive in attracting FDI. These issues are to be backed by impact assessments as appropriate.

3.4 The EESC recommends that these goals are to be achieved, in the first place, by means of enhanced co-ordination and more effective interfacing between different national tax jurisdictions, including through better communication between tax authorities themselves and between tax authorities and taxpayers. Progress on these fronts is considered to be proportional to the goals being pursued and does not impinge on the sovereignty of different national tax jurisdictions. These considerations are in line with the EU Communication on coordinating Member States' direct tax systems in the Internal Market ([13]).

3.5 As a result, the EESC is in favour of attempts at strengthening existing instruments and further efforts aimed at the removal of double taxation as outlined in the communication in order to ensure the efficient interfacing of different tax regimes and to certify that the tax burden impinges only once on economic operators and in a manner which is expected by the same economic operators.

3.6 The EESC further highlights that while the removal of double taxation is an essential requisite to ensure the effectiveness of the Single Market any proposals should focus on the efficient removal of tax barriers and ensuring the effectiveness of DTC within the confines of the legal basis available in the Treaty of the Functioning of the EU. Indeed, efforts aimed at the removal of double taxation should be undertaken in a manner which respects the fiscal sovereignty of individual Member States.

4. **Specific comments**

4.1 The EESC highlights that issues which arise from double taxation have a strong impact on individuals and small and medium sized firms. Large businesses typically have the

([8]) Commission Recommendation of 15 December 2011 regarding relief for double taxation of inheritances (2011/856/EU).
([9]) See footnote 2.
([10]) See EESC Opinion on *Direct company taxation*, OJ C 241 of 7.10.2002, p. 75.
([11]) See EESC Opinion on the *Proposal for a Council Directive amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States*, OJ C 32 of 5.2.2004, p. 118.
([12]) See EESC Opinion on the *Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)*, OJ C 24 of 28.1.2012, p. 63.
([13]) COM(2006) 823 final.

financial and human resources to deal with double taxation and related arbitration but individuals and SMEs lack such resources, often in particular with respect to information and knowledge of legal and administrative practices [14]. Inheritance taxes impose special problems on citizens associated with double taxation. The communication presented by the Commission focuses on the removal of double taxation for business, mainly large businesses, but could go further to address specific issues faced by citizens and SMEs.

4.2 The EESC recognises the effectiveness of the Joint Transfer Pricing Forum (JTPF) in seeking to address transfer pricing double taxation and augurs that the EU Forum on Double Taxation will operate in a similar manner. The JTPF which works within the framework of the OECD Transfer Pricing Guidelines and operates on the basis of consensus to propose to the Commission non-legislative solutions to practical problems posed by transfer pricing practices in the EU has achieved a number of achievements including a code of conduct on transfer pricing documentation for associated enterprises in the EU, guidelines for advance pricing agreements in the EU, as well as guidelines on low value added intra group services. The effectiveness of this forum is partly based on the wide representation on the forum by Member States as well as by business.

4.3 The EESC thus augurs that the establishment of an EU Forum on Double Taxation is also based on the same principle ensuring effective representation from all vested stakeholders including organised civil society.

4.4 The EESC supports the establishment of an EU Forum on Double Taxation but notes that little detail is provided in the communication on the functions of the forum. The EESC proposes that the EU Forum on Double Taxation be considered as a first step and precedent to an observatory. The establishment of the forum into an observatory ties in with the recommendations made by the EESC on the removal of cross-border obstacles whereby the EESC referred to the development of an EU Observatory, the aims of which would be to gain, on an on-going basis, a detailed and practical understanding of existing tax obstacles including double taxation and their evolutions [15].

4.5 The functions of the Taxation Observatory, under the auspice of the EU Commission, could be extended further to include the investigation of tax obstacles for businesses, both SMEs and large businesses, as well as an investigative role on the on-going effectiveness of efforts to remove double taxation. Towards this end, the observatory could have an important role to play in the extension of the coverage and scope of DTCs as well as in examining ways of dealing with triangular solutions and encouraging Governments to develop double taxations relief without the loss of tax sovereignty.

4.6 The EESC also supports the establishment of a code of conduct which outlines principles on which Governments can a priori agree to. The code of conduct will allow for a common understanding of concepts outlined in DTC applicable between MS which often leads to misinterpretation and to disputes.

4.7 The EESC however is of the opinion that the code of conduct can in practice be considered effective if it operates through peer pressure, with Member States cautious of implications associated with name and shame.

4.8 The EESC is also in favour of studying the feasibility of an efficient dispute resolution mechanism, with a view to determining the most effective ways for removing double taxation. It recognises that mutual assistance procedures where countries meet to resolve issues take a significantly long period of time to be determined and that the there is room for improvement of the Arbitration Convention which is also characterised by a lengthy process. This in turn creates excessive costs and uncertainty on business.

4.9 However, the EESC stresses that efforts should be aimed at ensuring that there is limited need for arbitration and that emphasis should thus be placed on the development of a code of conduct, as outlined in the communication, as well as on the provision of clear and transparent guidelines, which would thus serve as the first and effective lines of resort to the solution of disputes.

4.10 The EU Forum on Double Taxation has an important role to play in this regard in terms of encouraging tax conventions which provide for a mutual agreement procedure with a bonding dispute resolution procedure for all unresolved double taxation cases.

4.11 The EESC is in favour of the Commission proposal to study the full scale of the double non-taxation phenomenon. The EESC further recommends a study of its economic and social implications, as well as those that would potentially occur through measures aiming at its removal.

4.12 The EESC reiterates the importance of a thorough social and economic impact assessment to determine the extent to which the adoption of any of the proposals outlined in the

(14) According to the Summary Report by the EU Commission on the Consultation on Double Taxation Conventions and the Internal Market, 69 % of individuals who encountered double taxation issues have sought remedies to eliminate double taxation compared to 85 % in the case of corporations.

(15) See footnote 2.

communication may result in adverse economic and social consequences [16]. Such an assessment should be exhaustive and include all Member States affected by the proposals.

4.13 In conclusion, the EESC looks forward to additional proposals to be studied and presented by the Commission in terms of double taxation including:

— recommendations on cross-border inheritance taxes which has been recently published by the Commission;

— the presentation of solutions on cross-border double taxation of dividends to portfolio investors;

— the provision of further information on the creation of the Forum, Code of Conduct and the feasibility of a binding resolution mechanism;

— an assessment on the extent and implications of double non-taxation.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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(16) See footnote 12.

Opinion of the European Economic and Social Committee on the 'Amended proposal for a Council Decision on the system of own resources of the European Union'

COM(2011) 739 final — 2011/0183 (CNS)

and the 'Amended proposal for a Council Regulation laying down implementing measures for the system of own resources of the European Union'

COM(2011) 740 final — 2011/0184 (APP)

(2012/C 181/09)

Rapporteur: **Mr DANTIN**

On 19 October 2011 the Council decided to consult the European Economic and Social Committee, under Article 311 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council Decision on the system of own resources of the European Union

COM(2011) 510 final — 2011/0183 (CNS)

and the

Proposal for a Council Regulation laying down implementing measures for the system of own resources of the European Union

COM(2011) 511 final.

On 9 November 2011 the Commission adopted amended proposals and on 15 December 2011 the Council decided to consult the European Economic and Social Committee, under Article 311 of the Treaty on the Functioning of the European Union, on the

Amended proposal for a Council Decision on the system of own resources of the European Union

COM(2011) 739 final — 2011/0183 (CNS)

and the

Amended proposal for a Council Regulation laying down implementing measures for the system of own resources of the European Union

COM(2011) 740 final — 2011/0184 (APP),

replacing the aforementioned proposals.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on the amended proposals on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 165 votes to 21 with 11 abstentions.

1. **Conclusions and recommendations**

1.1 A system under which approximately 75 % of the EU's resources is taken directly from national budgets departs from the letter and spirit of the Treaty of Rome [1].

1.2 The current system, based mainly on a GNI contribution, has fuelled budget-related debates focused on the concept of fair return and compensation mechanisms that do not take into account the benefits offered by the EU not least in the areas of peace, freedom, prosperity, growth and security.

1.3 Against this backdrop, the Committee welcomes the Commission's legislative proposals. It considers that they are a step in the right direction, as they halve the GNI contribution and compensate for that with two new own resources, one based on VAT and the other on a tax on financial transactions. This relative increase in real own resources will bring the

[1] Article 201.

running of the EU budget more closely into line with the spirit and letter of the Treaty of Rome while also helping to increase the financial autonomy of the EU and support the Member States in the mammoth efforts they are making with regard to their budgets.

1.4 The Committee also welcomes the fact that alongside the establishment of new own resources, the document in question proposes a new system of lump-sum payments designed to replace all existing correction mechanisms, although it considers that this does not go far enough.

1.5 However, while broadly endorsing the content of the proposals in question, the EESC would make the following observations.

1.5.1 In many of its opinions, the Committee has drawn attention to the fact that intra-Community VAT is a major area of tax evasion. It therefore considers it necessary to accompany this new own resource with measures aimed at reducing if not eliminating fraud. It will therefore be keeping a close eye on the legislative proposals to be made following the discussions sparked by the Green Paper on the future of VAT.

1.5.2 In its communication on the EU budget review, the Commission listed a number of appropriate financing arrangements that in its opinion could feasibly have generated new own-resources. With the exception of the new VAT and the tax on financial transactions, these were rejected without disclosing any of the political reasons for the decision, beyond the advantages and disadvantages of each choice. The Committee considers that its opinion should have been requested prior to these Commission decisions.

1.5.3 As it pointed out in its opinion on the EU budget review, the EESC considers that an increase in the European budget is not only desirable but also necessary in order to face up to the full extent of the new challenges requiring a common response. The EESC regrets that the text under discussion deals only with the internal structure and qualitative content of the budget and does not refer to the new own resources in order to address the key issue of budget size. Whilst not wishing to play down the aspects dealt with by the documents in question, the Committee considers that the budget is not just a matter of figures or choices regarding internal organisational structure: it is primarily an instrument serving a political endeavour, namely the ambitions of the European Union. The EU's political decisions and the resources it deploys to implement them therefore need to be coherent and in tune with each other. The Committee regrets the fact that the Commission has not used this opportunity to provide financial support to help fulfil the obligations arising from the Treaty of Lisbon, the 2020 Strategy or the need to take measures to stimulate growth.

2. Introduction: current situation

2.1 The draft decision under discussion is one of six legislative proposals accompanying the communication on *A budget for Europe 2020* (COM(2011) 500 final) [2]. Each of these should be examined individually [3].

2.2 The issue of own resources is important in both structural and political terms. The origin of resources determines the relationship between the public, the Member States and the Community institutions, while also raising the issue of the EU's financial autonomy. The debate on own resources for the European Union is linked to the general debate on the future of integration, involving two possible scenarios: federalism and intergovernmentalism.

2.2.1 The Committee was already of the view back in 2008 that there is 'a fundamental choice to be made when shaping budget policy: federalism [4] or an intergovernmental system. Clearly, the arrangements for financing the budget are one measure of the level of advancement of European integration' [5].

2.3 Although the Treaty of Rome of 25 March 1957 provided for a transitional period of national contributions, its Article 201 stipulates that '**Without prejudice to other revenue, the budget shall be financed wholly from own resources**'.

(2) *Proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020, COM(2011) 398 final; Draft Interinstitutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management,* COM(2011) 403 final; amended *proposal for a Council Decision on the system of own resources of the European Union,* COM(2011) 739 final; amended *proposal for a Council Regulation laying down implementing measures for the system of own resources of the European Union,* COM(2011) 740 final; *Amended proposal for a Council Regulation on the methods and procedure for making available the traditional and GNI-based own resources and on the measures to meet cash requirements (Recast),* COM(2011) 742 final; *Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC,* COM(2011) 594 final.

(3) See EESC opinion on *The common system of financial transaction tax* (See page 55 of this Official Journal) and EESC opinion on *The 2014-2020 budget* (not yet published in the OJ).

(4) Federalism here may feature:
the principle of superposition (State competences are divided between federal government and the governments of the federated States), the principle of autonomy (every tier of government is autonomous or "sovereign" within its area of jurisdiction), and the principle of participation (federated entities are represented and participate in federal decisions taken at the level of the federal State. The ways these principles are implemented can vary, but in practice in a formally federal system there is no set degree of centralism or democracy.
Source: http://fr.wikipedia.org/wiki/F%C3%A9d%C3%A9ralisme.

(5) See EESC opinion on *EU budget reform and future financing,* OJ C 204, 9.8.2008, p. 113.

2.4 Currently, the Union's resources are made up of what are referred to as 'traditional' own resources raised from customs duties, agricultural duties and sugar levies, and 'new' own resources drawn from a levy on the harmonised value-added tax (VAT) base and a levy on gross national income (GNI). These VAT and GNI resources are in actual fact 'quasi' own resources as they are levied by the Member States on their own revenue. They are treated as own resources only because they are destined for the European budget, which in 2011 amounts to EUR 126,5 billion, or 1,13 % of the GDP of the EU-27.

2.4.1 The report on the operation of the own resources system [6] drawn up by Commission services demonstrates that the current financing system performs poorly with regard to most assessment criteria. It is also opaque and complex, inscrutable to all but a few experts, effectively inaccessible to the public and thus making democratic control difficult.

The way the EU budget is financed, meanwhile, leads many Member States to consider their contribution to the Union as expenditure only, which inevitably raises tensions whenever the budget is discussed.

2.4.2 This situation has led the Commission to propose that the Council amend the EU's own resources system. This proposal, taking the new legal context proposed by the Lisbon Treaty into account, ties in with the content of its earlier communication on the EU budget review [7].

2.5 Against this backdrop, the present document will be fully in line with the opinion that the Committee adopted at its plenary session in June 2011 on that communication [8].

3. A revised legal framework

3.1 The Lisbon Treaty establishes a new legal framework. It brings in major changes not only to EU budgetary procedure but also to the way the EU finances its budget.

Article 311 states that the Council 'may establish new categories of own resources or abolish an existing category'. It also states that the Council, 'acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system'. The way is therefore clear for a reduction in the current number of own resources and the creation of new resources for which the implementing measures are to be established by means of regulations.

4. Content of the proposal for a Council decision

4.1 The proposed own resources decision includes three main elements: the simplification of Member States' contributions, the introduction of new own resources and the reform of correction mechanisms. These three proposals are to be considered as a whole requiring a single decision.

4.1.1 Simplifying Member States' contributions

The Commission proposes **eliminating the current VAT-based own resource** because it is complex and provides little added value compared with the GNI-based own resource. It is proposed that this resource be abolished on 31 December 2013.

4.1.2 Introducing new own resources

In its communication on the EU budget review, the Commission listed six potential own resources. The Commission has chosen two of them in the texts under discussion. It proposes a tax on financial transactions and a new VAT-based resource, both to be introduced as of 1 January 2014 at the latest. These new own resources would fund 51,4 % of EU spending, with traditional own resources accounting for close to 20 % of the total and the GNI-based own resource approximately 30 %, coming down from 74,2 % to 29,7 % [9].

4.1.3 Reforming the correction mechanisms

4.1.3.1 The correction mechanisms currently in place are temporary, and will end in 2013. The correction granted to the United Kingdom, the rebates on its financing granted to four Member States (Germany, the Netherlands, Austria and Sweden) and the hidden correction, which consists of retaining, by way of collection costs, 25 % of the sums collected by the Member States for traditional own resources, will continue to apply in their current form until a new own resources decision enters into force.

4.1.3.2 Noting that the objective situation of a number of Member States has changed considerably, that since 1984 (Fontainebleau Agreement) the conditions underpinning the correction mechanisms applied until now have also evolved (the CAP's share of the EU budget and VAT-based financing have decreased considerably and the UK is now one of the more affluent EU Member States [10]), **the Commission has stated that it is time to review the UK correction**.

4.1.3.3 The draft decision under discussion therefore proposes the **establishment of temporary corrections** in favour of Germany, the Netherlands, the United Kingdom and Sweden. Subsequently, **a new system of lump sums**, designed to replace all existing correction mechanisms, will be established as of 1 January 2014. In addition, the Commission proposes **reducing the sum of the hidden correction from 25 % to 10 %**.

(6) Commission Staff Working Paper: *Commission report on the operation of the own resources system*, SEC(2011) 876 final, 29.6.2011.
(7) COM(2010) 700 final.
(8) See EESC opinion on *The EU budget review*, OJ C 248, 25.8.2011, p. 75.
(9) See Appendix I.
(10) See Appendix II.

5. **General comments**

5.1 A system under which approximately 75 % of the Union's revenue originates not in genuine own resources but is drawn directly from national budgets by means of a GNI-based resource and under which 15 % comes from a share of the VAT base that cannot be regarded as being in any way an EU own resource (on account of the way in which it is determined), departs from the letter and the spirit of the Treaty of Rome.

5.2 The Committee would stress that it is these 'levies' that have fuelled the short-sighted debate relating to net contributors that takes no account of the advantages provided by the Union, particularly in the area of peace, freedom, prosperity, growth and security.

5.2.1 The EESC agrees that the concept of the 'fair return' raised by GNI levies is even less appropriate today than it was at the start of the European venture. This concept, which has all too often distorted the functioning of the European Union by derailing debate, is in large measure responsible for its shortcomings, delays and failures. It runs counter to the spirit of a union of States and peoples and defies rational economic argument. The advantages and added value of an economic, monetary and political union should, by their very nature, be of benefit to everyone. The progress made by the European Union is based entirely on the multiplier effect of joint efforts, the polar opposite of the fair return concept ([11]).

5.3 The current system of own resources, which depends on Member States' contributions, is opaque and complex, restricting democratic control and doing nothing to promote commitment to European integration. What is more, by adding to public perception that the contribution to the EU is an additional burden weighing on national budgets, this system fails to secure the European Union sufficient appropriations for all its policies.

5.3.1 Furthermore, the current system, with its various correction and rebate mechanisms (be they general rebates in favour of one Member State, such as the UK rebate, or special ones, such as those financing other rebates), is excessively complex, lacks transparency and is completely incomprehensible to the European public. This system does nothing to meet the requirement that there be a direct link between the Union and its people.

5.4 In view of the general considerations above, the **Committee welcomes the Commission's proposal for a Council decision**. It considers it to be a step in the right direction, since it simplifies its structure and reduces current national contributions to the European Union budget from 85,3 % (EUR 111,8 billion) to 29,7 % (EUR 48,3 billion), of which GNI-based income will come down from 74,2 % (EUR 97,3 billion) to 29,7 % (EUR 48,3 billion), thus moving nearer to the spirit and letter of the Treaty of Rome. This increase in the proportion of genuine own resources will help to increase the financial autonomy of the EU while also bolstering Member States in their far-reaching austerity drives.

([11]) See footnote 5.

6. **Specific comments**

6.1 In its communication on the EU budget review, the Commission listed a number of financing methods that it believed could feasibly have been used to generate new own resources: a European tax on the financial sector, EU revenues from auctioning under the greenhouse gas Emissions Trading System, an EU charge related to air transport, European VAT, a European energy tax and a European corporate income tax.

6.1.1 Each of these potential resources has been subject to a Commission analysis ([12]) that highlights the advantages and disadvantages they each present without giving the political reasons for discarding some of them and opting for a new value added tax and a tax on financial transactions.

6.1.2 The Committee considers that the political reasons that led to the rejection of certain options should be known and that the **Committee should have been asked for its opinion prior to the decisions being made**.

6.2 *The content of the proposed amendments*

6.2.1 Eliminating the current VAT-based own-resource and simplifying Member States' contributions

This 'quasi' own resource levied by Member States on their own revenue now seems obsolete. It is no more than a mathematical base used to calculate national contributions. It is complex, necessitates a great number of administrative formalities in order to arrive at a harmonised base, and offers little value added. **The Committee is in favour of this simplification**.

6.2.2 The establishment of a new VAT resource

This will be one facet of a radically altered VAT regime applicable within the EU. It will represent 18,1 % of new own resources (see Appendix I) by 2020.

This would tie in, in part, with the Green Paper on the future of VAT ([13]). The Committee has approved the initiatives planned by the Commission in that Green Paper.

([12]) SEC(2011) 876 final – Commission Staff Working Paper on *Financing the EU budget: Report on the operation of the own resources system* – Accompanying the document *Proposal for a Council Decision on the Proposal for Council Decision on the system of own resources of the European Union.*

([13]) See EESC opinion on the *Green Paper on the future of VAT*, OJ C 318, 29.10.2011, p. 87.

This share of VAT on goods and services, intra-Community acquisitions of goods and importation of goods subject to a standard rate of VAT in each Member State under Directive 2006/112/EC [14] should not exceed two percentage points of the standard rate; the implementing regulation provides for one percentage point.

The Committee endorses the establishment of this new VAT resource, replacing the existing one, which has been shown by analysis to be obsolete. It believes that the EU budget – and its constituent resources – should be considered to be one of a number of means serving common objectives.

It would however have been easier to judge the form and substance of this proposal thoroughly had the texts under discussion provided precise data on the changes to VAT structure and set out (by means of a study) the differences in financial volumes that will affect each Member State as a result of the change.

Furthermore, as the Committee has already pointed out in previous opinions, intra-Community VAT is a major source of tax evasion. It therefore considers it necessary to accompany this new own resource with measures aimed at reducing if not eliminating fraud. Against this backdrop, it will be keeping a close eye on the legislative proposals to be made following the discussions sparked by the Green Paper on the future of VAT.

6.2.3 Introduction of a financial transaction tax

Several Committee opinions [15] have approved the idea of establishing a tax on financial transactions (TFT), subject to certain conditions. The Committee has pointed out for instance that:

— preference should be given to the introduction of the TFT at world level, given the concerns expressed as to the risk of a relocation effect; nevertheless, if this is not possible, **it would then be in favour of adopting the tax at EU level,** taking into account the conclusions of the impact assessment carried out by the European Commission;

— in addition to potentially increasing the stability and efficiency of the financial markets, by reducing their volatility, the TFT is also necessary for both the Member States and the EU, as a means of collecting revenue in order to reduce budget deficits.

As the Commission has pointed out in its proposal for a Council decision, this tax could provide a new source of revenue to be levied at EU level. This would enable Member States to reduce their contributions, providing national governments with additional room for manoeuvre and thus supporting general efforts towards fiscal consolidation. At the same time, this EU initiative should mark a first step towards the application of a TFT at world level, a concept that is currently under discussion at G20 level.

Accordingly, and in the light of its previous opinions, the Committee is in favour of establishing a tax on financial transactions as an own resource for the budget of the European Union.

By 2020 this could provide for 33,3 % of the EU's own resources (see Appendix I) with a budget allocation of EUR 54,2 billion, while, according to initial estimates, it could generate receipts of EUR 57 billion a year, depending on market reactions [16].

The taxation rates as a percentage of the taxable amount will be no less than 0,1 % for financial transactions other than those relating to derivatives agreements and no less than 0,01 % for financial transactions regarding derivatives agreements [17].

6.2.4 The reform of the correction mechanisms

The Committee welcomes the fact that the draft decision proposes the reassessment of the UK correction and the establishment of a new system of lump sums to replace all existing correction mechanisms as of 1 January 2014. The same applies to the reduction in the sum of the hidden correction from 25 % to 10 % (see Point 4.1.3).

These proposals are a step in the right direction but they are not enough, as they do not go all the way towards a budget based predominantly on own resources.

The Committee considers that when over 66 % of a budget is made up of own resources, the concept of fair return should be abandoned as it runs counter to the values of solidarity and mutual benefit that underpin European integration (see Point 5.2.1). If the EESC supports the Commission proposal regarding the primacy of a system based on own resources, it is because it expects this reform to lead eventually to the possible elimination of national corrections, which will no longer be justified within a reformed European budget securing greater value added for all Member States [18].

[14] OJ L 347, 11.12.2006, p. 1.

[15] See the EESC opinion on the *Larosière Report*, OJ C 318, 23.12.2009, p. 57; Point 1.10 (Summary and conclusions) of the EESC opinion on *A financial Transaction Tax*, OJ C 44, 11.2.2011, p. 81; Points 4.4.2, 1.5.3 and 1.5.4 of the EESC opinion on *Fiscal policy: growth and fiscal adjustments*, OJ C 248, 25.8.2011, p. 8; and the EESC opinion on *Taxation of the financial sector*, OJ C 248, 25.8.2011, p. 64.

[16] See COM(2011) 594 final, *Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC*.

[17] See footnote 10.

[18] See Point 4.4 of the EESC opinion on *The EU budget review*, OJ C 248, 25.8.2011, p. 75.

Nevertheless, the EESC would point out that it is difficult to make a precise evaluation of the intrinsic value of the proposals when no evidence is provided as to the volume of the changes proposed or comparisons with the current situation.

6.3 The Commission's document reiterates the view, already indicated in its communication on the EU budget review ([19]), that 'introducing new own resources is not an argument about the size of the budget (…)'. **The Committee does not share this view**. When reviewing and reorganising the EU budget by modifying and introducing own resources and reforming the correction mechanisms, it is appropriate to ask what the impact of these changes will be on the size of the budget and to gear those changes to the political choices that have been or have to be made.

6.3.1 From this standpoint, the Committee considers that the EU budget is not just a matter of figures or choices regarding the internal organisation of its various constituent elements. It is primarily an instrument serving a political endeavour, namely the ambitions of the European Union. Against that backdrop, the EU's political ambitions and the resources used to achieve them therefore need to be coherent and in tune with each other. Currently, however, the European Union does not have sufficient budgetary resources to implement its political strategy or the 2020 strategy, or to honour the commitments deriving from the new Lisbon Treaty.

The Committee believes that increasing the European budget is not just desirable but necessary, given the scale of the new challenges requiring a joint response ([20]).

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([19]) COM(2010) 700 final.

([20]) See Points 1.1 and 4.1 of the EESC opinion on *The EU budget review*, OJ C 248, 25.8.2011, p. 75.

APPENDIX I

Estimated evolution of the structure of EU financing (2012-2020)

	2012 Draft Budget		2020	
	EUR billion	% of own resources	EUR billion	% of own resources
Traditional own resources	**19,3**	**14,7**	**30,7**	**18,9**
Existing national contributions of which	**111,8**	**85,3**	**48,3**	**29,7**
VAT-based own resource	14,5	11,1	—	—
GNI-based own resource	97,3	74,2	48,3	29,7
New own resources of which	—	—	**83,6**	**51,4**
New VAT resource	—	—	29,4	18,1
EU financial transaction tax	—	—	54,2	33,3
Total own resources	**131,1**	**100,0**	**162,7**	**100,0**

Source: calculation made by the Commission based on COM(2011) 510, updated on the basis of COM(2011) 738

APPENDIX II

Evolution of key parameters (1984-2011)

	1984	2005	2011
Share of CAP in budget (% of total)	69 %	50 %	44 %
VAT-based contribution (% of total)	57 %	16 %	11 %
UK prosperity (GNI per capita PPS)	93 % of EU-10	117 % of EU-25	111 % of EU-27

Source: European Commission, DG Budget

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 on the future of the European Union Solidarity Fund'

COM(2011) 613 final

(2012/C 181/10)

Rapporteur: **Mr VAN IERSEL**

On 6 October 2011, the European Commission decided to consult the European Economic and Social Committee, 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 on the future of the European Union Solidarity Fund

COM(2011) 613 final.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 139 votes to 2 with 9 abstentions.

1. **Conclusions**

1.1 The EESC agrees that the current crisis compels Member States (MS) and the EU to be very careful about overspending. Against this backdrop it fully understands the Council's reluctance to create increased opportunities in the framework of the European Union Solidarity Fund (EUSF).

1.2 Nevertheless, the EESC wishes to point to new provisions in the TFEU, notably in its Articles 4, 174 and 222, which highlight a shared responsibility of the Union and MS to meet natural and terrorist 'disasters' anywhere in the Union. These provisions demonstrate that in very special circumstances the EU is considered to be not only a community of socio-economic interests, but also a community of common destiny. This was, by the way, also the driving motivation when the EUSF was created in 2002, when massive flooding of rivers occurred in several MS.

1.3 The EESC firmly believes that looking at areas of cohesion in an integral manner points to the existence of a common destiny which all citizens in the Union share and also take responsibility for. Given the outcome of lengthy discussions in the Council, the EESC is disappointed to note that this spirit is currently lacking. The Council's strong emphasis placed on 'subsidiarity' in these discussions reflects a similar mood.

1.4 The EESC agrees with all practical adjustments that the Commission proposes for the EUSF Regulation in order to make the Fund function in a more business-like manner, and for it to be less bureaucratic and less time-consuming for its recipients.

1.5 The EESC insists in particular on the desirability of enhancing the visibility of the Unions co-commitment when financial support is given by the EU in case of a disaster. At the moment, procedures are purely administrative. EU payments are often made months after the disaster took place, underlining the technical and even anonymous nature of the procedure. The outcome currently is quite the opposite of expressing a common empathy which the EESC would like to see being emphasised more strongly.

1.6 The EESC offers for consideration the suggestion to include funding of the EUSF directly in the European Union's budget as a practical way of speeding up payments and ensuring a much higher degree of visibility for its activities.

2. **Introduction**

2.1 The European Union Solidarity Fund (EUSF) was set up in 2002, thus creating an EU instrument to respond to major natural disasters. At the time, the EESC agreed wholeheartedly with the creation of the Fund [1].

2.2 A future revision was included in the original 2002 Regulation which was to take place by the end of 2006. To this end, a first review of the EUSF by the Commission took place in 2005. The EESC commented on the resulting

[1] EESC's opinion on the 'Proposal for a Council Regulation establishing the European Union Solidarity Fund', OJ C 61/30 of 14.3.2003, p. 187.

Commission proposal in 2005 [2]. The EESC put forward several proposals, in particular to widen the scope of the Fund to droughts, to lower intervention thresholds, and to give the Commission greater discretionary powers.

2.3 Ultimately, the Council has rejected the changes proposed by the Commission, which had been very much welcomed by the European Parliament (EP). These had been based on practical experience with the Regulation, such as widening the scope of the Fund beyond natural disasters, more focus and transparency of the application criteria, and adjustment of bureaucratic and time-consuming procedures which damage timely responsiveness and visibility.

2.4 In 2011, the Commission decided to present a Communication on the Future of the EUSF with a view to relaunching the overall discussion on the Fund. It is this Communication that the current EESC Opinion is commenting on.

2.5 With regard to time-consuming bureaucracy in EUSF procedures, it is worth mentioning that the Commission does not act upon its own initiative, but only upon formal applications from MS which takes time. Each application is followed by extensive procedures between the Commission, the EP and the Council for approving a budget, and by a final input from the applicant MS to substantiate the request for financial support.

2.6 The Commission concludes that this 'leads to the cumulated effect that in many instances grants can be paid out only 9 to 12 months after the disaster, sometimes longer' [3].

2.7 Continuing scepticism and opposition was dictated by the fear of budgetary implications. 'Subsidiarity' remains a main principle in case of 'disaster'. The opposition of a large majority of MS to any major changes to the legal base and functioning of the Solidarity Fund was confirmed again in 2010.

2.8 The Commission must be praised for its efforts to extend the functioning of the EUSF as evaluation proves that it is very successful in the cases where it intervened. On the other hand, rejected applications have led to frustrations and are thus detrimental for the image of the EU.

2.9 The current state of political debate is not likely to give much room to those who seek to enlarge the support of the EUSF to new categories of 'disasters', nor to those who wish to modify the thresholds or to soften criteria for regional disasters.

(2) EESC's opinion on the 'Proposal for a Regulation of the European Parliament and of the Council establishing the European Solidarity Fund', OJ C 28/14 of 3.2.2006, p. 69.

(3) COM(2011) 613 final – point 2.3: last paragraph.

3. **Comments of the EESC on the Commission's proposals**

3.1 The EESC shares the view that, under present circumstances, any change of the EUSF must be limited to clarifications and better operability of the 2002 Regulation. Clarifications concerning the functioning of the Fund should definitely seek to improve its visibility.

3.2 A more precise definition that the assistance from the Fund is only possible in case of a natural disaster can help, as the Commission argues, to exclude undesirable legal difficulties. This would also be in line with the criticism of many MS and it would reduce unnecessary disappointments of affected MS.

3.3 The EESC shares the view that the limitation to natural disasters will not exclude 'cascading effects' of such disasters, e.g. on industrial plants or health and hospital facilities. Although generally, in such cases, not only public services, but also private activities are concerned, there is a strong argument to include them when they are part of a regional societal framework, for instance in terms of employment.

3.4 Experience proves that there are substantial problems with the interpretation of certain repercussions arising from an 'extraordinary regional disaster'. The EESC agrees with the Commission's proposal to put the criteria for regional disasters on a simple and objective base, which would be comparable to the definition of 'major disasters'. As the simulation made by the Commission shows, the final result would be more or less identical to the effect of the current definition. However, a number of applications would not have been presented because they would clearly not have been eligible for EUSF support.

3.5 The Commission rightly criticises the time lags to make grants available. The EESC could not agree more (see also point 2.6 above). The Committee is of the opinion that every effort must be made to accelerate procedures and thereby to improve responsiveness and visibility of the EUSF.

3.6 In this respect the EESC agrees with the Commission's proposal to introduce into the Regulation the possibility to pay advances which should be repaid if an application is not accepted according to the rules.

3.7 The EESC very much agrees with the Commission that procedures can and should be shortened and simplified wherever possible. There is much room for merging decisions within the Commission (of which there are four in the current system) as well as within the MS (of which there are currently two). As the Commission rightly argues, rather simple procedural adjustments can produce great time-saving effects.

3.8 Quite revealing and very desirable is the Commission's proposal to strengthen and to specify in the Regulation the provision that a beneficiary MS is requested to clarify in detail how it will prevent further disasters in the future by implementing EU legislation on assessment, management and disaster prevention based on lessons learned and a commitment to measures on climate change.

3.9 The Commission explicitly mentions Article 222 TFEU, i.e. the provision that the EU and the MS must jointly act in a spirit of solidarity in case of a terrorist attack, or a natural or man-made disaster. It can be added that the TFEU introduces also for the first time in Article 4 as well as in Article 174 'territorial cohesion' as a subject of 'shared responsibilities' between the EU and the MS; 'territorial cohesion' is further to be promoted by the Union in regions suffering from permanent natural handicaps.

3.10 These provisions reflect not only shared responsibilities among all actors in the Union, but also point to a sense of a common destiny. Given the Council's reactions to successive Commission proposals and comments from other consulted parties, it is clear that MS are less willing to act according to the spirit of common destiny. Accordingly, this explains their increasing emphasis on 'subsidiarity'.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC'

COM(2011) 594 final

(2012/C 181/11)

Rapporteur: **Stefano PALMIERI**

On 19 October 2011, the Council decided to consult the European Economic and Social Committee, under Article 113 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC

COM(2011) 594 final.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 164 votes to 73 with 12 abstentions.

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the European Commission's proposal to introduce a financial transaction tax (FTT), echoing the position taken by the European Parliament [1] and reiterating the stance it has already taken in its opinions [2].

1.2 In its previous opinion [3], the EESC highlighted the importance of securing financial autonomy for the European Union, as was the original intention of Article 201 of the Treaty of Rome. Against that backdrop, the EESC considers that the FTT could be a key element in the EU's new system of own resources, inasmuch as it is an instrument that can offer the necessary financial self sufficiency for the 2014-2020 multiannual financial framework.

1.3 The EESC would reiterate the need to secure global application of the FTT. However, as it has already stated in the opinion of 15 July 2010 (see footnote 2), the best way to achieve this may be to introduce the tax within the EU. The EESC, in line with the position taken by Commissioner Algirdas Šemeta and the European Parliament, would argue that the EU can and must use its influence as a pioneer in this area, as it has for many other policies of a global nature (for instance on climate change) [4]. Nevertheless, all possible efforts should be made to ensure that the tax is introduced at global level.

1.3.1 The EESC would argue that this should be the backdrop for the letter sent by the finance ministers of nine EU Member States (Germany, France, Italy, Austria, Belgium, Finland, Greece, Portugal and Spain) to the Danish presidency of the EU, welcoming the presidency's decision to step up the analysis for and negotiations on the application of the FTT.

1.4 For the EESC, the introduction of the FTT is part of a broader process, launched by the Commission, revising the main markets in financial instruments directives (COM(2011) 656 and COM(2011) 652) with the aim of making those markets more transparent, efficient and effective. Furthermore, as already emphasised in a previous opinion, the EESC believes that the stability and effectiveness of the financial sector and thus the limitation of excessive risk taking, as well as the establishment of the right incentives for financial sector institutions, should be ensured by appropriate regulation and supervision.

1.5 The EESC believes that in order to neutralise or at least reduce to a minimum the risk of financial activities being relocated, the residence (territorial) principle, proposed by the Commission must be coupled with the issuance principle proposed by the European Parliament. The latter is the principle whereby the tax is applied in the same way as a

(1) The European Parliament 'favours the introduction of a tax on financial transactions, which would improve the functioning of the market by reducing speculation and help to finance global public goods and reduce public deficits.'
European Parliament resolution on innovative financing at global and European level. 2010/2105(INI), text adopted on 8 March 2011.

(2) Own-initiative opinion on the financial transaction tax (OJ C 44/14 of 11.2.2011, p. 81).
Opinion on the communication on taxation of the financial sector (COM(2010) 549 final) (OJ C 248/11 of 25.8.2011, p. 64).

(3) Opinion on the communication on the EU Budget Review (OJ C 248/13 of 25.8.2011 p. 75).

(4) Algirdas Šemeta, 17.2.2012, *EU tax coordination and the financial sector*. EU Commissioner for Taxation and Customs Union, Audit and Anti-Fraud. Speech/12/109. London.
European Parliament, Resolution on Innovative Financing at global and EU level (P7_TA-PROV(2011)0080).

stamp duty to transactions on all financial instruments issued by legal entities registered in the EU with the penalty for non-compliance being the inapplicability of purchase or sale contracts ([5]).

1.6 The EESC would argue that the application of the FTT would provide a means of securing a fairer contribution from the financial sector to the public finances of the European Union and to the national budgets of the Member States.

1.7 The EESC welcomes the fact that by introducing the FTT it will be possible to modify financial operators' profit systems, by reducing high frequency and low latency trading. This type of trading is highly speculative, a source of instability on the financial markets and completely unrelated to the normal functioning of the real economy. The FTT will therefore offer a way to stabilise the financial markets by increasing gains from medium- and long-term investments that can be directed towards business.

1.7.1 The EESC believes that slowing down the pace of highly speculative transactions by introducing the FTT would have a significant stabilising effect on price fluctuations on the financial markets and would offer companies operating in the real economy more stable financial scenarios for their own investments ([6]).

1.8 For the EESC, one of the most significant effects of introducing the FTT would be to improve the sovereign debt situation. Government bond crises intensify in periods of great financial instability. The increased revenue generated by the FTT would help to improve fiscal stability by reducing the need to increase debt levels still further. The effect would be direct for resources flowing to the Member States and indirect for resources going to the EU budget, replacing Member States contributions.

1.9 The EESC acknowledges that the introduction of the FTT, contributing to fiscal harmonisation, would ensure the proper functioning of the internal market, thus avoiding distortions in an area in which at least ten Member States have already introduced some form of FTT.

1.10 The EESC would underline the need to manage the negative macro- and microeconomic consequences of the legislative application of the FTT very carefully, so as to neutralise or at least reduce the risks and related costs. For this reason, the EESC believes appropriate compensatory mechanisms should be implemented in order to offset the more significant negative effects that the application of the FTT might have on the real economy.

1.10.1 The EESC considers that the monitoring and subsequent assessment of the consequences of introducing the FTT - in a report to be submitted to the Parliament and the Council - should be programmed annually rather than after three years of FTT implementation ([7]).

1.11 The EESC believes that assessment of the impact of the FTT should cover the effects of the long-term reduction in GDP (as estimated by the Commission's impact assessment) as well as the global effects of its contribution: 1) to improving the functioning of the financial markets by making them more stable, ii) to shifting investment towards the real economy, iii) to promoting regulatory policies able to improve the efficiency, effectiveness and transparency of Europe's financial markets, iv) to boosting fiscal consolidation for Member States as a result of greater availability of resources, and v) to encouraging households to save and invest. It has recently been estimated that the combined impact of these effects could lead to an increase in GDP equal to 0,25 % in the long term ([8]).

1.12 The EESC is concerned that the assessment of the impact of FTT application accompanying the Commission proposal omits a number of effects, some listed in this opinion, possibly undermining the overall assessment of the proposal itself. For this reason, the EESC calls on the Commission to move swiftly to conduct an additional, more thorough, assessment.

1.13 The EESC welcomes the Commission's decision to propose an FTT as opposed to a tax on financial activities (FAT). Although the latter would be more successful in regulating distributive aspects (as a result of a better correlation with the income generated by financial activities), it is more likely to be passed onto consumers and companies while having a minimal stabilising effect on financial markets.

1.14 The EESC considers it worth noting that the number of European citizens, interviewed by Eurobarometer, in favour of introducing an FTT has not fallen below the 60 % level since the autumn of 2010: autumn 2010: 61 %; spring 2011: 65 %; autumn 2011: 64 % ([9]). For this reason, the introduction of the FTT could mark an important first step towards restoring the confidence of the European public in the financial sector.

([5]) European Parliament, Draft Report on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC. Rapporteur Anni Podimata (10.2.2012).

([6]) Schulmeister, S., 2011, *Implementation of a General Financial Transaction Tax*. Austrian Institute of Economic Research. Commissioned by the Federal Chamber of Labour.
Griffith-Jones, S., Persaud, A., 2012, Financial TransactionTaxes, http://www.europarl.europa.eu/document/activities/cont/201202/20120208ATT37596/20120208ATT37596EN.pdf.

([7]) As indicated in the Commission's impact assessment: SEC(2011) 1103 final.

([8]) Griffith-Jones, S., Persaud, A., 2012 *op. cit.*

([9]) European Commission, 2011, Eurobarometer 76 – *Public opinion in the European Union. First Results*. Fieldwork: November 2011. Publication: December 2011.

1.15 In fulfilling its role as an advisory body to the Commission, the Parliament and the Council, the EESC is committed to the on-going monitoring of the process by which the Commission's proposal on the introduction of the FTT is translated into legislation.

2. **The Commission proposal for a Council Directive on a common system of financial transaction tax**

2.1 The European Commission has been flagging the urgent need to introduce a global financial transaction tax at G20 meetings since 2009 (Pittsburgh, Toronto and Cannes). With this in mind, it published a communication on taxation of the financial sector on 7 October 2010 (COM(2010) 549 final).

2.2 The Commission is now once again proposing a financial transaction tax, as part of a more systemic approach. The proposal falls within the new 2014-2020 multiannual financial framework (MFF) presented by the Commission and, by means of a more robust system based on own resources, aims to make the EU's multiannual budget more independent. The tax is restricted to financial transactions involving financial institutions [10].

2.3 The tax will apply to financial transactions involving financial entities and exclude those involving individuals and businesses (conclusion of insurance contracts, mortgage lending, consumer credit and payment services), primary market transactions (except for the issue and redemption of shares and units of undertakings for collective investment in transferable securities and alternative investment funds) and spot currency transactions (but not currency derivatives).

2.4 The FTT applies to any financial institution party to a financial transaction 'acting either for its own account or for the account of another person, or acting in the name of a party to the transaction'. It does not apply to financial transactions with the European Central Bank (ECB), national central banks, Central Counterparties (CCPs), Central Securities Depositories (CSDs) and International Central Securities Depositories (ICSDs) or the European Financial Stability Facility. These 'are not considered financial institutions in as much as these are exercising functions which are not considered to be trading activity in itself'.

2.5 The residence (territorial) principle is used to reduce the risk of delocalisation, which is clearly inevitable. According to this principle, it is not the location of the transaction that matters but rather the Member State in which the financial actors are established. A transaction is subject to the tax if at least one of the financial institutions involved is established in the EU.

(10) Proposal for a Council Regulation (COM(2011) 398 final) laying down the multiannual financial framework for the years 2014-2020 and transposing into law Commission Communication COM(2011) 500 of 29 June 2011 on *A Budget for Europe 2020*.

2.5.1 Under Article 3 of the directive, a financial institution is established in the territory of a Member State if any one of the following conditions applies:

— it has been authorised by the authorities of that Member State to act as such, in respect of transactions covered by that authorisation;

— it has its registered seat within that Member State;

— its permanent address or usual residence is located in that Member State;

— it has a branch within that Member State; or

— it is party, acting either for its own account or for the account of another person or in the name of a party to the transaction, to a financial transaction with another financial institution established in that Member State, or with a party established in the territory of that Member State and which is not a financial institution [11].

2.6 The FTT becomes chargeable at the time that the financial transaction takes place. In view of the wide array of transactions, there are two different taxable amounts. The first is for transactions not related to derivative agreements, where the taxable amount corresponds to the consideration that an actor pays or is required to pay to a third party. If the consideration is lower than the market price or is not set, the taxable amount is calculated as being the market price. The second concerns financial transactions related to derivative agreements where the taxable amount is the notional amount of the derivative agreement at the time when the transaction takes place.

2.6.1 The minimum tax rates which Member States must apply to the taxable amount are as follows:

i) 0,1 % in respect of financial transactions not related to derivative agreements;

ii) 0,01 % in respect of financial transactions related to derivative agreements.

Member States must apply a single rate for each category of transaction, but are free to apply rates higher than the minimum set.

2.7 The tax is payable by every financial institution that is party to the transaction, acting either for its own account or for the account of another person, acting in the name of a party to

(11) If more than one condition applies, the Member State of establishment will be determined by the first condition from the list to be met.

the transaction, or when the transaction has been carried out on its account. The other parties to the transaction are, however, held jointly and severally liable under certain conditions. Member States are, nevertheless, free to identify further parties liable to the tax and to lay down registration, accounting and reporting obligations and other obligations intended to ensure that the tax is effectively paid.

2.8 For transactions carried out electronically, the tax must be paid at the moment when it becomes chargeable, and within three working days in all other cases.

2.9 Member States must adopt measures to prevent tax avoidance, evasion and abuse. In this respect, the Commission can propose delegated acts subject to consultation with the Council.

2.10 Member States may not maintain or introduce taxes on financial transactions other than the FTT.

2.11 Under the Commission proposal, the adoption of a minimum common tax, to become effective on 1 January 2014, would enable the FTT initiatives already taken by the Member States to be harmonised, securing the smooth functioning of the single market.

2.12 The decision to adopt an FTT was made in the wake of an impact assessment that analysed the alternative option of also introducing a financial activities tax (FAT) but judged that the FTT was the better option. On the basis of the impact assessment, it was estimated that the tax could yield EUR 57 billion a year (37 billion of which would be earmarked for the EU budget, while the remaining 20 billion would go to the budgets of individual Member States) [12].

2.13 Periodically, the Commission will submit a report on the application of this directive to the Council and, where appropriate, a proposal for its modification. The first report is scheduled for 31 December 2016, with subsequent reports due every five years.

3. **General comments**

3.1 In this opinion, the Committee aims to assess the Commission proposal promoting a Council Directive on a common system of financial transaction tax (COM(2011) 594 [13].

3.2 The opinion will use the framework already mapped out by own-initiative opinion ECO/275 of 15 July 2010 on the introduction of a financial transaction tax, and opinion ECO/284 of 15 June 2011 on the communication on taxation of the financial sector (COM(2010) 549 final).

3.3 The proposal for an FTT is based on the realisation that, with the development of information and communication technologies, the financial markets have shown an upsurge in the volume and price volatility of financial transactions over the last two decades. The ramifications of this have destabilised the world's economy [14].

3.3.1 The financial markets have shifted away from being instruments for locating financial resources for the real economy, gradually taking on a central role in their own right and pushing the real economy aside. In light of this situation, the EESC would argue that they should be subject to mechanisms capable of guaranteeing efficiency by means of regulation and effectiveness through transparency. The mechanisms must also guarantee that the markets, alongside other production factors, make a fair contribution to the budgets of the EU and the Member States [15].

3.3.2 The Committee holds the view that the current crisis is the result of a financial crisis which began in 2007 and in 2008 started spreading to the real economy [16]; it therefore considers that the financial sector, which bears the greatest weight of responsibility for that crisis, should be called upon to contribute measure for measure to the efforts to deal with it. To date, individual Member States have 'committed to support the financial sector [in terms of financing and guarantees] for a total of about EUR 4,6 trillion (39 % of EU-27 GDP in 2009)'. This support has brought the public finances of some Member States perilously close to the brink and triggered a dangerous crisis in the eurozone [17].

(12) European Commission, Brussels, 28.9.2011. SEC(2011) 1103 final, Commission Staff Working Paper - *Executive Summary of the Impact Assessment – Accompanying the Proposal for a Council Directive on a common system of financial tax and amending Directive 2008/7/EC*.

(13) Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC (COM(2011) 594 final).

(14) Currency transactions are at least 70 times higher than trading in goods and services at global level. Trading in the derivatives markets in Europe was 84 times higher than GDP in 2006, while spot market trading (buying and selling currencies or financial values with immediate agreements established 'on the spot') was only 12 times higher than the EU's nominal GDP.
Schulmeister, S., Schratzenstaller, M., Picek, O., 2008, A General Financial Transaction Tax – Motives, Revenues, Feasibility and Effects; Austrian Institute of Economic Research, Research Study commissioned by Ecosocial Forum Europe, co-financed by the Federal Ministry of Finance and the Federal Ministry of Economics and Labour. March 2008.

(15) J. Haug, A. Lamassoure, G. Verhofstadt, D. Gros, P. De Grauwe, G. Ricard-Nihoul, E. Rubio, 2011, Europe for Growth – For a Radical Change in Financing the EU.
Report by the de Larosière Group (OJ C 318, 23.12.2009).
European Parliament, 15.6.2010, Financial, economic and social crisis: recommendations concerning the measures and initiatives to be taken (2010/2242 (INI)). Rapporteur: Pervenche Berès.
European Parliament, 8 March 2010, Resolution on the Financial Transaction Tax. (2009/2750 (RSP)).
European Parliament, 8 March 2011, Resolution on innovative financing at global and European level (2010/2105(INI)); rapporteur: Anni Podimata

(16) Opinion on the Commission Communication on *Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance* (OJ C 107/7, 6.4.2011).

(17) European Commission, Brussels, 28.9.2011. SEC(2011) 1103 final. Commission Staff Working Paper - *Executive Summary of the Impact Assessment – Accompanying the Proposal for a Council Directive on a common system of financial tax and amending Directive 2008/7/EC*.

3.4 Against this backdrop, the proposal for a tax on financial transactions is part and parcel of a line of action initiated by the Commission, involving revising the main directives governing the securities markets and aiming to secure better regulation and transparency in the financial markets [18], as the Committee has repeatedly called for in the course of its work.

3.5 On two separate occasions, the Committee has already supported the introduction of an FTT: in the own-initiative opinion of 15 July 2010 (see footnote 2) and in the opinion of 15 June 2011 (see footnote 2).

3.5.1 The Committee considers that the Commission proposal (COM(2011) 594) introduces a European system for taxing financial transactions that is consistent with the proposals examined in the two previous opinions.

3.6 The Committee endorses the main reasons that led the Commission to propose the application of an EU-level FTT:

— to raise taxation on financial activities so that these activities make a fairer contribution to the EU and national budgets;

— to modify the behaviour of financial operators, reducing the volume of high-frequency and low-latency trading; and

— to harmonise individual Member States' FTTs by identifying two minimum rates (0,1 for bonds and shares and 0,01 for derivatives).

3.6.1 As regards the contribution to the EU and national budgets, the economic crisis and the recent sovereign debt crisis require policies able to kick start economic development at a time of increasingly tight budget constraints. The introduction of an FTT would feed into the new system of own resources for the EU budget and slash national contributions, helping to put national budgets back on track. The Commission has estimated that in 2020, the new own resources could constitute about half of the EU budget, and the share of the Member States' Gross National Income contribution would drop to a third from the current rate of over three quarters.

3.6.1.1 As pointed out above, applying an FTT would also serve the cause of fairness. In recent years, the financial system has enjoyed a light tax burden: financial services are exempt from paying VAT, netting the sector a yearly EUR 18 billion tax concession.

3.6.1.2 In this context, the Committee has already spoken out in favour of the Commission proposal to modify the tax system, raising the financial sector's contribution. The Committee therefore considers that the Commission proposal is heading in the right direction.

3.6.2 As regards the possibility of reducing the volume of high-risk and highly volatile financial transactions by means of a financial transaction tax, attention should be drawn to the type of financial transactions which would be hardest hit by the proposal. High-frequency and low-latency trading, using extremely advanced IT tools, employ complex algorithms capable of analysing market data within fractions of a second to implement financial market intervention strategies (quantity, price, timing, trader location and trading orders) and so cut the latency period (measured in microseconds – millionths of a second). Using these techniques, the operator is able to 'anticipate' the market and finish trading within a few tenths of a second. This form of transaction has even been referred to as kind of computer-based insider trading [19].

3.6.2.1 This type of trading makes up between 13 % and 40 % of the total volume of trading in the EU's financial markets. In the US, it is estimated that in only four years (from 2004 to 2009), the volume of high-frequency financial transactions increased from 30 % to 70 % [20].

3.6.2.2 These transactions take place outside the normal functioning of the real economy and can drain liquidity from the entire economy, thereby weakening systemic resilience, i.e. the capacity of a system to resist stress caused by periods of crisis [21].

3.6.2.3 Applying an FTT – by increasing transaction costs – would undermine high-frequency trading owing to the cumulative effect of the tax. The lower volume of high-frequency transactions would encourage financial institutions to turn

(18) Brussels, 20.10.2011, COM(2011) 656 final, Proposal for a Directive of the European Parliament and of the Council on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council.
Brussels, 20.10.2011, COM(2011) 652 final, Proposal for a Regulation of the European Parliament and of the Council on markets in financial instruments and amending Regulation [EMIR] on OTC derivatives, central counterparties and trade repositories.

(19) Schulmeister, S., (2011), Op cit.
The New York Times, 23.7.2011, *Stock Traders Find Speed Pays, in Milliseconds.* C. Duhigg.

(20) EC, (12.2010, Public consultation – Review of the Markets in Financial Instrument Directive (MiFID). Directorate-General for Internal Market and Services.
EC, 20.10.2010, SEC(2011) 1226 final. Commission Staff Working Paper. *Impact Assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on Markets in financial instruments [Recast] and the Proposal for a Regulation of the European Parliament and of the Council on Markets in financial instruments.*
Austrian Institute of Economic Research, 2011, *op. cit.*

(21) A. Persaud, 14.10.2011, *La Tobin Tax? Si può fare* (www.lavoce.info).

towards the traditional financial activities of credit intermediation, with definite advantages for operators, such as small and medium-sized enterprises, which are currently undergoing a serious liquidity crisis.

3.6.2.4 The financial transaction tax systems already in place have demonstrated the capacity to reduce trading volume as well as security price volatility, driving down risk premiums. It is therefore reasonable to suppose that introducing an FTT at European level would also cause a downswing in this category of 'unproductive' transactions.

3.6.3 As regards fiscal harmonisation, to date ten Member States have already brought in various forms of tax on financial activities and transactions (Belgium, Cyprus, France, Finland, Greece, Ireland, Italy, Romania, Poland and the United Kingdom). These countries will be asked to adapt their national legislation to EU standards (for instance they may be asked to apply the minimum tax rate and bring the taxable amount into line with EU provisions). Introducing an FTT and thus benefitting the more efficient financial markets would help to secure the smooth running of the internal market by avoiding distortions caused by Member States' unilaterally established tax laws.

4. **Specific comments**

4.1 The Commission has carried out an impact assessment of the long-term effects on GDP of introducing the FTT, estimated at between – 0,17 % (for the 0,01 % rate) and – 1,76 % (for the 0,1 % rate). The assessment is set in a particularly harsh scenario within which no allowances are made for mitigating factors, such as for instance the exclusion of the primary market and of transactions involving a least one non-financial operator, and the effects on other macroeconomic variables. The Commission estimates that when mitigating factors are factored in the maximum effect on GDP shifts from – 1,76 % to – 0,53 %. It is estimated that the impact on employment would be between – 0,03 % (for the 0,01 % rate) and – 0.20 % (for the 0.1 % rate).

4.2 In reality, if the FTT's long-term effects on GDP are combined with the effects of improved functioning of the financial markets owing to increased stability, the shift of investment towards the real economy, regulatory policies able to secure better market efficiency, effectiveness and transparency, and fiscal consolidation for Member States arising from the greater availability of resources, the overall effect in terms of GDP change could even be shown to be positive, with estimates setting it at 0,25 % ([22]).

4.3 The EESC believes that the impact evaluation accompanying the Commission proposals is inadequate and for that reason considers it appropriate that the Commission present an additional evaluation report to address the impact of the proposal in more detail.

4.3.1 The EESC would argue that consideration should be given to: some of the effects that have been mentioned in this opinion but that were not addressed by the Commission's impact assessment; some explanations of the hypotheses used by the Commission in its impact evaluation (for instance the elasticity of demand for financial products subject to the FTT); the effects of a possible transference onto consumers and companies; and the effects of the introduction of the FTT on financial sector employment in the EU's Member States.

4.4 The EESC considers that the FTT should be applied in accordance with appropriate procedures, so as to neutralise or at least reduce the risks and related costs. Risks that the EESC believes should be taken into consideration include: the possible transfer of the tax onto the cost of credit for companies and consumers; a reduction in pension fund returns; the relocation of financial investments; increased costs for businesses from hedging (against fluctuations in commodity prices and exchange rates); the effects of the tax on financial sector profits and on Member States where that sector carries significant weight; and the impact on the economy given that the tax may be introduced during an economic recession.

4.5 The EESC considers, however, that these risks are greatly out-weighed by the opportunities and benefits. As the FTT will be imposed on short-term investments, it will lead to an increase in demand for the medium to long-term investment typically used for company and government financing. All this will translate into greater liquidity on the markets and thus contribute to improving the situation for companies, families and sovereign debt. The greater stability that will be brought to the derivatives market is particularly significant. Given the nature of these products, there should be a considerable impact on the number of transactions carried out, slowing down the proliferation of products that carry significant responsibility for the crisis in the financial markets and the world economy in recent years.

4.6 The possible additional tax on pension funds brought about by the introduction of the FTT should be minor, given the form and type of investment; furthermore, the potential re-evaluation of the assets typical to pension funds (moving towards less volatile investments) may compensate for and outstrip any potential reduction in returns resulting from application of the tax. Nevertheless, the EESC believes that one option that might be considered so to neutralise or reduce the effects would be to reduce the rates or introduce some form of exemption for the pension funds sector.

4.7 The scope and the tax rates have been set with due consideration for the goal of containing the potential harmful effects of delocalisation, whereby investments and financial resources are moved out of the EU. The Committee already stressed the need for this, when world-wide adoption of the tax ceased to be an option.

([22]) Griffith-Jones, S., Persaud, A., 2012, *op. cit.*

4.7.1 The adoption of the residence (or territorial) principle implies that even financial institutions from third countries established in the EU will be subject to the tax, meaning that the scope will be far-reaching. The determination of the residence of financial institutions, so as to ascertain which Member State will collect the tax should provide a good means of minimising cases of tax evasion and avoidance.

4.7.2 In order to further neutralise the effects of the relocation of financial transactions, the EESC supports the proposal made by the European Parliament to introduce the issuance principle, on the basis of which the tax applies (like a stamp duty) to all transactions involving financial instruments issued by legal persons registered in the EU ([23]).

4.7.3 As regards the application of rates, the EESC would recall that the opinion it adopted in 2010 (see footnote 2) proposed the application of a uniform rate of 0.05 %, and agrees that the application of the two rates – as proposed by the Commission – should reduce the risk of a relocation of markets and secure adequate resources for EU and Member State budgets.

4.7.4 The EESC would also add that where the FTT has been applied with particular care as to its management, tax base and the application of rates, the results in terms of revenue have been positive without affecting economic growth. This has been the case in South Korea, Hong Kong, India, Brazil, Taiwan and South Africa ([24]).

4.8 Excluding the primary market from the scope of the tax will minimise the FTT's impact on the cost of raising capital for real activities, limiting it to the indirect effects of the potentially lower liquidity (owing to the tax) of securities traded by financial institutions.

4.9 As the tax applies to currency derivative agreements but not to spot currency transactions, it will affect a large share of speculative trading in the currency markets ([25]). Including spot currency transactions within the scope of the FTT would neither limit the freedom of movement of capital (taking the planned tax rates into account as well), nor violate the relevant sections of the Lisbon Treaty (*Leading Group on Innovating Financing for Development*, Paris, June 2010).

4.10 As already pointed out by the Committee (opinion adopted in 2010, see footnote 2), the FTT and the FAT are not alternative tax systems. The FTT primarily affects short-term transactions, whereas the financial activities tax affects the entire range of financial activities (including trading on the primary market). Introducing an FTT does not preclude the introduction of an EU FAT, particularly if the chief aim is to secure a 'fair and substantial contribution by the financial sector to public finances' (2010 opinion, see footnote 2) and to harmonise the levy on financial activities in order to strengthen the single market. In addition, applying a European system for taxing financial transactions would automatically bolster the requirement for greater uniformity of Member States' tax systems in the area of financial activities in general.

4.10.1 The FTT has a progressive distributive impact since people with higher incomes make greater use of the services provided by the financial sector, and the tax does not take money from the pockets of families and non-financial enterprises as it does not apply to personal or corporate loan activities. Such transactions would only be affected indirectly by the decreased liquidity of financial institutions' activities.

4.11 The system for collecting the tax is simple and entails very low costs for market transactions and, generally speaking, for recorded transactions. This upholds the need to extend obligations to register financial transactions, including over-the-counter transactions represented by non-standardised products, traded on derivatives markets rather than through a stock exchange, bilaterally between two parties.

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([23]) If the stamp duty is not paid by the parties, the purchase or sale contract loses its validity. European Parliament, Draft Report on the proposal for a Council directive on a common system of financial transaction tax and amending Directive 2008/7/EC. Rapporteur: Anni Podimata (10.2.2012).

([24]) Griffith-Jones, S., Persaud, A., 2012. *op. cit.*

([25]) Currency transactions were precisely the type of transaction for which the Tobin tax was designed. Tobin, J., 1978, *A Proposal for International Monetary Reform*. Prof. Tobin's Presidential Address at 1978 Conference of Eastern Economic Association. Wash. D.C., Cowles Foundation Paper – Reprinted for Eastern Economic Journal, 4(3-4) July-October 1978.

APPENDIX

to the Opinion of the European Economic and Social Committee

The following amendments were rejected during the discussion but received over a quarter of the votes.

Point 1.1

Insert a new point 1.2 as follow after point 1.1

The Committee does have serious concerns, however, regarding the negative impact that such a tax might have on growth and employment, as pointed out in the Commission's impact assessment, and is also concerned about the risk of effects beyond the financial sector, particularly in terms of access to capital for small and medium-sized enterprises and farmers, as well as increased costs for borrowers and pension savers. The proposed tax is also likely to weaken the purchasing power of low-income households.

Reason

Will be given orally.

The amendment was rejected by 143 votes to 93 with 11 abstentions.

Point 1.10

Amend as follows:

The EESC would underline the need to manage the negative macro- and microeconomic consequences of the legislative application of the FTT very carefully, so as to neutralise or at least reduce the risks and related costs. In this respect it is important to note that the different shares of the financial sector of each Member State relative to the whole economy indicate that the burden of this tax may not be shared equally among Member States. For this reason, the EESC believes appropriate compensatory mechanisms should be implemented in order to offset the more significant negative effects that the application of the FTT might have on the real economy.

Reason

It is a fact that the financial sector has a different economic weighting relative to the whole economy within each Member State. It is therefore only correct that the EESC recognises this fact.

The amendment was defeated by 137 votes to 86 with 15 abstentions.

Point 3.3.2

Amend as follows:

The Committee holds the view that the current crisis is the result of a financial crisis which began in 2007 and in 2008 started spreading to the real economy ([1])*; it therefore considers that the financial sector, which (along with the political class) bears the greatest weight of responsibility for that crisis, should be called upon to contribute measure for measure to the efforts to deal with it. To date, individual Member States have 'committed to support the financial sector [in terms of financing and guarantees] for a total of about EUR 4,6 trillion (39 % of EU-27 GDP in 2009)'. This support has brought the public finances of some Member States perilously close to the brink and triggered a dangerous crisis in the eurozone* ([2]).

Reason

When talking about the responsibility for the crisis, we cannot ignore the role of politicians – it is clear that it was their irresponsible action over many years which significantly contributed to the crisis in many countries.

The amendment was rejected by 154 votes to 72 with 15 abstentions.

([1]) Opinion on the Commission Communication on Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance, OJ C 107/7, 6.4.2011.

([2]) European Commission, Brussels, 28.9.2011. SEC(2011) 1103 final. Commission Staff Working Paper - Executive Summary of the Impact Assessment – Accompanying the Proposal for a Council Directive on a common system of financial tax and amending Directive 2008/7/EC.

Point 4.6

Amend as follows:

~~The possible~~ Perhaps an additional tax on pension funds brought about by the introduction of the FTT ~~should be minor~~ could be regarded as a minor tax, given the form and type of investment; ~~furthermore,~~ and the potential re-evaluation of the assets typical to pension funds (moving towards less volatile investments) ~~may~~ will indeed compensate for and outstrip any potential reduction in returns resulting from application of the tax. It is, however, highly probable that this tax will lead to a reduction in the level of future pensions, which will be particularly relevant to workers in those Member States where funds accrued in funded pension schemes account for a large portion of their pension. ~~Nevertheless, t~~ The EESC believes therefore that, in order to neutralise or reduce the effects, all transactions which involve the transfer (payment) of pension fund contributions and their final payout should be fully exempt from this tax ~~one option that might be considered so~~ and that consideration should be given to ~~neutralise or reduce the effects would be to~~ substantially reducing ~~e~~ the rates or introducing ~~e~~ ~~some~~ forms of exemption for the pension funds sector with regard to other transactions.

Reason

As was seen from the information presented at the study group meetings, this tax could reduce people's future pension capital by as much as 5 %. It is morally wrong to force millions of future European pensioners to reduce the value of their, often low, future pension in this way.

The amendment was rejected by 142 votes to 82 with 19 abstentions.

Point 4.7.3

Amend as follows:

As regards the application of rates, the EESC would recall that its 2010 opinion (see footnote 2) proposed the application of a uniform rate of 0,05 %, and agrees that the application of the two rates – as proposed by the Commission – should reduce the risk of a relocation of markets and secure adequate resources for EU and Member State budgets. Nonetheless, the EESC considers that if this tax were to cover the countries of the European Union only and not have a global scope, the maximum rate should not exceed 0,05 % while its potential increase to 0,1 % (in accordance with the Commission's proposal) should only take place after a number of years, subject to a detailed analysis of the economic and social effects of the solution adopted.

Reason

There is no reason for the EESC to change its earlier position regarding the maximum rate of 0,05 %, especially given the many possible effects of the proposed solution, which are difficult to predict.

The amendment was rejected by 144 votes to 85 with 12 abstentions.

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse)’

COM(2011) 651 final — 2011/0295 (COD)

and the ‘Proposal for a Directive of the European Parliament and of the Council on criminal sanctions for insider dealing and market manipulation’

COM(2011) 654 final — 2011/0297 (COD)

(2012/C 181/12)

Rapporteur: **Mr METZLER**

On 25 November 2011 the Council, and on 15 November 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Articles 114 and 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Proposal for a Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse)

COM(2011) 651 final — 2011/0295 (COD).

On 2 December 2011 the Council decided to consult the European Economic and Social Committee, under Article 304 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 criminal sanctions for insider dealing and market manipulation

COM(2011) 654 final — 2011/0297 (COD).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 138 votes to 2 with 8 abstentions:

1. **Content and conclusions**

1.1 The EESC welcomes the fact that the Commission’s proposal updates the framework created by the market abuse directive currently in force and thus protects confidence in the integrity of capital markets.

1.2 The EESC agrees in principle with the Commission’s proposal. However, in relation to the specific structure of the Commission’s proposal in the form of a regulation and a directive, the EESC has a number of concerns, some of which are fundamental ones.

1.3 In particular, the vague wording of many offences in the proposal for a directive on market abuse, and the delegation of further detail to ESMA and/or the Commission at Level 2, are likely to cause significant legal uncertainty. Bearing in mind that the principle of legal certainty in criminal law is key to the rule of law, this deserves criticism. The principle of legal certainty in criminal law is enshrined not only in the constitutions of the Member States, but also in the European Convention on Human Rights (ECHR). It would be in the interests neither of the Commission nor of the Member States nor of those applying the law for a European legislative act to give rise to such fundamental concerns as regards constitutional and criminal law. The EESC therefore calls for further clarification of offences at Level 1.

1.4 There are also grounds for criticism of Article 11 of the proposal for a Regulation, which requires anyone professionally arranging or executing transactions in financial instruments to put systems in place to detect market abuse. A heavier bureaucratic burden does not necessarily mean improved regulation. The EESC advocates efficient, balanced regulation. Not only does this rule give rise to the concern that large numbers of uninformed reports will be filed, which cannot be what the regulators intend; it also places a disproportionate burden on smaller credit institutions in particular and is thus likely to impair local economic activity, harming above all the interests of the population and of small and medium-sized enterprises in rural areas. The EESC calls on the Commission to take account of these concerns and to opt for a more tailored approach to regulation, as it is doing for example to make things easier for small and medium-sized issuers in a number of legislative proposals that are currently in the pipeline.

2. **Gist of the Commission document**

2.1 Directive 2003/6/EC on insider dealing and market manipulation was a first attempt to harmonise rules on market abuse at European level. On 20 October 2011 the European Commission published a proposal on revision of this directive in the form of a directive (MAD) and a regulation (MAR) on market abuse.

2.2 The Commission's intention is to update the current framework established by the market abuse directive and to ensure gradual harmonisation of European rules on insider dealing and market manipulation, in response to changing market conditions.

2.3 Whereas the market abuse directive only covers financial instruments traded on regulated markets, the proposal would extend the scope of European rules to financial instruments traded on new platforms and over the counter. At the same time, the proposal would step up the powers of regulators to investigate and sanction abuses, while cutting red tape for small and medium-sized issuers.

3. **General comments**

3.1 The EESC welcomes the fact that the Commission, with this proposal, is responding to changing market conditions and is seeking to update the framework created by the market abuse directive. Insider trading and market abuse damage confidence in the integrity of the markets, which is an essential prerequisite for a functional capital market.

3.2 It makes sense to extend the scope of the existing rules on market abuse to cover financial instruments traded outside regulated markets and the use of very sophisticated technology to implement trading strategies such as high-frequency trading. However, this will only help to underpin market integrity if the intended practical impact of extending the scope to include over-the-counter financial instruments and high-frequency trading is made clear.

3.3 Greater harmonisation of insider dealing and market abuse rules is welcome. However, the form of the Commission's proposal, envisaging a regulation and directive on market abuse, could give rise to a plethora of legal problems, particularly in view of the general penal and constitutional principles involved here. For this reason, it deserves criticism.

4. **Specific remarks**

4.1 The EESC welcomes the extension of the scope to include over-the-counter financial instruments. However, it remains unclear as to how these are to be covered by the proposal. There is often no market at all for over-the-counter financial instruments, as they are only traded bilaterally. It would therefore help those applying the law if the text were made more specific; to achieve this, the Commission or the ESMA (European Securities and Markets Authority) could add some examples of specific cases.

4.2 The EESC also broadly welcomes the inclusion of highly sophisticated technology for implementing trading strategies within the scope of the rules on market abuse. However, it should be remembered that algorithm-based trading is not *per se* a bad thing, but is also used by credit institutions to process day-to-day orders from private clients. Those applying the law therefore need further clarification as to what is legally permissible. Here, too, a set of examples drafted by the Commission or the ESMA would be helpful.

4.3 When legislating in the field of penal law, the European Union must comply with the subsidiarity principle. Under current legislation, rules are set out in the form of a directive, an approach which we endorse. It is difficult to understand why the Commission has not stuck to this approach. The proposal sets out rules on penalties in the form of a directive (MAD). The cases where these penalties are to be applied are, however, set out in a regulation (MAR), to be directly applied in the Member States.

4.4 Putting the rules in the form of an EU regulation is a questionable approach, as applying the proposed rules could lead to numerous legal problems. The Member States cannot obstruct their application as they could in the case of a directive. However, steps should be taken to steer clear of such difficulties, if the objectives of the Commission's proposals are to be achieved.

4.5 Legal problems of this type could arise due to the lack of precision in the wording and the use of imprecise legal concepts. The legal uncertainty arising from penalty provisions has implications for general constitutional principles and for criminal law. This includes the principle of certainty in criminal law (*nulla poena sine lege certa*) – e.g. Article 103(2) of the German constitution (*Grundgesetz*); Article 25(2) of the Italian constitution). In keeping with this principle, a standard must clearly define the cases where penalties may be applied. This general principle of the rule of law is also enshrined in Article 7 ECHR. The EESC doubts whether this principle has been adequately complied with in the case of most of the rules in the proposal for a regulation. Even the existing regulatory regime on insider dealing is, at least in the German legal literature, perceived as creating too much legal uncertainty and is therefore criticised.

4.6 Legal uncertainty also arises from the provisions empowering the Commission or the ESMA to specify Level-2 criteria for cases where penalties apply, as is the case in Article 8(5) of the proposed MAR. True, Article 8 itself has

no legal implications, as it only concerns the definition of market manipulation. However, there is no point in quibbling about Article 8 having no direct punitive effect, as this measure provides for an authoritative definition of the offence of market abuse and is thus is an integral part of the provision relating to penalties. Moreover, Annex I to MAR contains a catalogue of indicators in relation to individual parts of Article 8. It is therefore questionable to flesh this out in an additional step at Level 2. The EESC does understand the Commission's concerns that probably underlie this way of proceeding, namely to make it possible to continuously adapt to market developments and thus leaving it to the Commission or ESMA to clarify individual elements or aspects. New market developments may also change the demands placed on supervision. However, given that criminal law is involved, this approach raises legal questions. Moreover, the combination of Article 8, the annex and any further implementing measures means that it is not exactly clear what behaviour is to be punished.

4.7 Moreover, the ESMA would be required to specify Level-2 indicators not only under the proposed rules on market abuse, but also in parallel under the proposals on recasting Directive 2004/39/EC (MiFID); this could place an excessive burden on the ESMA. As a result, it is feared that there might be delays and continuing uncertainty.

4.8 The requirement set out in MAR Article 11(2) for any person professionally arranging or executing transactions in financial instruments to have systems in place to prevent and detect market abuse is questionable from the point of view of those concerned by the proposals.

4.9 Those people professionally involved in trading financial instruments are already required to report suspicious transactions (cf. Article 6 (9), directive on market abuse). Indeed, according to German regulator BaFin (cf. report in BaFin Journal, July 2011, p. 6 ff.) such reporting of suspicious transactions provides useful information, and the number of transactions reported is constantly on the increase.

4.10 The introduction of detection systems could lead to a proliferation of reports of allegedly suspicious transactions; large numbers of unsubstantiated reports are certainly not in the interest of regulators. In practice, the problem with infringements of the rules designed to prevent market abuse seems to be not so much a failure to detect abuse, but rather the fact that an overwhelming majority of cases are either not prosecuted or are dropped in exchange for payment of a fine. It is possible that public prosecutors' offices in Member States lack specialist departments in this area.

4.11 It is also doubtful whether those who professionally arrange or execute transactions in financial instruments are at all the best parties to require to set up such systems for preventing and detecting market abuse.

4.12 In any case, the stock exchange trading surveillance offices should have a comprehensive overview of domestic trading. As market abuse can take place across borders, the EESC would welcome it if such authorities were empowered to develop their international cooperation.

4.13 In particular, it is also doubtful whether small and medium-sized credit institutions should be required to put in place systems to prevent and detect market abuse. Setting up special mechanisms could well overload them. Such small and medium-sized credit institutions are often found in rural areas and play a key role in providing services to local residents and small and medium-sized enterprises. In doing so, they help to put local economies on a stronger footing and promote local employment. Good examples of this are credit unions such as the *Cajas Rurales* in Spain or the *Volksbanken* and *Raiffeisenbanken* in Germany. Credit institutions cannot be expected to take on regulatory tasks. Detecting and above all evaluating cases of market abuse is a task for regulators.

4.14 Moreover, placing additional burdens on small and medium-sized credit institutions runs counter to the intention of these proposals to cut red tape for small and medium-sized issuers. The Commission had this aim, amongst others, not only with its proposed legislation on market abuse, but also with that on revising the transparency directive (2004/109/EC). Spectacular cases of market manipulation that have come to light in connection with individual banks were set in train by individual traders in investment banking, for example the Frenchman Jérôme Kerviel in 2008. Prominent cases of insider dealing show that credit institutions are rarely implicated in such offences. Small and medium-sized credit institutions are not, therefore, suitable parties to require to set up systems for preventing and detecting market abuse. In failing to make any distinction, the approach set out in Article 11 of the draft MAR does not take sufficient account of such differences.

4.15 Against this background, consideration should be given to putting in place a market abuse surveillance structure for those professionally arranging or executing transactions in financial instruments, along the lines of the self-regulation under regulatory supervision that exists in the liberal professions. Such a surveillance structure would bring on board the expertise and knowledge of the sector that is necessary for effective professional supervision that ensures quality and trust. If financial market operators are given a self-regulatory task under statutory state supervision, this will above all benefit the consumer and not the interests of market operators, who will be keeping each other in check. Self-regulation breaks down established privileges and creates transparency.

4.16 The exemption clause from the draft MAD for the United Kingdom, Ireland and Denmark (recitals 20-22 of MAD) is at odds with the objective of harmonising rules. Adding to or amending the relevant parts of the draft would thus be in line with the objectives. The United Kingdom has already declared that it will be exercising its right to opt out and – at least initially – will not be taking part in the adoption and

application of the directive. Its main argument is that the draft MAD depends on the results of the proposals on MAR and MiFID currently under discussion and that the impact of these is not clear at present. On the one hand, we consider that this position confirms the concerns outlined above in relation to the legal uncertainty that is likely to arise from the use of imprecise legal concepts and the clause allowing subsequent clarifications. On the other, this approach is questionable given that the objective is to harmonise rules and that London, the biggest financial centre in the EU, is located in the United Kingdom.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1060/2009 on credit rating agencies'

COM(2011) 747 final — 2011/0361 (COD)

(2012/C 181/13)

Rapporteur: **Mr PÁLENÍK**

On 13 December 2011 and 30 November 2011, respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1060/2009 on credit rating agencies

COM(2011) 747 final — 2011/0361 (COD).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March 2012), the European Economic and Social Committee adopted the following opinion by 118 votes to 32 with 15 abstentions.

1. **Conclusions and Recommendations**

1.1 This opinion has been drafted in connection with the adoption of the Commission proposal aimed at eradicating major shortcomings in transparency, independence, conflict of interest, and the quality of procedures used in making ratings and ratings procedures. The EESC welcomes the fact that the proposed regulation seeks to eliminate these problems, but thinks that the Commission's reaction to the situation that has arisen is tardy and does not go far enough.

1.2 Credit rating agencies play an important role in the global financial markets because many market participants use their ratings. They thus have a substantial influence on the making of informed investment and financial decisions. For this reason, it is essential that credit rating be carried out in accordance with the principles of integrity, transparency, responsibility and good governance, to which the current regulation on credit rating agencies already makes a significant contribution.

1.3 In the view of the EESC, markets are not themselves capable of self-regulation, so it is essential to introduce the most stringent rules possible, matched by commensurate implementation and scrutiny. However, the proposal gives no clear indication of how regulation is to be implemented. In addition, the EESC very much doubts that the hoped-for results can be achieved simply by tightening up the rules, which would serve rather to reduce the responsibility of the various monitoring bodies even further. These bodies should, on the contrary, be more involved in evaluating the ratings issued by agencies.

1.4 The EESC takes the view that the European dimension as set out in the proposed regulation needs to be buttressed as far as possible by negotiations at G20 level with a view to these countries implementing similar rules to ensure consistency worldwide.

1.5 To secure a broader range of credit ratings, the proposal establishes a mandatory rotation of the agencies providing them. However, the EESC questions whether bringing in this rule will indeed produce the desired outcome.

1.6 In the Committee's view, one of the fundamental problems is the credibility of the ratings provided by the agencies, most of which are based in the USA and are exposed to multiple conflicts of interest. This is why the EESC calls on the Commission to set up an independent European rating agency which can rate sovereign debt with a view to the common interest. Rating agencies have a history of failing to foresee developments and this, too, has dented their credibility. Despite clear signs from the market and from economic trends, they lacked the ability or the will to indentify investments risks in time and failed, in many instances, in performing their essential function.

1.7 Precisely because they are unable to forecast future developments properly and, above all, because there is something of the self-fulfilling prophecy about credit ratings, the inadequate transparency of the methods agencies use in making their ratings has to be examined more closely.

1.8 The EESC has grave doubts about the independence of the ratings delivered, especially because of the 'issuer pays' mechanism. Indeed, it is convinced of their partial lack of independence. Clearly, the issuer has every interest in securing the highest possible rating and this raises doubts about the independence of the rating given, which often covers up an act of speculation in reaction to an announcement effect.

1.9 It is absolutely vital that all the points addressed in the proposal are actually taken up and acted upon. It must be ensured that they really are respected at both EU level and nationally. In the Committee's view, ESMA will have to be given the necessary means to ensure such compliance.

1.10 In this context, the EESC welcomes the changes to rating agencies' civil liability and urges the Commission to improve actual protection of consumers of financial products, setting up effective avenues of redress that enable them to exercise their rights and obtain compensation, without prejudice to any penalties imposed on the agency by the supervisory body.

1.11 Conflict of interest remains a fundamental problem and the proposal contains a number of measures to address it. However, the EESC stresses once again that these are not enough to secure the intended goal. The reason for this is the 'issuer pays' model, especially when it comes to issuing requested ratings and country ratings. Negative sovereign debt ratings and outlooks benefit buyers of the bonds issued, in the form of higher interest rates and risk premiums. In some cases, those buyers may be the same entities as the issuers that pay credit rating agencies for rating their financial instruments, which could create possible conflicts of interest.

1.12 The EESC welcomes not just the endeavour to put paid to a number of problems (transparency, conflict of interest, independence and competition) and tighten up scrutiny of how ratings agencies (key players in financial markets) operate, but also the fact that the 2011 regulation also takes on some other important issues, especially the creation of a European framework for monitoring rating agencies ([1]).

1.13 The EESC considers, however, that credit rating agencies are a political rather than simply a legal issue. Consequently, the best way to protect sovereign debt from the – often pernicious – effects of agency ratings is not only to have better and limited rules, but also:

— to prohibit them from issuing sovereign debt ratings;

— to broaden the remit of the ECB to match that of all other central banks in the world and so remove its current handicap;

— to improve the current management of euro area sovereign debt (see opinion ECO/307- CESE 474/2012).

2. **Rationale**

2.1 The current, deepening credit crisis is linked to the earlier banking crisis, which was caused by serious failures in the regulation and supervision of financial institutions and to which the European Community reacted swiftly and appropriately by adopting Regulation (EC) No 1060/2009. This new crisis highlights the need for further improvements in the effectiveness of a number of activities in the field of regulation and supervision of financial institutions. Regulation (EC) No 1060/2009 on credit rating agencies lays down strict rules of conduct for these agencies, with the primary goal of mitigating possible conflicts of interest and ensuring the high quality and transparency of ratings and rating processes.

2.2 It must not be forgotten that credit rating agencies are incapable of predicting real future developments, which means they have a downright harmful impact on countries' economies. The catalogue of dubious agencies is long, so here are just a few:

— In 1975 the city of New York received a very favourable rating on the eve of announcing bankruptcy (cessation of payments);

— A little later, Standard and Poor's assured investors that the economy of Orange County (California) was healthy and well managed, despite the fact that USD 2 billion had gone up in smoke thanks to speculation in derivatives. The agency subsequently had to face a number of lawsuits ([2]);

— There were similar cases involving the Long Term Capital Management hedge fund, the Bank of Credit and Commerce International (BCCI), the collapse of US savings banks and the fraudulent collapses of Enron, Worldcom, Tyco etc. and Lehman Brothers ([3]);

— Before the financial crisis, agencies were giving even the most suspect (subprime) mortgage derivatives a rating of AAA, which convinced investors – including pensions funds – to buy them in bulk ([4]);

— Before the financial crisis erupted in 2008, rating agencies unanimously awarded the best rating to banks and funds that owned the most worthless – speculator conceived – securities, as in the case of the US insurance company AIG ([5]);

— In December 2009, for example, Standard and Poor's gave Greek debt a rating of A- – the same as Estonia, which was preparing to enter the euro area at the time ([6]).

([1]) EESC opinion on Credit Rating Agencies, OJ C 54, 19.2.2011 p. 37.

([2]) Ibrahim Warde, 'Ces puissantes officines qui notent les Etats', Le Monde diplomatique, February 1997.

([3]) Marc Roche, 'Le capitalisme hors la loi', Éditions Albin Michel 2011, p. 70.

([4]) Joseph E. Stiglitz, 'Le triomphe de la cupidité', Les lines qui libèrent 2010, p. 166.

([5]) Hervé Kempf, 'L'oligarchie ça suffit, vive la démocratie', Éditions du Seuil, Paris 2011, p. 72.

([6]) Idem.

2.3 Now, when the whole of Europe is languishing in a debt crisis and some countries are teetering on the edge of bankruptcy, it will be extremely important for the Commission to do everything in its power to nurture the resurgence of the economy. The present proposal is an instrument well suited to stiffening this endeavour, but it needs to be more ambitious.

2.4 It is wanting in its approach to sovereign debt ratings – not to mention that the point of these ratings is itself questionable, since countries with the same rating still end up paying different interest rates. Also stemming from this is the question – still up in the air – of the political value of these agency ratings.

2.5 In its consultation paper ([7]), which was the outcome of a public consultation exercise during the course of 2010, the European Commission set out options for resolving problems related to excessive reliance on ratings by market participants and drew attention to the need to introduce independent assessment of credit risks by investment firms, support for greater competition in the credit rating market, the introduction of civil liability for credit rating agencies and the options for resolving the potential conflicts of interest resulting from use of the 'issuer pays' model.

2.6 A number of respondents to the public consultation organised by the European Commission between 5 November 2010 and 7 January 2011 expressed concern over excessive or even mechanical reliance on credit ratings and also supported a gradual reduction of references to credit ratings in legislation. At the same time, they highlighted the fact that finding suitable instruments with which to replace them would be an important part of the search for an appropriate solution.

2.7 The European Parliament, which issued a non-legislative resolution on credit rating agencies on 8 June 2011, also endorsed the need to improve the regulatory framework for credit rating agencies and to adopt suitable measures to reduce excessive reliance on credit ratings ([8]).

2.8 The European Council of 23 October 2011 ([9]) concluded that strengthening financial regulation remained a key priority for the EU and welcomed the fact that much had been achieved since 2008 with the reform of the regulatory and supervisory framework, but called for efforts to be maintained to identify and address the weaknesses of the financial system to prevent future crises.

2.9 At the international level, the Financial Stability Board (FSB) issued in October 2010 principles to reduce authorities' and financial institutions' reliance on CRA ratings ([10]). Endorsed by the G20 Seoul Summit in November 2010, these principles call for removing or replacing references to such ratings in legislation where suitable alternative standards of creditworthiness are available and for requiring investors to make their own assessments of creditworthiness.

2.10 For these reasons, Regulation (EC) No 1060/2009 on credit rating agencies needed to be amended, particularly in order to reduce the potential risks associated with excessive reliance by market participants on credit ratings, the high degree of concentration on the credit rating market, the establishment of civil liability of rating agencies vis-à-vis investors, conflicts of interests relating to the 'issuer pays' model and the shareholder structure of credit rating agencies.

3. Gist of the amendments to Regulation (EC) No 1060/2009

3.1 *Extension of the scope of application of the regulation to cover rating outlooks*

3.1.1 The Commission proposal extends the scope of the rules on credit ratings to cover, where appropriate, 'rating outlooks'. The importance of rating outlooks for investors and issuers, and their impact on the market, is comparable to the importance and effects of credit ratings and credit rating agencies are therefore required, in particular, to disclose the time horizon within which a change of credit rating is expected.

3.2 *Amendments in relation to the use of credit ratings*

3.2.1 The proposal for a regulation on credit rating agencies also adds a provision obliging certain financial institutions to carry out their own credit risk assessment, with the aim of reducing excessive or even mechanical reliance solely on external credit ratings for assessing the creditworthiness of assets.

3.3 *Amendments in relation to the independence of credit rating agencies*

3.3.1 The independence of credit rating agencies under the current 'issuer pays' model needs to be strengthened in such a way as to increase the level of credibility of credit ratings.

3.3.2 One respect in which independence is strengthened, by eliminating conflicts of interest, is the rule that any shareholder or member of a credit rating agency who holds a participation of at least 5 % in that agency may not hold a participation of 5 % or more in any other credit rating agency, unless the agencies concerned are members of the same group.

3.3.3 A rotation rule is introduced for credit rating agencies engaged by the issuer to rate either the issuer itself or its debt instruments. The outgoing credit rating agency is also required to hand over all documents containing relevant information to the incoming rating agency.

([7]) http://ec.europa.eu/internal_market/securities/docs/agencies/summary-responses-cra-consultation-20110704_en.pdf.
([8]) http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2010/2302.
([9]) http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/125496.pdf.
([10]) http://www.financialstabilityboard.org/publications/r_101027.pdf.

3.3.4 At the same time, the rule on internal rotation of staff is adjusted in order to prevent analysts from moving to another credit rating agency with a client file.

3.3.5 A credit rating agency should not issue credit ratings where there are conflicts of interest created by the involvement of individuals who hold more than 10 % of the capital or voting rights in the agency or who hold another important position.

3.3.6 Individuals holding more than 5 % of the capital or voting rights in the credit rating agency and individuals who hold other important positions should not be allowed to provide consultancy or advisory services to the rated entity.

3.4 *Amendments in relation to the disclosure of information on methodologies of credit rating agencies, credit ratings and rating outlooks*

3.4.1 Procedures are proposed for the preparation of new rating methodologies or the modification of existing ones, and consultation of stakeholders must also be integrated into that process. As the competent authority, ESMA will assess the compliance of proposed new methodologies with existing requirements, and the use of those methodologies will only be allowed once they have been approved by ESMA.

3.4.2 If errors are found in the methodologies, the credit rating agencies should have an obligation to remove the errors and to inform ESMA, the rated entities and the public generally of those errors.

3.4.3 The issuer will have to be informed of the main reasons for the assessment at least one full working day before publication of a rating or rating outlook, to give it an opportunity to detect possible errors in the rating assessment.

3.4.4 Credit rating agencies should disclose information about all entities or debt instruments submitted to them for their initial review or for preliminary rating.

3.5 *Amendments in relation to sovereign ratings*

3.5.1 In an effort to improve the quality of sovereign credit ratings, the rules relating to those ratings will be strengthened and their frequency of assessment will be increased to at least once every six months.

3.5.2 In order to increase transparency and raise the level of understanding among users, credit rating agencies should be obliged to publish a full research report when issuing and amending sovereign ratings.

3.5.3 Credit rating agencies will also provide disaggregated data on their turnover, including data on the fees generated per different asset classes. This information should allow an assessment to be made of the extent to which credit rating agencies use their resources to issue sovereign ratings.

3.6 *Amendments in relation to the comparability of credit ratings and fees for credit ratings*

3.6.1 All credit rating agencies will be obliged to communicate their ratings to ESMA, which will publish the available ratings for debt instruments in the form of a European Rating Index (EURIX).

3.6.2 ESMA will be able to develop draft technical standards for the Commission on a harmonised rating scale. All ratings will follow the same scale standards, ensuring easier comparability of ratings.

3.6.3 Fees for the provision of rating assessments should be non-discriminatory and unconditional, that is to say taking account of actual costs and transparent pricing, and should not depend on the result of the assessment. Credit rating agencies should provide an annual list of fees charged to clients for individual services.

3.6.4 ESMA should also carry out monitoring activities regarding market concentration, the risks arising from concentration and the impact on the overall stability of the financial sector.

3.7 *Amendments in relation to the civil liability of credit rating agencies vis-à-vis investors*

3.7.1 In the new provisions, the Commission proposes to make it possible to bring a claim for damages caused by breach, intentionally or with gross negligence, of the obligations arising from the regulation on credit rating agencies, where that breach has affected a credit rating on which the investor has relied.

3.8 *Other amendments*

3.8.1 On certain points related to credit rating agencies, the regulation is extended as appropriate to cover ‘certified’ rating agencies established in third countries.

4. **General comments**

4.1 The Commission proposal makes appropriate amendments to the current Regulation of the European Parliament and of the Council (EC) No 1060/2009, particularly in relation to excessive reliance by market participants on credit ratings, the high degree of concentration on the credit rating market, civil liability of credit rating agencies vis-à-vis investors, conflicts of interests with regard to the ‘issuer pays’ model and the shareholder structure of credit rating agencies. However, the Committee notes that the regulation lacks detail in places, and some parts are vague. It trusts that, where possible and desirable, the final version of the regulation will be more specific, clearer and less ambiguous.

4.2 The EESC is doubtful about the real trustworthiness in future of self-compiled credit assessments and consequent reliance on them. This is because, as things stand, the most trusted ratings are those established by agencies based outside the EU. If financial institutions continue to rely on their ratings, the proposed regulation is doomed to fail. At the same time, how the Commission intends to compel such assessments to be made remains a moot point.

4.3 The same is true of the proposed rotation rule: even if this rule were to give rise to a new agency to broaden the range of opinion, this new agency can itself be expected to be influenced by the views of established agencies and the anticipated diversity of opinion will thus fail to materialise.

4.4 The EESC has very serious doubts about the independence of the ratings provided, especially because of the 'issuer pays' mechanism, including in the case of country ratings, which influence the interest rates that sovereign countries pay to financial institutions and other buyers of their debt. The EESC proposes, therefore, that the Commission set about tackling the workings of the financial markets as a whole and their more stringent regulation.

4.5 The EESC supports scrutiny of how individual analysts are remunerated and the disassociation of this remuneration from the results of the rating. However, it is not clear here what tangible steps ESMA would like to take to monitor compliance with this proposal. The Committee therefore proposes that this matter be explored in greater detail.

5. **Specific comments**

5.1 The EESC reiterates the observation that compliance must be ensured with the legal framework laid down, particularly by establishing penalties for directors and managers of the European and international market supervision authorities who fail to meet their obligations, given the harm that such failure causes to banks and to the proper functioning of the financial system, as well as to the economy, businesses and individuals.

5.2 The EESC welcomes the increased effort to protect consumers of financial products by introducing civil liability of credit rating agencies, in respect of which the European Parliament and the Council have taken into account a previous EESC opinion ([11]). It believes, however, that that part should be worked out in more detail and be far clearer. It should also be clearly linked with sanctions that ESMA can impose.

5.3 The EESC has some doubt about the endeavour in the regulation to generate more competition on the credit rating market by introducing a harmonised rating scale. Nevertheless, it supports the move to the extent that it makes for better comparability of ratings.

5.4 The EESC thinks that, in attempting to improve quality, transparency, independence, plurality of views and competition in the provision of ratings, the Commission needs to set up an independent European rating agency that would issue independent sovereign debt ratings, in order to protect the common interest.

5.5 The EESC agrees with the need to restrict ownership of rating agencies to ensure they are seen to be independent, but would prefer some guarantee of their absolute independence. At the same time, it must be ensured that no investor owns – even indirectly – more than a certain percentage of the agency's capital.

5.6 The EESC fears that even providing for financial market participants to compile their own ratings and reducing reliance on external ratings will not guarantee the objectivity of decisions taken by financial market participants or a broader range of opinion. At the same time, the Committee harbours doubts about whether smaller financial institutions have the wherewithal to set up analysis units to perform these ratings.

5.7 The EESC is somewhat apprehensive regarding the application of civil law liability to rating agencies, since these agencies have on many occasions issued mistaken ratings without so far having to take responsibility – except in a very few instances – for their errors. The EESC is not convinced, therefore, that the proposed regulation will be able to change this. At the same time, the EESC thinks that it would be appropriate to strengthen civil liability, in the most coherent and effective way possible, for institutions using ratings in providing certain services, such as the liability of banks when providing investment advice.

5.8 There must be a focus, in the Committee's view, on revising the monitoring of rating agencies, which at present is not extensive enough and should be made systematic, coherent and as extensive as possible.

5.9 The EESC believes that the proposed conflict of interest rules are essential, but finds the proposal too vague on the relevant points. They need to be fleshed out in greater detail, especially when it comes to defining the obligations of the various institutions monitoring compliance.

5.10 The EESC comes to the same conclusion on the technical aspects and the way that the European Rating Index (EURIX) is actually defined, also querying here whether such an index can actually supply any additional information.

5.11 The proposal makes reference to country credit ratings, but no precise definition is given of what is meant by 'country'. This matters because the financial situation of a country is also influenced by its social and health insurance funds, which are connected, directly or indirectly, with the national budget. The public has a right to know whether coverage of their health or social needs is being jeopardised.

5.12 Country ratings must be very carefully defined, since they influence many aspects of how a country operates on the financial markets. The Commission needs to pay greater heed, therefore, to sovereign debt ratings and come up with a more detailed response.

([11]) EESC opinion on Credit Rating Agencies, OJ C 54, 19.2.2011 p. 37.

5.13 One of the prime unresolved issues remains the lack of independence of credit rating agencies, resulting in particular from the use of the 'issuer pays' model, which makes ratings appear to benefit the issuer rather than serve the needs to the investor. The EESC thinks that the introduction of a rotation rule will not be a sufficient regulatory measure to make inroads on the 'issuer pays' principle. It therefore proposes considering some other means of restricting the opportunities for issuers to choose a rating agency for their own ends.

5.14 In the EESC's view, the rotation rule as proposed does not go far enough to meet the expectations its introduction would encourage, especially regarding the creation of enough new market opportunities. For this reason, the Committee thinks that the regulation should stipulate shorter periods during which the issuer may use the services of the same rating agency or longer periods during which it may not. Another possible solution is for rating agencies to be chosen by draw. The EESC also proposes that the word 'consecutive' be removed from the phrase 'ten consecutive rated debt instruments' in the relevant articles.

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

APPENDIX

to the Committee opinion

The following section opinion text was rejected by the assembly in favour of an amendment, but obtained more than one-quarter of the votes.

Point 5.4

5.4 The EESC thinks that, in attempting to improve quality, transparency, independence, plurality of views and competition in the provision of ratings, the Commission needs to set up an independent European rating agency that would issue independent ratings (for which the issuer would pay), but would not issue sovereign ratings, thus sidestepping any accusation of conflict of interest.

This text of the section opinion was rejected by 78 votes against to 55 votes in favour, with 13 abstentions.

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on a Common European Sales Law'

COM(2011) 635 final — 2011/0284 (COD)

and the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Common European Sales Law to facilitate cross-border transactions in the single market'

COM(2011) 636 final

(2012/C 181/14)

Rapporteur: **Ms BONTEA**

On 11 October 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Common European Sales Law to facilitate cross-border transactions in the single market

COM(2011) 636 final.

On 16 November 2011 and 25 October 2011 respectively, the Council and 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 Regulation of the European Parliament and of the Council on a Common European Sales Law

COM(2011) 635 final — 2011/0284 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 87 votes to 54 with seven abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the Commission's intentions to facilitate the expansion of cross-border trade for businesses (especially SMEs), encourage cross-border purchases by consumers and consolidate the advantages of the internal market.

1.2 With regard to the **form** of the Common European Sales Law (regulation) and the **option chosen** (an optional 'second regime'), the Committee is pleased that its previous proposals have been taken on board. However, as expressed in its previous opinion, considers that 'these objectives should be achieved incrementally, starting with cross-border commercial sales contracts for goods (B2B) on a pilot basis, as a useful means of putting the coexistence of the regimes to the test and monitoring how they are applied in practice' [1].

1.3 The Committee stresses that the Common European Sales Law must comply fully with the **principles of subsidiarity and proportionality**.

1.4 With regard to the **content**, the Committee considers that the proposal for a regulation needs a number of important improvements in order to:

— facilitate transactions throughout the EU, make a powerful contribution to supporting economic activity in the single market and to further tap its potential;

— deliver genuine European added value, in terms of costs and advantages for economic operators and consumers;

— offer substantial advantages as regards better lawmaking and a simplified, understandable and user-friendly regulatory environment;

— cut the costs involved in cross-border transactions;

— ensure legal certainty and increased consistency between horizontal and vertical rules;

— guarantee that SMEs and consumers will benefit in practical terms from the new rules.

[1] OJ C 84, 17.3.2011, p. 1.

1.5 Dividing up the Common European Sales Law, with the rules on contracts between businesses (B2B) and the rules on contracts with consumers set out in two separate documents, and setting clear timeframes for each, will make it easier for businesses and consumers to find out about and apply the new rules.

1.6 The Committee attaches great importance to the optional nature of the new rules and to guaranteeing freedom to negotiate as regards acceptance of the Common European Sales Law.

1.7 The Committee highlights the following key issues:

— there are major difficulties in the implementation of the Common European Sales Law;

— greater allowance must be made for the specific characteristics of SMEs;

— European model contracts, designed for specific areas of trade or sectors of activity, containing standard terms and conditions and available in all the official languages of the EU, must be drawn up in consultation with employer, SME and consumer organisations. They would be very useful tools in business-to-business and business-to-consumer relationships and should be made available simultaneously with the publication of the Regulation;

— stronger legal certainty must be guaranteed and the content of the Common European Sales Law improved;

— in accordance with Articles 12 and 169 of the Treaty, consumer and SME protection requirements must be taken into consideration when designing and applying all EU policies and adopted measures.

1.8 The Committee points out that simply adopting the Common European Sales Law is not enough in itself to ensure the expansion of cross-border trade for businesses and cross-border purchases for consumers, and calls on the Commission and the Member States to continue their efforts to tap the single market's full potential for economic growth and job creation.

1.9 The Committee draws attention to the importance of the accompanying measures to ensure that the parties that might apply the Common European Sales Law, if finally adopted, find out about how to apply the law effectively and interpret it uniformly.

1.10 The consumer organisations highlight that the proposal as it stands should not be used in consumer transactions.

The SME and employers organisations highlight that, provided that a number of modifications and accompanying measures are undertaken, the proposal can be used in consumer transactions.

The proposals put forward by SME and consumer organisations still diverge on many points. Finding the best solution, which will be universally acceptable, is a complex and difficult process.

1.11 The Committee calls on the Commission, the Council and the Parliament to take these aspects into consideration when shaping the Common European Sales Law or any other initiative intended to regulate consumer rights in the EU, and to continue the dialogue with SME and consumer organisations, so that the Common European Sales Law caters more effectively for the needs of beneficiaries in order to make a powerful contribution to facilitating transactions in the EU.

2. **Background**

2.1 *The current legal framework*

2.1.1 The current legal framework in the EU is characterised by differences in the national legal systems and contract laws of the 27 Member States.

2.1.2 EU legislation contains a number of common rules especially in the area of business-to-consumer contracts, which harmonise substantive consumer contract law. The recently adopted Directive 2011/83/EU on consumer rights [2] has fully harmonised key elements of distance contracts such as pre-contractual information, formal requirements, right of withdrawal, passing of risk and delivery, leaving under minimum harmonisation only legal guarantees and unfair contract terms.

2.1.3 Articles 12, 38, 164, 168 and 169(4) of the Treaty guarantee the primacy of national rules, where these are more advantageous for consumers.

2.2 *Difficulties for traders and consumers*

2.2.1 Currently, only one in ten EU traders exports within the single market and the majority of those who do only export to a small number of Member States. Only 8 % of consumers have purchased goods and services on the internet from another Member State. The potential of the internal market and cross-border electronic trade is still under-exploited.

2.2.2 Barriers are created *inter alia* by differences in tax regulations, administrative requirements, difficulties in delivery, different language and culture, low level of broadband penetration, data protection requirements, design, territorial limitations of intellectual property, payment facilities and differences in the legal framework. The Commission's data drawn from other research reveals that in business-to-consumer transactions one of the main obstacles preventing consumers from buying abroad is the lack of effective means of redress. 62 % of consumers did not buy online across a border because they were afraid of fraud, 59 % did not know what to do if problems arose, 49 % were worried about delivery and 44 % were uncertain about their consumer rights [3].

Traders, particularly SMEs, are being faced with such problems as:

— finding out about the provisions of foreign contract law;

[2] OJ L 304, 22.11.2011, p. 64.

[3] Consumer Market Scoreboard, 5th Edition, March 2011.

— increased legal complexity in cross-border trade, compared to domestic trade;

— high additional transaction costs.

2.2.3 Barriers to cross-border trade have substantial negative effects on businesses and consumers.

3. **The Commission proposal**

3.1 The Commission communication ([4]) sets out the decision to present a proposal for a regulation ([5]) establishing a Common European Sales Law, with the declared aim of improving the functioning of the internal market by facilitating the expansion of cross-border trade.

3.2 The Commission proposal is:

a) in terms of the **instrument chosen**:

— an **alternative** set of contract law rules, identical in every Member State and applicable throughout the EU, which will co-exist with existing national legislation in the area of contract law;

— an **optional** framework, chosen by the parties. The consumer must complete an explicit declaration in which he/she agrees to apply the Common European Sales Law; this declaration is distinct from that in which the consumer expresses his/her agreement to conclude the contract.

b) in terms of the **form**: as a Regulation, the Common European Sales Law will be generally and directly applicable.

c) in terms of the **content**:

a comprehensive (183 articles) but non-exhaustive set of contract law rules, covering:

— the general principles of contract law;

— the parties' right to receive essential pre-contractual information, rules on how agreements are concluded, consumers' right to withdraw and the avoidance of contracts;

— how contract terms need to be interpreted, rules on the content and effects of contracts as well as contract terms presumed to be unfair;

— obligations and remedies of the parties;

— supplementary common rules on damages for loss, interest for late payment;

— restitution and prescription.

Certain aspects continue to be governed by applicable national legislation, on the basis of Regulation 593/2008 ([6]) (Rome I Regulation).

3.3 The Common European Sales Law focuses on contracts which are most relevant to cross-border trade (sales contracts between businesses and consumers or between businesses when at least one party is an SME, including contracts for the supply of digital content or related services).

3.4 The Common European Sales Law is limited to cross-border contracts (with the possibility for Member States to extend it).

4. **General comments**

4.1 The Committee welcomes the Commission's intentions to facilitate the expansion of cross-border trade for businesses (especially SMEs), encourage cross-border purchases by consumers and consolidate the advantages of the internal market.

4.2 The Committee stresses that the Common European Sales Law must comply fully with the **principles of subsidiarity and proportionality**.

4.3 With regard to the **form** (regulation) **and option** chosen ('second regime' in every Member State, which is optional and may be applied subject to explicit agreement by the parties), as previously expressed in the Committee's aforementioned opinion, 'these objectives should be achieved incrementally, starting with cross-border commercial sales contracts for goods (B2B) on a pilot basis'.

4.4 With regard to the **content**, the Committee considers that the proposal for a regulation needs a number of important improvements in order to:

— facilitate transactions throughout the EU, make a powerful contribution to supporting economic activity in the single market and to further tap its potential;

— deliver genuine European added value, in terms of costs and advantages for economic operators and consumers;

— offer substantial advantages as regards better lawmaking and a simplified, understandable and user-friendly regulatory environment;

— cut the costs involved in cross-border transactions;

— ensure legal certainty and increased consistency between horizontal and vertical rules, with special focus on transparency, clarity and simplicity. This will benefit not only legal specialists but also and especially small businesses and consumers;

— guarantee that SMEs and consumers will benefit in practical terms from the new rules.

([4]) COM(2011) 636 final.
([5]) COM(2011) 635 final.
([6]) OJ L 177, 4.7.2008, p. 6.

4.5 Previously, the Committee has stressed that 'these objectives should be achieved incrementally, starting with cross-border commercial sales contracts for goods (B2B) on a pilot basis, as a useful means of putting the coexistence of the regimes to the test and monitoring how they are applied in practice' ([7]).

Dividing up the Common European Sales Law, with the rules on contracts between businesses and the rules on contracts with consumers set out in two separate documents, and setting clear timeframes for each, will make it easier for legislators to decide which legislative technique should apply to each set of rules taking into account the bargaining power of the parties.

4.6 The current content of the Common European Sales Law has led to considerable dissatisfaction and criticism on the part of SME and consumer organisations that have questioned the factual need for an optional instrument to boost e-commerce and the legislative technique (optional regime) used in the field of business-to-consumer contracts.

4.7 The Committee calls on the Commission, the Council and the Parliament to take these aspects into consideration when shaping the Common European Sales Law, and to continue the dialogue with SME and consumer organisations, so that the Common European Sales Law caters more effectively for the needs of beneficiaries.

4.8 The Committee attaches great importance to the optional nature of the new rules and to guaranteeing freedom to negotiate as regards acceptance of the Common European Sales Law.

4.9 As regards big companies or companies in a dominant market position, the Committee recommends identifying the most appropriate accompanying measures which will make it easier for SMEs to exercise the free right to choose between the two regimes, in accordance with the optional nature of the Common European Sales Law.

4.10 In accordance with Articles 12 and 169 of the Treaty, consumer and SME protection requirements must be taken into consideration when designing and applying all EU policies and adopted measures.

4.11 The Committee points to major difficulties in applying the Common European Sales Law:

— the inter-relation between the optional instrument and European private international law, including overriding national mandatory provisions and public policy rules (Article 9 and 21 respectively, Regulation 593/2008), must be clarified;

— the role of the Rome I Regulation in the case of business-to-consumer contracts should be clarified explicitly taking into account the recent judgements of the Court of Justice of the European Union giving guidance in this respect;

— stronger legal certainty must be guaranteed and a complete set of contract law rules, which does not refer to the different domestic laws of the 27 Member States and which does not pose difficulties in terms of interpretation and application, must be drawn up.

4.12 The Committee points out that simply adopting the Common European Sales Law is not enough in itself to ensure the expansion of cross-border trade and to fully tap the single market's potential for economic growth and job creation.

4.13 In the context of the economic and financial crisis, every effort must be made to establish a framework able to drive exports and eliminate administrative costs; on the consumer side, it is important to boost consumer confidence in the internal market and to encourage consumers to make cross-border purchases by providing effective means of individual redress.

4.14 The Committee calls on the Commission and the Member States to continue their efforts to eliminate the remaining barriers to cross-border trade, to promote and support SMEs' export activities and to play an active part in identifying and applying the most appropriate measures enabling businesses and consumers to seize the opportunities offered by the single market. It stresses the importance of cooperation and proper dialogue between authorities and the social partners, including SME and consumer organisations.

4.15 The Committee draws attention to the importance of the **accompanying measures** needed to ensure that the parties subject to the eventual application of the Common European Sales Law, if finally adopted, find out about how to apply the law effectively and interpret it uniformly. By means of the Internal Market Information System (IMI system) and other information channels Member States must inform all stakeholders about the general content of the Common European Sales Law, as well as about the differences between national and EU legislation, including aspects of case law and best practice.

5. **Specific comments**

5.1 *Making greater allowance for the specific characteristics of SMEs*

5.1.1 The Committee considers that the proposal for a regulation should be improved, making more allowance for the specific characteristics of SMEs:

— 99,8 % of businesses are SMEs, 92 % of which are micro-enterprises with an average of two employees ([8]);

([7]) OJ C 84, 17.3.2011, p. 1.

([8]) EUROSTAT.

— microenterprises export to a small number of Member States, after analysing the market in depth;

— the standard business model of a microenterprise does not aim to conclude cross-border contracts in 27 Member States;

— there are major barriers to cross-border transactions by SMEs (set out in point 2.2.2).

5.1.2 The proposal is not sufficiently user-friendly for SMEs. A complex and abstract instrument in the field of contract law, referring in some areas to the different domestic laws of the 27 Member States, cannot be applied by SMEs without support services and legal advice. Tools are imperative and could encourage SMEs to opt for the Common European Sales Law.

5.1.3 SME organisations [9] support the need for a more even balance between the rights and obligations of parties in business-to-consumer contracts, calling for clarification and simplification:

— Article 23 (paragraph 1 on the duty to disclose information about goods and related services is too vague);

— Article 29 (sanctions are too extensive and uncertain);

— Article 39 (the terms of the offerer should prevail);

— Article 42(1)(a) (Withdrawal period) (the provisions of the Consumer Rights Directive should be taken over);

— Article 51 (urgent needs, being 'improvident', 'ignorant' or 'inexperienced' should not be a justification - the duty of 'good faith and fair dealing' is covering these situations envisaged in this article);

— Article 72 (in long negotiation processes parties should be able to contain all agreements in one contract, otherwise it means too much administrative – cost and time related – burdens for SMEs);

— Article 78 (in paragraph 1 has to be clarified that the consent of the other party should be asked as well, if any right is going to be conferred on third party;

— With respect to article 78(4) on the rejection of the conferred right to and by the third party, the words 'impliedly accepted' must be deleted. It makes the situation unsecure);

— Article 97 (the obligations on the parties have to be brought in balance);

— Article 130(3) and (5) (responsible custody by the buyer is missing);

— Article 142(4) (adding the 'first' carrier);

— Article 159(1) (more clarifications is needed);

5.1.4 The Common European Sales Law must ensure that the 'think small first' and proportionality principles are applied to their full extent at every stage, cutting red tape and needless expenses for SMEs. The Committee stresses that it is essential to keep regulatory costs at a minimum for SMEs, and calls on the Commission, the Council and the Parliament to take this aspect into consideration when shaping the Common European Sales Law.

5.2 *Consumer protection*

5.2.1 The Committee once again highlights the importance of ensuring legal certainty 'based on the most advanced forms of protection for individual citizens and companies', without preventing "any Member State from maintaining or introducing more stringent protective measures for consumers [10] and calls for 'an "instrumental" single market that benefits citizens/consumers' [11].

5.2.2 The content of the Common European Sales Law has led to dissatisfaction and criticism on the part of many consumer organisations (focusing on the low level of consumer protection in relation to Article 169(4) of the Treaty, the fact that the Common European Sales Law will be applied without really listening to the views of consumers, etc.) who would prefer that business-to-consumer contracts be excluded from the scope of the Common European Sales Law.

5.2.3 There are many examples which show that the proposal does not provide for the highest level of consumer protection:

— Article 5 (objectivity of reasonableness);

— Article 13(1) (exact meaning of 'clear and comprehensible manner');

— Article 13(3)(c) (absence of definition of 'durable medium');

— Article 19(5) (absence of definition of 'reasonable time');

— Article 20(2) (exact meaning of 'day to day transaction');

— Article 28(1) (exact meaning of 'reasonable care');

(9) UEAPME's position papers:
http://www.ueapme.com/IMG/pdf/120119_pp_General_Remarks_CESL.pdf
http://www.ueapme.com/IMG/pdf/120119_pp_Specific_Remarks_CESL.pdf

(10) OJ C 84, 17.3.2011, p. 1.

(11) OJ C 132, 3.5.2011, p. 3.

— Article 30(1)(c) (lack of definition of 'sufficient content and certainty');

— Article 42(2) (the sanction for not providing information should be to consider the contract null and void);

— Article 45 (the consumer should never bear the costs of returning goods);

— Article 52(2) (periods should be at least one year in the case of (a) and 2 years in (b);

— Article 53 (confirmation should never be implicit);

— Article 71 (drafting should be clarified);

— Article 74 (meaning of 'grossly unreasonable');

— Article 79(1) (there is no definition of the nature of the vice which leads to the 'non binding' effect);

— Article 79(2) (the directive does not consider the difference between essential and non essential elements of a contract);

— Article 82 (the directive omits the rules on the communication of clauses, information duties and rules which should be automatically excluded of the contracts irrespective of their unfair content, because they are against 'bona fidei' (good faith);

— Article 84 (the list of black clauses is too short and not in accordance with the most progressive national laws);

— Article 85 (the same applies to the grey list);

— Article 99(3) (provision totally unacceptable); Article 105(2) (the period should be at least 2 years);

— Article 142 (the juridical meaning and nature of the 'physical possession of the goods' is not equivalent to the different translations in different languages; according to different juridical national regimes);

— Article 142(2) (meaning of 'control of digital content');

— Article 167(2) (possibility of the anticipation of notice should be excluded);

— Articles 179 and 180 (the drafting should be clarified).

5.2.4 Special measures are needed to guarantee liability and cross-border follow-up in the event of fraud and scams with a view to boosting consumer confidence, 59 % of consumers citing this as a deterrent to cross-border transactions.

5.3 *Drawing up European model contracts*

5.3.1 The Committee underlines the need to draw up European model contracts which

— are available simultaneously with the publication of the Common European Sales Law and when it becomes effective;

— are designed for specific areas of trade or sectors of activity;

— contain comprehensive standard terms and conditions, which build on the *acquis*, guarantee a very high level of consumer protection in business-to-consumer contracts and freedom of contract in business-to-business contracts, and apply the Small Business Act fully;

— are available in all the official languages of the EU;

— are monitored and reviewed at set intervals, in order to improve the content by building on best practice, doctrine and case law.

The tools are very useful for SMEs wishing to conclude cross-border contracts with consumers.

5.3.2 Involving and cooperating with corporate, SME and consumer organisations when drawing up European model contracts is essential.

5.4 *Guaranteeing stronger legal certainty*

5.4.1 The proposal for a regulation poses problems in terms of establishing the appropriate legal basis, interpretation and application.

5.4.2 In many places, reference is made to domestic law (for example, legal personality, invalidity of a contract arising from lack of capacity, illegality or immorality, the determination of the language of the contract, matters of non-discrimination, representation, plurality of debtors and creditors, change of parties including assignment, set-off and merger, property law including the transfer of ownership, intellectual property law and the law of torts) which will require traders to study the legislative framework and pay for legal advice, as well as increasing legal uncertainty.

5.4.3 There are no mechanisms to ensure that the regulation is applied uniformly throughout the EU. A database of judicial rulings will not constitute a valid legal precedent for national courts which are competent for the interpretation and application of the regulation; with various possible interpretations, legal uncertainty will increase.

5.4.4 Judicial rulings should be monitored, best practice promoted and annual reports drawn up, at least for the first five years following the introduction of the regulation, so that the results can be assessed on an ongoing basis, best practice promoted and the necessary measures taken to facilitate the uniform interpretation of the regulation across the EU.

5.5 *Further comment*

In a time of crisis, it is unlikely that large budgets will be allocated at national level to measures providing information about and promoting the new rules. Point 4 (*Budgetary implication*) of the Explanatory Memorandum should include support measures involving training sessions organised by the Commission for representatives of corporate, SME and consumer organisations who will brief their members on the Common European Sales Law. It should also include support measures helping these organisations to provide advice free of charge on the application of the regulation.

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

APPENDIX

to the Opinion of the European Economic and Social Committee

I. The following points of the section opinion were modified to reflect the amendments adopted by the Assembly although more than one quarter of the votes cast were in favour of their retention in the original form (Rule 54(4) of the Rules of Procedure):

a) **Point 1.2**

1.2 With regard to the ***form*** *of the Common European Sales Law (regulation) and the* **option chosen** *(an optional 'second regime'), the Committee is pleased that its previous proposals have been taken on board. However, as expressed in its previous opinion* ([1])*, considers that the Commission's initiative should start by establishing a 'toolbox' serving as a common frame of reference available to parties drawing up cross-border contracts and could secondly present an optional instrument for cross-border commercial sales contracts for goods (B2B), operating on a pilot basis, as a useful means of putting the coexistence of the regimes to the test and monitoring how they are applied in practice.*

Outcome of the vote on the amendment:

Votes in favour: 93
Votes against: 41
Abstentions: 6

b) **Point 1.7**

1.7 The Committee highlights the following key issues:

— *there are major difficulties in the implementation of the Common European Sales Law;*

— *greater allowance must be made for the specific characteristics of SMEs;*

— *European model contracts, designed for specific areas of trade or sectors of activity, containing standard terms and conditions and available in all the official languages of the EU, must be drawn up in consultation with employer, SME and consumer organisations. They would be very useful tools in business-to-business and business-to-consumer relationships and can be promoted irrespective of whether the Common European Sales Law is made available or not;*

— *stronger legal certainty must be guaranteed and the content of the Common European Sales Law improved;*

— *in accordance with Articles 12 and 169 of the Treaty, consumer and SME protection requirements must be taken into consideration when designing and applying all EU policies and adopted measures.*

Outcome of the vote on the amendment:

Votes in favour: 75
Votes against: 68
Abstentions: 7

c) **Point 1.9**

1.9 The Committee draws attention to the importance of the accompanying measures to ensure that the parties that might apply the Common European Sales Law, if finally adopted, find out about how to apply the law effectively and interpret it uniformly. However, the Committee highlights that the proposal as it stands should not be used in consumer transactions.

Outcome of the vote on the amendment:

Votes in favour: 85
Votes against: 53
Abstentions: 5

d) **Point 4.3**

4.3 With regard to the ***form*** *(regulation)* **and option** *chosen ('second regime' in every Member State, which is optional and may be applied subject to explicit agreement by the parties), as previously expressed in the Committee's aforementioned opinion, the instrument could be limited to purely commercial contracts, leaving aside consumer contracts for the time being.*

([1]) OJ C 84, 17.3.2011, p. 1 (points 1.2 and 1.3).

Outcome of the vote on the amendment:

Votes in favour: 93
Votes against: 41
Abstentions: 6

e) **Point 4.13**

4.13 In the context of the economic and financial crisis, every effort must be made to establish a framework able to drive exports and eliminate administrative costs; on the consumer side, it is important to boost consumer confidence in the internal market and to encourage consumers to make cross-border purchases by providing effective means of individual and collective redress.

Outcome of the vote on the amendment:

Votes in favour: 71
Votes against: 66
Abstentions: 8

f) **Point 5.3.1**

5.3.1 The Committee underlines the need to draw up European model contracts which

— *are available irrespective of whether the Common European Sales Law becomes effective;*

— *are designed for specific areas of trade or sectors of activity;*

— *contain comprehensive standard terms and conditions, which build on the acquis, guarantee a very high level of consumer protection in business-to-consumer contracts and freedom of contract in business-to-business contracts, and apply the Small Business Act fully;*

— *are available in all the official languages of the EU;*

— *are monitored and reviewed at set intervals, in order to improve the content by building on best practice, doctrine and case law.*

The tools are very useful for SMEs wishing to conclude cross-border contracts with consumers.

Outcome of the vote on the amendment:

Votes in favour: 75
Votes against: 68
Abstentions: 7

II. The following point of the section opinion was deleted to reflect the amendment adopted by the Assembly although more than one quarter of the votes cast were in favour of its retention (Rule 54(4) of the Rules of Procedure):

a) **Point 5.4.1**

5.4.1 The Committee underlines that one of the main areas of concern from the consumer perspective in cross-border transactions is the lack of effective means of redress. The Commission's recent proposals for a Directive on Alternative Dispute Resolution and a Regulation on Online Dispute Resolution represent an important step forward, however a European judicial collective redress mechanism is still missing.

Outcome of the vote on the amendment:

Votes in favour: 71
Votes against: 71
Abstentions: 7

Rule 56(6) of the EESC's Rules of Procedure states that if the vote is a tie (an equal number of votes for and against), the chairman of the meeting shall have a casting vote. In accordance with this rule, the chairman decided to support the amendment.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings'

COM(2011) 684 final — 2011/0308 (COD)

(2012/C 181/15)

Rapporteur: **Mr BARROS VALE**

On 15 and 29 November 2011 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee under Article 50(1) of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings

COM(2011) 684 final — 2011/0308 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 125 votes to 2 with 8 abstentions.

1. Summary and conclusions

1.1 Micro-, small and medium-sized enterprises make up a vast proportion of the EU's business fabric, and the EESC consequently welcomes any initiative that might improve the workings of the Single Market and which facilitates and promotes cross-border investment and trade. It is Small and Medium-Sized Enterprises (SMEs) that contribute most to economic growth, job creation and innovation. They are also the most susceptible to changes and developments.

1.2 The simplifications proposed in the current review therefore reflect the aim set out in the Europe 2020 Strategy for sustainable and inclusive growth, the principle of simplification advocated in the Communication on the Single Market Act and the recognition of SMEs' key role in economic development voiced in the Commission communication entitled *Think Small First – A Small Business Act for Europe*.

1.3 The complete harmonisation of size criteria throughout the European Union (EU) is a welcome initiative and should, in the EESC's view, be extended to cover what are known as 'micro-enterprises'. What needs to be promoted, therefore, is simply legislation that provides a framework covering the entire business world. By promoting fairness across the EU, this across-the-board standardisation should emerge as one way of boosting competition.

1.4 It is also worth emphasising the fact that Member States are not allowed to require small businesses to present any information above and beyond what is provided for in the new directive. This is the only means of achieving the goal of simplification that is proposed in this review and of implementing it in a way that benefits everyone, safeguarding the interests of the users of financial information, be they investors, creditors, the State or members of the public.

1.5 The EESC considers that, since the interests referred to above are assured, the simplification and harmonisation proposals should also be applicable for tax purposes; the Member States would then not have to request additional information for tax collection purposes. In addition, banks should be made aware of the changes and the possibility of adapting their methods of analysis to the new rules for financial statements, avoiding the need for additional information to be provided.

1.6 Simplifying financial statements alone cannot be expected to encourage business start-ups and improvements in the business environment. This aim will only be achievable if other measures are adopted at the same time to boost economic growth. Nevertheless, this or any other initiative that helps reduce administrative and opportunity costs or other measures to cut red tape (such as duty of disclosure, obtaining licences and concessions, etc.) is to be welcomed.

1.7 With regard to reducing costs, both human and financial, the simplifications being proposed will undoubtedly free up resources that companies can then use in other areas of their business.

1.8 The importance of small businesses being exempted from mandatory statutory audits, irrespective of whether or not they are limited liability companies, is noted and

welcomed, but the EESC feels that this procedure should be kept mandatory for companies with more than 25 employees. Having to comply with this procedure, which some small businesses are obliged to do, is quite a burden and exemption should be assured for small unlisted companies, regardless of their legal form. This procedure should be optional and the subject of a decision by the partners or shareholders.

1.9 On the other hand, if accounting procedures are carried out electronically and financial statements are drawn up using readily-available accounting software, simplification could initially incur higher costs, due to businesses having to update this software, and these costs will be far from negligible.

1.10 Account should also be taken of the cost-related impact that adapting the form of collecting available information will have on both statistical and tax authorities.

1.11 Most small businesses still view financial statements as nothing more than a legal obligation for the benefit of the tax authorities. While a company's small size might play a large part in shaping this view, as hiring in-house accountants is unfeasible, the main factor remains the lack of training of many SMEs' managers and directors. We would therefore recommend and support continuing and further developing training and awareness-raising schemes to help entrepreneurs interpret the information available, thus potentially avoiding certain mistakes caused by the management approach of 'navigating by sight'. At the same time, it is worth considering the importance of updating the training of technical staff in accounting offices where most of the preparation of small companies' financial statements is concentrated. Training for technical staff on legislative updates should also be encouraged and supported.

1.12 As regards the requirement for companies involved in the extractive industry and in primary forest logging to disclose payments to governments, the EESC welcomes this measure, but calls for it to be extended to other relevant areas. For reasons of transparency, these disclosures should include any concession of public interests to private hands, such as transactions in the fields of the transport network, water, energy and communications, as well as gambling, in which considerable sums are involved and which, apart from gambling, represent the most fundamental public services.

1.13 Some of the provisions in the directive under consideration run counter to the practices laid down in the International Financial Reporting Standards (IFRS), especially unpaid subscribed share capital being included in the balance sheet and the maximum amortisation periods for goodwill. The EESC welcomes the fact that the proposed directive does not provide for the mandatory adoption of the IFRS for SMEs, pending experience with its recent implementation worldwide.

1.14 Discussions are currently taking place on the application of rules for micro-entities that deal with these companies independently. It is important that the regulatory framework for micro-entities is compatible with that now under consideration, so as to avoid the dispersal of information in various documents.

2. **Background to the proposal**

2.1 This proposal for a directive proposes repealing the Fourth Directive 78/660/EEC on the annual accounts of certain types of companies and the Seventh Directive 83/349/EEC on consolidated accounts, replacing them with just one directive on annual financial statements, consolidated financial statements and related reports of certain types of undertakings.

2.2 This review forms part of an extensive set of Commission initiatives to simplify the procedures required of SMEs, in order to reduce the administrative burden on this type of company and to complement the 2009 proposal for a directive on the financial statements of micro-entities. The preparation of financial statements is considered to be one of the most burdensome regulatory obligations for companies, especially smaller ones.

2.3 Reference to the review of the Accounting Directives is made in the Communication on the *Single Market Act - Twelve levers to boost growth and strengthen confidence - 'Working together to create new growth'* as one of the levers to boost growth, emphasising the importance of lessening regulatory requirements for SMEs at both the European and national levels.

2.4 The aims of the review are to reduce and simplify the administrative burden involved in drawing up financial statements, especially for small businesses, to increase the clarity and comparability of financial statements, which is of particular importance to undertakings engaged in cross-border activity, to protect users of financial information and to increase transparency regarding payments to governments by companies involved in the extractive industry and in primary forest logging.

2.5 Consultations were held with stakeholders, including those responsible for drawing up financial statements, users, standardisation bodies and public authorities. An impact assessment was also carried out, and the following conclusions were reached:

2.5.1 With regard to the drawing-up of financial statements and the reason for this being seen as an extremely burdensome task for companies, having an especially marked impact on smaller undertakings, the directives' requirements are amended, creating a 'mini-regime' specific to small companies. This reduces the requirements for information to be attached to accounts, makes statutory auditing more flexible and exempts small groups from the obligation to draw up consolidated financial statements.

2.5.2 The size thresholds for undertakings are harmonised, ensuring equal treatment throughout Europe for companies of the same size.

2.5.3 The number of options available to Member States for the submission of additional information is limited in order to harmonise practices in the EU and increase the comparability of financial statements.

2.5.4 Complementing the Commission's support for the International Extractive Industry Transparency Initiative (EITI), and the commitment made in the final declaration of the Deauville G8 Summit, there is now a requirement for disclosure of payments made by companies to governments, at both the individual and consolidated levels.

2.6 As a means of protecting stakeholders from any reduction in available information, it will now be mandatory to disclose information on guarantees and commitments and on transactions with related parties. This is already a requirement in some countries.

2.7 It is hoped that the simplification of accounting rules for SMEs will help improve the business environment and encourage company start-ups, with the concomitant benefits for job creation. At the same time and given that the savings linked to this simplification would arise from the reduction in fees paid to external accountants or accountancy firms, a marginally negative impact on employment is to be expected: but according to the Commission, the measure will have no impact on overall employment levels.

2.8 The simplification of accounting records for smaller companies is not expected to have the effect of discouraging growth. The higher costs that resizing would entail for a company are not deemed to be a key factor in a company's decision to expand.

3. **Key measures**

3.1 With a view to lessening the administrative burden relating to drawing up financial statements, a specific scheme is introduced for small companies, limiting the obligation to disclose certain information by way of notes to the accounts. The mandatory references will now consist only of: accounting policies; guarantees, commitments, contingencies and arrangements that are not recognised in the balance sheet; post-balance sheet events not recognised in the balance sheet; long-term and secured debts and related party transactions. Although mandatory in some Member States, the majority have provided for exemptions from disclosures for post-balance sheet events and related party transactions. These could result in new obligations for small companies. Nevertheless, including this requirement is deemed to be necessary in order to offset the reduction in the information available and to protect the users of such information.

3.2 Company size thresholds are harmonised into small, medium-sized and large (calculated on the basis of balance sheet total, net turnover, and number of employees), ensuring that classification is standardised across the EU. Thus, companies of the same size in different Member States will be treated equally. Reducing the administrative burden, which is the purpose of this proposal, will thus provide a level playing field for companies of the same size in all Member States.

3.3 Statutory audits will no longer be mandatory for small companies. However, taking into account the size of the companies in question, there generally seems to be no risk involved as regards the transparency required in drawing up accounts. The requirements for independent certification of accounts, including simplified accounts, and transparency in drawing up such accounts or providing information to interested parties, including, specifically, in relation to the social dialogue, must continue to apply to small companies.

3.4 Small groups will be exempt from preparing consolidated financial statements (when the parent company and subsidiaries, on a consolidated basis, do not exceed two of the criteria stipulated).

3.5 The general principles of 'materiality' and the prevalence of 'substance over form' will apply. In conjunction with the fewer options available to the Member States as regards the provision of additional information, this will help to harmonise practices across the EU, making financial statements easier to compare.

3.6 A new procedure is provided for to apply to large companies and public entities involved in the extractive industry and in primary forest logging to disclose payments made to governments.

4. **Comments**

4.1 The impact of the current burden of preparing financial statements is considerable and the EESC therefore supports the Commission's aim of simplification, on the basis of the principle 'think small first'. It is micro-, small, and medium-sized enterprises that are hardest hit by the administrative burden and the opportunity costs involved in preparing financial statements: the impact of these simplifications will therefore be felt by the broad majority of European businesses.

4.2 Nearly 20 years after the creation of the single market, the Commission is now showing a willingness to simplify the procedures with which they have been burdening businesses. The importance of the efforts at simplification is beyond dispute and the goals that underpin them are to be welcomed and supported. However, care must be taken to ensure that the

drive for simplification does not risk being excessive, that the confidence of stakeholders and users of financial information is not undermined, and that the provision of information to these parties is not jeopardised, as appears to be the case with this proposal. Simplification must not give rise to a need to pad out the information contained in financial statements with additional elements to satisfy tax reporting requirements or the requirements of banks. If this were to happen, it would have a pernicious effect, completely run counter to the aims of the proposal and place further cost burdens on businesses, who would be obliged to maintain three different types of information for legal, fiscal and funding purposes.

4.3 As with any new approach, the current proposals will require changes which, while they might not initially enjoy universal support or even have a major economic impact, will inevitably lead to lower costs and the standardisation of the criteria and type of information required throughout the EU. The principle could even have a negative impact in terms of costs for essential elements, such as, namely updating software, training and adapting the collection of tax and statistical data. This will, of course, quickly be offset by the benefits resulting from the changes. Efforts to achieve simplification must therefore be supported and what would help this considerably is accompanying these measures with others, such as promoting training and awareness-raising for entrepreneurs, accountants and users of the information provided by financial statements.

4.4 Of particular relevance to this proposed amendment is the introduction of exemption from statutory audit for small businesses, irrespective of whether or not they are limited liability companies. The EESC does not endorse this exemption for companies with more than 25 employees because certification by an independent accredited body is of significant help to SMEs and provides them with a guarantee in this sphere. Statutory audit plays the societal role of establishing the veracity of financial statements, which is the sine qua non of a society which depends largely on the performance of companies in a market economy. This measure will have a very considerable financial impact on the lives of small unlisted companies, which have been obliged to comply with this procedure simply because of their legal form rather than their size. It makes no sense for a small company which is unlisted, and therefore not obliged to comply with the disclosure and transparency requirements resulting from a stock exchange listing, and with which compliance is essential, to be subject to a costly procedure just because it has chosen to be an entity with legal personality which is obliged to comply with such a procedure because the law requires it. The legal certification of accounts should be for the benefit of the recipients of financial statements and not simply a legal procedure to be blindly followed because a business has a certain legal form. It is up to the partners and shareholders, managers and administrators of small businesses to decide whether or not the accounts should be audited; the Member States should be prevented from imposing this requirement and for this it should not be necessary to amend national legislation on the legal framework of types of companies.

Statutory audit will be able to be required from companies with more than 25 employees,

4.5 As set out in the opinion on the Proposal for a Directive of the European Parliament and of the Council on Directive 78/660/EEC on the annual accounts of certain types of companies, where micro-enterprises are concerned, the EESC welcomes the proposal for simplification as a boost for entrepreneurship and competitiveness, which will assist with the completion of the single market. It is also pleased to note the efforts to achieve standardisation through imposing simplification in all Member States, as was advocated in that document.

4.6 Another innovation worth highlighting, and which will certainly be of great relevance to promoting the single market, is the definition of size criteria and their application in all Member States. This is the only means of ensuring a level playing field throughout the EU for companies of the same size. However, the categories mentioned in Article 3 of the Directive do not include micro-enterprises, which is inconsistent with the definitions used in such matters as state aid, the participation of structural funds and Community programmes. Admittedly, as these entities are considered to be a source of entrepreneurial dynamism and job creation, they are included in Recommendation 2003/361/EC. The current directive must therefore include a definition of micro-enterprises that can be applied, in the same document, to all the enterprise categories commonly used in the EU.

4.7 The draft directive of 2009 relating to micro-enterprises is still being negotiated. This situation of having two documents covering the same subjects seems to make no sense. Such a dispersal of information is a source of confusion and costs for users which must - and in this case can - be avoided. It is therefore important that the regulatory framework for micro-entities be brought into line with the present proposal for a directive, or even be incorporated into it, so as to avoid this dispersal and the need for businesses and technical staff to consult several different documents.

4.8 With regard to the issue of disclosing payments to governments, there might be some resistance to applying this measure to other sectors of public interest or which involve public concessions, as well as to the extractive and forestry industries. The EESC nevertheless argues that this ambition should be pursued, with information made available on links between companies and public sectors in transactions concerning the transport network, water energy and communications, as well as gambling. The introduction of this measure is innovative but it can - and should - go further.

4.9 Some provisions appear to contradict IFRS practices, at a time when most EU countries have already adopted the international standards, although there is no Europe-wide obligation to adopt these rules for SMEs. IFRS are already mandatory for the preparation of the financial statements of listed businesses, and there is a trend towards standardising accounting practices by using these standards, so the present directive should respect

this trend. In this regard, it should be pointed out that there are inconsistencies on two matters: including unpaid subscribed share capital under the heading of share capital in the balance sheet and the writing-off of goodwill within a maximum period of five years. Once all the lessons have been learned from the international implementation of the recent IFRS standards relating to SMEs and provided that correcting these two inconsistencies is not incompatible with the simplification of procedures, it will be important to align the rules applied in the EU with internationally accepted standards.

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on a Consumer Programme 2014-2020'

COM(2011) 707 final — 2011/0340 (COD)

(2012/C 181/16)

Rapporteur: **Ms MADER**

On 30 November and 13 December 2011 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 169 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 a Consumer Programme 2014-2020

COM(2011) 707 final — 2011/0340 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 109 votes to 11 with 8 abstentions.

1. **Summary**

1.1 The Commission has presented its proposal for a regulation on a Consumer Programme 2014-2020, which is part of the follow-up to the Commission communication on 'Europe 2020 – a strategy for smart, sustainable and inclusive growth' and which is aimed at placing the empowered consumer at the centre of the single market.

1.2 The EESC welcomes the fact that the consumer and health programmes are covered by two separate proposals, which should enable each of them to be properly addressed.

1.3 The EESC notes the Commission's stated willingness to place consumers at the centre of EU policies, which is essential in the current context. It considers that insufficient means have been made available for achieving this goal and wonders how it will be implemented effectively.

1.4 The EESC notes the commitment to establishing statistical means for ascertaining market conditions and monitoring their developments against a very tense background in terms of economic, social and environmental questions.

1.5 The Committee notes the intention to set up monitoring benchmarks which are all the more necessary given that the programme covers a long period in relation to the current situation.

1.6 The EESC stresses the need to raise safety standards for products marketed and services provided within the EU. This will require stepping up checks and ensuring cooperation between the competent authorities, which must have the means to impose effective sanctions.

1.7 The Committee backs the measures aimed at improving consumer information and education programmes and capitalising on best practices so as to provide relevant information from independent sources. It draws attention to the need for verifiable, high-quality information that is available to all sectors of society in order to ensure sustainable consumption.

1.8 Independent consumer organisations play an essential role in this respect. The EESC recommends a significant increase in their financial resources, particularly to allow them to acquire the expertise that they need given the broad scope of their activities. Indeed, maintaining economic balance requires them to be in a position to play their role as a counterweight to the full.

1.9 The EESC calls on the Member States to recognise, support and finance national consumer organisations that participate fully in the completion of the internal market.

1.10 The EESC supports the various initiatives proposed for extending alternative dispute resolution arrangements. However, the Committee notes that there is no reference to collective redress, which is an essential means of ensuring compliance with legislation, as it has underlined in various opinions.

2. **Gist of the Commission proposal**

2.1 The proposal aims at establishing a Consumer Programme for the period 2014-2020, as a successor to the 2007-2013 Programme of Community Action in the field of consumer policy. It establishes a financing framework for the EU's actions.

2.2 The regulation is part of the follow-up to the Commission communication 'Europe 2020 – a strategy for smart, sustainable and inclusive growth', which calls for citizens to be empowered to play a full part in the single market.

2.3 The proposal was drafted after an impact assessment study had been carried out among the various stakeholders mid-way through the 2007-2013 Programme of Community Action in the field of consumer policy.

2.4 That assessment highlighted the programme's added value, despite the inadequate funding granted and the fact that new social and environmental challenges were only partially taken into account.

2.5 The programme covering the period 2014-2020 takes account of the various comments made. Actions funded under this programme will have to address issues linked to the economic, social and technical environment, particularly those problems relating to globalisation, digitalisation, the need to move towards more sustainable patterns of consumption, population ageing, social exclusion and the problems of vulnerable consumers.

2.6 The new Consumer Programme will support the general objective of the future consumer policy, which is to place the empowered consumer at the centre of the single market.

2.7 According to the Commission, this objective involves better protection for consumers' health, safety and economic interests, extending their right to information and education and easy access to effective means of redress.

2.8 The Commission proposes to pursue this general objective via four specific objectives:

— to consolidate and enhance product safety through effective market surveillance throughout the EU;

— to improve consumers' education, information and awareness of their rights, to develop the evidence base for consumer policy and to provide support to consumer organisations.

— to consolidate consumer rights, particularly via regulation and improving access to redress;

— to support enforcement of consumer rights, by increasing cooperation between the national enforcement bodies and providing more advice to consumers.

3. **Assessment of the Commission's proposal**

3.1 The EESC shares the programme's goal of placing the empowered consumer at the centre of the single market. It considers, as the Commission rightly emphasises, that high priority should be given to taking consumers' interests into account in all EU policies, since their spending accounts for 56 % of GDP and is essential for stimulating growth.

3.2 The EU institutions and national governments must adopt a consumer policy for the 21st century and accept that consumers are the driving force, as well as being key stakeholders who ensure that the market functions well. A truly competitive market needs well-informed and confident consumers. Empowering or strengthening the position of consumers helps improve the quality of products and services and enables the market economy to operate more effectively.

3.3 The scope of consumer policy should be extended and the EU should aspire to seeking greater competitiveness and innovation for its citizens. Consumer policy should be considered as a priority on the political agenda and be included in all relevant policies and work programmes.

3.4 In this respect, the Committee regrets that the funding granted for the Europe 2020 strategy falls distinctly short of the stated intention. In relation to the 500 million consumers making up the EU-27, the amount allocated per consumer per year stands at 5 euro cents. This amount is even lower than the figure for the 2007-2013 programme, which the Committee estimated in its opinion [1] at 7 euro cents.

3.5 The EESC welcomes the broad outlines set out in the programme in the form of the four specific objectives. This programme follows on directly from the previous programme and contains nothing new, despite the impact of new technologies on market conditions. The Committee feels that the methods described for achieving the stated objectives should be more specific and more detailed.

3.6 The EESC calls on the European Commission to produce a list of all those EU programmes that deal with or contribute to promoting and protecting the interests of consumers in order to incorporate consumer policy into all EU programmes.

3.7 However, the EESC considers it necessary to add a fifth objective to the Commission's proposal, dealing with the representation and participation of consumers. Of course, the EESC welcomes the fact that the Commission programme includes the strengthening of representative capabilities and acknowledgement of support for consumer organisations and their capabilities in terms of expertise. Allowing for better representation of consumers, and strengthening those capabilities, should be a separate objective. In order to ensure that the Commission's promise to put the consumer at the heart of the EU's decision-making is fulfilled, the programme should be amended so as to include a fifth objective.

[1] OJ C 88, 11.4.2006, p. 1.

3.8 Part of the Consumer Programme's budget (for travel expenses, preparatory work and participation in expert groups) should be allocated to that objective in order to allow for better representation of consumers in various expert groups by independent consumer organisations, in cases where consumers' input is needed. Similarly, where necessary, other EU programmes should allocate a specific budget to supporting input from consumers' representative organisations

3.9 The EESC reminds the Commission of the need to put forward an ambitious European Consumer Agenda (announced in the Commission's 2012 work programme for the second quarter of 2012) and to base itself on the principle of empowering consumers in line with the principles underpinning the social market economy and as reflected in the reports adopted by the European Parliament.

3.10 The proposal for a European Consumer Agenda should genuinely seek to empower consumers on the basis of safety, relevant information and education, rights, means of redress and access to justice, together with implementing measures.

3.11 Nevertheless, making European consumers aware of their responsibilities should not result in a transfer of responsibility to consumers. The Consumer Programme should first and foremost create the conditions for a fair and equitable market in which consumers feel confident to purchase at will, wherever they might be. This confidence involves the need to have sufficient impartial information and advice about their rights in order to make informed consumption choices.

3.12 The EESC underlines the importance of matching the timeframes of the European Consumer Agenda and the proposal for a regulation for the Consumer Programme in order to guarantee consistency and quality between the Programme and the strategic objectives.

3.13 As regards the drafting of legislative and regulatory measures by the Commission, the Committee wishes to emphasise the need to guarantee consumers a high level of protection (Article 169 of the Treaty). In this connection, it points out that the chosen level of harmonisation must be appropriate and should under no circumstances lead to or permit a reduction in European consumers' rights, whatever their country of origin. In this respect, the EESC is opposed to any steps, such as the optional system, which would allow for review of the existing protection, in order to safeguard consumers who are the weaker parties to the contract and who do not always have the means for seeking help.

3.14 Moreover, the EESC considers that consumers and their representatives should receive guarantees that they will be consulted when texts and measures affecting them are being drafted and that more resources should be made available to them.

3.15 The EESC places particular importance on measures for improving product safety across the whole market. It supports the introduction of specific cooperation measures in line with Directive 2001/95/EC [2], together with research to establish new standards or new safety criteria. As regards the problems that will have to be addressed, the Committee wonders what level of resources will be available to the various bodies responsible for monitoring and considers that national information campaigns should be organised, coordinated by the Commission.

3.16 The EESC approves the proposed measures for informing and educating consumers. Improving these two aspects of consumer protection will help give consumers greater knowledge of their rights and thus increase their confidence. In this context, the EESC emphasises that EU legislative texts should be more transparent and easier for the public to understand.

3.17 The Committee supports the creation of databases derived from studies, analyses and statistics which should provide better knowledge of the market for the purpose of framing policies in areas impacting consumers.

3.18 In relation to the DOLCETA programme, which operates under the current Consumer Programme but which will not continue in the same form and at the same scale, the EESC calls on the Commission to find a way of retaining the information and knowledge acquired as a result of that project so as to ensure that the substantial investment involved is not wasted.

3.19 The EESC deems that any initiatives leading to greater market transparency are essential, whatever the area involved (for example, financial products, personal data protection, energy, digital and telecommunications technologies and transport).

3.20 From the consumer policy standpoint, whilst education is fundamental for enabling consumers to become aware of their role, rights and obligations within the market and society in order to adapt their behaviour in line with these aspects, it should nevertheless be emphasised that the lack of consumer education is sometimes used as an excuse by politicians and unscrupulous businesses to shrug off responsibility and limit their efforts to create a consumer-friendly environment.

3.21 The Committee considers it necessary to prioritise enforcing and improving consumers' rights.

It also supports the Commission's insistence on the importance of achieving the goal of education and of providing information that is suitable for all consumers.

(2) OJ L 11, 15.1.2002, p. 4.

3.22 In any event, the goals of improving education and information cannot be achieved without involving the various socio-economic stakeholders. The Committee backs the proposal to build on what already exists, so that best practices can be identified, improved if necessary, and put to use so that the measures and tools made available can have a real impact on consumers, which requires that substantial resources be allocated to them.

3.23 We must also focus on educating businesses which are, unfortunately, not sufficiently informed about consumers' rights. Other EU programmes should offer courses for businesses on consumer protection rights.

3.24 Consumer organisations exist to pinpoint problems that consumers encounter, provide coherent responses and represent their interests. Their action to enforce consumers' rights helps legal rules to develop.

3.25 Because this central role is devolved to regional, national and European consumer organisations, which require ever broader areas of expertise, the EESC considers that their capabilities should be significantly enhanced by increasing the funding they receive. The Committee considers that assistance to associations at these various levels is very important, particularly in countries where the consumer movement is not sufficiently developed.

3.26 The EESC notes that a quarter of the programme's budget will be allocated to European Consumer Centres (ECCs). This investment is particularly necessary and is broadly supported by the EESC, which asks the Commission to continue to present even more detailed annual reports on the operation of the ECCs. The EESC emphasises the importance of basing those reports on specific, relevant criteria, so as to draw attention to the fact that this network produces concrete results for European consumers, even if it is not yet as well known as it should be.

3.27 One essential factor is the inclusion in the next consumer policy programme of a proactive, prominent financing mechanism for continuing to develop the consumer movement.

3.28 As regards access to redress, the EESC notes that the Commission makes clear its willingness to prioritise solutions based on co-regulation or self-regulation. It welcomes the initiatives taken by professionals to improve practices. Nevertheless, it reaffirms that so-called 'soft law practices' cannot take the place of a legislative or regulatory environment.

3.29 The EESC supports the initiatives undertaken by the Commission to give consumers easier access to alternative dispute resolution options and backs the proposal to monitor their operation and effectiveness. It believes that these mechanisms can only be effective if the systems offered to consumers are independent.

3.30 Nevertheless, the Committee feels that the proposal should be supplemented, since consolidating consumers' rights also means they must have the appropriate legal means for upholding their rights. As it mentioned in its opinion on the 2007-2013 programme and in its opinions on the collective action system in EU consumer law [3] and on the White Paper on damages actions for breach of EU antitrust laws [4], the Committee proposes making reference to the need to provide greater access to justice and, in particular, to collective redress.

3.31 The EESC supports the proposed measures aimed at ensuring compliance with legislation, particularly the mechanisms for cooperation between the national authorities responsible for enforcing consumer protection laws and the coordination of supervision, which make action more effective.

3.32 The EESC considers that dispute settlement, including on-line settlement, should be kept under scrutiny. It notes that new targets have been set, particularly for the ECCs, whose purpose is to help inform consumers and to settle cross-border disputes. It considers that an assessment during the programme's operating period is important in order to adjust the amount of funding allocated to them.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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[3] OJ C 162, 25.6.2008, p. 1.
[4] OJ C 228, 22.9.2009, p. 40.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)'

COM(2011) 793 final — 2011/0373 (COD)

(2012/C 181/17)

Rapporteur: **Mr PEGADO LIZ**

On 13 and 14 December 2011 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 Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)

COM(2011) 793 final — 2011/0373 (COD).

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 9 March 2012.

At its 479th plenary session held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 121 votes to 11, with 8 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC is pleased that, following innumerable calls from European consumer organisations, and from the EESC in several of its opinions, the Commission has at last turned its Recommendations 98/257 and 2001/310 into a coherent legal instrument.

1.2 However, the EESC believes that the most appropriate legal basis would be Article 169(2)(b) and (4) of the Treaty and not just Article 114, as well as Articles 38 and 47 of the Charter of Fundamental Rights of the European Union.

1.3 The EESC recommends that a 'European compliance mark' be created, based on common structural principles, not only to be conferred on ADR mechanisms that meet the requirements of the proposal, but which also identifies traders adhering to those mechanisms, in a harmonised fashion and without cost to the trader.

1.4 The EESC takes note of the option allowing for ADR procedures to cover collective disputes, as a first step towards establishing an EU collective legal redress mechanism, but recommends that this possibility be clearly stated in the directive and the scheme duly defined.

1.5 However, the EESC wishes to restate its view that there is an urgent need for the EU to have a harmonised judicial instrument for Community-level group action, which is in no way replaced by extending these ADR schemes to collective disputes.

1.6 The EESC agrees with the principles set out in Articles 7, 8 and 9 of the proposal, but recommends that, for the sake of certainty and clarity, the definitions featuring in the recommendations of the principles of the adversarial system and of representation be maintained, explicitly guaranteeing the possibility of the parties concerned being represented by lawyers or third parties, specifically consumer associations.

1.7 The EESC also recommends that the principle of independence not be replaced by the vague notion 'principle of impartiality', which has other, less specific content and is different in nature.

1.8 The EESC is reluctant to agree that these mechanisms should also cover complaints from traders against consumers. However, taking into account the provisions of the SBA (Small Business Act), micro- and small enterprises should have the possibility to solve disputes with consumers by applying the ADR schemes in clearly-specified cases and under conditions that need to be set.

1.9 The EESC would stress that this proposal must never undermine systems which Member States have in place or create of an obligatory nature, in accordance with their own legal traditions.

The EESC only accepts the idea that ADR decisions may not be binding on the parties if there is an express guarantee that the parties will not be prevented from lodging an appeal with the competent ordinary courts.

1.10 The EESC recommends that this proposal contain a text identical to the one in the proposal for a regulation on ODR on the clear prevalence of the right of access to justice, according to which ADR is not a replacement or a real 'alternative' to the role of the courts, but rather a valuable, complementary means of dispute settlement.

1.11 The EESC recommends that the issue of funding these systems be addressed explicitly and head-on, given that consumer associations and some Member States cannot afford the increased costs of setting them up, and this issue is crucial to ensuring the system's impartiality and independence.

1.12 The EESC believes that the wording of some requirements should be revised and can be improved to make them clearer and less ambiguous and their provisions more effective, and recommends that the Commission take account of its specific comments.

2. **Gist of the proposal**

2.1 Whereas a substantial proportion of European consumers encounter problems when buying goods and services in the internal market, these problems are often left unresolved;

Whereas implementation of Recommendations 98/257/EC [1] and 2001/310/EC [2] has not been effective: there are still gaps in the coverage, a lack of consumer and business awareness and uneven quality in alternative dispute resolution procedures;

Having regard to the content and conclusions of a number of studies commissioned over the years on this matter;

Having regard to the results of the most recent public consultation, launched in January 2011, and the impact assessment SEC(2011) 1408 final of 29 November 2011;

The Commission, with its current proposal for a directive, intends to:

a) ensure that all disputes between a consumer and a trader arising from the sale of goods or the provision of services in any economic sector can be submitted to an Alternative Dispute Resolution (ADR) entity, whether the plaintiff is the consumer or the trader;

b) ensure that consumers can obtain assistance when they are involved in a cross-border consumer dispute;

c) ensure that ADR entities respect the 'quality principles of impartiality, transparency, effectiveness and fairness', as well as the tendency for them to operate 'free of charge';

d) entrust a single authority in each Member State with responsibility for monitoring the functioning of all ADR entities;

e) ensure that Member States lay down effective, proportionate and dissuasive penalties for infringements of the provisions relating to consumer information and information to be notified to competent authorities;

f) ensure Member States are not prevented from adopting or maintaining in force procedures for disputes between traders;

g) ensure Member States are not prevented from maintaining or introducing ADR procedures dealing jointly with similar disputes between a trader and several consumers.(collective interests);

h) encourage Member States to develop ADR entities that also cover traders in other Member States.

2.2 To this end, the Commission proposes converting the aforementioned recommendations into a directive, thus making their provisions binding and using Article 114 TFEU (completion of the internal market) as the sole legal basis.

2.3 The directive would not, however, prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders.

2.4 The proposed directive shall prevail over any EU legislation containing provisions intended to encourage the creation of ADR entities, unless such legislation ensures at least an equivalent degree of consumer protection.

2.5 This directive should cover any entity that is established on a durable basis and offers the resolution of a dispute through an ADR procedure, including official arbitration procedures not created on an ad hoc basis.

3. **General comments**

3.1 In a number of opinions over a period of years, the EESC has repeatedly called for Recommendations 98/257/EC and 2001/310/EC to be converted into coherent legislation and can therefore only welcome this Commission initiative, but, further to the points we make in the comments below, we believe that it has arrived late. The question could also be raised as to whether - in order to achieve greater certainty and security - the instrument selected could/should be a regulation rather than a directive.

3.2 Again concerning the legal basis, the EESC considers that beyond the mere completion of the internal market, what is at stake here is also an instrument to protect consumers, and the most appropriate legal basis, if Article 81 is not adopted, would therefore be Article 169(2)(b) and (4) of the Treaty and not just Article 114, as well as Articles 38 and 47 of the Charter of Fundamental Rights of the European Union.

3.3 The Committee welcomes the exclusion of procedures that are misleadingly presented as amicable consumer dispute settlement procedures when in fact they are nothing more than a marketing ploy, since the entities responsible are employed by and in the pay of the trader and their impartiality and independence cannot therefore be guaranteed. The EESC suggests that, in order to remove any doubt, a 'European compliance mark' be created, not only to be conferred on ADR mechanisms that meet the standards required by the proposal (similar to the 'trustmark' that exists in Spain), but which also identifies traders adhering to those mechanisms, in a harmonised fashion and without cost to the trader, thereby ensuring consumer confidence in them.

[1] OJ L 115, 17.4.1998, p. 31.
[2] OJ L 109, 19.4.2001, p. 56.

3.4 It welcomes the extension of the concept of the consumer, in line with the new Directive on Consumer Rights ([3]), to cover dual purpose contracts, where the trade purpose is not predominant in the overall context of the contract, but would like to see this concept appear explicitly in the text of the directive.

3.5 The EESC is pleased to note the concern to extend the operation of the scheme to cover cross-border disputes and hopes that the Commission will strive to ensure conditions are in place for ADR procedures to deal effectively with such cases, specifically through on-line dispute resolution (ODR) and by stepping up administrative cooperation between Member States ([4]). The Committee would also suggest that the Commission, similarly to what is provided for under Article 6(4) of the proposal for an ADR regulation, hold a meeting, at least once per year, of the competent national authorities mentioned in Article 15 of the proposal for a directive, in order to exchange best practices and discuss any problems arising from the operation of ADR schemes.

3.6 It endorses the option allowing for ADR procedures to cover collective disputes, as a first step towards establishing an EU collective legal redress mechanism, but would have liked to see this possibility clearly stated in the directive and the scheme duly defined, rather than leaving it to Member States' discretion. In this regard, the EESC wishes to renew the call it has been making for a number of years in different opinions, concerning the urgent need for the EU to have a harmonised judicial instrument for Community-level group action, which is in no way replaced by extending these ADR schemes to collective disputes.

3.7 The EESC acknowledges the need to ensure that those responsible for the management and operation of ADR, including staff as well as mediators and arbitrators, possess the necessary knowledge, skills, experience and personal and professional qualities to perform their duties competently and impartially and that they are guaranteed conditions in which they can work independently and impartially. The EESC would therefore have liked to see these conditions stipulated in detail in the text of the proposal, in order to ensure harmonised standards across the EU.

3.8 It agrees with the operating principles for ADR set out in Articles 7, 8 and 9 of the proposal, that reiterate some of the principles already contained in the recommendations referred to above. There are questions, however, as to the reason for omitting fundamental principles that featured in these recommendations, such as legality and freedom.

It recommends that, for the sake of certainty and clarity, the independent definition of the principles of the adversarial system and of representation be maintained, making a clear reference to the possibility of the parties concerned being represented by lawyers or third parties, specifically consumer associations (rather than being addressed in a more hidden fashion in Articles 8(a) and 9(1)(a)).

Finally, the EESC does not agree that the principle of independence should be replaced by the vague 'principle of impartiality', which has other, less specific content and is different in nature.

3.9 The EESC is reluctant to agree that these mechanisms should also cover complaints from traders against consumers, not only because this runs counter to the tradition of the systems that exist in most Member States and to the entire approach in the stances adopted by the Commission and the European Parliament on this matter over the years. The main reason for the EESC's disagreement is that this would turn ADR mechanisms into bodies for settling disputes relating to non-payment, bypassing the system set up by the EU for small claims and causing the ADR system to drown in an avalanche of cases, paralysing systems that do not have adequate response capacity.

However, taking into account the provisions of the Small Business Act, micro- and small enterprises should have the possibility, under conditions that need to be defined and clarified, to use the ADR schemes in respect of their disputes with consumers on the failure to collect orders, failure to collect repairs or failure to show when reservation has been made.

3.10 The Committee believes that this proposal should not, under any circumstances, undermine any obligatory systems which Member States have in place or create, in accordance with their own legal traditions.

3.11 The EESC can only accept the suggestion that ADR decisions should not be binding on the parties if the fundamental principle is expressly guaranteed that consumers or traders should be able to lodge an appeal with the competent ordinary courts. If this is not the case, in addition to denuding ADR of all its added value in terms of its credibility and effectiveness, it is hard to understand the claim that the system that is set up will also cover rulings handed down in official arbitration or other similar mechanisms, that are in effect genuine judicial rulings.

3.12 The EESC is disappointed that, in this proposal, the Commission has not adopted an identical formula to the one considered in the proposal for a regulation on ODR on the clear prevalence of right of access to justice, according to which

([3]) Directive 2011/83/EU (OJ L 304, 22.11.2011, p. 64); EESC opinion: OJ C 317, 23.12.2009, p. 54.

([4]) With specific regard to Regulation 2006/2004 on cooperation between national authorities, cf. EESC opinion, OJ C 218, 23.07.2011, p. 69.

ADR is not a replacement or a real 'alternative' to the role of the courts, but rather a valuable, complementary means of dispute settlement ([5]).

3.13 The Committee is surprised that the issue of funding these systems is not addressed explicitly and head-on, in this proposal's explanatory memorandum or in the Programme for 2014-2020, given that in the consultations that were held, consumers' representative associations definitely deemed this to be essential. Some Member States cannot afford the increased costs of setting up new bodies, training mediators and other support staff, providing information and assistance for consumers, the drawing up of expert reports and new administrative posts. This issue was considered across the board to be crucial to ensuring the system's impartiality and independence ([6]).

3.14 The EESC would furthermore advise the Commission to, if it has not already done so, carry out an assessment of the Member States' main regulatory approaches to implementing Directive 2008/52/EC ([7]) on mediation in civil and commercial matters (Article 12), as suggested by the European Parliament ([8]).

4. **Specific comments**

4.1 *Article 2.2, point (a)*

The phrase 'employed exclusively by the trader' is vague and its meaning ambiguous. It should be replaced by 'hold or have held in the last three years a professional, economically dependent relationship or other relationship likely to affect their independence'.

4.2 *Article 4, point (e)*

The definition is too vague and not specific enough. It should be accompanied by a clear reference to respect for the principles that should guide its operation, and by certification to the effect that it belongs to the network of recognised entities.

4.3 *Article 5(3)*

The EESC fails to understand the precise scope of this rule, but fears that it might not be as effective as is desired. Instead of promoting the required harmonisation by integrating the operations of all ADR mechanisms at European and national level, adopting the same approach of common and identical systems, it would actually enable Member States to retain their current structures and, as a formality, only set up a default mechanism. In practice, this would not solve today's geographical and sect oral problems.

4.4 *Article 6*

The EESC would like to see, when the requirements for skills and impartiality are drawn up and checked, guarantees for the active involvement of trade and consumers' organisations, especially in the procedures for selecting and appointing individuals responsible for dispute resolution. This task should not be left to bureaucrats and civil servants from Member States' official bodies.

4.5 *Article 7*

In addition to the requirements laid down regarding means, the proposal should also lay down requirements regarding results, so as to ensure that the action of these mechanisms produces quantifiable results both in the sectors where most complaints are made and as regards the quality of the services provided by traders, adopting an active approach to promoting confidence in their use.

It is also crucial that Member States guarantee that ADR entities disclose information on the services they provide (which specifically include information, mediation, conciliation and arbitration), financial performance (thereby guaranteeing the necessary transparency of these mechanisms and boosting consumer confidence) and the degree of user satisfaction with these bodies.

The EESC also considers that where paragraph 2 of this article is concerned, in addition to their annual activity reports, these bodies should also publish, through their normal channels of communication, their annual budget and a summary of the arbitration rulings they have issued. This would not be detrimental to the rules on the processing of personal data contained in national legislation transposing Directive 95/46/EC.

4.6 *Article 9*

Whilst the EESC acknowledges the relevance of the principle of fairness, it queries the omission principle of legality, as set out in the Commission Recommendation of 30 March 1998 ([9]). The absence of this provision from the directive's provisions could be detrimental to consumers in cross-border trade relations, especially when the law in the consumer's home country offers greater protection than the law in the Member State where the ADR mechanism is established. The EESC would reiterate the need to include the principle of legality in the scope of this directive, which would ensure that rulings handed down by ADR bodies do not deprive consumers of the level of protection guaranteed by the relevant legislation.

([5]) The proposal for a regulation on ODR states, verbatim: 'The right to an effective remedy and the right to a fair trial are fundamental rights guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. Online dispute resolution procedures cannot be designed to replace court procedures and should not deprive consumers or traders of their rights to seek redress before the courts. Nothing in this Regulation should, therefore, prevent parties from exercising their right of access to the judicial system'.

([6]) See the EESC opinion currently being drawn up (INT/608).

([7]) OJ L 136, 24.5.2008; EESC opinion: OJ C 286, 17.11.2005, p. 1.

([8]) Report on the implementation of the directive on mediation in the Member States A7-0275/2011, Rapporteur: A. McCarthy.

([9]) Which clearly states, with regard to cross-border disputes, that 'the decision taken by the body may not result in the consumer being deprived of the protection afforded by the mandatory provisions applying under the law of the Member State in which he is normally resident in the instances provided for under Article 5 of the Rome Convention'.

4.7 *Article 10*

The Committee is concerned that the ambiguity in this article might persuade consumers that a dispute can be resolved through an ADR entity when, in fact, traders are merely obliged to provide information on the existence of these mechanisms, and might not have actually signed up to one.

The EESC therefore calls on the Commission to ensure that the proposal guarantees that Member States will require traders to produce this information immediately prior to signature of a contract, which would enable the consumer to take a conscious, informed decision, knowing in advance whether or not the trader has signed up to an ADR body.

The EESC also takes the view that failure to comply or to comply fully with the obligation referred to in paragraph 2 should be deemed to be an unfair commercial practice and included in the list appended to Directive 2005/29/EC, irrespective of the sanctions provided for under Article 18 of the proposal.

4.8 *Articles 15 to 17*

The EESC is afraid that these rules might not prove sufficient to ensure that the bodies concerned fully meet the requirements, because they are still based on criteria flowing from self-assessment. It is therefore crucial that the Commission encourage direct civil society involvement in monitoring these mechanisms, through the respective representative organisations of the sectors concerned ([10]).

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(10) Along the same lines as in the energy sector in Italy: although that country has a public ADR body, it is overseen by representatives of consumers and energy companies, with the former playing an active part in training the specialists employed in this body.

APPENDIX

to the Opinion of the European Economic and Social Committee

The following points of the section opinion were modified to reflect the amendments adopted by the Assembly although more than one quarter of the votes cast were in favour of their retention in the original form (Rule 54(4) of the Rules of Procedure):

a) Point 1.8:

The EESC does not agree that these mechanisms should also cover complaints from traders against consumers.

b) Point 3.9:

The EESC does not agree that these mechanisms should also cover complaints from traders against consumers, not only because this runs counter to the tradition of the systems that exist in most Member States and to the entire approach in the stances adopted by the Commission and the European Parliament on this matter over the years. The main reason for the EESC's disagreement is that this would turn ADR mechanisms into bodies for settling disputes relating to non-payment, bypassing the system set up by the EU for small claims and causing the ADR system to drown in an avalanche of cases, paralysing systems that do not have adequate response capacity.

In accordance with Rule 51(4) of the Rules of Procedure the amendments were examined together.

Outcome of the vote on the amendments:

Votes in favour: 80
Votes against: 52
Abstentions: 19

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR)'

COM(2011) 794 final — 2011/0374 (COD)

(2012/C 181/18)

Rapporteur: **Mr PEGADO LIZ**

On 13 and 14 December 2011 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 on online dispute resolution for consumer disputes (Regulation on Consumer ODR)

COM(2011) 794 final — 2011/0374 (COD).

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 9 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 117 votes in favour, with 6 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC, which has been calling for an initiative of this nature for a long time, welcomes the Commission's proposal and supports its choice of a regulation as the legal instrument.

1.2 However, the EESC believes that the most appropriate legal basis would be Article 169(2)(b) and (4) of the TFEU and not just Article 114, as well as Articles 38 and 47 of the Charter of Fundamental Rights of the European Union.

1.3 The EESC welcomes the Commission's clear statement that the creation of such a system should not deprive consumers or traders of their rights to seek redress before the courts, should they wish to do so, or replace the normal operation of judicial processes.

1.4 However, the EESC considers that the proposal lacks ambition, even has a misleading title and falls far short of what might be hoped and what is desirable and feasible, especially as regards the use of a whole series of existing technological means and electronic information systems which have proven to be successful, under what is known as 2nd-generation ODR.

1.5 The EESC therefore recommends that the Commission should see this proposal as a first step towards effective online dispute resolution and develop the system's potential as soon as possible to incorporate all compatible technological innovation, with legal security and certainty, and that a specific and separate system needs to be created *ex novo* for EU ODR in cross-border transactions.

1.6 The EESC believes that there is no justification for the exclusion from the system of conflicts that are not solely cross-border in nature and of conflicts that do not arise exclusively from transactions concluded via electronic means (offline conflicts).

1.7 The EESC does not agree that such mechanisms could also cover complaints by traders against consumers.

1.8 The EESC recommends that the possibility of the parties concerned being represented by lawyers or third parties, specifically consumer associations, in their online complaints be expressly provided for.

1.9 The EESC urges the Commission to clarify how the more complex issues which may arise in certain online disputes, such as the discussion of unfair contract terms and the law applicable to contracts, may be resolved by means of the platform.

1.10 The EESC has serious reservations regarding whether the deadlines set are realistic and fears that making them mandatory, together with the foreseeable practical difficulties in meeting them, may tend to discredit a system which has speed and effectiveness as one of its main objectives.

1.11 The EESC proposes linking this online platform to an 'online complaints book', which online traders' websites should be obliged to feature.

1.12 The EESC recommends that the Commission adopt a quality assurance scheme for the system to be set up, proposes that trustmarks be set up by accredited and authorised entities, for economic operators that advertise (on their websites) and promote dispute resolution via this platform, and advocates including a reference to dispute resolution through this online platform in codes of conduct.

1.13 The EESC recommends that the issue of funding this system be addressed explicitly and head-on, given that consumer associations and some Member States cannot afford the increased costs of setting it up, and this issue is crucial to ensuring the system's impartiality and independence.

1.14 The EESC believes that too many crucial aspects of the legislative instrument and of the functioning of the system are left to future implementing or delegated acts, which go way beyond the limits laid down in Article 290 of the Treaty, with consequences in terms of the instrument's legal security and certainty.

1.15 The EESC believes that the wording of some requirements should be revised and can be improved to make them clearer and less ambiguous and their provisions more effective, and recommends that the Commission take account of this Committee's specific comments.

2. **Gist of the proposal**

2.1 Whereas very few out-of-court consumer alternative dispute regulation (ADR) entities offer European consumers the possibility of conducting the entire procedure online;

Whereas the lack of effective redress for complaints resulting from cross-border online transactions has adverse consequences for both consumers and businesses;

Whereas the content and conclusions of several studies commissioned on the matter suggest that there is widespread support for developing online consumer dispute resolution tools (ODR) through EU-level action;

Whereas the results of the impact assessment SEC(2011) 1408 final of 29 November 2011 state that only a combination of the two instruments on ADR and ODR (online dispute resolution) can ensure access to impartial, transparent and effective means to resolve consumer disputes linked to cross-border e-commerce transactions out-of-court;

With this proposal for a regulation, the Commission aims to establish an EU-wide ODR system that will facilitate the online resolution of disputes relating to the cross-border online sale of goods or provision of services between traders and consumers.

2.2 To achieve this aim, the Commission uses as its sole legal base Article 114 of the Treaty on the Functioning of the European Union, concerning completion of the internal market, in order to:

a) establish an online dispute resolution platform at European level, in the form of an interactive website which can be accessed electronically and free of charge in all official EU languages. The ODR platform will offer a single point of entry to consumers and traders who seek settlements to any out-of-court disputes arising from cross-border e-commerce transactions in which all parties are established or resident in different EU Member States; and

b) set up a Network of online dispute resolution facilitators, consisting of one ODR contact point for each Member State - the competent authority designated under the terms of the ADR directive as responsible for providing support to the resolution of disputes relating to complaints submitted via the platform.

2.3 The proposed regulation will only apply to disputes between consumers and traders arising from the online sale of goods or provision of services across borders.

2.4 The system to be put in place should build on existing ADR entities and respect Member States' legal traditions as regards their respective national procedural rules, specifically those concerning costs, while adhering to a set of common operating standards, in order to safeguard their effectiveness and speed. This does not prevent the operation of any existing online ADR entity operating within the Union, nor should it prevent ADR entities from dealing with cross-border disputes which have been submitted to them by any means other than the ODR platform.

2.5 ODR procedures are not intended to replace court procedures or to deprive consumers or traders of their rights to seek redress before the courts. The proposed regulation will cover any entity that is established on a durable basis and offers dispute resolution through ADR procedures, including official arbitration procedures not created on an ad hoc basis.

3. **General comments**

3.1 In some of its most recent opinions, in particular following the adoption of the Digital Agenda [1], the 50 proposed measures [2] and the 12 levers for the internal market [3], the EESC has called for an online dispute resolution system to be set up and therefore can only welcome this Commission initiative. The Committee also supports the Commission's choice of legal instrument: a regulation.

(1) COM(2010) 245 final.
(2) COM(2010) 608 final.
(3) COM(2011) 206 final.

3.2 Concerning the legal basis, the EESC considers that beyond the mere completion of the internal market, what is also at stake here is an instrument to protect consumers, and the most appropriate legal basis, if Article 81 of the TFEU is not adopted, would therefore be Articles 169(2)(b) and (4) of the Treaty and not just Article 114, as well as Articles 38 and 47 of the Charter of Fundamental Rights of the European Union.

3.3 The EESC welcomes the Commission's clear statement that the creation of such a system should not deprive consumers or traders of their rights to seek redress before the courts, should they wish to do so, or replace the normal operation of judicial processes.

3.4 It is pleased to note that the concept of the consumer has been broadened, along the same lines as the proposal for a directive on ADR and following on from the new Directive on Consumer Rights [4], so as to cover dual purpose contracts, where the trade purpose is not predominant in the overall context of the contract. It would, however, like to see this concept appear explicitly in the text of the directive.

3.5 The EESC notes the Commission's concern to respect Member States' legal traditions and not to attempt to replace or diminish the role of existing ADR procedures under this system, but doubts whether this represents a significant step forwards in dematerialising disputes, allowing them to be processed online.

3.6 The EESC acknowledges that, in practice, this proposal confines itself to setting up a type of 'electronic postmark' or an 'online mailbox' to which complaints are sent and, after a purely formal sorting process, are forwarded to the different ADR entities, thus constituting a cumbersome bureaucratic and administrative delivery system.

3.7 The EESC considers that the proposal lacks ambition and falls far short of what might be hoped and what is desirable and feasible, especially as regards:

a) The 2009-2013 Multiannual Action Plan on European Electronic Justice [5];

b) The groundbreaking document of the United Nations Commission on International Trade Law [6] (UNCITRAL), A/CN.9/706, entitled *Possible future work on online dispute resolution in cross-border electronic commerce transactions*;

c) The exclusion of disputes that are not solely cross-border in nature, obliging Member States that so wish to put in place purely national systems for cross-border disputes, even if the parties concerned are of different nationalities, but happen to reside, permanently or temporarily, in the same Member State;

d) The exclusion of disputes that do not arise exclusively from transactions concluded via electronic means (in other words, offline), not having adopted the broader definition of electronic commerce set out in Directive 2000/31/EC, including conflicts arising from online commercial communications that do not result in a transaction. There is also the possibility, now recognised by some ADR, of handling by electronic means disputes arising from transactions concluded at a distance via non-electronic means (such as catalogue sales or sales made in the home). Account could furthermore have been taken of on-the-spot transactions taking place on trips to other Member States, in cases where disputes arise some time after the transactions have been concluded;

e) The failure to adopt what is today commonly known as a 2nd-generation ODR (*Online Dispute Resolution*) system [7] in which the technology (inherent to this platform) plays an active role and functions as a genuine *fourth party* [8] (in addition to the two parties and the mediator/arbitrator) in the online consumer dispute resolution process; this would enable the parties to communicate remotely, in real time or with a time lag, via the new information and communication technologies, instead of all parties having to be physically present.

f) The absence of any reference to a quality assurance system for the system set up, such as that provided by standard ISO 10003 – 'Guidelines for dispute resolution external to organisations', which could even be used to standardise a prospectus providing information on the mechanism's workings, or of the existence of a 'watch list', on which complaints against professionals can be recorded.

3.8 Although the regulation states the ODR platform will have the function of 'enabling the parties and the ADR entity to conduct the dispute resolution procedure online' (Article 5(3)(d)), the EESC had hoped that the foundations would be laid for an ODR system that would contribute to the legitimacy of online or electronic justice; it would hope that the system would be shaped in such a way as to re-use and copy existing infrastructure and technological resources, synchronous or asynchronous, such as chat, electronic forums, mailing lists, email, tele-conferencing, audio- and video-conferencing, virtual meeting rooms etc.; that it would improve justice applications and advocate first- and second-generation ODR tools for the process (online negotiation, mediation and arbitration), promoting e-mediation between the parties, a more robust production process and more easily observable and predictable procedures.

(4) Directive 2011/83/EU in OJ L 304, 22.11.2011, p. 64.

(5) OJ C 75, 31.3.2009, p. 1.

(6) Can be consulted at: http://www.uncitral.org/uncitral/publications/online_resources_ODR.html.

(7) Cf. G. Peruginelli and G. Chiti *Artificial Intelligence Dispute Resolution* in Proceedings of the Workshop on the Law of electronic agents – LEA 2002.

(8) Cf. amongst others, the CYBERSETTLE (http://www.cybersettle.com) SMARTSETTLE (http://www.smartsettle.com) and SQUARETRADE procedures (http://www.squaretrade.com). The latter is responsible for having settled over 200 000 disputes in 120 countries since 1999, ECODIR (available at http://www.ecodir.org/).

3.9 Even without progressing towards the second-generation models referred to above, the Commission should nonetheless, in order to meet expectations for this initiative and secure the benefits announced, at least have considered the possibility of including decision support systems in the platform's functions for the parties in an ODR system. In these second-generation models, the use of telematic tools and assistance from artificial intelligence based on mathematical models facilitate rulings on disputes through the systematic evaluation of the parties' proposals, in turn supported by IT specialists with equal capacity ('intelligent interfaces') in a interactive process based on standard negotiating patterns such as BATNA (*Best Alternative to a Negotiated Agreement*), WATNA (*Worst Alternative to a Negotiated Agreement*) and finally ZOPA (*Zone of Possible Agreement*). Examples of decision support systems include expert systems, systems of information based on previous cases, computer database access systems (case-based reasoning or 'CBR' in international literature) and online dispute resolution based on the parties' different approaches to dispute resolution.

3.10 The EESC also wonders how the Commission envisaged online resolution for cases concerning not just typical market disagreements, covering problems such as products being 'defective', 'not working properly' or 'delays in delivery or failure to deliver', but also the debate on unfair contract terms and the law applicable to contracts.

3.11 The EESC would like to see a specific reference to the possibility of the parties concerned being represented by lawyers or by third parties, specifically associations representing the interests of consumers in their online complaints.

3.12 The Committee is surprised that the issue of funding for the implementation of this new instrument is not addressed explicitly and head-on, given that in the consultations that were held, consumers' representative associations definitely deemed this to be essential. Some Member States cannot afford the increased costs of setting up new bodies, training 'facilitators' and other support staff, providing information and assistance to consumers and carrying out new administrative tasks. This issue was considered across the board to be crucial to ensuring the system's impartiality and independence.

4. **Specific comments**

4.1 *Article 1 – Subject matter*

The subject matter of this regulation should also include the principle of access to law and to justice for the parties concerned. In addition to dispute resolution, the platform could be used to prevent disputes arising, providing relevant information aimed at remedying problems.

4.2 *Article 2 - Scope*

For economic reasons too, the EESC would like to see the regulation apply also to disputes that arise offline, as is already common practice among a number of ADR providers who work with information technologies to mediate between the parties concerned.

As a purely formal issue, it is suggested that exclusions from the scope be covered by Article 2 and not Article 4, which covers definitions.

4.3 *Article 3 - Relationship with other EU legislation*

The EESC proposes including the directives on Electronic Commerce, the Sale of Consumer Goods and Distance Contracts ([9]).

4.4 *Chapter II - European online dispute resolution platform*

For the sake of greater clarity, the EESC would prefer that material on the platform's design and on procedures be covered by different chapters.

4.5 *Article 5, para. 3(b)*

The EESC harbours doubts as to the practicality of the parties selecting an ADR entity, for lack of criteria for doing so. It would also make sense for the parties themselves to be able to appoint an entity with which they have already previously worked.

4.6 *Article 5, para. 3(i)*

The EESC fears that this information might not be enough. The Committee proposes that, in addition to statistics on the outcome of disputes, the platform should indicate the most commonly used methodologies and statistical data broken down into the different subjects dealt with. The platform should also include a process management system, with management indicators, including cases that have been opened or completed or are pending, and the duration and costs of the case. The EESC believes, furthermore, that simply indicating or suggesting one or more ADR entities to the parties does not guarantee the goal that the certificate is supposed to secure: access to justice for the parties. The EESC wishes to draw attention to the fact that if only one of the parties does not agree with the ADR entity suggested, the procedure could end up being dropped (see Articles 7(3), 8(2)(b) and (4)), which actually dooms the system to failure.

([9]) Directive No 2000/31/EC, OJ L 178, 17.7.2000, p. 1, Directive No 1999/44/EC, OJ L 171, 7.7.1999, p. 12 and Directive No 97/7/EC, OJ L 144, 4.6.1997, p. 19.

4.7 *Article 6 - Network of online dispute resolution facilitators*

The EESC considers the term 'online dispute resolution facilitators' to be misleading; it should be avoided because in actual fact, the process of dispute resolution cannot be carried out online, but only through traditional ADR methods. It is only the complaint that is submitted electronically.

The EESC has serious concerns that this system could affect or jeopardise the speed and effectiveness advocated in the aims of the proposed regulation, resulting in excessive red tape, given the three-phase re-routing system being recommended, and clearly calling into question the possibility of effective compliance with the 30-day limit laid down in Article 9(b). It should be noted that until the parties engage in proper dispute resolution with the ADR provider, the complaint must be submitted to the platform electronically, then examined and proposed to the competent ADR entities and re-routed by the ODR facilitators to the ADR entity selected, entailing unavoidable bottlenecks for the parties, incurring costs due to delays as well as opportunity costs.

4.8 *Article 7 - Submission of a complaint*

The EESC recommends that due regard be paid to the need for the complaint and the appended documents to be translated reliably and affordably for the parties. This matter is crucial to the success of the system but is not addressed in the proposal, which does not even refer to the automated translation technology that already exists and which should be used in this scheme.

4.9 *Article 7, paras. 2 and 6*

The EESC would emphasise that the document in the annex, entitled *Information to be provided when filling in the electronic complaint form*, is so totally inadequate in terms of its content and the way it is supposed to be filled in that it requires no comment.

In the EESC's view, this website, as well as providing a form, should offer an online instruction manual covering how to fill in the form. It should include specific guidance for this purpose (prior instructions enabling users to familiarise themselves with the software, together with a support website with instructions, assistance and answers to frequently asked questions). An interactive area should be made available for the parties to set out their problems and receive immediate online responses. The website should make it possible to state the facts orally in the different languages with an immediate translation, making use of the new communication technologies already in existence. It should also provide a system for automatically detecting forms filled out incorrectly or incompletely, providing the information required to correct them and thereby obviating the need for a new complaint to be submitted.

The EESC considers that certain vague legal concepts such as i) 'sufficient' (paragraph 2) and ii) 'data which are … relevant and not excessive in relation to the purposes for which they are collected' (paragraph 6) should be clarified so as to secure concrete information.

The Committee would suggest that provision be made not only for an obligation as to the means employed (making an online form available) but also to ensure that filling in the form is an intuitive, consumer-friendly, simple and straightforward process [10].

The EESC furthermore proposes linking this online platform to an 'online complaints book', which online traders' websites should feature. Once this form is filled in, it could be forwarded directly, automatically and electronically through an interface to the central ODR platform, to ensure that the dispute resolution actually takes place.

4.10 *Article 8(1)*

The EESC would point out that the average consumer is generally somewhat illiterate, (as well us suffering from digital exclusion) and fears that the effect of the sanction provided for in paragraph 1 will run counter to the initiative's aims and result in a deliberate formal tactic for not resolving disputes.

4.11 *Article 12 - Data confidentiality and security*

The EESC wishes to point out that the rules concerning professional secrecy and confidentiality are subject to national legislation and that no provision is required for the burden of proof or for solutions should these requirements not be met.

4.12 *Article 13 - Consumer information*

The EESC proposes that trustmarks be set up by accredited and authorised entities, for economic operators that advertise (on their websites) and promote dispute resolution via this platform, such as 'TRUSTe', the Euro-Label or the Global Trustmark Alliance.

The EESC advocates including a reference to dispute resolution through this online platform in codes of conduct, to be drawn up by economic operators, consumer and supplier organisations and also government bodies.

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[10] Important communications can undeniably be spoiled by poor spelling or grammatical or typing mistakes. Spelling mistakes can give rise to hasty conclusions regarding the other party or sow doubts concerning the quality of the dispute resolution process. To this end, spell-checking tools would be useful, as used for example at http://www.juripax.com/.

4.13 *Articles 15 and 16 – Implementing acts and delegated acts*

In some of the proposal's provisions (Article 6(5) and Article 7(4) and (5)), crucial aspects of the legislative instrument and of the functioning of the system are left to future implementing or delegated acts, which the EESC believes go way beyond the limits laid down in Article 290 of the Treaty and stipulated in the Commission Communication on the Implementation of Article 290 of the Treaty on the Functioning of the European Union (COM(2009) 673 final of 9.12.2009), with consequences in terms of the instrument's legal security and certainty.

Brussels, 28 March 2012.

The president
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'New Legislative Framework (NLF) Alignment Package (Implementation of the Goods package)'

COM(2011) 764 final — 2011/0358 (COD)

COM(2011) 765 final — 2011/0351 (COD)

COM(2011) 766 final — 2011/0352 (COD)

COM(2011) 768 final — 2011/0350 (COD)

COM(2011) 769 final — 2011/0353 (COD)

COM(2011) 770 final — 2011/0354 (COD)

COM(2011) 771 final — 2011/0349 (COD)

COM(2011) 772 final — 2011/0356 (COD)

COM(2011) 773 final — 2011/0357 (COD)

(2012/C 181/19)

Rapporteur without a study group: **Bernardo HERNÁNDEZ BATALLER**

Administrator: **Luís LOBO**

On 20 December 2011 and 30 November 2011, respectively, the Council and 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

New Legislative Framework (NLF) Alignment Package (Implementation of the Goods Package)

COM(2011) 764 final — 2011/0358 (COD)

COM(2011) 765 final — 2011/0351 (COD)

COM(2011) 766 final — 2011/0352 (COD)

COM(2011) 768 final — 2011/0350 (COD)

COM(2011) 769 final — 2011/0353 (COD)

COM(2011) 770 final — 2011/0354 (COD)

COM(2011) 771 final — 2011/0349 (COD)

COM(2011) 772 final — 2011/0356 (COD)

COM(2011) 773 final — 2011/0357 (COD).

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 9 March 2012.

At its 479th plenary session of 28 and 29 March 2012 (meeting of 28 March) the European Economic and Social Committee adopted the following opinion by 115 votes to 4 with 10 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee welcomes the adoption by the European Commission of proposals amending ten technical harmonisation directives implementing the Goods Package by aligning them with Decision 768/2008/EC [1] on a common framework for the marketing of products.

1.2 It would be appropriate to define the nature of, and a minimum threshold for, sanctions for which provision has to be made in the laws of the Member States, as this package of measures merely requires the national governments to lay down sanctions for this kind of conduct, without categorising them or dealing with further punitive measures, as established at supranational level.

1.3 The Commission should take into account the remarks made by the EESC in its opinion of 13 December 2007 on a common framework for the marketing of products [2] regarding the need to improve coordination and step up market surveillance activities.

(1) OJ L 218 of 13.8.2008, p. 82; EESC opinion OJ C 120 of 16.5.2008, p. 1.

(2) OJ C 120 of 16.5.2008, p. 1.

1.4 As regards legal protection in the EU market, there should be a move towards a new system for determining the origin and traceability of products, so as to improve information for consumers.

2. **Introduction**

2.1 The free movement of goods is one of the four basic freedoms on which the internal market is based and is expressly recognised in the treaties (Articles 28 ff. TFEU), and giving rise to extensive ECJ case law which has been incorporated into the Community *acquis*.

2.1.1 The adoption in 1985 of the legislative technique of the 'new approach', which limits legislative requirements to what is essential and tackles detailed technical aspects via harmonised European standards, has helped to speed up the process of harmonisation, making it possible for entire industrial sectors to benefit from free movement.

2.1.2 In terms of secondary legislation, Council Decision 90/683/EEC [3] introduced the new approach and was subsequently replaced by Decision 93/465/EEC [4] which lays down general guidelines and detailed procedures for conformity assessment which have to be used in the alternative approach directives.

2.2 In July 2008 the European Parliament and the Council adopted a new legislative framework aimed at improving the marketing of goods in the internal market, adopting Regulation No (EC) 765/2008 [5] on accreditation and market surveillance and Decision 768/2008/EC on a common framework for the marketing of products.

2.2.1 The purpose of the 2008 package was to promote the free movement of safe goods, thus boosting the effectiveness of EU legislation on product safety, strengthening consumer protection and creating fair conditions of competition for economic operators. As regards the free movement of goods, this new common marketing framework of 2008 should be supplemented by legislation on product standardisation.

2.2.2 These legal instruments go much further than a simple re-examination of the new approach, and in effect establish a new legislative environment for the harmonised area; they are complementary documents which are inextricably linked with each other and with sectoral legislation, which they support and complement.

2.3 Regulation No (EC) 765/2008/EC consolidates the rules on accreditation and market surveillance so that non-conforming products can be easily identified and withdrawn from the market. The main objective is to guarantee the free movement of goods in the harmonised sector by:

— strengthening European cooperation so that accreditation can effectively perform its function as the final level of control of the proper operation of Community legislation;

— establishing a framework for the recognition of an existing system, European Cooperation for Accreditation, in order to ensure rigorous evaluation by national accreditation bodies;

— establishing a Community framework for market surveillance and control of products entering the Union market, ensuring closer cooperation between national and customs authorities, the exchange of information and cooperation between national authorities on products present on the market of more than one Member State;

— ensuring clear and uniform standards in all sectors, the legal certainty and coherence of the measures, greater flexibility over the requirements to be met before products are placed on the market and reduction of the costs of conformity assessment.

2.4 Decision 768/2008/EC is a *sui generis* act which reflects the intentions of the European legislative authorities to apply its content as systematically as possible to all legislative texts on products (past, present and future) and thus to facilitate its application by all those concerned.

2.4.1 The decision establishes a general horizontal framework consistent with the law on free movement of goods, including:

— harmonised definitions, common obligations for economic operators, selection criteria for conformity assessment bodies, criteria for national notifying authorities and rules for the notification process;

— rules for selecting conformity assessment methods and a series of harmonised procedures aimed at preventing costly duplication;

— a single definition of the CE mark (with corresponding responsibilities and safeguards);

(3) OJ L 380 of 31.12.1990, p. 13.
(4) OJ L 220 of 30.8.1993, p. 23.
(5) OJ L 218 of 13.8.2008, p. 30; EESC opinion OJ C 120 of 16.5.2008, p. 1.

— a market information and surveillance procedure as an extension of the system established by the directive on product safety;

— harmonised provisions for future safeguard mechanisms to complement the provisions on market surveillance.

2.5 In its opinion on both proposals the EESC stressed:

— the importance of ensuring full application of the principle of the free movement of goods, so that products lawfully marketed in a Member State can also be marketed without hindrance throughout the EU;

— that the free movement of goods is an essential driver for competitiveness and the economic and social development of the European single market and that reinforcement and updating of the requirements for the marketing of safe, high-quality products are key factors for consumers, businesses and European citizens.

To sum up, the EESC supported the Commission proposals, making a series of comments and suggestions on both instruments.

2.6 Regulation No (EC) 765/2008 entered into force on 1 January 2010 and its provisions have been directly applicable since that date and are being implemented by the national authorities, with coordination from the Commission.

2.7 Decision 768/2008, which is addressed to the Union's institutions, is a legal act without binding force for companies, physical persons or Member States. It is intended to operate as a horizontal framework for the provisions common to the technical harmonisation of legislation. These standardised provisions should be included in all new or revised legislation.

3. Obstacles to the free movement of goods

3.1 The purpose of both instruments is to tackle various problems observed in various industrial sectors regulated by European technical harmonisation legislation, i.e. legislation laying down common requirements for the marketing of products.

3.2 The main concern was to ensure public safety and to reduce the number of products present on the market which did not meet the requirements of Community law. Another aim is to improve the quality of the work of product inspection and certification bodies. Moreover, this new horizontal framework should bring greater coherence to the whole product regulation framework and simplify its application.

3.3 *Problems of non-compliance with current requirements:*

3.3.1 A large number of products on the market do not meet the detailed requirements of the directives. Some companies simply attach the CE mark to their products, although they do not meet the requirements.

3.3.2 Not all importers and distributors carry out the checks needed to ensure that they are only marketing products which comply with the rules. It is difficult for the market surveillance authorities to find the economic operators handling these products, especially when they are located in third countries.

3.4 Member States are also imposing different obligations on importers and distributors to ensure that they check that products meet the applicable requirements. Moreover, the action being taken by the national authorities on products which do not comply with the rules sometimes differs from one Member State to another.

3.5 *Problems arising from the actions of certain bodies entitled to perform tests:*

3.5.1 Some directives require the certification of products by bodies entitled to test, inspect and certify products. Although most of these bodies carry out their work in a conscientious and responsible way, there have been a number of cases which have cast doubt on the suitability of certain bodies and the credibility of the certificates they award.

3.5.2 There are differences in the methods and the level of stringency with which the Member States assess and check the suitability of the bodies entitled to perform tests. There are particular concerns regarding the suitability of branches and subcontractors located outside the EU.

3.6 *Specific inconsistencies in current legislation:*

3.6.1 The directives on free movement of products often follow a risk-based approach and sometimes apply several directives to the same product. This means that manufacturers have to apply all the requirements to the product.

3.6.2 The simultaneous application of several directives to the same product can impede the procedure for assessing conformity, particularly when directives use the same module, but with text which differs from one directive to another.

4. **The Commission proposal**

4.1 As a result of the adoption of the new framework in July 2008 the Commission's departments looked for product legislation instruments which would need to be revised in future years, for reasons relating to their sectors, most of these being individual revisions appearing in the Commission's work programme.

4.2 With this proposal the European Commission is seeking to update the 'new approach' legislation in force in some of the sectors concerned, in connection with the new standards laid down by Decision 768/2008/EC of the European Parliament and of the Council. In order to achieve this, the following ten directives are to be aligned with the decision:

— Directive 2006/95/EC on the harmonisation of the laws of Member States relating to **electrical equipment designed for use within certain voltage limits**;

— Directive 2009/105/EC relating to **simple pressure vessels**;

— Directive 2009/23/EC relating to **non-automatic weighing instruments**;

— Directive 93/15/EEC on the harmonisation of the provisions relating to the placing on the market and supervision of **explosives for civil uses**;

— Directive 94/9/EC on the approximation of the laws of the Member States concerning **equipment** and protective systems intended **for** use in potentially **explosive atmospheres**;

— Directive 95/16/EC on the approximation of the laws of the Member States relating to **lifts**;

— Directive 97/23/EC on the approximation of the laws of the Member States concerning **pressure equipment**;

— Directive 2004/22/EC on **measuring instruments**;

— Directive 2004/108/EC on the approximation of the laws of the Member States relating to **electromagnetic compatibility** and repealing Directive 89/336/EEC;

— Directive 2007/23/EC on the placing on the market of **pyrotechnic articles**.

4.2.1 The main common feature of these directives is their similar structure: definitions, basic health and safety requirements, references to harmonised European rules, requirements for manufacturers, traceability requirements and requirements for conformity assessment and safeguard mechanisms.

4.2.2 The regulated sectors are very distinct industrial sectors facing intense international competition, which means that simplification and a guaranteed level playing field in the EU market will be very beneficial to them.

4.2.3 However, the Commission proposes to align with Decision 768/2008/EC a series of directives which were not going to be revised now but which would benefit from the adoption of provisions on market surveillance and other cross-sectoral issues, without entering into purely sectoral considerations.

4.2.4 The aim of this package is to amend these directives with the sole purpose of integrating the horizontal provisions of the decision, in one go and using a simplified process, and without re-examining sectoral aspects, in order to obtain the immediate benefits of the new legislative framework in the greatest possible number of sectors. Their content is strictly limited to bringing the following into line with the decision: definition, traceability requirements, obligations of economic operators, criteria and procedures for the selection of conformity assessment bodies and conformity assessment requirements.

4.2.5 In order to ensure maximum legal quality, the Commission has opted for the legislative technique of a recast which consists of 'the adoption of a new legal act which incorporates in a single text both the substantive amendments which it makes to an earlier act and the unchanged provisions of that act. The new legal act replaces and repeals the earlier act'. The texts will also have to be adapted to the terminology and provisions of the Lisbon Treaty.

4.3 *According to the Commission, the adaptation of the ten directives can be summarised as follows:*

4.3.1 Measures intended to address the problem of non-compliance:

— obligations for importers and distributors;

— manufacturer obligations;

— traceability requirements;

— reorganisation of safeguard clause procedure (market surveillance).

4.3.2 Measures intended to ensure the quality of notified bodies' work:

— reinforcement of the notification requirements for notified bodies;

— revised notification process;

— requirements for notifying authorities;

— information obligations.

4.3.3 Measures intended to ensure more consistency among the directives:

— alignment of commonly used definitions and terminology;

— alignment of the texts of the conformity assessment procedures.

4.3.4 The proposal does not, however, include provisions on the application of EU standardisation policy, which could have repercussions for the application of the directives it affects, and which will be dealt with in another legislative initiative.

5. **General comments**

5.1 The Committee welcomes the adoption by the European Commission of proposals amending ten technical harmonisation directives implementing the Goods Package by aligning them with Decision 768/2008/EC on a common framework for the marketing of products.

5.2 Decision 768/2008/EC, adopted together with Regulation (EC) No 765/2008 (on accreditation and market surveillance), established models for improving the operation of the internal market by means of an approach more consistent with the technical harmonisation policy in relation to product safety, together with a more effective surveillance system for all products introduced onto the market coming from the EU or third countries, and improving consumer protection in the single market.

5.2.1 As the decision does not itself have any legal effects which are binding on third parties (which does not exclude the possibility of the ECJ checking its legality) - it is a *sui generis* act reflecting an institutional agreement - the adaptation of some of its provisions to the directives referred to above will make the market surveillance system more efficient without the need to amend each of the directives.

5.2.2 In this way the legal effects of the rules in question will be clarified in a flexible and simplified way, using the technique of recasting, while adapting the package of directives to the terminology and certain provisions of the Lisbon Treaty.

5.3 The Committee also stresses the contribution of the amendments to achieving other relevant EU policy objectives such as strengthening the competitiveness of European companies and the strategies of economic operators in the affected sectors, as well as improving the guarantees of a high level of protection for consumers, *inter alia*.

6. **Specific comments**

6.1 In view of the specific legislative technique used by the Commission here, and of the fact that it applies to an area of shared competence (internal market – Articles 4(2)(a) and 114 TFEU), comments should be made on the terminology used in certain provisions of Decision 768/2008/EC, the application of the subsidiarity principle and the role of organised civil society in the future implementation of the package of ten directives.

6.2 There is a certain lack of precision in the use of the terms 'general principles' (Article 1 of the Decision and Article R11 of its Annex 1) and 'common principles' (recitals 5 and 6 of the Decision) without distinction, without the meaning of either term, or the difference (if any) between them, being defined either in the text of the Decision or in any of the directives amended by its provisions. Similarly the term 'public interest' is used (recital 8 and Article 3 of the Decision and Articles R31 and R33 of its Annex 1), without any definition of its meaning in the context of application of the rules in question.

The welcome flexibility offered by this method of amending the directives certainly need not stand in the way of precise and detailed definition of terms relevant to their implementation.

6.3 One of the advantages of the entry into force of the directives will be to strengthen the surveillance mechanisms and the arrangements for the reporting of irregular or illegal practices by market operators themselves. However, it would be appropriate to define the nature of, and minimum threshold for, sanctions for which provision has to be made in the laws of the Member States, as this package of measures merely requires that national governments lay down sanctions for this kind of conduct (see recital 24 of COM(2011) 773 final).

6.3.1 In the regulatory and administrative legal environment of the Member States, which is fragmented in this area, there is a serious risk of the relevant objectives not being effectively achieved, unless the obligations are defined in more specific terms at supranational level.

6.3.2 The EESC calls on the Commission to resolve this problem, which is currently affecting the operation of the internal market, and to present proposals, as for other Community policies.

6.4 The changes to the rules do not strengthen or enhance the role of consumer organisations in the areas of supervision, information and reporting, which paradoxically is left mainly up to market operators.

6.5 The mandate to strengthen horizontal subsidiarity, deriving from the TEU and the TFEU, and ultimately the principle of participatory democracy and the role of organised civil society in the EU, is hardly likely to be served by the single provision of the Decision (recital 35) which assigns a passive role to consumer organisations in this respect (the right to be informed by the Commission on campaigns to raise awareness of the CE mark) and which should be identical to that assigned to producers.

6.6 The current mark system does not ensure that a product has undergone a process guaranteeing its quality and safety, thus failing to meet consumers' expectations. The Commission, producers and consumers should look into the possibility of creating in the future a new mark system for determining the origin and traceability of products, so as to improve information for consumers.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)'

COM(2011) 809 final — 2011/0401 (COD)

'Proposal for a Regulation of the European Parliament and of the Council laying down the rules for the participation and dissemination in Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)'

COM(2011) 810 final — 2011/0399 (COD)

'Proposal for a Council Decision establishing the Specific Programme Implementing Horizon 2020 — the Framework Programme for Research and Innovation (2014-2020)'

COM(2011) 811 final — 2011/0402 (CNS)

'Proposal for a Council Regulation on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing Horizon 2020 — the Framework Programme for Research and Innovation'

COM(2011) 812 final — 2011/0400 (NLE)

(2012/C 181/20)

Rapporteur: **Mr WOLF**

On 15 December 2011 the Council, and on 13 December 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Articles 173(3) and 182(1) of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014–2020)

COM(2011) 809 final — 2011/0401 (COD).

On 19 December 2011 the Council, and on 13 December 2011 the European Parliament, decided to consult the European Economic and Social Committee, under Articles 173, 183 and 188(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 laying down the rules for the participation and dissemination in Horizon 2020 – the Framework Programme for Research and Innovation (2014–2020)

COM(2011) 810 final — 2011/0399 (COD).

On 15 December 2011 the Council decided to consult the European Economic and Social Committee, under Article 182(4) of the Treaty on the Functioning of the European Union, on the:

Proposal for a Council Decision establishing the Specific Programme Implementing Horizon 2020 – the Framework Programme for Research and Innovation (2014–2020)

COM(2011) 811 final — 2011/0402 (CNS).

On 21 December 2011 the Council decided to consult the European Economic and Social Committee, under Article 7(1) of the Treaty on the Functioning of the European Union, on the:

Proposal for a Council Regulation on the Research and Training Programme of the European Atomic Energy Community (2014–2018) complementing Horizon 2020 – the Framework Programme for Research and Innovation

COM(2011) 812 final — 2011/0400 (NLE).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 122 votes to 3 with 7 abstentions.

1. **Summary and recommendations**

1.1 The EESC welcomes and endorses the Commission's proposals and their integrated approach as key elements of the Europe 2020 strategy. It also commends the Commission's wish to give more emphasis to research and innovation. It notes that considerable progress has been made in the documents, also in line with its previous recommendations, but sees a need for additions, clarification and correction in some points.

1.2 The proposals relating to simplification and flexibility are particular appreciated. Continuity should be ensured as far as possible and further complexity avoided when elaborating these.

1.3 The stated intentions on governance should be fleshed out as soon as possible, which requires agreement between all those concerned.

1.4 The Commission should already present an interim progress report on experience with Horizon 2020, its implementation and further elaboration after two years.

1.5 The occupational image of European researchers should be made more attractive in accordance with the conclusions of the competitiveness Council of 2 March 2010 ([1]), in order to eliminate or compensate for current social security disadvantages.

1.6 In the Commission proposals (Framework Programme, rules for participation, Euratom Programme) where a regulation is now recommended as the legal form, a decision should be retained as the instrument, unless the Commission can provide a convincing justification for the change.

1.7 All parts of the programme and rules are welcomed and endorsed, in particular those that benefit social innovation, frontier research, SMEs and universities.

1.8 The main instrument of Horizon 2020 should be manageable collaborative projects with a workable number of participants.

1.9 Infrastructure projects exemplify European added value in accordance with the subsidiarity principle, and this should be clearly reflected in the indicative budget allocation.

1.10 In relation to *Societal challenges*, considerably greater weight should be given to research and development activities to promote a low-carbon, sustainable energy system.

1.11 Moreover, the list of *Societal challenges* should be expanded to include the important theme *Innovativeness of society and business.*

1.12 The Committee explicitly endorses the consolidation of key technologies, which both underpin industrial competitiveness and help to meet societal challenges.

1.13 When deciding between evaluation criteria for promoting research, excellence should be given priority, as it is a proven benchmark. For promoting innovation, market assessment is also important, though very problematic as a predictive tool.

1.14 Potential inconsistencies should be identified between the objectives of a science-driven research policy and an innovation-friendly industrial and competition policy, and apt solutions found in each case.

1.15 Successful integration of research and innovation policy calls for concerted action between many directorates-general and departments of the Commission, and the Committee supports such efforts. Proficient administrators are also needed who have been familiar with the research area for a long time and will remain so. The Commission should cultivate and maintain its scientific and technical expertise and judgment.

1.16 The main goals of the Euratom programme should, as proposed, be nuclear safety, permanent disposal of high-level nuclear waste and development of nuclear fusion, with the international project ITER as the flagship. The programme should be designed so as to ensure that Member States provide support and commitment.

1.17 An overview should be prepared for the layperson explaining the instruments and specialist terms in Horizon 2020 so as to improve its user-friendliness. Particular emphasis should be placed on adequate and competent advice for SMEs.

([1]) Conclusions on the mobility and careers of researchers. 2 999th Council meeting on competitiveness, held in Brussels on 1-2 March 2010.

2. **Gist of the Commission proposals**

This opinion looks at a package of proposals presented by the Commission in separate texts:

1) a proposal for the Horizon 2020 Framework Programme (2014–2020);

2) a proposal for a single set of Rules for Participation and Dissemination;

3) a proposal for a single specific programme to implement Horizon 2020;

4) a proposal for the parts of Horizon 2020 corresponding to the Euratom Treaty.

These documents together make up 380 pages. The gist of them will be outlined in points 2.1 to 2.4 below, so as to provide a reference for the Committee's comments and recommendations set out in points 3 to 7.

2.1 *Horizon 2020 Framework Programme*

2.1.1 Breaking with custom, the Commission has not put forward a proposal for an 8th RTD Framework Programme as expected. Rather, the Horizon 2020 Framework Programme – in accordance with the intentions set out in the Green Paper ([2]) – is designed to bring together those activities that are currently supported under the 7th RTD Framework Programme and the parts of the Competitiveness and Innovation Framework Programme (CIP) that are relevant to innovation, and by the European Institute of Innovation and Technology (EIT). In addition, the Commission is proposing a regulation as the legal instrument, which would replace the current decision of the European Parliament and the Council.

2.1.2 The stated main objectives and cornerstones of funding policy under Horizon 2020 are:

a) scientific excellence, with a proposed budget of EUR 27 818 million;

b) industrial leadership, with a proposed budget of EUR 20 280 million;

c) societal challenges, with a proposed budget of EUR 35 888 million.

2.1.3 A further objective is to facilitate access to the Framework Programme and make it easier to take part.

2.1.4 The total budget proposed for Horizon 2020 is around EUR 88 billion, to be supplemented by funding from the Structural Funds and the education programme.

([2]) COM(2011) 48; OJ C 318, 29.10.2011, p. 121.

2.2 *Participation and dissemination rules*

2.2.1 These concern the terms for taking part in the Framework Programme, and are intended to provide a single, flexible legal framework, simplify procedures and be valid for all aspects of Horizon 2020. Room is also left for adjustments or exceptions.

2.2.2 A single funding rate is set with no differentiation among participants. In addition, more use is to be made of lump sums, flat rates and scale-of-unit costs, with broad acceptance of the usual accounting practices of grant beneficiaries.

2.2.3 The following funding rates are envisaged for grants for direct eligible costs:

a) the Horizon 2020 grant may reach a maximum of 100 % of the total **direct eligible costs**, without prejudice to the co-financing principle;

b) the Horizon 2020 grant is limited to a maximum of 70 % of the total **direct eligible costs** for the following actions:

— actions primarily consisting of activities such as prototyping, testing, demonstrating, experimental development, piloting, and market replication;

— programme co-fund actions.

2.2.4 **Indirect eligible costs** are determined by applying a flat rate of 20 % of the total direct eligible costs; alternatively, the work programme may also allow flat-rate financing or lump-sum financing to be used.

2.2.5 The following conditions of participation apply:

2.2.5.1 At least three legal entities shall participate in an action:

— each of the three shall be established in a Member State or associated country;

— no two of the three may be established in the same Member State or associated country;

— all three legal entities shall be independent of each other within the meaning of Article 7.

2.2.5.2 By way of exception, the minimum condition is participation of one legal entity established in a Member State or associated country in the following instances:

a) frontier research actions in the case of the European Research Council (ERC);

b) when using CAF;

c) programme co-fund actions;

d) specific situations provided for in the work programme or work plan;

e) coordination and support actions and training and mobility actions.

2.2.6 Assessment procedures

2.2.6.1 The proposals submitted are to be evaluated on the basis of the following criteria:

a) excellence;

b) impact;

c) quality and efficiency of the implementation.

2.2.6.2 Proposals for frontier research (ERC) are assessed on excellence alone.

2.3 *Specific Programme*

2.3.1 Whereas the 7th Framework Programme used several Specific Programmes (e.g. 'Cooperation' and 'Capacities'), the Commission is now proposing just one Specific Programme covering the different funding objectives and structures under the sub-programmes.

2.3.2 The four sub-programmes are:

I. Excellent science, comprising:

i. frontier research (ERC);

ii. research on future and emerging technologies (FET);

iii. Marie Curie actions;

iv. European research infrastructures.

II. Industrial leadership, comprising:

i. information and communication technologies;

ii. nanotechnologies;

iii. materials;

iv. biotechnology;

v. manufacturing and processing;

vi. space.

Enhancing access to risk finance and increasing innovation in small and medium-sized enterprises also fall under this heading.

III. Societal challenges, comprising:

i. health, demographic change and wellbeing;

ii. food security, sustainable agriculture, marine and maritime research, and the bio-economy;

iii. secure, clean and efficient energy;

iv. smart, green and integrated transport;

v. climate action, resource efficiency and raw materials;

vi. inclusive, innovative and secure societies.

IV. Non-nuclear direct actions of the Joint Research Centre (JRC), where the objective is to enhance the scientific evidence base for policy-making, to promote understanding of natural processes underlying societal challenges, and to examine emerging fields of science and technology.

(JRC measures relating to the nuclear sphere are covered in the Euratom programme.)

2.4 *Euratom programme 2014–2018*

2.4.1 The Euratom programme covers research activities relating to nuclear energy (nuclear fusion and nuclear fission) and radiation protection. Breaking with custom, the proposal is for a regulation rather than a decision. It is intended to help meet the strategic objectives of Horizon 2020 (see point 2.1.2). The duration of the programme is limited to five years under the Euratom Treaty, which means that it expires in 2018.

2.4.2 The indirect actions of the Euratom programme concern:

a) safe operation of nuclear systems;

b) solutions for the management of ultimate nuclear waste;

c) development and sustainability of nuclear competences (nuclear fission);

d) promoting radiation protection;

e) development activities in nuclear fusion exploiting existing and future fusion facilities;

f) development of materials, technologies and conceptual design for future fusion facilities;

g) promoting innovation and industrial competitiveness;

h) ensuring availability and use of research infrastructures.

2.4.3 The Commission is assisted by consultative committees in implementing the indirect actions.

2.4.4 The direct actions concern the R&D programme of the Joint Research Centre.

2.4.5 A separate decision has been presented for ITER, as the funding for this project will be outside the Multiannual Financial Framework.

3. **General comments of the Committee**

Given the length of the four documents presented by the Commission, the Committee can only comment on a small number of points that it considers of key importance.

3.1 *General endorsement*

The EESC welcomes and endorses the Commission’s proposals as key elements of the Europe 2020 strategy, and sees them as an effective integrated approach. It observes that many of its earlier recommendations (e.g. on simplification ([3]), the Green Paper ([4]) and the Innovation Union ([5]) have been assimilated, and refers to these opinions and their recommendations, but sees a need for additions, clarification and correction in some points.

3.2 *Priorities, budget, 3 % target and leverage effect*

3.2.1 Research, development and innovation will determine Europe’s future position in the world; in view of their critical importance they must be given considerably higher priority, not just in the Commission, but also and above all in the Member States. The Committee is pleased to note that the proposed budget for Horizon 2020 really demonstrates the Commission’s intention to place greater emphasis than before on research and innovation, as well as the investment they require. This is in line with the Committee’s repeated recommendations and therefore receives its full support. The amount of the budget now proposed must still be regarded as inadequate in objective terms, given the 3 % target discussed below and the ambitious thematic research and innovation goals. However, the Committee accepts this as a feasible compromise in the context of other practical constraints.

3.2.2 In 2002, the European Council in Barcelona adopted a 3 % target for the Lisbon strategy, which ran until 2010, a target that was intended to apply mainly to R&D funding policy in the Member States and in industry. The aim was that by the year 2010 3 % of Member States’ GDP would be earmarked for research and development. One third of this amount would come from public funding and two thirds from industry. This target has not yet been reached, either as an EU average or in most of the individual Member States. This is why it was taken over into the Europe 2020 strategy.

([3]) See in particular: OJ C 48, 15.2.2011, p. 129.

([4]) COM(2011) 48; OJ C 318, 29.10.2011, p. 121.

([5]) OJ C 132, 3.5.2011, p. 39.

3.2.3 The funding policy laid down in the Horizon 2020 programme should be the critical lever that enables this 3 % target to be reached at least by the next deadline. Unfortunately, although the budget has been increased it is still doubtful that this will provide sufficient leverage to achieve the target. The total Community budget amounts to around 1 % of the Member States’ GDP. The percentage of that budget earmarked for Horizon 2020 is just under 9 %. Thus the leverage effect expressed as a ratio is still less than 1 to 30. The proposed budget can therefore be seen only as a necessary first step towards securing the amount of funding actually required, and should on no account be reduced.

3.3 *Simplification and continuity*

The EESC particularly welcomes those measures designed to achieve the simplification of procedures ([6]) that it has long been calling for. There is a difficult line to tread here between simplification, case-specificity and the continuity that is also urged, and further fine-tuning may be necessary. But it is crucial that this should not engender a slide back into over-complicated and lengthy procedures.

3.4 *Latitude and flexibility*

The Committee is therefore pleased to note that alongside the few, simple rules, the programmes have been framed and the budget allocated in a way that allows sufficient flexibility and latitude (see Specific Programme, Title I, Article 6 ‘Budget’). It is therefore particularly important to clarify the relevant decision-making processes in the future, especially the role of the programme committees.

3.5 *Governance*

The EESC endorses the recitals and objectives relating to governance (see recital (21) in COM(2011) 809), in particular the Commission’s emphasis on bottom-up processes. It also welcomes the intention to interact regularly with end-users, the public, the social partners, and civil society organisations when setting the priorities of the Specific Programme.

3.5.1 In the Committee’s view, however, these statements made by the Commission, which are couched in very general terms, should be supplemented by **detailed and precise indications** on how the programme is to proceed, and on the relevant decisions, allocations (including budgetary allocations) and specific thematic information. Providing for the necessary governance means adequately demonstrating in what measure stakeholders and civil society representatives are involved fairly in these processes and work programmes, and the structures and decision-making levels (e.g. programme committees) of their involvement. The Commission after all wishes not just themes, but also detailed rules on budgets, funding instruments, extent of funding and if necessary outsourcing to the European Technology Platforms, ‘Article 185 initiatives’, etc., to be moved to the work programmes.

([6]) See footnote 3.

3.5.2 Since the Commission also indicates in the proposal that it intends to use executive agencies or other external bodies in accordance with Article 55 of the Financial Regulation, further need for clarification arises with respect to the role, powers and oversight of such bodies.

3.5.3 The EESC recommends that these issues be clarified in consultation with all stakeholders, that they be set out in an accompanying document, and that the Committee's view then also be listened to. It also cautions against relapsing – by the back door as it were – into the former (over)regulation and complexity during this process of elaborating rules, especially with respect to the work programmes (see point 3.3). **The continuity with previous processes should only be broken if this is unavoidable in the interests of simplification.**

3.6 *Overlaps*

Specific sub-themes and issues in the sub-programmes of the Specific Programme may overlap with each other, and while this increases flexibility it may also shift priorities and make it difficult to keep track of and organise items. Thus, for instance, key findings and ideas from the Scientific Excellence or Industrial Leadership sub-programmes may feed into the Societal Challenges sub-programme.

3.7 *Interim progress report*

The Committee therefore also recommends that in addition to the interim evaluation after four years (analogous to the evaluation provided for in COM(2011) 52 final), the Commission should present an interim progress report just two years after the start of the programme; this report would cover the activities and experience to date of the Commission and of stakeholders, in particular in relation to the governance called for here.

3.8 *Indicative budget allocation*

Notwithstanding the limits mentioned, the EESC also welcomes the proposed indicative allocation and distribution of the budget over the individual sub-programmes and their sub-themes, in particular in relation to supporting small and medium-sized enterprises and to social problems and issues. Three exceptions to this are dealt with below (see points 4.2.1, 4.2.2 and 4.3). However, the relative importance attached to coordinating national and regional programmes (e.g. the new ERA Net programme) as opposed to direct research funding should be clarified.

3.9 *Research profession*

In recital (22) of the proposal on establishing the Framework Programme the Commission notes: 'Horizon 2020 should contribute to the attractiveness of the research profession in the Union'. In view of this, the EESC would like to see specific details of what measures have now been taken to follow up on the conclusions of the competitiveness Council of 2 March 2010 [7] and really improve the unsatisfactory situation of young scientists (see section 6 below for a detailed review).

3.10 *Regulation or decision?*

It is not clear to the Committee, nor can it find any justification by the Commission based on previous experience, why the subsidiarity principle should require or allow a divergence from previous practice, namely the proposal that a regulation be used now instead of a decision for another two of the texts presented. The Committee recommends keeping to the former practice, unless the Commission can present a cogent legal argument.

3.11 *Coordinated action by the Commission*

Many aspects of EU research and innovation policy call for a coordinated, cooperative and efficient approach not just between the Commission and the Member States but also between several Commissioners, directorates-general and departments within the Commission. The spheres covered include education policy, the social security situation of researchers, the Structural Funds, cohesion policy, industrial and competition policy, energy policy, health policy and environmental policy. The EESC encourages the Commission to step up its efforts here and develop the necessary procedures and instruments.

3.12 *Staff with expertise*

The Committee repeats its strong recommendation [8] that funding bodies, and also the Commission (or the planned executive agencies) in particular, should involve staff with proven scientific expertise who are familiar with and maintain their knowledge of the particular features and 'community' of the scientific area in question. Regular job rotation is very counterproductive in research and development.

3.12.1 Maintaining expertise and commitment

The Committee is also concerned that the looming trend towards outsourcing to external agencies tasks and activities related to promoting research and innovation that have hitherto been the province of the Commission might cause the Commission not only to dispense with its own expertise and judgment, but also to not be adequately engaged with the factual material. However, it is essential for the Commission to identify with that material so that it has the requisite expertise and commitment to successfully represent the key area of research, development and innovation at policy level. Otherwise the fragile system of checks and balances would be seriously upset.

(7) Conclusions on the mobility and careers of researchers. 2 999th Council meeting on competitiveness, held in Brussels on 1-2 March 2010.

(8) OJ C 44, 16.2.2008, p. 1.

3.13 *Further measures: Europe 2020 strategy*

The EESC regards the Horizon 2020 programme as a necessary and critical plank of the Europe 2020 strategy. However, it must be supplemented by important additional measures, from both the Commission and, above all, the Member States. The Committee refers here to its initiatives on the Europe 2020 strategy. The main issue is to create or develop efficient and innovation-friendly economic ([9]), social and education systems.

4. **Specific comments of the Committee**

4.1 *Social sciences and humanities, education policy and innovation*

The EESC welcomes the inclusion of research and innovation in the social sciences and humanities in each of the general objectives of Horizon 2020. It considers the themes mentioned to be relevant and important, and welcomes the priority given to them in the programme. The Committee also recommends that more emphasis be placed on efforts to develop a more effective education system at all levels of learning. This is a critical key task in promoting and harnessing talent in the EU in an optimal and skills-oriented way. As far as the objectives of Horizon 2020 specifically are concerned, the main issue is to train a sufficient number of qualified specialists at universities. But this means establishing the right preconditions in schools.

4.2 *Societal challenges*

The EESC endorses the list of *Societal challenges*, while recommending that even more emphasis be placed on the following.

4.2.1 Energy and climate issues

As regards priority-setting in the *Societal challenges* subprogramme, the EESC recommends, in view of the extremely ambitious goal of revolutionising our energy supply system by the year 2050 and switching completely to sustainable low-carbon technologies ([10]), that this item also be given much greater consideration in the budget allocation ([11]). In particular, no adequate solution has been found to the problem of developing sufficient and affordable low-carbon energy-storage and buffer technologies to manage the fluctuating supply of wind and solar energy. The same goes for long-term fuel supplies for heavy goods traffic and air and waterborne transport. The impact on the economy and society also requires more detailed assessment.

4.2.2 Innovativeness of society and business

The EESC also recommends that the important theme *Innovativeness of society and business* be added to the list of challenges. **(Why were Google and Facebook not developed in Europe? Why do the Member States not all have an equally efficient management, economic and social structure?)** This item is subsumed under the heading 'Inclusive, innovative and secure societies' in the Commission proposal (see point 2.3.2 - III – vi above), and the Committee feels that its considerable social and economic importance is therefore not sufficiently developed. After all, this is the main element of the *Innovation Union* ([12]) flagship initiative. (The title of point 2.3.2 – III – vi would then be shortened to *Inclusive and secure societies*.)

4.3 *SMEs and microbusinesses as stakeholders in innovation*

The Committee welcomes the proposed improvements in supporting SMEs. It sees this as an important aspect of the overall Europe 2020 approach and refers here to its opinion on the Innovation Union ([13]), in which it noted that '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 welcomes the Commission's indication that this recommendation has already been taken on board. With reference to section 7 of the present opinion, the EESC also notes that it is particularly important for SMEs to be properly and clearly informed about the various funding instruments of Horizon 2020 and access to them. Advisory services where SMEs could speak to a consultant would also be a good idea.

4.4 *Universities*

The EESC welcomes the option provided for in the participation and dissemination rules of 100 % funding for total direct eligible costs. It sees advantages in this for researchers or groups of researchers working at universities in the natural sciences, engineering and humanities. This would contribute to achieving an objective that the Committee has called for many times, namely that of creating and maintaining world-class EU universities. However, as pointed out in the Matias report (European Parliament report A7-0302/2011), these measures require additional support from cohesion policy resources to allow the necessary capacity-building in those Member States that have not yet been sufficiently involved in the Framework Programme. Further important measures are still needed to achieve this objective, but discussion of them does not fall within the scope of this opinion.

4.5 *Research infrastructure*

As noted on several occasions, the Committee considers that large-scale infrastructure offers critical support and tools for technological and scientific studies and excellence that would otherwise not be feasible at all. Hence its high attractiveness and impact for intra-EU cooperation and for mobilising the best engineers and scientists worldwide ([14]). Moreover, the potential uses for large-scale infrastructure exceed the capacities and needs of a single Member State, which means that such infrastructure is often set up and run by individual Member States in partnership.

([9]) See for example: http://www.worldbank.org/.
([10]) COM(2011) 885 final.
([11]) OJ C 21, 21.1.2011, p. 49.
([12]) OJ C 132, 3.5.2011, p. 39.
([13]) Ibid.
([14]) OJ C 182, 4.8.2009, p. 40.

4.5.1 Subsidiarity principle

Large-scale infrastructure is thus a perfect example of EU funding according to the subsidiarity principle. The EESC therefore deplores the failure to reflect the exceptional significance of such infrastructure, in form and substance, in the proposed indicative budget allocation. It recommends that the estimates for the other indicative budgets (except the budget for SMEs) should each be reduced by 2-2.5 % and that the amount thus saved should be added to the infrastructure heading. The fact that electronic infrastructure, which is important and will be even more so, would fall into this category makes this all the more necessary.

4.5.2 Operating costs

In addition, the Committee recommends that the Commission also contribute to the operating costs of infrastructure, and it asks the Commission to clarify that it actually intends to do this.

4.6 *Key technologies*

As the Committee has on several occasions pointed out [15], development of, proficiency in, and marketing of key technologies is a critical multidisciplinary task, both for strengthening the competitive position of the EU and for managing such social challenges as sustainable energy supply or health. The EESC therefore welcomes the appropriate weight given to this area, particularly as key technologies are also an effective catalyst for cooperation between research bodies and industry, and hence public-private partnerships. The FET-Open part of the programme is particularly important in this context.

4.7 *Accounting procedure I*

The Committee welcomes the proposal to recognise the payment systems used in the Member States by research bodies and firms (e.g. hourly rates in industry). This must also include expenses resulting from application of value added tax.

4.8 *Accounting procedure II*

The Committee also welcomes the considerable simplification resulting from the 100 %-20 % or 70 %-20 % method in the participation rules (explained in points 2.2.3 and 2.2.4). Over and above the substantial administrative benefit, this could have financial advantages for various participant groups compared with the current quotas, though there may also be financial disadvantages. The Committee therefore recommends that some experience be gained with this method and the funding rates for indirect costs later raised slightly if necessary.

4.9 *Importance of public procurement*

When developing research infrastructure and large-scale equipment, industry is often called upon to develop and build very complex and demanding individual components. This means entering new areas of technology, which may give rise to the typical problems described by the Committee in its opinion on knowledge transfer [16]. In that opinion it recommended that 'the experience arising so far from the EU's and Member States' existing rules on state aid, budgets, procurement and competition be thoroughly reviewed to see that they are conducive to the purpose of keeping the skills and specialist knowledge gained by industry under such contracts and using them to make Europe more competitive, and indeed for subsequent follow-on contracts …'.

4.10 *New approaches to industrial and competition policy*

New approaches to industrial and competition policy should therefore be considered. It is questionable here whether the Commission's ideas on 'pre-commercial procurement' put forward would provide a suitable instrument. The Committee sees a risk here of choosing to forego industrial leadership and performance entirely for fear of possible knowledge monopolies. That would be a big mistake. At the same time there is a risk of failing to obtain the best product because of overprotectionist measures that undermine research and because the best product is only available outside the EU. The Committee therefore recommends that the different objectives, which are sometimes mutually incompatible, and requirements of research policy, innovation policy and industrial policy should be identified, and discussed and clarified with the various stakeholders. Special arrangements may even be needed in certain cases (see point 4.9).

4.11 *Efficient project size*

The trend towards ever larger projects, such as the joint technology initiatives, KICs and now also the FET flagship initiatives, should be monitored. These demand ever more resources and work effort for self-governance, and numerous consultation processes, and they should not develop into a tower of Babel.

4.11.1 Collaborative projects as a key instrument

Pooling resources can be helpful, but at a certain level this squeezes smaller players out of the Framework Programme, because they lack the necessary, and costly, legal and administrative support. This concerns in particular SMEs and university research groups. **Manageable collaborative projects with a workable number of participants should therefore remain the main instrument of Horizon 2020.**

4.12 *European Institute of Innovation and Technology (EIT)*

As the EIT is funded from the budget for Horizon 2020, the Committee sees this body's activities as equally part of the strategy pursued under Horizon 2020, and its recommendations also cover this sphere. A separate opinion is being drawn up on the EIT [17].

[15] OJ C 48, 15.2.2011, p. 112.

[16] OJ C 218, 11.9.2009, p. 8; point 1.8 and section 5.

[17] COM(2011) 822 final – EESC opinion *EIT – Strategic Agenda* (See page 122 of this Official Journal).

4.13 *Evaluation criteria*

The Commission's proposed evaluation and selection criteria ([18]) – **excellence, impact, and quality and efficiency** – are listed in point 2.2.6 above. The EESC endorses these criteria, provided the pre-eminence of excellence is not undermined, since this is certainly the most important performance criterion. In relation to frontier research, the Committee cautions against placing too much emphasis on most frequently cited publications, as this creates a bias towards research areas that are already well established. It repeats its general reservation with regard to formal evaluation systems.

4.13.1 For promoting innovation in particular, considerable importance must obviously be attached to **market factors** as an evaluation criterion ([19]). However, initial wrong estimates, as happened for example with the development of the personal computer, show that market evaluation is by no means easy in a hypothetical scenario, particularly where novel techniques are involved, and that it does not necessarily give accurate results.

4.14 *Joint Research Centre*

The Committee welcomes the proposals for direct funding of the Joint Research Centre. It also points out that the JRC's activities should be subject to the same evaluation processes as those of other bodies. If the Joint Research Centre also applies for indirect funding under the Specific Programme, an absolutely level playing-field must be ensured vis-à-vis other applicants or stakeholders that are outside the Commission.

5. **Euratom**

5.1 The EESC sees in the proposal for the Euratom programme essentially, and appropriately, an unbroken continuation of the 2012–2013 Euratom programme, which the Commission presented only recently and which was analysed in detail by the Committee ([20]). The Committee reiterates and reaffirms its main point made then, namely that: 'the level of knowledge about nuclear technologies, their use and their consequences must be maintained and developed. Given that it plays a coordinating role in pooling resources and integrating joint efforts, the Euratom R&D framework programme offers significant European added value in this connection.' The EESC also reaffirms its detailed comments and recommendations made at the time, in view of which it focuses here only on certain specific points. The key task is to develop reactor systems with maximum safety and minimum long-lived high-level radioactive waste.

5.2 The Committee is pleased to see that its recommendations in that analysis have been broadly taken into account in the proposal for the Commission programme. These include:

— improved reactor safety, permanent disposal of high-level nuclear waste, transmutation to reduce long-term radiotoxicity, monitoring of fissile material and radiation protection;

— consequences of the stress test;

— development work on energy production from nuclear fusion, with the ITER as a major international project;

— training specialists and ensuring that enough basic knowledge is taught in schools.

5.2.1 The EESC points again to the need, irrespective of the Member States' individual decisions for or against the use of nuclear energy, to 'prioritise the development of and dissemination of our knowledge within the EU on safety issues and the associated technologies. […] The abandonment of comprehensive knowledge would be dangerous and tantamount to burying one's head in the sand' ([21]). The Committee is concerned that in those Member States which are now abandoning nuclear energy, or plan to do so in the future, the acquisition and development of such skills could be lost. This must be avoided at all costs.

5.3 *European Nuclear Energy Forum (ENEF)*

In relation to issues of nuclear fission technology, the Committee supports in particular the procedures and recommendations of the European Nuclear Energy Forum (ENEF), in whose work it is itself involved through its representatives in cooperation with the Commission.

5.4 *Stress tests*

The decision to carry out stress tests on all nuclear power plants in the EU was a logical consequence of the nuclear accident at the Fukushima reactor after the Japanese tsunami. As soon as all the results of these stress tests are available, it is necessary not just to draw conclusions for existing plants but also to set appropriate priorities within the Euratom programmes for research, development and demonstration activities.

5.4.1 Particular attention should be paid here to watching for possible beyond-design-basis accidents.

5.5 *Nuclear fusion*

A public debate has arisen in some quarters about the nuclear fusion programme, partly because it cannot be expected to make any significant contribution to low-carbon energy production by 2050 (the timescale of the Energy Roadmap) and partly because the construction costs of the international ITER project (which on the Commission's recommendation are to be defrayed outside the Framework Programme) have increased considerably compared with original estimates.

([18]) See in particular point 4.2 in OJ C 132, 3.5.2011, p. 39.
([19]) See in particular point 3.7.2 in OJ C 132, 3.5.2011, p. 39.
([20]) COM(2011) 71 final, 72 final, 73 final and 74 final; OJ C 318, 29.10.2011, p. 127.
([21]) OJ C 318, 29.10.2011, p. 127; point 3.4.

5.5.1 Energy Roadmap 2050

The EESC will be drawing up an opinion specifically on the Energy Roadmap 2050 [22]. It is enough to note here that in view of global demographic trends and growing worldwide energy hunger, there is no way that the EU measures implemented by 2050 will be able to resolve the global energy problem for the long term. This makes fusion energy the only other option that is not yet in use, available or known, in the armoury of potential technologies to address this enormous task.

5.5.2 ITER I

Although only the (European) scientific and technical preparatory work for ITER is part of the Euratom programme (the construction costs of ITER are to be borne from other sources [23], it is right to regard ITER as the flagship of worldwide fusion research and of the European fusion programme. Irrespective of the scope and need for design improvements and alternatives, ITER is a decisive and internationally unique step towards the future application of fusion energy. The aim of the project is to produce thermal fusion power of 500 megawatts (with a net power gain) for the first time anywhere in the world [24].

5.5.3 ITER II

ITER is also a **testbed for international cooperation on an unprecedented scale** between key industrialised countries. **The partners are China, the European Union, India, Japan, South Korea, Russia and the United States.** Their interest in helping to develop crucial new technologies evidences the high expectations of fusion as another valuable carbon-free energy source. However, the novelty and complexity of this cooperation is also one reason for revising the original assumption that the total costs for each individual partner would fall as the number of partners increased. The great value of this partnership does not lie chiefly in the cost savings, but rather in the gains represented by expertise, ideas and highly skilled specialists. Like the international space station, it is also delivering a contribution to international understanding and peace that should not be underestimated (ITER was originally proposed and launched by Presidents Gorbachev, Mitterrand and Reagan). The Committee believes that the Commission's approach of raising the EU contribution to ITER construction costs outside the EU budget must on no account be allowed to undermine the project.

5.5.4 Member State involvement – contracts of association

In its recent opinion on the Euratom programme [25], the Committee highlighted the crucial importance of these 'associations' as the foundation and think tanks of the fusion programme and in leveraging Member States' support. The EESC draws attention to its comments in that opinion and once more warns against jeopardising this important support or allowing it to wither away. Such associations are also a tried-and-tested tool for achieving the Commission's ambition of joint programming in research [26]. Even in the event of an organisational restructuring of the European fusion programme, effective joint programming instruments must still be available to ensure that the programmes of the Member State laboratories involved can be coordinated at EU level and logically integrated, so as to maintain the EU's current leading role in this area of research and the necessary support provided by the Member States.

6. European Research Area: a single market for researchers

6.1 The Commission assumes that the European Research Area will be completed by 2014. This is to be hoped for, but the Committee doubts that it can be achieved because it requires that the elements of a single market be in place, e.g. an EU patent or a single market for researchers [27].

6.2 With reference to the Council decision of 2 March 2010 [28], the Committee identifies an urgent need for action to improve the unsatisfactory social security situation of young researchers working at public research institutes and universities, a situation which is starkly at odds with the objective of making the research profession highly attractive, or at least ensuring that it is not less appealing than other equivalent professions.

6.3 The Committee acknowledges that scientific organisations in some Member States have already made certain improvements in this area and have been continuing their efforts. It also recognises that the Commission is trying to improve matters, e.g. through the Marie Curie and Erasmus programmes.

6.4 The problem lies essentially in the public sector wage and social security systems of the Member States, under which scientists working at public research institutes and universities are generally remunerated. These systems tend to assume an uninterrupted career path with the same employer, for which they reward the worker. But precisely because of this, such systems are not appropriate to the particular needs of research and development.

6.5 The reason is that they do not take account of or recompense the very demanding and lengthy selection process, which includes post-graduate study (doctorate), which young scientists must already have successfully completed, or of the fact that at least initially their career path is not unbroken but consists of temporary contracts, often without any prospect of extension or later permanent employment. The quite justified long-term concern about future career and associated stress not only have a negative impact on science and research, but also on personal partner relationships and starting a family.

[22] See footnote 10.
[23] COM(2011) 931 final. The Committee will draw up a separate opinion on this.
[24] See: http://www.iter.org/.
[25] OJ C 318, 29.10.2011, p. 127; point 4.5.1.
[26] COM(2008) 468 final; OJ C 228, 22.9.2009, p. 56.
[27] See OJ C 44, 16.2.2008, p. 1; point 1.3.
[28] See footnote 1.

6.6 This distinctly higher social risk is not offset by a correspondingly higher income or by better social protection, however. Nor is any account taken of the fact that a minimum of mobility is required for a successful career in science; on the contrary, mobility tends to be penalised under these systems.

6.7 The wage systems of the Member States are quite incompatible with each other, and the 'social credits' accumulated through work abroad are hardly transferable, which makes mobility between Member States more disadvantageous.

6.8 As a matter of urgency, therefore, the wage and social security systems of the Member States should be adapted to meet the particular conditions urged for scientists. Since this objective could doubtless only be reached after a very long-drawn-out process, the EESC points to the Council decision referred to above and recommends that the Commission should press ahead with its efforts to set up a special fund jointly with the Member States (to be financed through the Social Fund), which would offset the above-mentioned disadvantages for young scientists with commensurate compensatory benefits. These benefits should reflect the social risk inherent in a series of temporary contracts as well as the reduced or lost 'social credits' resulting from mobility (especially cross-border mobility).

7. User-friendliness and information: a short guide and advisory services.

7.1 The EESC repeats its urgent call on the Commission – given the multitude of funding instruments, processes, networks and technical terms (e.g. projects, KICs, technology platforms, innovation partnerships, flagship initiatives, ERA-Nets, joint programming, Erasmus, Marie Curie, COST, Eureka) – to draw up a comprehensible overview and short guide, available on the internet, which clearly presents the essential features of the specific instruments with their requirements and objectives. This would be a major contribution to simplification and transparency and perfectly complement the CORDIS portal, which is otherwise working very well.

7.2 The Committee recommends that this guide be limited to the essential facts and leave out promotional or explanatory remarks. Even in the case of the documents under discussion, it would have been a relief for the Committee if the essential substance had been presented with less analysis.

7.3 The Committee proposes that a special version of this guide be published that is designed for SMEs and their particular needs and level of knowledge. In addition, competent advisory services should be set up, e.g. through special training seminars to enable regional bodies such as chambers of industry and commerce to function as information points.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology'

COM(2011) 817 final — 2011/0384 (COD)

and the 'Proposal for a decision of the European Parliament and of the Council on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT): the contribution of the EIT to a more innovative Europe'

COM(2011) 822 final — 2011/0387 (COD)

(2012/C 181/21)

Rapporteur: **Mr LEMERCIER**

On 13 December 2011 the European Parliament, and on 16 January 2012 the Council, decided to consult the European Economic and Social Committee, under Article 173(3) 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 294/2008 establishing the European Institute of Innovation and Technology

COM(2011) 817 final — 2011/0384 (COD)

and the

Proposal for a decision of the European Parliament and of the Council on the Strategic Innovation Agenda of the European Institute of Innovation and Technology (EIT): the contribution of the EIT to a more innovative Europe

COM(2011) 822 final — 2011/0387 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 123 votes to 5 with 4 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC welcomes the Commission's overall approach regarding the European Institute of Innovation and Technology (EIT).

1.2 It supports the Commission's core proposals, which are the outcome of consultations with the different EIT stakeholders, the impact assessments and the data generated by experimentation.

1.3 The EESC is aware that the European Union is lagging behind in cooperation, knowledge-sharing and in bringing together high-level research and training institutions, and therefore sees the Commission's initiative as a positive step.

1.4 Given the globalisation of research and the decisive weight of innovation in production, it maintains that excellence must be fostered.

2. **Background**

2.1 The EIT was created in 2008.

2.2 The EIT resulted from a Commission proposal to the Council, which was adopted on 22 February 2006, and was set up as part of the Lisbon strategy with the aim of boosting growth and creating jobs in the Union.

2.3 Its primary objective is for Europe to catch up in the area of technological innovation-based industrial policy and hence to promote synergies between basic research, R&D and innovative industrial applications in Europe, especially for SMEs and SMIs.

2.4 As a centre for excellence, the EIT aims to become a flagship of innovation, research and growth in the Union. To achieve this, it strives to bring higher education, research and innovation bodies closer together, both functionally and geographically.

2.5 This closely mirrors the concept applied by the Massachusetts Institute of Technology (MIT), which works for the horizontal integration of these three sectors.

2.6 In June 2008, Budapest was selected as the operational headquarters.

2.7 The EIT does not fund individual projects directly: it makes a 25 % contribution to financing the decentralised Knowledge and Innovation Communities (KICs).

2.8 The KICs, made up of universities, businesses and research institutes, work together on innovative projects, and contribute together with local partner entrepreneurs and innovators of all kinds to providing 75 % of the funding of local projects.

2.9 The first three KICs were selected in December 2009 with co-location centres in France, Germany, the United Kingdom, Switzerland, Italy, Spain, the Netherlands, Sweden, Finland, Hungary, Belgium and Poland.

3. **The Commission's proposals**

3.1 In this context, the EIT must become a reference mark and a beacon for universities, research bodies and businesses involved in research and development (R&D), and especially for innovative small and medium-sized enterprises (SMEs) who are also the main providers of skilled jobs and new occupations.

3.2 In order to boost its impact and stimulate innovation in new areas relating to societal challenges, the EIT will gradually expand its range of KICs in the course of the 2014-2020 framework programme for funding research.

3.2.1 The budgets allocated will be monitored: ultimately, the practical results will determine the viability of each KIC.

3.2.2 By adopting a gradual approach to setting up new KICs, the EIT will ensure that the lessons learned from experience will be properly taken into account and that new KICs will only be created in areas with clear potential for innovation and offering outstanding excellence that can attract the necessary skills and financing.

3.3 Two new generations of KIC will emerge during the 2014-2020 period: three are to be set up in 2014 and a further three in 2018 – with the existing three, this will make a total of nine KICs (meaning the creation of 40 to 50 co-location centres across the EU).

3.4 Grounded on a solid scientific and research foundation, they can bring together training, research and innovation stakeholders.

All the KICs are capable of mobilising investment and fostering a long-term commitment on the part of businesses, facilitating new technological developments and stimulating social innovation:

— a KIC for added-value manufacturing industries;

— a KIC for the food supply chain;

— a KIC for innovation for healthy living and active ageing;

— a KIC in favour of secure societies faced with the rapid digitalisation of the economy;

— a KIC to facilitate new methods of sustainable exploration, extraction, processing, recycling and substitution;

— a KIC on urban mobility.

3.5 The establishment of decentralised KICs bringing together all potential local partners, probably at regional level, appears to be a proper response to the challenges facing the EU. In view of the proven impossibility of harmonising the research, training and production systems of the various Member States within a reasonable (meaning short) timeframe, because these issues touch upon subsidiarity, setting up KICs provides a practical solution for overcoming this difficulty and offering a new policy model for developing industry and services.

3.6 The autonomy enjoyed by KICs in recruitment, organisation and financing will make it easier to identify the most skilled and motivated researchers, and should facilitate the returns on experience and the international cooperation envisaged by the Commission.

4. **General and specific comments**

4.1 The **overall architecture** proposed by the Commission is both innovative and promising. The Committee would recall its previous opinion [1] on the establishment of the European Institute of Technology, considering that its general comments remain entirely valid today.

4.2 Regarding the **budget**, the Committee considers that, in the light of the number of KICs to be set up and the duration of the programme, the budget allocated by the Commission's project effectively represents a freeze, or even a relative reduction, in financial resources up to 2020. The EIT however offers a path towards sustainable medium- and long-term growth for European SMEs and SMIs that would offer a wealth of innovation and jobs and which must be helped to flourish in the most promising sectors.

4.3 The **financing structure** for the KICs is clearly advantageous, as only 25 % is contributed by the EIT with the remaining 75 % to be provided by partner businesses, SMEs, research centres and public and private stakeholders. The flexibility of this structure can speed up the process of acquisition and of shifting from fundamental to applied research, of innovation and lodging patents and of setting up or developing companies putting innovation on the market.

[1] OJ C 161, 13.7.2007, p. 28.

4.4 What is more, local initiatives will be in a position to enjoy considerable room for manoeuvre in the Member States.

4.5 The **governance structure** of the KICs, together with the regular turnover of members, represent obvious assets. The Committee agrees with the thinking that guides the EIT's development. It is also convinced that that the KICs' independence and autonomy must be maintained in the interests of greater effectiveness, and that their work should be judged on the basis of results.

4.6 A valuable aspect of this two-tier structure is that it will be easier to bring patents and innovative products emerging from the KICs to the market.

Faced with accelerating globalisation that is undermining traditional industries, the EESC agrees that the concept of 'excellence' in training and production is a forward-looking value and an effective tool for competitiveness.

4.7 More than ever, the added value of innovative products and services that are strongly geared to sustainable development will create skilled jobs and prevent relocation to lower labour cost countries.

4.8 The EESC notes the relative concentration of KICs. The Committee would like to see a focused effort being made to forge links with laboratories, businesses and research institutions in as many Member States as possible in order to broaden the creative potential and human and technological resources available to KICs and to avoid accentuating imbalances between the Member States in terms of research and high-level training. It also notes that more than 200 partners from all the Member States have committed themselves.

4.9 The EESC is particularly pleased at the introduction of EIT-labelled degrees, facilitating mobility for researchers and the development of businesses and SMEs beyond their home territories.

4.10 The EESC hopes that as much information as possible will be channelled to institutes, businesses and potential partners so they can support and contribute to the establishment of KICs in the main areas mentioned in the 2020 strategy.

To this end, the EIT must rapidly publicise these topics so that businesses and potential partners can build up their partnership projects.

4.11 The EESC is aware that there may be some reluctance, and even resistance, on the part of national institutions and so urges the Commission to promote a comprehensive dialogue between the EIT and such institutions, generating synergies which it believes will turn out to be crucial.

It would point in particular to the concerns felt by the heads of research and training institutes that their budgets may be reduced for the benefit of KICs.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014-2020)'

COM(2011) 834 final — 2011/0394 (COD)

(2012/C 181/22)

Rapporteur: **Mr LANNOO**

Corapporteur: **Mr BURNS**

On 13 December 2011 and 24 January 2012, 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 the Council establishing a Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (2014-2020)

COM(2011) 834 final — 2011/0394 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 142 votes with 6 abstentions.

1. **Conclusions and recommendations**

1.1 The EESC endorses the COSME programme's general objectives yet notes that it does not take account of the demands put forward in the SBA opinion [1]. These include, in particular, strengthening support and advice for SMEs; business transfers; and dialogue and partnership with SME organisations.

1.2 It calls for more visibility in terms of the specific action to be taken. Two problems appear to be immediately apparent:

— its objective: the objective of the regulation is the competitiveness of businesses. There is a need to make them capable of competing with their competitors on the global markets. The EESC endorses this objective but considers that it is equally important to act to ensure the sustainability of SMEs on local, regional and European markets;

— its means: the EESC calls on the Commission to build on the legislative proposal to include a work programme listing the specific measures that will be implemented in order to respond to the needs of all types of SMEs and their expectations in the face of the current crisis.

1.3 Any decision on the operational programme should fall under the competence of the European Parliament and of the Council in accordance with the co-decision procedure. The delegated acts procedure should be limited to the definition and implementation of annual programmes, drawn up in consultation with the Member States and SME organisations.

1.4 The EESC calls for the programme:

— to address all businesses [2];

— to focus its resources on essential priorities: information, support and advice, access to markets and to financing, adaptation of EU requirements and standards, cooperation, incorporation of the priorities of EU 2020 Strategy (innovation, green economy and the employment of young people);

— to establish a fifth specific objective to this end: to support SMEs and their access to advice, focusing on small and microenterprises.

1.5 The EESC proposes a fourth action to improve legislation, particularly through the creation of an 'office of advocacy' [3], which will aim to ensure that the legislation takes greater account of the realities facing small enterprises. The role and coherence of the 'office of advocacy' with other bodies operating, e.g. SME Envoy network will however need to be defined. It notes its opposition to the wider application of exemptions and advocates involvement of SME organisations in the legislative and decision-making process.

(1) OJ C 376, 22.12.2011, p. 51-57.

(2) See footnote 1.

(3) See footnote 1.

1.6 The EESC stresses that there is an insufficient level of governance partnership in the proposal. It does not accept that this should be limited to consultation alone and draws the attention of the European Parliament and the Council to the need to put such governance in place and to strengthen the partnership with SME representative organisations in line with other EU programmes ([4]). The EESC calls for the creation of a working group that would allow European SME organisations to be consulted during all stages of planning, implementing and monitoring the COSME programme.

1.7 With regard to Article 9 on actions to improve access to markets, the EESC calls for:

— a distinction to be made between, on the one hand, access to markets and on the other, information, advice and setting up SMEs;

— support for action already undertaken by SME organisations and public organisations in the Member States;

— a modification of the missions and organisation of the Europe Enterprise Network to ensure that it complements the action of SME organisations and involves them directly in its work. The network must be more visible and its potential should be fully used.

1.8 The EESC points to a number of ambiguities between the proposed financial instruments, the Horizon 2020 programme and other sources of financing, such as those put forward in the proposals for regulations on territorial cohesion. This situation is somewhat problematic for SMEs. It therefore asks for clarification of the link between these different forms of financing. While it welcomes the fact that 56 % of the budget has been allocated to financial instruments, the EESC calls on the Commission and the European Parliament to establish a clear dividing line between the two instruments, to make them accessible to all companies and for all types of investment, and to coordinate them with other, similar types of Community funding in order to enable SMEs to choose the instrument that is best suited to them. It also calls for the rules and conditions of the LGF guarantee to be modified.

1.9 It calls for a revision of the text of Annex I on indicators in order to define them together with organisations of SMEs. It is also necessary to review the text of Annex II and the legislative financial statement due to a number of contradictions with the texts of the proposal.

1.10 The EESC recommends that the European Parliament and the Council support and strengthen the programme by increasing the visibility of its content, its operational measures and the financing of its priorities while ensuring partnership with European SME organisations. Given its objectives, its budget of EUR 2,5 billion seems to be patently insufficient. The EESC is opposed to any attempts to reduce the programme's budget and asks that the Parliament accord it greater importance. The EESC considers that it is SMEs which will help the EU climb out of the crisis and create new jobs.

1.11 The EESC believes, however, that the programme lacks ambition. It feels that the proposed budget of EUR 2,5 billion will not be sufficient to implement the measures that are required to support the long-term activities and development of SMEs, and yet it is SMEs that will help the EU climb out of the crisis and will create new jobs. The EESC is thus opposed to any attempt to cut this budget. It calls on the European Parliament to bring it up to par with the budget for the current Competitiveness and Innovation Programme (CIP) with a view to increasing, as a matter of priority, the budgetary resources allocated to financial instruments.

1.12 The EESC calls on the European Commission to clarify the budgetary distribution of the programme (other than financial instruments) and to include a detailed breakdown of the financial resources allocated to each activity within the programme.

2. General comments

2.1 In its opinion on the 'Review of the SBA' ([5]), the EESC set out its priorities for the 2014-2020 Competitiveness/SME programme. Unfortunately, the COSME proposal does not take sufficient account of them and lacks vision regarding the practical measures for their implementation. The EESC calls on the Commission to provide the Committee, European Parliament and the Council with details of an action programme for the duration of this programme.

2.2 The EESC remains surprised by the lack of any reference to the SBA, whereas it should form the cornerstone of the programme. There is no reference to the 'only once' principle. Scant mention is made of the 'Think small first' principle and the specific situation of the different categories of SMEs is not sufficiently taken into account.

2.3 Competitiveness evolves according to the rules of the market and is dependent on other factors such as differences in terms of labour cost, purchasing power, taxation, access to financing or the employability of young people. The EESC considers that COSME's priority should be to ensure the long-term development of businesses and not just their competitiveness.

2.4 Lastly, the COSME programme should set out measures specifically aimed at small and microenterprises.

([4]) Article 5 of the General Regulation on the Structural Funds.

([5]) See footnote 1.

2.5 In connection with the analysis of the implementation of the European definition of SMEs in 2012, the EESC urges that account to be taken of the wide diversity of SMEs. Furthermore, the Commission should inform the Committee of the findings of this analysis and involve it in its follow-up work.

3. **Positions on the proposal for a regulation**

3.1 *Regarding the recitals*

3.1.1 The EESC shares the aims of recital 10. The COSME programme must also:

— simplify the activity of SMEs and cut red tape;

— promote the implementation of the priorities of the EU 2020 Strategy such as innovation, the green economy and employing young people. The EESC welcomes the inclusion of recital 11 in the proposal which pays particular attention to microenterprises, enterprises engaged in craft activities and social enterprises;

— apply the principles of the SBA in EU policies and programmes at local and national level;

— incorporate the needs of SMEs into other EU programmes and ensure the coordination and simplification of their administrative rules.

3.1.2 In addition to the creation and development of enterprises, the Committee considers that the second chance principle, business transfers and acquisitions, the employability of young people, training for entrepreneurs and their employees as well as a reference to the role played by independents and the liberal professions should all be included in recital 11.

3.1.3 Recital 12 must mention that one of the major problems for the vast majority of SMEs is that of access to specially tailored advice. The EESC supports the principle of the Enterprise Europe Network yet considers that its potential should be fully used. Still many European SMEs appear to be unaware of its existence. The services offered by the EEN should be grounded as much as possible in real SME demands and needs. The EESC backs the proposal to restructure EEN governance and to involve all relevant business organisations in the governance of the EEN.

3.1.4 The Commission's power to adopt acts in accordance with the delegation procedure mentioned in recital 28 should be restricted to acts relating to the implementation of the programme, in particular the annual programmes, and to the rules on externalisation after consulting the stakeholders. The operational programme, practical measures and specific rules for participation should be adopted by the European Parliament and the Council.

3.1.5 The EESC insists that the COSME regulation must institute a genuine system of governance for the European SME organisations. It should pursue the idea of partnership proposed by Article 5 of the Regulation on common provisions for the structural funds (6). SME organisations should be present throughout the preparation and during the annual implementation of the programme, in accordance with the SBA.

3.1.6 Tourism provides clear added value to the EU economy and support measures under COSME should include tourism industry. The EESC calls on the Commission to provide the Committee, European Parliament and Council with an operational programme for this sector, drawn up together with the SME organisations. However, many other sectors also provide clear added value.

3.2 *Chapter 1: subject matter*

3.2.1 The EESC calls for the terms 'microenterprises,' 'craft enterprises,' 'self-employed workers' and 'the liberal professions' to be added to Article 1.

3.2.2 The EESC endorses the general objectives of Article 2. It should like to add the long-term development of SMEs and the promotion of business transfers.

3.2.3 A fourth general objective must be added to Article 2: the implementation of the principles of the SBA and the application of its priorities in EU policies and programmes.

3.3 *Chapter 2: specific objectives and fields of action*

3.3.1 The four specific objectives set out in Article 3 are essential. However, the EESC calls for the addition of the following:

— in point 1d): improving access to local markets, especially by promoting the adaptation of European standards and requirements to the needs and realities of small and microenterprises;

— a fifth specific objective: promoting support for SMEs and their access to advice.

3.3.2 The EESC asks the European Parliament and the Council to add a new article on governance and the creation of a consultative working group bringing together European organisations representing different categories of SMEs for the launch, implementation and follow-up of the programme and its annual versions.

(6) See footnote 1.

3.3.3 The EESC stresses the need to include in Article 6 specific proposals to:

— promote impact assessment procedures and put in place an 'Office of advocacy' system after its role and competences are clearly defined;

— apply the 'Think Small First' and 'Only once' principles of the SBA during the legislative process and the implementation of the EU 2020 Strategy;

— ensure that legislation is developed with SME organisations.

3.3.4 The EESC reiterates its opposition to widening the use of exemptions for microenterprises [7]. It recommends involving SME organisations with a view to adapting legislation to the realities of these micro-enterprises.

3.3.5 The EESC calls for the introduction in Article 7 of action to promote business transfers and acquisitions. This concerns, in particular, training for future purchasers of businesses, information and training for young students on knowledge of the world of SMEs and the opportunities they represent.

3.3.6 Regarding Article 9, a distinction should be made between, on the one hand, action which aims to improve access to the markets and, on the other, action to provide information, advice and support for businesses. The EESC calls for Article 9 to be divided into two separate articles as follows:

3.3.6.1 Article 9: actions to improve access to markets

Points 2, 3 and 4 should be included and point 2 developed by specifying that the COSME programme will, in particular, support those measures that help ensure the participation of SMEs and microenterprises in the European standardisation process of formulating and adapting European standards and requirements as well as the implementation of these standards at enterprises.

3.3.6.2 Article 9a: actions to provide information, advice and support for businesses

— The EESC stresses that ensuring that all SMEs have access to information, advice and support should be a priority. Therefore, the COSME regulation should:

  — help make Community programmes more accessible to SME organisations and ensure technical assistance measures to provide SMEs with information and advice. SME organisations should play a greater role in this respect;

  — strengthen the role of the one-stop-shop system for SME organisations at local and national level.

— The EESC regrets the fact that the activities of the Enterprise Europe Network (EEN) do not reach or benefit more SMEs – especially small and microenterprises – and that not all SME organisations are involved in the network. It feels that, in order to ensure that all these SMEs have access to information, the EEN should be established within all such organisations. Their activities should be supported, although care should be taken not to create new intermediate structures. While the regional consortium model has proved effective in many Member States and regions, it should probably be adapted to allow all SME organisations to join.

The EESC takes the view that the EEN should be primarily intended for SME organisations that have proved themselves able to organise information, advice and support services and to deliver these to SMEs. It recommends that the network's activities should be determined in agreement with European organisations representing SMEs and that it should be possible for those organisations to be consulted when developing the specifications for the future network's activities.

3.4 *Chapter 3: implementation of the programme*

3.4.1 Article 10 stipulates that the annual programme shall be adopted by a committee made up of representatives from the Member States. The EESC considers that the European organisations representing SMEs must be consulted in advance within the framework of the working group whose creation the EESC has called for (point 3.3.2). Monitoring of the implementation and management of the programme set out in Article 12 should be carried out in cooperation with this group.

3.4.2 Article 11 provides for 'support measures' which, for the most part, consist of studies and analyses. Once again, the EESC calls for the Commission to support a clear study and analysis programme, which is drawn up in cooperation with SME representative organisations, to cater to the needs of enterprises.

3.5 *Chapter 5: Committee and final provisions*

3.5.1 In Article 16, the regulation should state that the Commission should be assisted not only by a committee made up of representatives of the Member States but also by the group of partners proposed by the EESC (point 3.3.2).

3.5.2 While the EESC accepts the principle of delegated acts for implementing provisions, it considers that the proposals of Article 17(2) form part of the decision-making process that falls under the responsibility of the European Parliament and of the Council as it concerns the modification of a specific programme objective. It urges the European Parliament and the Council to delete Article 17(2).

(7) See footnote 1.

3.5.3 In Article 18, delegated acts should be established in cooperation with the specific working group of partners proposed in point 3.3.2. The same applies to Article 19 in respect of the urgency procedure.

3.6 *Annex I: Indicators for general and specific objectives*

3.6.1 The EESC recommends that the Commission define the indicators with SME organisations, taking into account those that already exist at Member State level.

3.6.2 The EESC proposes to reconsider benchmarks applied in evaluation of the competitiveness. 'Starting a business' as mentioned in Annex 1 of the draft regulation is only one of indicators to measure the competitiveness of economy. Even COSME sets as a medium term target (result) by year 2017 to adopt 'about 7 simplification measures per year'. Therefore, the EESC suggests to specify priority sectors for the reduction of administrative burden which are of particular importance for the competitiveness of SMEs such as dealing with construction permits; getting credit; taxes; enforcing contracts, etc.;

3.7 *Annex II: Actions to improve SME access to finance*

3.7.1 The EESC supports the financial instruments and calls on the European Parliament and the Council to strengthen them. The loan guarantee facility is one of the most effective instruments for the vast majority of SMEs.

3.7.2 In point 3, the EESC notes that the link between the Horizon 2020 programme, which supports only investments in research and innovation, and financial instruments of the same kind that the regions are able to put in place under the structural funds, is not clear. The EESC calls on the Commission to clearly explain this link between instruments which appear to be similar – and to set out identical access procedures.

3.7.3 The EESC calls for the addition of a new paragraph 2a), stipulating that 'The Loan Guarantee Facility may be applied during all phases of a company's lifecycle: start-up, development and transfer, without distinction in terms of activity or market size. This facility shall relate to all types of investment, including intangible investments.'

3.7.4 The proposal states that the Loan Guarantee Facility covers loans up to EUR 150 000.

3.7.4.1 The EESC urges the Commission to specify what criteria were used to set this level as the CIP programme did not establish any limits. The EESC notes that the amount proposed covers the actual loan amount. Nonetheless, loans for business start-up, investment or transfer are often for significantly higher amounts. This means that higher loans would effectively be guaranteed under the Horizon programme even though it is only supposed to be used for innovation projects.

3.7.4.2 The EESC therefore calls for a return to the previous CIP system, which did not set any limits. Failing this, it requests that the limit of EUR 150 000 apply only to the counter-guarantee amount and not to the loan amount. With regard to business transfers and acquisitions, the costs of which are often significantly higher than for business start-ups, the EESC urges that no limit be set for the counter-guarantee amount.

3.7.5 The same point discusses the drafting of reports on the 'innovative SMEs' supported. The LGF must be capable of benefiting all businesses, whether they are innovative or not. The EESC reiterates its doubts as to the usefulness of such reports; they should be limited to information that can be used directly and should not encumber budgets that are earmarked for business financing.

3.7.6 The EESC demands that all measures relating to the definition and introduction of financial instruments be adopted in consultation with European SME organisations and their financial partners.

3.8 *Legislative Financial Statement*

3.8.1 In point 1.4.1 on the multiannual strategic objectives, it is requested that the programme promote business transfers and acquisitions, not only their creation and growth.

3.8.2 Point 1.5.4 emphasises, in paragraph 3, that the 'the new Programme would target SMEs in their growth and internationalisation phases'. This limitation is contrary to the rest of the text and to the principles of the SBA: the new programme must target all SME activities, whatever their type of market.

3.8.3 The EESC notes that the end of paragraph 3 runs counter to the text of the regulation and calls for its deletion.

3.8.4 The last sentence of paragraph 5 in point 1.5.4 mentions the creation of a one-stop shop. The EESC asks that account be taken of offices and departments that already exist, calls for respect for the organisational methods particular to each Member State and urges that action be taken in cooperation with SME organisations.

3.8.5 In point 2.1, on monitoring and reporting rules, the EESC requests a mid-term evaluation to adapt the COSME programme during its second phase. These evaluations should be carried out in a timely manner by an independent external body and then submitted to the European Parliament and the Council.

Brussels, 29 March 2012.

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, the Council, the European Economic and Social Committee and the Committee of the Regions — European Agenda for the Integration of Third-Country Nationals'

COM(2011) 455 final

(2012/C 181/23)

Rapporteur: **Cristian PÎRVULESCU**

On 20 July 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — European Agenda for the Integration of Third-Country Nationals

COM(2011) 455 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March 2012), the European Economic and Social Committee adopted the following opinion by 170 votes to 14 with 11 abstentions.

1. **Conclusions**

1.1 The Committee welcomes the communication from the European Commission and considers it is a significant step further in understanding and tackling the challenges of integrating third-country nationals in the EU Member States.

1.2 The communication covers the key areas of intervention and clarifies roles and responsibilities in the design and implementation of the integration agenda. The emphasis on the role local and regional authorities have to play is well justified but it remains unclear what are the incentives for these authorities to become more involved in the process. The 'modular' approach in designing national policies has significant potential but also risks.

1.3 The communication's approach is comprehensive and structured yet fails to take proper account of the complicated political and socio-economic challenges European societies have to face. The economic crisis, and its effects, is currently the key driver in the integration agenda. It affects the opinion of the European public and puts national and local authorities under financial pressure. The Committee suggests reconsidering the proposal in the light of current socio-economic context and identifying specific institutional and financial instruments to support the integration objectives. The Committee also draws particular attention to the communication dimension. It is already visible that the economic crisis tends to favour anti-immigration attitudes. It is an absolute priority that the European Commission and other EU institutions converge in sustained, far-reaching and bold communication actions aimed at curbing anti-immigration discourse and attitudes that in some European countries are moving dangerously close to becoming part of the political mainstream. This is directly affecting the core identity of the EU as an integrated democratic polity.

1.4 The Committee notes the diversity of third-country nationals' status and suggests building this diversity into policy thinking and preparation. The category includes citizens of states having membership perspectives, citizens of non-European countries who live and work in the EU and non-EU citizens benefiting from international protection on EU territory. Acknowledging this diversity should not however lead to gaps in policy or discriminatory actions and more importantly, should not converge towards minimal integration standards and actions. The Committee also considers that the broader integration agenda has to include EU nationals living and working in other Member States. The situation of Roma stands out as particularly problematic. The conditions of entry and residence for migrant seasonal workers from third countries are currently being discussed in the European Parliament and European Council, while the EESC delivered its opinion in 2011 [1]. EU policy must tackle the difficult issue of irregular migrants, who are particularly vulnerable.

1.5 The communication places a welcome emphasis on participation of third-country nationals but it fails to convey a more determined message regarding its necessity, support and specific instruments to promote it. Participation in the civic and political life of local and national communities stands out as particularly problematic. The articulation of interests and a capacity to formulate collective proposals in partnership with public and private bodies is in our opinion a prerequisite for a qualitative, participative and efficient integration policy.

[1] OJ C 218, 23.7.2011, p. 97–100.

1.6 The Committee encourages the EU Commission to focus on integration, either in a dedicated European year or as a key element in one of the other upcoming years, and hopes that the Commission, together with the other EU institutions, will continue linking the integration agenda with other major policy priorities, such as the Europe 2020 strategy but also the agenda on the protection of fundamental rights currently under review.

1.7 The Committee remains deeply committed to cooperating with the other EU institutions on the development of key policies and programmes for integration of third-country nationals. Moreover, it is determined to work on linking European civil society to the integration agenda and facilitating the participation of third-country nationals in a structured dialogue at European level.

2. **Introduction**

2.1 EU cooperation on the integration of non-EU nationals has developed since the Tampere Programme (1999). In 2004, the common basic principles for immigrant integration policy were agreed at EU level. Their aim was to assist EU Member States in designing integration policies and in defining a broader institutional framework composed of various EU, national, regional, and local actors. The Commission's 2005 Common Agenda for Integration aimed at implementing the common basic principles went one step further but did not tackle the key integration challenges, which remain significant. The EU's integration objectives were also included in the 2009 Stockholm programme and the Europe 2020 strategy but their framing in those major policy agendas has not advanced integration policies in any decisive way.

2.2 In July 2011, the Commission proposed a renewed European agenda for the integration of non-EU migrants, whose focus is on broader and better participation of migrants and enhanced action at local level. It also enables the countries of origin to play a bigger role in policy planning. The main principle of policy-making is flexibility, the EC taking responsibility for putting together a tool-box, available to Member States to use according to their needs and priorities. Common indicators have also been identified in support of the integration agenda (2).

2.3 In pursuing the integration agenda, the EU maintains a institutional and communication infrastructure: a *Network of national contact points on integration*; *the European Integration Forum*, a platform for dialogue involving all stakeholders active in the field of integration; *the European Web Site on Integration*, the main focal point for direct exchanges of information, documentation and on-line data collection; a *Handbook on Integration* for policy-makers and practitioners; *the European Integration Fund*, which supports the efforts of EU Member States in enabling non-EU nationals to integrate into European society. An *Immigration Portal* was launched on 18 November 2011.

(2) Eurostat, Indicators of Immigrant Integration - A Pilot Study, Luxembourg: Publications Office of the European Union, 2011.

2.4 The introduction of a new legal provision in the Treaty concerning EU support for the promotion of the integration of third-country nationals residing legally in Member States (Article 79.4 TFEU) creates a more solid basis for coordinated action between the EU Member States and continuous commitment from the EC and other EU institutions.

2.5 In the accompanying European Commission staff working paper some key challenges for the integration of third country nationals are indicated: the prevailing low employment levels of migrants, especially for migrant women; rising unemployment and high levels of over-qualification; increasing risks of social exclusion; gaps in educational achievement; public concerns at the lack of migrant integration (3).

3. **General comments**

3.1 The EESC welcomes the view that integration is a shared responsibility and urges EU Member States to make integration a priority. This is a way to safeguard an open, inclusive and stable democratic environment at national level (4). At EU level serious efforts still have to be made. The EU institutions already provide a framework for monitoring, benchmarking and exchanging good practice. Yet, there are several directions in which further attention is needed. The European financial instruments should be better geared towards meeting the integration objectives. Serious analysis of existing legislation, especially on labour procedures concerning third-country nationals must be performed.

3.2 In the context of the availability of data, the EESC considers that the EU integration agenda should have clearer objectives and targets. The EESC envisages a system in which EU Member States set specific targets regarding integration and provide their own citizens and other countries with on-going information on their achievement. The overall goal of a competitive and inclusive Europe cannot be achieved if the 4 % of the population (5) represented by third-country nationals are left behind.

3.3 The integration agenda is very complex and needs commitment at all levels. The EESC is open to advanced cooperation with the EC, the Committee of the Regions and other EU institutions to give substance to this renewed integration agenda. The focus on the local level is more than welcome. It is also important to empower civil society and businesses active at local level. Migrants themselves should be encouraged to create their own networks and associations that can facilitate access to information, funding and decision-making.

(3) Commission Staff Working Paper, European Agenda for the Integration.

(4) See for synthesis of concerns regarding migration of both national and third-country individuals the results of the first Eurobarometer on Migrant Integration, MEMO/11/529, Brussels, 20 July 2011.

(5) See for complete figures COM(2011) 291 final, EC's Annual Report on Immigration and Asylum (2010).

3.4 The development of a European toolbox of integration practices is necessary and brings the handbook of integration practices to a higher level of relevance and institutionalisation. This toolbox should be properly communicated together with opportunities of funding for projects with a significant impact. The EESC expresses hope that the toolbox will be used to take on the most relevant integration challenges at national, regional and local level.

3.5 Second, the European toolbox should not undermine the coherence of integration policy as a whole. The EESC urges national, regional and local authorities to move forward on the basis of integration strategies drafted in a participatory manner. The EESC encourages the Member States and the EC to further empower the national contact points on integration to act as catalysts for the strategic framing of integration actions.

3.6 The EESC welcomes the recent drafting of the Eurostat study on integration indicators [6]. It is a very valuable instrument allowing close monitoring of the impact of policies and programmes, comparative evaluation of Member State practices and, generally, a better substantiated policy. As pointed earlier, the indicators are not only relevant for monitoring and evaluation. They enable the setting of concrete targets for integration policy and programmes.

4. **Specific comments**

4.1 *Integration through participation*

4.1.1 The socio-economic contribution of migrants

4.1.1.1 The socio-economic contribution of migrants is a key dimension of the integration agenda. The EESC advocates a shift of perspective regarding migrants which in many cases are seen as a potential burden on the social security systems or providers of cheap labour as compared with the nationals of EU Member States. The EESC considers migrants as first and foremost bearers of fundamental rights, but also contributors to the society, economy and culture of the host countries. The EESC also considers integration to be a two-way process and encourages migrants to take an interest in social and cultural exchanges with host communities and societies. This means primarily acquiring language skills and participating in the education system. European societies and citizens must be aware that there are serious medium- and long-term demographic challenges that can be partially addressed through regulated migration.

4.1.1.2 Acquiring language knowledge is an important factor in facilitating integration. It is not however clear what are the specific instruments the European Commission is ready to use to further this objective.

4.1.1.3 Participation in the labour market is a key issue in determining the success of integration. The communication rightly indicates that the employment levels of migrants should be significantly closer to those of nationals, especially women's, which seem particularly affected. Yet this purely quantitative measure does not capture the whole context of employment. Recognition of previous qualifications, pay, benefits, including their transfer, access to training and job security are other related dimensions that must be fully incorporated into the integration agenda. Further emphasis is needed on the employment of women.

4.1.1.4 The EESC acknowledges with great concern the direct and indirect effects of EU legislation on the status of migrant workers [7]. Although progress has been made with the EU blue card, the single permit directive and the seasonal workers directive, there are well-founded concerns that the directives regarding labour discriminate against workers/migrants on the basis of their origin and skills and reinforce inequalities [8]. EU labour regulations make a distinction between highly-skilled and low-skilled workers granting them differing levels of rights.

4.1.1.5 The EESC warns that encouraging circular migration with inadequate means could lead to more irregular migration and a very low level of protection for the workers. This particular policy is also ethically questionable as long as it aims at sending workers back to their home countries without them being able to transfer benefits or work a reasonable amount of time in the host country.

4.1.1.6 More effort is needed in the education system to increase the participation of youths from migrant backgrounds. Efforts should also be targeted towards early childhood education as a way of increasing participation at a later stage. The communication indicates possible examples of actions including mentoring programmes, parent training and the recruitment of migrant teachers. The EESC considers all these to be useful but asks for a more determined dissemination of such practices and better financing for programmes organised in and around educational institutions.

4.1.1.7 Ensuring better living conditions must remain a priority for the integration agenda. The communication singles out the beneficiaries of international protection as targets of local and national efforts in this direction. While the EESC fully acknowledges the needs of this particular

(6) Eurostat, 2011, Indicators of Immigrant Integration - A Pilot Study.

(7) OJ C 218, 23.7.2011, p. 97–100 and OJ C 354, 28.12.2010, p. 16–22.

(8) European Association for the Defense of Human Rights, Foreign workers in the EU: moving towards multiple standards, founded on unequal treatment, 17 October 2011.

group, it also draws attention to other vulnerable groups. The EESC suggests that the Commission should be attentive and give priority to situations where several vulnerability factors are combined, as in the case of Roma women, for example. Furthermore, the EU now has a powerful, visionary tool in the EU Charter of Fundamental Rights, which could guide legislation on integration.

4.1.1.8 The EESC regrets that the Commission's treatment of the Roma population is so lacking. Many Roma from third countries live in very difficult conditions in the host countries, lacking access to basic infrastructure and services. The EESC considers that although there are major legal differences (between third-country nationals and Member State nationals), the problem of vulnerable groups is the same. Furthermore, fundamental human rights should be protected irrespective of a person's legal status.

4.1.1.9 Better use of EU funding is necessary to meet the objectives of the integration agenda. The EESC notes that the financial crisis puts public spending on social programmes under strain and considers that EU financing could prove critical in supporting key projects that at least build up a solid base of good practice. Information about funding should be easily available and the funding should provide enough incentives for local authorities, and public and private institutions to become involved. The available resources should be used to encourage the civil society organisations to connect and act at grassroots level, putting emphasis on the participation of migrant communities.

4.1.1.10 The EU should be open to local, regional and national migrant networks and organisations. Building up networks and social capital helps bottom-up integration and creates an environment in which migrants feel empowered and responsible for the assertion of their rights and potential. Networks and organisations should however support integration and not become vehicles for further segregation. The EESC suggests that these organisations and networks establish partnerships with organisations in the host countries. The EU should be open to new forms of participation and cooperation, facilitated by information technology and increased mobility.

The EESC recommends that the European Commission take action in rethinking legislation on migrant labour, a vehicle for discrimination and inequality in its current formulation, and continue its work on facilitating the efforts of Member States toward more and better integration.

4.1.2 Rights and obligations – achieving equal treatment and a sense of belonging

4.1.2.1 The EESC welcomes the special attention granted to the political participation of the migrants, as elected officials or voters or as part of consultative bodies. This is a major test case for European democracy. Only having a political voice can secure the medium- and long-term integration of migrants and prevent them suffering discrimination. A political voice and institutionalised forms of collective action can bring migrants into the political process. This prevents alienation and radicalism. Political participation should be supported by rethinking the current citizenship rules in each country. The EESC thus supports granting voting rights in local, regional, national and European elections for third-country nationals and a corresponding right to stand for election. Linked to that, a possible option would be to grant legal migrants EU citizenship. The EU can once again be at the forefront of democratic innovation and test new forms of participation and cooperation.

4.2 *More action at local level*

4.2.1 The focus on the local level is fully justified. Apart from being a focal point of service provision, the local level creates the immediate environment for integration. Depending on the size of the local community, successful integration projects can have a significant impact on the life of communities and migrants. It is vital that interested local authorities and private entities have good information and access to funding, either EU or national.

4.2.2 The EESC recognises that urban settlements, especially large ones, are problematic. They draw a larger number of migrants who in many cases build peripheral and rather isolated neighbourhoods. Access to public services and jobs is just part of the problem. A broader challenge is urban planning, which has to be both sustainable and inclusive. The EESC recommends the EC actively support projects that take the integration agenda further to include the fundamental issues of housing and urban planning.

4.2.3 The bottom-up approach is very promising but only if it is adequately promoted and funded. It is very important that for the next financial perspective the EC keeps its commitment to simplify the funding procedures and direct adequate resources to local projects [9]. More coordination between different sources of funding, like the proposed Asylum and Migration Fund, which deals with asylum, integration and return, the proposed Internal Security Fund, the European Social Fund and the European Regional Development Fund, can be critical in empowering local-level actors.

[9] See Commission communication COM(2011) 749 final, *Building an open and secure Europe: the home affair budget for 2014-2020* and the related proposals of regulation 750-751-752-753.

4.3 *Involvement of countries of origin*

4.3.1 Bringing the countries of origin into the process is a very necessary step in building a comprehensive integration agenda ([10]). There are EU countries demonstrating good practice in establishing links with countries of origin. Yet, we have to note that many such countries have, for various reasons, little incentive to cooperate with the EU on migration matters. In the case of potential beneficiaries of international protection the limitations are more obvious ([11]). The EU's Global Approach to Migration provides a good institutional framework facilitating cooperation with third countries and solving pressing matters regarding mobility. However, framing migration mainly within the EU's labour market demands might lead to a lower level of protection for migrants and even discrimination.

4.3.2 The EU should continue working with countries of origin in order to ease the pre-departure procedures. It has to be noted that in many countries departing to the EU is a sought-after opportunity and this can create grounds for corruption. The EU must be determined in curbing this potential as it increases the costs for future migrants and affects their motivation to return to the country of origin.

4.3.3 The EESC considers that the best way to contribute in the long term to the development of the countries of origin is to design sensible labour regulations but also to empower migrants to start transnational businesses or return to the country of origin and transfer skills and motivation. The EESC recommends developing support schemes for start-ups and entrepreneurial initiatives on a bilateral basis for migrants returning in their country of origin. Both countries of origin and host countries can work in partnership to create opportunities for their citizens, companies and communities. There are examples of cooperation where the needs of employers are matched with the skills of migrants.

4.3.4 Encouraging circular migration is legitimate as long as the instrument is not legislation affecting, directly or indirectly, the rights of third-country nationals ([12]).

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([10]) OJ C 44, 16.2.2008, p. 91–102. The topic on EU immigration and cooperation policy with countries of origin to foster development was dealt too by the 6th meeting of the European Integration Forum (see link: http://www.eesc.europa.eu/?i=portal.en.events-and-activities-european-integration-forum-6).

([11]) OJ C 18, 19.1.2011, p. 80–84.

([12]) See footnote 5.

APPENDIX

to the opinion of the European Economic and Social Committee

The following compromise, which received at least a quarter of the votes cast, was rejected in the course of the debate (Rules 51(6) and 54(3) of Rules of Procedure):

Compromised amendment

Point 4.1.2.1

The EESC welcomes the special attention granted to the political participation of the migrants, as elected officials or voters or as part of consultative bodies. This is a major test case for European democracy. Only having a political voice can secure the medium- and long-term integration of migrants and prevent them suffering discrimination. A political voice and institutionalised forms of collective action can bring migrants into the political process. This prevents alienation and radicalism. Political participation should be supported by rethinking the current political participation~~citizenship~~ rules in each country. The EESC thus ~~supports~~suggests granting voting rights in local, regional~~, national and European~~ elections for third-country nationals and a corresponding right to stand for election. ~~Linked to that, a possible option would be to grant legal migrants EU citizenship.~~Better participation on EU level should also be encouraged. The EU can once again be at the forefront of democratic innovation and test new forms of participation and cooperation.

Voting

For: 70

Against: 77

Abstentions: 28

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on the European Year of Citizens (2013)'

COM(2011) 489 final — 2011/0217 (COD)

(2012/C 181/24)

Rapporteur: **Mr GOBIŅŠ**

On 21 September 2011 the Council decided to consult the European Economic and Social Committee, under Article 21(1) of the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the Parliament and of the Council on the European Year of Citizens (2013)

COM(2011) 489 final — 2011/0217 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 137 votes to 3 with 11 abstentions.

'*Civil society is one of the ways in which our human nature can be exercised in its entirety.*'

Václav Havel

1. **Conclusion and proposals**

1.1 The European Commission has designated 2013 as the *European Year of Citizens* [1]. The European Economic and Social Committee stresses that citizens play a central role in securing Europe's future and integration, and it supports many of the ideas set out in the proposal. With its partners, the EESC has already undertaken important preparatory work in order to help ensure the success of the European Year, and it will continue to do so in a targeted manner.

1.2 However, the EESC regrets that the current Commission proposal contains some gaps. In this proposal, the Commission has not met civil society organisations' request to devote this Year to active citizenship, nor responded to the European Parliament's invitation to place special emphasis on the new rights citizens have acquired through the entry into force of the Lisbon Treaty. In suggesting some specific additions and amendments, the EESC is encouraging a proposal which will better reflect citizens' needs and make the Year a real success.

1.3 The major future challenges facing Europe and its people require the setting of priorities for this European Year. The low level of confidence that people have in the European Union, their scepticism about their power to influence EU decisions, apathy and the lack of involvement in the decision-making process are fundamentally detrimental to the spirit of the EU and impair the quality of decisions and the Union's long-term development.

1.4 The main aim of this European Year must be active, participatory citizenship. The Year should encourage informed, active and inclusive citizen participation in the European integration process and in political and social life. The EESC advocates specifying the legal basis for the European Year and naming it the *European Year of active and participatory citizenship*.

1.5 The Committee points out that the concept of active and participatory citizenship includes consolidation of the fundamental values of democracy and of the EU, discussion of respect for citizens' political, economic and social rights and their obligations, and strengthening the feeling of belonging to the EU. The European Year should focus on the diversity of society's needs and the fight against discrimination and inequalities, giving special attention inter alia to women and people with disabilities.

1.6 The administrative bodies of the various institutions at both European and national level should delay no further in working towards achieving these objectives. The process should be conducted in the framework of a close dialogue with civil society organisations at every stage and every level (local, national, European) of the decision-making process.

1.7 In this context, mobility is an objective which deserves to be supported notwithstanding its indirect nature.

1.8 The level of funding allocated to the European Year and involvement in it needs to be re-examined. The level of funding should be appropriate, fixed and in proportion to the importance of the goal, bearing in mind that a democratic shortfall could prove extremely costly. The reduced budget

[1] COM(2011) 489 final – 2011/0217 (COD).

(down from some EUR 17 million for 2010 to around EUR 1 million for 2013) will not allow major issues to be addressed.

1.9 In order to pursue good practice and provide maximum access and coordination for these actions, Liaison Group members representing European civil society organisations and networks, together with other partners and with the support of the EESC, have created an alliance for implementing the thematic year. This alliance is ready to take on a major role in taking the year forward and framing additional recommendations. The Committee undertakes to establish and carry out a broad participatory, transparent and innovative programme that can show society and the EU institutions the advantages to be gained from involving the broader public, while in some respects acting as a pilot project for other initiatives.

2. **Background to the opinion**

2.1 2013 will mark the 20th anniversary of the introduction of the concept of 'citizenship of the European Union' under the Treaty of Maastricht. The Lisbon Treaty (Article 10(3) and Article 11 of the Treaty on European Union) enshrined several new rights for civil society, with particular emphasis on the obligation for all EU institutions to promote democratic participation in the decision-making process on the part of both individuals and organised civil society ([2]). Unfortunately, society currently has little perception of these rights.

2.2 The Commission partially responded to the European Parliament's request by proposing to make 2013 the *European Year of Citizens*. However, its proposals focus on specific legal aspects which only cover a small part of the concept of citizenship. EU citizenship is one of the strongest instruments for forging a common identity. Under the terms of Article 2 of the Treaty on European Union (TEU), the Union is founded on the principles of democracy, freedom, the rule of law, equality and respect for human rights ([3]). These are particularly important for strengthening the democratic process, citizens' awareness and the feeling of belonging to the EU, especially in these times of crisis and potential change. Unfortunately, they are not given sufficient attention in the Commission proposal.

2.3 According to a recent Eurobarometer survey, just 43 % of people questioned stated that they knew what it meant to be a European citizen and 32 % considered they were well or very well informed of their rights as an EU citizen ([4]). In 2009, only 43 % of citizens of voting age took part in the elections to the European Parliament ([5]); this is a much lower turnout than for national elections (around 67 %) ([6]). Barely 30 % of citizens think that they can personally influence the EU process and this figure is falling ([7]). The 2009 Eurobarometer survey shows that the participants' main priority for ensuring greater respect for citizens' rights was improving dialogue with the European Union's institutions (37 %) ([8]). In opinions adopted in 1992 and 1993; which remain surprisingly relevant today, the EESC already drew attention to such issues as the need to involve the public, problems of legitimacy, civic education, keeping the public informed, their confidence in their own resources, and reducing the democratic deficit ([9]).

2.4 The shortcomings in European regulations, the failure to comply with them and the much-criticised lack of enthusiasm on the part of EU institutions for engaging in real dialogue are also major challenges for the European Union. For example, a specific study carried out by Eurobarometer in 2011 showed that less than a third of EU citizens were wholly or partially satisfied with the EU administration's effectiveness, willingness to provide services and transparency. Others expressed their dissatisfaction, particularly as regards the lack of transparency, or else had no opinion on the issue ([10]).

2.5 These figures illustrate the gulf between the EU's citizens and its administrative bodies, and the low level of involvement in their functioning ([11]). Indeed, they raise doubts among some as to the legitimacy of their decisions overall, or even about the major influence which the European Commission is exerting on countries affected by the crisis. In any event, the consequences are a less effective, less united and weaker European Union. That is why the 2013 European thematic year should be used to put these questions on the agenda and, with the involvement of society, to significantly improve the situation and discuss the future development of citizenship.

([2]) TEU Article (10(3) stipulates: 'Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.' Moreover, Article 11 TEU stipulates:
'1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
3. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.'

([3]) TEU OJ C 83, 30.3.2010.

([4]) Flash Eurobarometer 294, published in October 2010.

([5]) COM(2010) 605 final.

([6]) Eurostat, Voter turnout in national and EU parliamentary elections.

([7]) Standard Eurobarometer 75, published in August 2011.

([8]) See Standard Eurobarometer 72, Autumn 2009, Public Opinion in the European Union, Vol. 2. Similarly, in 2011 the priorities that those questioned revealed to be the most important (from a list already drawn up) were: the right to move and reside freely in the EU (48 %), good administration by EU institutions (33 %), the right to submit complaints to the European Ombudsman (32 %), access to documents of the EU institutions (21 %), voting in European elections when living in another Member State (21 %), the right to petition the European Parliament (20 %) and the right to propose legislation via a citizens' initiative (19 %). See *Special Eurobarometer / Wave 75.1, published in April 2011*.

([9]) EESC opinion on *More democracy for Europe and its institutions; better information for citizens and socio-economic operators; role of the European Parliament's Ombudsman*, OJ C 352, 30.12.1993, p. 63.

([10]) Special Eurobarometer / Wave 75.1, published in April 2011.

([11]) OJ C 318, 23.12.2006, p. 163.

3. **General comments**

The main idea behind the European Year and its title

3.1 The EESC supports the idea of linking the 2013 European Year to the subject of citizenship. It believes that this Year should focus on how EU policies match up with the values, interests and needs of its citizens. Its aim should therefore be the **informed participation** of all EU citizens at all levels and at every stage of the decision-making process, all aspects of **active citizenship**, as well as **European awareness and a feeling of belonging to Europe**, and peace, freedom, the rule of law, equality, solidarity and respect for human rights.

3.2 The EESC proposes that the year be entitled the **European Year of active and participatory citizenship** [12].

3.3 The current proposal for a decision [13] places too much importance on the free movement of individuals and the rights they should enjoy in a cross-border context. The **proportion of citizens willing to move is still low** and; in some countries, particularly Romania and Bulgaria, moving is made very difficult, even if these countries meet the Schengen criteria. Furthermore, 2006 had already been declared the European Year of Workers' Mobility.

3.4 The current Commission proposal reduces EU citizenship to a handful of legal elements, when it should cover a much wider range of aspects. **Citizenship also encompasses other dimensions: political, civic, economic, social** [14] **and cultural**.

Legal aspects of the European Year

3.5 The EESC backs the proposal set out in the document under consideration to improve **dialogue and the exchange of information** between the institutions and citizens of the EU, but believes that a central role should be accorded to **participatory democracy** and active citizenship. The new rights and obligations in this area included in the Lisbon Treaty [15], which the European Parliament is proposing be highlighted in 2013 [16], need to be implemented in full. An open and transparent dialogue between citizens and administrative bodies at all levels should be guaranteed without delay.

3.6 The EESC also calls for the proposal for a decision to include clear and precise references to all the provisions relating to democracy and participation alluded to in the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), in particular **Article 11 TEU** and **Article 15 TFEU**, but also the preamble and Articles 1, 3(2), 6 and 10 TEU [17].

The second paragraph of Article 1 of the Treaty on European Union states that 'This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.' [18]

3.7 The **legal basis of the thematic year should be extended** so that the abovementioned objectives can be achieved reflecting all aspects of citizenship and guaranteeing its practical implementation across all spheres of policy action.

3.8 The EESC emphasises that **each Member State** also bears its share of responsibility as regards society's participation in the EU decision-making process, as shown, for example, by the use of the term 'responsibility for integration' in a decision of the German Constitutional Court [19].

3.9 The EESC would stress the principle of **citizens' equality** enshrined in Article 9 TEU [20]. In the context of the 2013 European Year, it therefore calls for attention to be paid to groups of citizens suffering discrimination. Specific measures should be taken to guarantee that all citizens have the same opportunities for exercising their right to participate, their economic and social rights and for exercising their other rights, regardless of their origin and citizenship, age, particular needs, state of health, wealth, religious beliefs, family situation or other characteristics of the same nature. Total equality must be ensured between men and women [21]. Special attention should be devoted to **combating radical** or **antidemocratic** ideologies and activities.

3.10 The Committee also highlights the **external dimension** of active citizenship. In the conduct of the Year, it would be appropriate to cooperate with the EU's neighbouring countries. The Committee calls on the EU at all times to respect its fundamental principles and values in its external relations [22], to ensure greater involvement by civil society in framing its external policy and to begin preparations for the 2015 European Year which the Committee has suggested devoting to development cooperation.

The free movement of people

3.11 The EESC upholds the free movement of people as one of several indirect priorities [23], as does the Commission which, in its proposal, states its determination to **remove the existing**

[12] Countries which traditionally conceive citizenship as active citizenship could use the short title.
[13] COM(2011) 489 final – 2011/0217 (COD).
[14] OJ C 376, 22.12.2011, p. 74.
[15] OJ C 354, 28.12.2010, p. 59
[16] European Parliament resolution of 15 December 2010 (2009/2161 (INI)).
[17] OJ C 83, 30.3.2010.
[18] OJ C 83, 30.3.2010.
[19] BverfG (German Federal Constitutional Court), 2 BvE 2/08, 30.6.2009.
[20] OJ C 83, 30.3.2010.
[21] See particularly the REX/307 file, rapporteur Ms Sharma, and Flash Eurobarometer 294, published in October 2010. The groups that least understand the meaning of European citizenship include women and manual workers.
[22] OJ C 376 22.12.2011, p. 74.
[23] OJ C 228, 22.9.2009, p. 14.

obstacles identified [24] to enable all EU citizens, without discrimination, to freely exercise their rights. At the same time, it calls for attention to be focused on **concrete and practical actions** that will bring about long-term positive effects. These initiatives could involve creating or extending promotional programmes or instruments, drafting and implementing new regulations or more strictly monitoring and prosecuting violations of EU legislation.

3.12 In the context of the 2013 European Year, it would also be worthwhile to pay particular attention to citizens' right to receive **assistance** from the **diplomatic and consular missions** of other Member States when they are in a third country.

3.13 The EESC notes that the mobility of individuals should also be considered in the context of **demographic** trends, and that its beneficial effects **on employability and competitiveness** should be recognised. It encourages developing, implementing and complying with European legislation in many areas such as consumer rights, the movement of goods, services and capital, healthcare, education, the right to vote and freely stand for elections to the European Parliament when in another EU Member State, knowledge of languages, intercultural and social skills, together with other social and economic rights and guarantees. Mobility of individuals thus also means allowing citizens to benefit from the advantages of the single market and helping to achieve the growth targets of the Europe 2020 strategy.

Organisational aspects of the European Year

3.14 The organisational arrangements for the 2013 European Year must comply with the objectives and values it advocates. The EESC considers that its planning and implementation **process** should be as **open** as possible, and should involve all interested players at all levels and all stages: the Committee of the Regions, the EESC itself, representatives of civil society organisations (CSO) including the social partners, and representatives of national and local administrative bodies, among others.

3.15 The EESC stresses the particular attention which should be devoted to cooperation with **schools and higher education institutions** and their activities. Each Member State should be mindful of its role and should establish teaching programmes for them which could be eligible for Commission support.

3.16 A **practical methodology** should be devised for consultations with civil society, and a compendium or manual of good practice drawn up.

3.17 Extensive use should be made of the opportunities offered by **modern technologies**, particularly the social networks and other media whose content is defined by their users' contributions. A consultative page should be created in the internet sites of all the EU institutions.

(24) COM(2010) 603 final.

3.18 The Committee also calls for guarantees for transparent, **effective coordination** of the 2013 European Year at all levels and between all stakeholders involved, particularly by making full use of the potential of the steering committees by setting up effective mechanisms for exchanging experience at national level.

3.19 On the basis of positive past experience during previous European Years, the Committee has expressed its support for the creation by European organisations and networks belonging to the EESC Liaison Group, and other partner organisations, of a broad, open **coalition** of civil society organisations **to help organise this thematic year**, and has expressed its readiness to cooperate with that coalition. For its part, the EESC intends to set up a coordination group to follow the progress of the Year and to contribute to making it a success. To that end, close cooperation should also be established between the civil society coalition and the EESC coordination group. The EESC feels that, with its partners at EU and Member State levels, it can make a substantial contribution in this respect by identifying participants from civil society, involving and motivating them. They will then become jointly responsible for taking the thematic year forward. There is thus the opportunity to share the EESC's unique expertise on establishing grassroots consensus and cooperation.

3.20 The Committee calls for specific measures to be drawn up and implemented to ensure a **link between the different thematic years and to ensure that the outcome of the events is enduring**. From the content point of view, the Committee advocates linking the European Years 2010 to 2013 [25] and the subsequent years, particularly 2014 which it has proposed be devoted to family-related themes.

3.21 It is necessary not only to carry out information campaigns but also to undertake practical and concrete actions drawn up by decision-makers working together with society. The actions recommended in Article 3 of the proposal should be weighed up and amended in line with the recommendations set out in this opinion, with the primary aim of fully implementing Articles 10 and 11 of the Treaty on European Union.

4. Specific comments

Society's involvement and the legitimacy of decisions

4.1 The Committee deems that, in its current format, the proposal will not encourage a feeling of belonging to the EU. It does not create the necessary foundations for achieving tangible results in the context of the 2013 European Year to close the gap between society and decision-makers in terms of citizen participation, or significantly increase the EU institutions' legitimacy. In the context of the thematic year, the Committee recommends **creating a new promotional programme, establishing mechanisms, and drafting and adopting legal acts** in this area.

(25) OJ C 224, 30.8.2008, p. 106; OJ C 128, 18.5.2010, p. 149; OJ C 51, 17.2.2011, p. 55.

4.2 The Committee particularly emphasises that the Commission should produce practical proposals, including white papers on the **full implementation of Articles 10 and 11 TEU**. The introduction of the citizens' initiative (Article 11(4) TEU) and the other mechanisms put in place to date are not enough to ensure society's full participation. A discussion should be launched right away on possible ways of supplementing these tools ([26]).

4.3 Action is also needed to **supplement the existing mechanisms** for dialogue and participation, **adopt good practices** ([27]) and improve cooperation between the EU institutions and also between the European level and the national bodies working on questions relating to the Union, including governments, the national parliaments and civil society, to mention just these few stakeholders. The aim should be to make decision-making as open and transparent as possible.

4.4 Independently of this action, the Committee calls on the Member States to improve the mechanisms for society to become involved at **national, regional and local level** by including the general public in the ongoing dialogue and by drawing up specific performance indicators for the goals to be pursued.

4.5 Discussion of ideas must also be encouraged at European level. Steps should be taken to ensure that each citizen is able to grasp the import of the subjects being discussed and understand at what point and in what way they can take part in the decision-making process. It is also necessary to strengthen and encourage ([28]) the **European media area**, in terms of installation, education ([29]) and culture.

4.6 The EESC stresses its role as a bridge between the institutions and civil society ([30]). In preparing to launch the 2013 European Year, **the Committee is determined to embark on and implement a broad, participatory, transparent and innovative programme** that will show society and the EU institutions the advantages to be gained from involving the broader public, while in some respects acting as a pilot project for other initiatives.

Previous opinions and assessment of the thematic year

4.7 In **earlier opinions**, the EESC has steadfastly upheld the values and objectives highlighted here, notably as regards informed involvement of the public, civic education, and the protection and development of the rights of all citizens ([31]).

4.8 The Committee recommends including in the action plan those mobility-related initiatives it has put forward in **earlier opinions** and backing them up using other means. The aim would be to encourage, in particular, actions relating to young people, improving accessibility, or education and specialised training, improving access to life-long learning, launching **initiatives to remove obstacles** created by education systems, a lack of linguistic skills, healthcare questions, social security, access to housing or other difficulties ([32]). The Committee urges that thought also be given to less pleasant possible aspects of mobility, such as separation from one's family or the risk of losing one's culture, or the socio-economic impact on the region of origin of the people concerned.

4.9 The Committee supports the suggestion that each Member State should draw up a manual on the rights granted to citizens of other Union countries residing in their territory, and that they should be obliged to provide them with other easily accessible sources of information ([33]). All the points made in the EESC opinion on active citizenship are also worthy of support ([34]).

4.10 The Committee supports the idea of a **follow-up report on EU citizenship** and the proposal to draft an action plan on the methods for removing obstacles that still prevent citizens from exercising their rights. In this respect, it suggests that citizen participation be designated the top priority. It believes that such an initiative would also make citizens more aware of and more inclined to take part in the elections to the European Parliament which will be held in spring 2014 and thereafter.

4.11 The Committee draws attention to the **lack of consistency between policies** drawn up by the European Commission. On the one hand, there is a desire to emphasise mobility, whilst at the same time there are plans for major changes to the Youth in Action programme during the next budgetary period which could lead to a diametrically opposite effect and undermine young people's sense of belonging to the European Union and their feeling of being citizens and Europeans.

4.12 The Committee agrees that the results of the 2013 European Year should be subject to an **in-depth assessment** and that the opinions expressed by individuals during the year should be collected and examined. It will be useful to take these conclusions into account when framing subsequent European policies affecting the issue of citizenship. For its part, the Committee will consider drafting an **opinion** that would include practical indicators and guidelines for continuing with this project.

The institutional framework

4.13 The Committee advocates looking into the possibility of setting up a specific **intergroup at the European Parliament** for encouraging interinstitutional cooperation, including cooperation with the EESC, for planning and taking forward the thematic year.

([26]) OJ C 376, 22.12.2011, p. 74.
([27]) See also the INGO Conference, CONF/PLE(2009)CODEI, 2009
([28]) OJ C 318, 23.12.2006, p. 163.
([29]) OJ C 28, 3.2.2006, p. 29.
([30]) OJ C 354, 28.12.2010, p. 59
([31]) Reference should be made here inter alia to the other EESC opinions mentioned in the present document.
([32]) OJ C 228, 22.9.2009, p. 14.
([33]) European Citizenship – Cross-Border Mobility, Aggregate Report, Qualitative study – TNS Qual+, August 2010.
([34]) OJ C 28, 3.2.2006, p. 29.

4.14 As part of the preparations for the 2013 European Year, the EESC recommends that **appropriate resources** be secured for the Commission departments responsible for questions relating to the strengthening and involvement of civil society and that their scope be broadened and their importance and coordination bolstered. It also calls for particular attention to be given to encouraging and coordinating voluntary work.

4.15 Because of their low profile and lack of impact, it would seem questionable to put special emphasis on sources of information such as 'Europe Direct', the 'Your Europe' portal or Solvit. The list could also include Europeana and Eures. In any case, the EU authorities can only have an indirect role as the focus should be mainly on organised civil society. At all events, **information should target the public** it is intended for by providing modern and innovative distribution channels, including recourse to social networks and other mechanisms.

Financial aspects

4.16 The Committee recommends granting the 2013 European Year **sufficient and appropriate funding**. The total of EUR 1 million currently earmarked is not enough to achieve goals of this scale. The 2011 European Year had a budget of around EUR 11 million [35], if the preparations already carried out in 2010 are included, whilst the budget for the 2010 European Year totalled EUR 17 million [36]. Moreover, there are plans to allocate funding for the 2013 European Year from the Directorate-General for Communication's budget and programme headings. This would not be additional funding [37]. Furthermore, regrettably there is no funding provided in this amount for co-financing citizens' initiatives or civil society organisations [38]. The Committee considers that the average 0.2 eurocents scheduled per EU citizen is insufficient for carrying out the measures called for in the present opinion, even if major funding is not required for all the actions and initiatives. Whatever happens, particular attention must be devoted to activities which are not receiving the requisite funding.

4.17 The Committee recommends deleting the provision whereby 'financing will generally take the form of **direct purchase** of goods and **services** under existing framework contracts' [39], since this would basically generate huge expenditure on unsustainable campaigns devised by public relations companies which could even create negative results or not be very successful in many Member States because they use a standard format. As far as possible, funding should be granted to national and local civil society organisations, who should be the parties primarily responsible for the European Year. One way of achieving this would be to allocate funds via the Commission's representations in the Member States.

4.18 Account will need to be taken of the results of the 2013 European Year and the lessons to be learned from it by **providing financial instruments** such as the future *Europe for citizens* funding programme or others. At the same time, it is necessary to provide more information on the possibilities for financial help to encourage EU citizenship [40], guarantee an adequate level of funding for these objectives, and renew the operating grants programmes for participation or structured dialogue on European issues at Member State or EU level. This action will also serve to extend earlier programmes intended to encourage the active participation of EU citizens and their feeling of belonging to the Union [41]. The voluntary sector should be enlisted to help with the co-financing of projects.

4.19 Lastly, the Committee recommends adopting an **innovative approach in the planning**, management and use **of financial resources** at EU and other levels, particularly regarding the participation of citizens in allocating the budget for the European Year.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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[35] *European Year of Volunteering 2011*.
[36] OJ C 51, 17.2.2011, p. 55.
[37] COM(2011) 489 final – 2011/0217 (COD).
[38] Liaison Group, EESC, 'European Citizenship is more than Rights! Open letter to MEPs: Commission proposal to designate 2013 as *European Year of Citizens*'.
[39] COM(2011) 489 final – 2011/0217 (COD).
[40] COM(2010) 603 final.
[41] Report on progress towards effective EU Citizenship 2007-2010, COM(2010) 602 final, Brussels, 27 October 2010.

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 — Supporting growth and jobs — an agenda for the modernisation of Europe’s higher education systems’

COM(2011) 567 final

(2012/C 181/25)

Rapporteur: **Joost P. VAN IERSEL**

Co-rapporteur: **Juraj STERN**

On 20 September 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions — Supporting growth and jobs — an agenda for the modernisation of Europe’s higher education systems

COM(2011) 567 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 100 votes to 1 with 8 abstentions.

1. Conclusions

1.1 Well-designed higher education is critical for Europe’s economic and intellectual future, strengthening the basis of social and economic performances, enriching living and working conditions of the coming generation(s), and being indispensable for shaping future values in European society.

1.2 The EESC shares largely the analysis by the Commission as well as the proposals and recommendations of Commission and Council ([1]) to be implemented in the forthcoming years, of which many link up with the EESC Opinion ‘Universities for Europe’ of 2009 ([2]). The EESC underlines that the EU Agenda needs to be completed and expects more ambition from the Council.

1.3 Despite a growing awareness and convergence of views there is still a long way to go. Improvements on paper are often reluctantly implemented. Vested interests, (soft) protectionism, and the still wide diversity and fragmentation of the higher education landscape – in spite of the Bologna process – block rapid adjustments. This is far from a technical affair as adjustments often imply an overhaul of existing structures as well as new definitions of responsibilities, methods, programmes, and focus. These elements require continuous attention in the modernisation process in a more precise and detailed way.

1.4 Effective diversity in higher education is, of course, desirable with classic universities bringing together teaching and research, and other types of higher education like higher vocational institutions, education with a primarily regional focus – also cross-border – and institutions with a limited number of courses. More generally, smart specialisation and distinctive profiles are needed. The EESC insists on effective synergies between the various types and on flexible learning pathways at all levels of education.

1.5 Europe 2020 should be fully applied, in substance as well as in organisation. The Commission, the Council, the MS and higher education should share responsibilities and coordinate effectively. Europe 2020 implies interconnections between higher education and the flagships, such as the Innovation Union, Industrial policy, Agenda for new skills and jobs, and Youth on the Move. Higher education systems and policies should be part of the country-specific recommendations in the Semester.

1.6 Autonomy ([3]), accountability, and transparency of the institutions are key to fulfil their mission and to generate better value for money. These are also crucial for putting higher education at the centre of job creation, employability and innovation. (National) agendas should ensure professionalisation of management, up-to-date curricula, training, quality assurance of teaching and research, specialisation, as well as international attractiveness. Special attention is required for the entrepreneurial university.

([1]) Council’s Conclusions 28-29 November 2011 on the Modernisation Agenda.

([2]) OJ C 128 of 18.5.2010, p 48-55.

([3]) See for the latest analysis ‘University Autonomy in Europe II - the Scoreboard’, European University Association, 2011. There is still a world to win.

1.7 Funding is vital. It is worrying and counterproductive for Europe 2020 and Europe's position in the world that higher education is underfinanced and that budgetary constraints put public finance further under pressure. Satisfactory funding for higher education should be ensured, irrespective the sources of funding. Practices should be disseminated.

1.8 The number of students still increases rapidly. Gender equality opportunities in all areas and on all levels must be guaranteed. The dynamics of the economy and of society at large require both unhindered access and satisfactory quality. In case of an introduction (or increase) of national tuition fees, these should be accompanied by flanking policies for scholarships and loans, and guarantees of access.

1.9 More students, knowledge workers and researchers in the technical field are needed; technical education has to be presented more attractively. The contribution of social partners and labour market expertise must be well structured. Businesses – whatever their size – should be enabled to make significant contributions to curricula, training, and to an entrepreneurial spirit.

1.10 Universities and business, both sides keeping their independence and responsibilities, should jointly develop strategic innovation agendas. An interaction between higher education and companies usually add a lot to research, transfer of knowledge, development of transferable skills as well as the development of ideas. Good practices should be disseminated.

1.11 The need for a ranking and quality assessment system can hardly be overestimated to create value for money and for successful international mobility. The EESC welcomes the launch of a carefully designed U-Multirank. In addition to this 'mapping' other conditions for mobility of students and researchers, and internationalisation have to be improved.

1.12 Convergence of higher education systems positively affect conditions of cross-border mobility of students and researchers which is beneficial for individual performances as well as for the European labour market and European integration. The Erasmus programme should include a pilot for a 'mobility semester'.

1.13 The EESC endorses strongly a link between the Modernisation Agenda and Horizon 2020, Erasmus for All and the Structural Funds

2. **Introduction**

2.1 Education at all levels is of highest interest. Due to 'subsidiarity' higher education in Europe has developed nationally. The Lisbon Treaty speaks only of vocational training and retraining as areas for EU measures (4).

(4) Title XII, Education, vocational training, youth and sport, Articles 165 and 166.

2.2 The 1999 Bologna Conference initiated a decisive breakthrough, leading to a Europe-wide Bachelor, Master and Doctoral degree system. The Bologna Agreement has contributed to a convergence of higher education systems in Europe.

2.3 Meanwhile the EU launched successful international programmes for students and researchers such as Erasmus, Erasmus Mundus, Marie Curie Actions, and others. It encouraged cross-border research projects systematically through successive FPs.

2.4 There is an ongoing process of reforms and bottom-up initiatives in and between universities. Such initiatives include the establishment of groups of similarly oriented universities such as the League of European Research Universities, the Coimbra Group and others, favouring specialisation in various directions, for instance in research or in social sciences.

2.5 The EESC concluded in 2009 that 'in the current sub-optimal university system the great potential of universities is insufficiently developed' (5). This view is shared by the Commission, in its Modernisation Agenda (6). The Council concludes that 'quality of education and research is a key driver' for modernisation and 'strengthening the knowledge triangle between education, research and innovation is a key condition to jobs and growth' (7).

2.6 Bringing higher education up-to-date must be realised in a very diverse landscape within diverging national and regional socio-economic contexts. Classic universities and other types of institutions have specific missions. The concept of the classic university implies both education and teaching, and research.

2.7 In view of a sustainable social and economic recovery decisive steps to enhance quality in higher education are essential.

2.8 In addition to many analyses on desirable reforms the Working Document accompanying the Communication (8) summarises developments in MS fostering modernisation. However, considerable disparities in vital areas remain to be tackled:

— economic productivity per country – level of higher education attainment and economic output per capita,

— qualifications in view of employability,

(5) OJ C 128 of 18.5.2010, p. 48-55, point 1.1.
(6) COM(2011) 567 final, p. 2.
(7) Council conclusions on the modernisation of higher education, 28/29 November 2011.
(8) SEC(2011) 1063 final, p. 48.

— disparities as to the agreed EU 40 % attainment level for higher education, although participation in higher education is increasing significantly across Europe,

— differing levels of investment in higher education, differences in funding, disparities in development of publicly- and privately-financed higher education,

— in spite of 'widespread and far-reaching reform of higher education governance', continuing disparities in financial and institutional autonomy and accountability.

2.9 In its overall analysis the Commission also points to shifts, notably the development of the knowledge triangle across the continent, closer relationships between universities and business circles, a focus on 'high-end' knowledge-intensive activities, such as R&D, marketing and sales, value chain management and financial services, services in general, ICT, underrepresented societal groups, the changing gender balance - women accounting for more than half the student cohort at pre-doctoral level across Europe, although at doctoral level a reverse trend takes place- and impressive cross-border European and worldwide learning mobility.

2.10 The EESC is in favour of deepening the existing country reports, analyses, and recommendations parallel to a systematic country-specific method as applied in the Bologna Process progress reports and to fine-tuned OECD studies on higher education and quality measurement. Country-specific approaches will provide 'good practices'.

2.11 The EESC notes that certain important issues are left aside in the predominantly-general analysis, such as national and regional political interference in higher education, the way in which the need to foster participation and quality is being materialised in MS, the authorities' approach to specific requirements for professors, teachers, researchers and students, the mutual relationship between various levels of higher education in Member States, the development of common ground for education and research within universities, and, last but not least, reliable statistical evidence.

2.12 Commission and Council strongly emphasise the relationship between higher education and the economy. They do not specifically address health faculties, social sciences or humanities. This is understandable given the need for focus, especially in a time of crisis. On the other hand, as the goal of any education is an optimal relationship between education and work, it would be highly desirable also to discuss how faculties or academia that are not intimately related to the economy, however important, should deal with modernisation.

2.13 Cooperation between industry and health faculties is needed, since the new cost-effective diagnostic and therapeutic technologies require an expensive, capital-intensive hands-on training, high quality education and lifelong learning. This will help to reduce mortality and disability rates.

3. **Europe 2020 and higher education**

3.1 In 2009 the EESC qualified the Lisbon Strategy and European higher education as potential major catalysts for the process of modernisation. In the same vein the Commission rightly relates universities to goals and targets of Europe 2020.

3.2 A decisive innovation made by Europe 2020 concerns 'governance': closer coordination within the Commission and between MS and the EU also in matters that are not or only partly covered by the Treaty.

3.3 Of great importance for higher education are the flagship initiatives, in particular Industrial policy, the Innovation Union, an Agenda for new skills and jobs and Youth on the Move.

3.4 An increased monitoring role of the Commission, including country-specific recommendations in the Semester, should support the needed university reforms.

3.5 The higher education modernisation agenda must be fully covered by Europe 2020. The EESC welcomes the pivotal role of education in the framework of and reference to Europe 2020 in the strategic agenda of the Commission.

3.6 The EESC believes that the link between Europe 2020 and higher education boils down to the following:

— Europe 2020 links higher education with innovation, industrial policies and mobility;

— it creates an additional basis for shared views and cooperation between the Commission and MS, between individual MS and among education institutions;

— it generates new impulses at national level for modernisation;

— developments in higher education must become part of the country-specific recommendations in the annual Semester;

— Europe 2020 will create new forums for cooperation, and increase fruitful cross-border networks;

— the link with industrial policy and innovation requires intensified consultations with the private sector. Consultations with SMEs and micro-enterprises remain undervalued. The EESC insists on real engagement of higher education, governments and Commission to use practical experience of these enterprises in the design of programmes and curricula.

3.7 The Commission makes a distinction between key issues reserved for MS (and education institutions) to address, on the one hand, and specific EU issues, on the other. The EESC prefers to speak of MS' and the Commission's 'shared responsibilities' in Europe 2020.

4. **Issues to be tackled by the MS, the Council and higher education**

4.1 The identification of key issues in MS should lead to focused action. More push is needed. The Council should set priorities on proposal of the Commission which subsequently monitors national implementation.

4.2 A special focus is desirable on 'more flexible governance and funding systems which balance greater autonomy for education institutions with accountability to all stakeholders', leading to specialisation, educational and research performance, and diversification ([9]).

4.3 As the EESC argued in 2009, an appropriate framework and autonomy are crucial ([10]). Despite organisation, including autonomy and funding, is a key responsibility of the MS, the EESC considers a debate on these aspects among MS and in the Council indispensable as they greatly affect the outcome for teachers and students.

4.4 The EESC agrees with the policy objectives set out in the Key policy issues box in § 2.5 of the Modernisation Agenda. These objectives entail far from technical adjustments. They are very much related to the national political environment. First and foremost, governments should be addressed rather than higher education. Political persistence, legislation and regulation, to be discussed with all stakeholders, are essential.

4.5 Governments and institutions should also be encouraged to make international comparisons concerning the benefits of greater autonomy.

4.6 Contrary to common practice, which included a successful 'massification' of higher education ([11]), the focus must, in line with the current debate on higher education, shift towards smart specialisation, diversity of strategic choices and the development of centres of excellence. Successful examples in MS can lead the way.

4.7 The EESC acknowledges that such objectives may entail major shifts in education philosophies in MS. This is a matter to be discussed in the Council, including roadmaps and timetables.

4.8 In the current crisis there is an obvious link between modernisation of education and the economy. But the process should be broader. The EESC points equally to the need for up-to-date standards in terms of professionalisation, curricula, degrees and mobility in social sciences and humanities, which are important for European intellectual life, values, and identity. Moreover, well-run health faculties, social sciences and humanities also contribute to the economy.

4.9 The EESC endorses closer relationships between higher education and business. It shares the opinion that close, effective links between education, research and business, combined with the shift towards 'open innovation', will be crucial for the knowledge triangle.

4.10 Accordingly, for institutions directly or indirectly related to the economy, the EESC endorses partnerships with various types of businesses as a '*core activity of higher education institutions*' ([12]). There should be a focus on entrepreneurial, creative and innovation skills of students as well as on interactive learning environments and knowledge-transfer infrastructures. An open mind to the 'entrepreneurial university' is also needed

4.11 Conditions must be put in place for students to switch easily from one type of education institution to another, including flexible pathways from post-secondary vocational education and training to higher education, to upgrade their qualifications ([13]). Such conditions are also most helpful in life-long learning.

4.12 Regional development warrants special attention. In many regions, in particular metropolitan areas, the link between higher education, the labour market, research, innovation and business is paramount. These regions are increasingly developing transnational, and even global, specialities. A systematic involvement of higher education usually is a catalyst in local and regional development and promotes economic resilience. National authorities must be encouraged to stimulate such regional processes ([14]).

4.13 The EESC underlines cross-border regional cooperation in higher education. EGTCs can provide support for neighbourhood regions as well as for regions with comparable economic patterns ([15]).

4.14 Funding is a vital issue. The crisis is also affecting public financing of higher education Higher education risks on average to remain structurally underfinanced. Total expenditure is 1,2 % GDP compared with 2,9 % GDP in the US and 1,5 % GDP in Japan. Moreover, private expenditure is very low compared to the US and Japan. Meanwhile the BRIC countries

([9]) COM(2011) 567 final, p. 9, OJ C 128 of 18.5.2010, p. 48-55, point 1.4.

([10]) OJ C 128 of 18.5.2010, p. 48-55, points. 1.4, 3.5.1 and 3.5.2.

([11]) Between 2000 and 2009 the number of higher education students in the EU increased by 22,3 % to over 19,4 million, European Commission staff working document on Developments in European higher education systems, SEC(2011) 1063 final, p. 16. However, this is no indication of the quality of the qualifications.

([12]) COM(2011) 567 final, p. 8. See also Council conclusions 28/29 November 2011 which underline partnerships and cooperation with business, and other private and public actors.

([13]) OJ C 68 of 6.3.2012, p. 1, which also urges the Commission to bring Bologna and Copenhagen processes together in an integrated approach, and OJ C 68 of 6.3.2012, p. 11.

([14]) OJ C 376 of 22.12.2011, p. 7.

([15]) Ibid. pts 5.7 and 5.8.

make also substantial progress. The EESC notes that the earlier EU-objective of 2 % GPD for Higher education has not been taken on board in the Europe 2020 Strategy.

4.15 The required funding and goals like supply of high-quality graduates, professionalisation of management and value for money should support the Europe 2020 Strategy.

4.16 There is a wide variety of funding among MS. Some countries are far better off than others. The correlation between the output of higher education and employment makes maintaining adequate funding imperative by encouraging a greater variety of sources of funding, among them the use of public funds to leverage private and other public investment (match-funding).

4.17 A well-structured relationship between qualified education institutions and the business community can certainly help alleviate a downward development. Higher education should benefit from innovative processes in business. However, business or private financing should never generate unjustified influence over curricula or over fundamental research.

4.18 Universities and business, both sides keeping their independence and responsibilities, should jointly develop strategic innovation agendas. The interaction between universities and business can be strengthened by knowledge alliances. The European Innovation Platform, taking also into account the key enabling technologies, earmarked by the EU, can be very supportive.

4.19 Interaction and exchanges between higher education and companies usually add a lot to research, transfer of knowledge, development of transferable skills, and development of ideas. Good practices should be disseminated.

4.20 The Modernisation Agenda does not give a position on tuition fees, as this issue is exclusively a national responsibility. There are various systems across Europe. A gradual rise in annual fees is a general trend. Tuition fees are controversial.

4.21 The EESC points to increasing dilemmas: the number of students is rising, quality must be enhanced, and employability requires higher standards of learning, but public funding in MS is remaining equal or even tending to decrease. This is a huge challenge. In case of an introduction (or increase) of national tuition fees the EESC underlines that these should always be accompanied by flanking policies for scholarships and loans, and explicit guarantees of access.

4.22 The percentage of drop-outs in higher education is too high, while a broader cross-section of society has to be attracted into higher education. In particular the social and cultural environment in countries that are lagging behind has to be improved.

4.23 Higher numbers alone, however, is not a satisfactory criterion. Objectively-measured quality rather than the number of qualifications has to prevail.

4.24 As to qualifications some principles should prevail:

— Consultations with social stakeholders and labour market expertise in view of employability

— Consultations with business are vital: they should alongside consultations with big companies also include a continuous engagement to SMEs – micro and small – which is all the more important as industrial processes increasingly tend to fragment or be outsourced

— Qualifications which are related to job creating dynamics, must be developed via learning – training schemes which ask also for commitment of and partnerships with companies

— Interdisciplinary and transversal competences should be developed

— Qualifications should be helpful to smart specialisation that enhances (international) attractiveness or regional specialties

— Notwithstanding the diversity of higher education the way of defining qualifications should facilitate European (and international) exchanges and careers.

4.25 The EESC very much welcomes the proposals in the Communication concerning qualifications, quality assurance and the link between higher-quality education and researchers. It also shares the opinion that modernisation of education depends on the competence and creativity of teachers and researchers ([16]), a fact that is often overlooked. In this context, all prohibitive administrative obstacles to careers in the academic sector – such as the additional academic levels that exist in some countries (Poland among them) – should be eliminated.

4.26 Given the sharply increased number of students there is a worrying shortage of competent teachers. Quality in teaching and research means that satisfactory work conditions, attractive careers in education, and professional development as well as training facilities and rewards for excellence are necessary. This seems self-evident, but in the majority of MS the reverse is the case now. Therefore, the Council should define policy lines.

4.27 The Commission rightly stresses the need for a broad variety of study modes. Technical education must become more attractive. Social partners at national and regional level can play a very positive role in sustaining the image of technical studies. Individual companies can make a significant contribution. The EESC underlines commitment of SMEs – in particular micro and small – especially on regional level.

([16]) COM(2011) 567 final, p. 5.

4.28 The European debate must focus on putting higher education at the centre of innovation, job creation and employability [17]. This should be a central goal for all stakeholders and a shared responsibility of the Commission, the Council, the MS and, notably, higher education itself.

4.29 Given the huge challenges the higher education agenda of the Commission and the Council is still far from complete and not very strong. The EESC underlines that the current crisis requires more focused, convincing steps from the Council, the MS and higher education. Changes may be underway, but they need to be accelerated.

4.30 All actors must equally take responsibility for professionalisation, curricula, quality assurance, specialisation etc. A roadmap and time tables by the Council on the link between higher education, innovation and employability is required. Higher education institutions should support this process in sketching themselves their role in promoting quality, and social and product innovations.

4.31 The views of the ERAC concerning highly relevant objectives relating to governance and institutional reform of universities, and the link between innovation, research and education, should become an integral part of the agenda. This should pave the way for shifts in numerous European universities [18].

5. **Issues to be tackled by the Commission**

5.1 The EESC welcomes the goals the Commission sets itself in the modernisation process of higher education, joining recent approaches as highlighted in the Council Conclusions of last November.

5.2 The EESC endorses the role the Commission can and should play in focusing on the evidence base for policy-making, among other things concerning performance and transparency. In a world of primarily – often politically inspired – national analyses and goals, a proactive role for the Commission, with objective assessments, is essential, including the terms of reference being discussed in the Council.

5.3 Such European assessments are likely to provide corresponding endeavours in MS, universities and research centres, reinforcing the common framework and hopefully leading to shared goals.

5.4 Against this backdrop, the EESC welcomes the launch of U-Multirank, a multi-dimensional performance-based ranking and information tool. It should improve transparency of the missions of the various types of institutions, and contribute to fair comparison of higher education performance in Europe. Moreover, it is useful to develop a European ranking in addition to the mono-dimensional Shanghai-ranking and other rankings anyway.

5.5 As the EESC argued in 2009, the need for a critical ranking and quality assessment system covering a broad range of issues of a wide variety of institutions can hardly be over-estimated [19]. Transparency, provided by a verifiable third independent non-partisan body, will support national authorities and higher education to put emphasis on quality, differentiation, and smart specialisation. As the Commission notes, '*this independently run tool will inform choice and decision-making by all higher education stakeholders*' [20].

5.6 In addition, 'mapping' may well foster cross-border mobility among students, lecturers, researchers and professors, and, more in particular, help to upgrade research by creating new networks as well as partnerships and competition between higher education institutions across Europe.

5.7 The Council underscores mobility of students and researchers – free movement of knowledge – as a fifth freedom. The EU programmes fostering cross-border mobility for students and researchers are already successful. Nonetheless, existing systemic shortcomings have yet to be rectified. A 'mobility scoreboard' is desirable to fight obstacles to learning mobility.

5.8 The Erasmus programme must demand more commitment from students. The EESC recommends a pilot for a 'mobility semester' – a 5th semester in 'bachelor'. The programme must also be affordable for every applicant. The EESC supports the analysis of potential student mobility flows and the Commission proposals concerning the European Credit Transfer and Accumulation System as well as concerning an Erasmus Masters Degree Mobility Scheme.

5.9 Article 179(1) of the TFEU is very explicit regarding research in the EU [21]. International mobility of researchers is key. Too often, hidden protectionism creates persistent barriers for researchers. This is damaging for European science and competitiveness. It also prevents national institutions reaping the full benefit of Europe's intellectual diversity. The EESC strongly endorses the Commission's proposal on the European Framework for Research Careers to foster researchers' mobility.

5.10 The EESC also welcomes the European framework for four career profiles for researchers, developed by the Commission and education and business experts. This must develop as an open system to create as many opportunities as possible.

[17] COM(2011) 567 final, p. 12, point 3.3.
[18] See the Conclusions of the European Research Area Committee, 24 June 2011.
[19] OJ C 128 of 18.5.2010, p. 48-55, points 1.5 and 5.2.4, 5.2.5 and 5.2.6.
[20] COM(2011) 567 final, Key issues box, p. 11.
[21] See the convincing proposal 'Towards a European framework for research careers, European Commission', 21 July 2011.

5.11 The EESC stresses the need to streamline national financial and social conditions for researchers in a common European framework in order to remove remaining impediments to free movement. Europe-wide professional profiles should be developed and institutions should be encouraged to professionalise their human resource management.

5.12 An extension of the activities of the European Institute of Innovation and Technology (EIT) is desirable, not least in order to generate incentives to further knowledge alliances between business and the universities concerned. The same applies to reinforcement within Marie Curie initiatives and a quality framework for traineeships.

5.13 On a global scale the EU has to develop as a highly qualified competitor and partner. In this process higher education has an important role. Accordingly, the EESC fully supports the Council decision to invite the Commission to '*design a specific strategy for the internationalisation of higher education*' ([22]).

5.14 The EESC supports the envisaged framework conditions for an extension of relations with partners beyond the EU, mobility partnerships and improving facilities for students and researchers from outside Europe via EU directives and a performance scoreboard ([23]). Restrictions on non-European students and researchers need to be eased to attract talent and creativity from elsewhere.

5.15 The EESC advocates a Council discussion on the place of European higher education in a global context, which also defines the qualities required to be a successful competitor and partner. That may help education institutions to put the right conditions in place.

5.16 In a number of opinions the EESC has expressed its agreement with a focus on innovation and all aspects of smart, sustainable and inclusive growth in the drawing-up of the 2014-2020 Financial Perspectives. The EESC stresses the need for increased added value from the European funds.

5.17 Against this backdrop the EESC welcomes the Commission's specific proposal on a 73 % rise of funding of the Erasmus programme in the budget 2014-2020 as well as direct references to (higher) education in the Structural Funds.

5.18 Without going into details of actual financial figures, the EESC shares the overall view that expenditure on education, research and innovation and cohesion policy all serve to create a forward-looking European environment. Whenever appropriate, funding under 'restructuring of industrial sites' may also be used for this purpose.

5.19 The EESC very much welcomes the Commission's intention to establish in 2012 a high-level group (HLG) with a rolling mandate to analyse key topics for the modernisation of higher education. This HLG must be broadly made up of representatives from education institutes, academics, business and the social partners.

6. **Additional suggestions**

6.1 Focused incentives to professional development in higher education like Europe-wide courses for university management and leadership are desirable.

6.2 Special links between individual universities – twinning across Europe – are recommendable so that they learn from each other's practical professional and managerial experiences. Exchanges of experiences within cross border groups of universities, and specialised conferences and seminars will be equally helpful.

6.3 At regular intervals, the scientific and educational performance of university faculties or establishments is assessed by external commissions. The EESC recommends a standing practice of a highly qualified international composition of such commissions.

6.4 In view of the cost-output ratio of higher education, the EESC recommends a European analysis of the existing systems of administrative burdens. Proposals for improvement should be drawn up on the basis of good practices.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([22]) Council Conclusions on the internationalisation of higher education, 11 May 2010.
([23]) COM(2011) 567 final, Key issues box, p. 14.

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 — Communication on EU Policies and Volunteering: Recognising and Promoting Cross-border Voluntary Activities in the EU'

COM(2011) 568 final

(2012/C 181/26)

Rapporteur: **Mr TRANTINA**

On 20 September 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

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Communication on EU Policies and Volunteering: Recognising and Promoting Cross-border Voluntary Activities in the EU

COM(2011) 568 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 134 votes to 3 with 11 abstentions.

Foreword

Volunteering is an important expression of active citizenship; it builds social capital, contributes to social cohesion and solidarity, provides valuable economic benefits to society and enables individuals to realise their potential. Volunteering 'refers to all types of voluntary activities which are undertaken of a person's own free will, choice and motivation, and is without concern for financial gain' [1]*. In view of the current crisis in Europe, demographic change and related challenges, it is important to recognise the key role volunteering plays for individuals as a facilitator for inclusion, empowerment, skills building and networking. However, volunteering needs to be clearly distinguished from paid employment and should by no means replace it.*

The European Economic and Social Committee (EESC) was the first EU institution to propose a European Year of Volunteering in 2006, supporting the efforts of the EYV 2011 Alliance members and followed by others. The achievement of this objective in 2011 has provided the opportunity to raise awareness of the added value of the voluntary sector and has helped to make volunteering organisations more effective players at local, national and European levels. The European Year of Voluntary Activities Promoting Active Citizenship 2011 has also directly contributed to the recognition of the role of volunteering as a resource for societal problem-solving and confidence-building.

1. Recommendations

1.1 In order to provide an effective, sustainable environment for volunteering, the EESC recommends that the EU institutions and Member States take steps to ensure that national and EU legislation enables and encourages volunteering, protects volunteers and removes legal impediments to their activities.

1.2 However, regulation that restricts or prevents volunteering by being too descriptive or showing a lack of understanding of local volunteering traditions should be avoided and volunteering organisations should be directly involved in formulating such legislation. While in some countries the absence of a legal framework is not an obstacle, in some it hampers the lives of volunteers and volunteering providers, and in other countries volunteers face limited access to volunteering opportunities as a result of restrictive legal frameworks.

1.3 The European Commission should encourage the establishment of an efficient, well-organised infrastructure for volunteering at the level of the EU and Member States (such as facilities for volunteering organisations, recruitment, training, support for applying for funding), and boost the facilities of volunteering organisations and volunteer centres for providing information and training and for coordinating activities between volunteers and organisations.

1.4 The EU and Member States should ensure accessible, reliable and sustainable conditions for funding the voluntary sector and help volunteering organisations to adapt to the new funding environment. The EESC also calls upon the European Commission to increase financial support for volunteering in EU-funded programmes and the Structural Funds.

1.5 The EU institutions and Member States should allow and support volunteering as a contribution in kind for co-funding. The EESC also calls on the EU institutions and Member States to ensure that VAT legislation does not create any additional administrative burdens for volunteering organisations.

[1] Council Conclusions The role of voluntary activities in social policy from 3 October 2011.

1.6 In order to maintain momentum in the future, the EESC suggests that some practical steps be taken to maintain the legacy of the European Year of Volunteering beyond 2011 and to keep volunteering on national and European public agendas. The EESC requests the European Commission to begin with a consultative process (for instance, through a White Paper or any other effective means). This process could be considered to be the legacy of the European Year of Volunteering, as it would ensure that the volunteering agenda maintains a high profile at EU level. The 2012 and 2013 European thematic years should be also used well in this respect.

1.7 A more coordinated approach towards volunteering policy is needed from the EU institutions. It should be recognised as a cross-cutting policy theme and co-ordinated by a special unit within the European Commission, boosted by the required policy structures in other EU institutions [2]. This would ensure continuation of cooperation between the National Coordinating Bodies, a responsible unit in the Commission, an Intergroup or a Committee in the European Parliament, a clearly responsible Council formation and volunteering organisations at all levels.

1.8 Moreover, all stakeholders should make efforts to continue focusing on actively promoting volunteering among all citizens, and, depending on national situation, specifically focus on young people and senior citizens. Support for employer-backed volunteering should be increased in future, with Member States introducing measures to this effect (e.g. investigation into possible tax relief) and encouraging partnerships with the voluntary sector.

2. General comments on Volunteering

2.1 A volunteer-based/centred approach towards volunteering must be implemented in order to ensure quality, recognition, protection and access, without any kind of discrimination. The rights, dignity and responsibilities of volunteers should be recognised and respected and volunteers and their organisations should be aware of them [3].

2.2 Specific attention should be given to volunteering recognising it as a tool for achieving the EU 2020 targets. It is therefore vital that volunteering is also included in the National Reform Programs to ensure its support.

2.3 The coordination of the voluntary sector, in order to drive forward its own agenda, the exchange of good practice and the creation/consolidation of volunteer platforms with the participation of all relevant stakeholders (employers, trade unions, other sectoral bodies, national authorities and the EU), should be maintained beyond 2011. The EESC appreciates the work of the EYV 2011 Alliance [4], culminating in the adoption of its Policy Agenda for Volunteering in Europe (P.A.V.E.) [5], which offers a number of inspiring proposals for the further development of volunteering at EU and Member State level, as well as for social partners and NGOs.

2.4 In order to raise awareness of the socio-economic value and contribution made by the voluntary sector, the EESC deems it important to broadly collect and disseminate information on the social and economic impact of volunteering. As a first step, it is necessary to get agreement on and implement the use of the ILO manual on the measurement of volunteer work as a way to harmonise the methodology for collecting data on volunteering in Member States. However, the EESC also highlights the need for collating national data going beyond GDP, such as data on 'social indicators' as a measure of social wealth.

2.5 It is important to address the needs of all volunteers who are active in formal structures or undertaking voluntary activities on their own. The EU institutions and Member States cannot and must not ignore those who make themselves personally available to carry out volunteer work to help society. Their direct and indirect work with voluntary organisations should be highlighted. Also many areas of volunteering (besides youth, sports or the social sector) should be addressed in greater detail.

3. General comments from the EESC on the Commission Communication

3.1 The EESC welcomes the Commission Communication on EU Policies and Volunteering. The EESC supports the definitions and challenges suggested.

3.2 The EESC is, however, concerned about its somewhat hasty publication and a lack of public consultation and impact assessment. A number of proposals by civil society were not included, notably those proposed later in the P.A.V.E.

(2) As the National Coordinating Bodies for the European Year of Volunteering 2011 expressed in their Warsaw Declaration for Sustainability of Action on Voluntary Activities and Active Citizenship (DESAVAC) on 1 December 2011: 'The European Commission is invited to develop – respecting the national, regional and local competences and needs - adequate structures for exchange and cooperation of all stakeholders and civil society in the field of volunteering beyond the European Year of Voluntary Activities Promoting Active Citizenship 2011. A focal point on volunteering within the European Commission is needed.'

(3) Since 2006 the EESC has supported discussions on the creation of a European Charter for Volunteering, which would establish the common basic principles for the rights and responsibilities of volunteers and their organisations. Such a charter would also help to guide improvements to the legislative environment for voluntary activities.

(4) www.eyv2011.eu.

(5) http://www.eyv2011.eu/images/stories/pdf/EYV2011Alliance_PAVE_copyfriendly.pdf.

3.3 The Commission rightly lists a number of obstacles to voluntary activities and says that 'Member States made some progress on these issues in 2006 when they committed to cooperating on overcoming obstacles (…) But there is still a lot of work to do.' The Communication could be much more ambitious in bringing specific proposals for development in the field.

3.4 It is important to recognise that the EU Commission's responsibility is to act as a catalyst for the development of volunteer policy, although it would have a particular focus on the issues of cross border volunteering and mobility of volunteers within the EU. Whilst the responsibility for developing regulatory frameworks, good practice guidelines and strategies lies with the Member States, the Commission should play a role in collecting data, extending the Open Method of Co-ordination to ensure that volunteering is included in National Reform Programmes, as well as ensuring that EU funding regimes are inclusive of volunteering.

3.5 The EESC welcomes the fact that the 'Commission may introduce proposals that specifically cater for volunteering in the EU's employment strategy, its fight against poverty and social exclusion and in the context of the Commission's "New Skills for New Jobs" initiative.' However, the dangers of turning volunteering into an instrument for political objectives should be recognised and the core values of volunteering be respected and protected.

4. **Specific comments on the Commission's proposals**

4.1 The EESC welcomes the Commission's commitment to raising awareness amongst EU citizens and stakeholders about the different funding programmes that can be used by volunteers and for voluntary activities. Besides project-based funding, the possibilities for funding volunteering should be widened, for instance by introducing core funding, smaller grants and contract packages. Volunteering as a contribution in kind for co-funding should be permitted and preferably mandatory.

4.2 Given the current proposal to merge the Lifelong Learning programme and the Youth in Action programme into one single 'Erasmus for All' programme, the EESC fears that non-formal learning through participation in voluntary activities could be jeopardised – both content-wise and by limiting the resources. The EESC therefore asks the Commission to guarantee the independence of the current Youth in Action programme and its appropriate funding, and to continue with all its beneficial actions, including the European Voluntary Service, along with Youth Initiatives and support for European structures in the field of youth.

4.3 The EESC agrees with the Commission that appropriate follow-up of initiatives 'promoting cross-border volunteering in the context of the 2013 European Year of Citizens' would be necessary. However, it is not sufficient to mention only cross-border volunteering: all volunteering should be included. The scope of the 2013 European thematic year should be extended to the year of Active Citizenship in order to serve this purpose and attract the attention of European citizens.

4.4 The EESC is closely observing the Commission's work on a proposal for a Council Recommendation on the validation of non-formal and informal learning that includes the volunteering dimension and the European Skills Passport. In order to record the learning achieved through volunteering in an appropriate way, the passport should not be a series of new separate certificates but, rather, a comprehensive document listing all practical experience, training, soft and vocational skills acquired through life-long learning, including those gained through volunteering, if desired by the volunteer.

4.5 In 2012, the Commission will make proposals for further developing the implementation of the EU Youth Strategy and the Recommendation on the Mobility of Young Volunteers across the EU. The EESC believes the Open Method of Coordination could usefully be extended to the entire field of volunteering in Europe. This would make it possible to keep volunteering high on the EU agenda in a structured way.

4.6 In the case of sport, the EESC welcomes the proposal for new EU funding targeting this area and stresses the need to support volunteer activities, especially at grassroots level.

4.7 The EESC believes that awareness should be raised about the various ways in which employers could support the individual voluntary activities of employees, as an expression of their corporate social responsibility schemes. The social partners should have a say on different employee volunteering schemes, which should always be based on the principle of the voluntary nature of employee involvement.

4.8 The EESC is aware of several initiatives that seek to promote volunteering amongst staff of EU institutions and civil servants in the Member States. Based on the positive experiences of EESC staff, the EESC would recommend that special attention be given to the Solidarité Proposal [6].

4.9 The EESC was expecting a much stronger response from the Commission towards civil society's call for the simplification of visa procedures for volunteers coming from third countries. Amendments to Council Directive 2004/114/EC should be presented, coming up with a special visa category for volunteers, equal to those for students.

[6] http://www.solidariteproposal.eu/.

4.10 The EESC welcomes the idea of establishing the European Voluntary Humanitarian Aid Corps (EVHAC) (7), however it has doubts about the truly volunteer-oriented nature of the EVHAC. A proper evaluation of pilot projects currently running should be undertaken before the introduction of the final proposal for EVHAC. Since the Commission appreciates the work of non-governmental organisations in development cooperation, the EESC therefore suggests that EU support for these mostly volunteer initiatives be further strengthened in order to improve their impact.

4.11 Regarding the links between volunteering and health/welfare, the EESC would like to stress that volunteers should not replace the paid staff in social care in their ordinary, core, day-to-day jobs. However, they might contribute added value to the services provided by professionals.

5. Summary of EESC activities during the European Year of Volunteering 2011

5.1 To prepare for the European Year of Volunteering and manage its activities, the EESC established the Coordination group on EYV 2011, chaired by Mr Pavel Trantina (Group III). Through a series of public hearings, the EESC also sought to open a discussion between employers, trade unions and non-governmental organisations on how to facilitate volunteering at EU level. The Coordination Group worked in close cooperation with the Commission Taskforce for EYV 2011, the EYV 2011 Alliance, the European Parliament's Interest Group on Volunteering and a number of other stakeholders, who took part in the EESC events.

5.2 During 2011, the EESC Coordination Group for EYV 2011 held five meetings, **four** of which **were combined with public hearings**, each devoted to a special topic concerning volunteering, in order to encourage dialogue between the various stakeholders in the field. The main partner for the hearings was the EYV 2011 Alliance, providing speakers from its working groups on particular topics, and the Commission Taskforce for EYV 2011.

1. Value and recognition of volunteering (23 March)

2. Quality of volunteering and infrastructure for volunteering (23 May)

3. Legal framework for volunteering (27 September)

4. Employee volunteering (9 November)

5.3 The EESC co-hosted several events, namely:

— 2nd EU Level Thematic Conference (23-24 May), organised by the European Commission – the EESC hosted the discussions related mainly to employee volunteering;

— 2nd Volunteering Convention and Stakeholder Conference (7-8 September) – organised by the European Youth Forum in the premises of the EESC and the European Parliament;

— The EYV 2011 Alliance coordination meetings were held in the EESC premises on 17 March, 19 May and 29 September 2011;

— The European Judging Process of the European Employee Volunteering Awards in February 2011.

5.4 The EESC's Group III organised a major conference on volunteering to mark the first ever Polish Presidency of the European Council and the European Year of Volunteering 2011 in Warsaw on 30 September 2011 in the Presidential Palace, attended by the President of Poland, the EU Commissioner for Employment and Social Affairs and the Polish Social Policy and Labour Minister, among other key speakers. The overarching theme of the conference was *Europe of active citizens: volunteering*.

5.5 The president of the EESC and the president and members of the Coordination Group for EYV 2011 addressed many specialised meetings, including:

— Opening conference of the EYV 2011 in Budapest,

— 2nd EU Level Thematic Conference on Volunteering in Brussels,

— Closing conference of the EYV 2011 in Warsaw.

5.6 The EESC is preparing a book on Active Citizenship, which will illustrate the wide range of activities undertaken by EESC members in the professional, political and voluntary spheres.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(7) According to the Article 214, TFEU.

Opinion of the European Economic and Social Committee on the 'Proposal for a regulation of the European Parliament and of the Council establishing "Erasmus for all" — The Union Programme for Education, Training, Youth and Sport'

COM(2011) 788 final — 2011/0371 (COD)

(2012/C 181/27)

Rapporteur: **Indrė VAREIKYTĖ**

On 12 December 2011 the Council and on 13 December 2011 the European Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a regulation of the European Parliament and of the Council establishing 'Erasmus for all' — The Union Programme for Education, Training, Youth and Sport

COM(2011) 788 final — 2011/0371 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 29 March), the European Economic and Social Committee adopted the following opinion by 74 votes to 1 with 4 abstentions.

1. **Conclusions and recommendations**

1.1 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 education and training with a view to improving the employment situation – particularly of young people and older workers.

1.2 The EESC believes that the *Erasmus for all* Programme should be a key instrument for increasing support for education and training in order to enhance citizens' skills, help tackle the high levels of youth unemployment in many Member States, meet the need for qualified labour, and resolve skills mismatches. It is especially important to employ such an instrument at a time of economic crisis and negative repercussions on labour markets. Skill mismatches, where they exist, should be reduced in order to decrease unemployment, in particular among young people.

1.3 The EESC acknowledges the proposal for a significant budget increase of up to EUR 19 billion for a future programme and therefore supports the overall budget proposal by the European Commission, and calls on the European Parliament and the Council to support this increase.

1.4 Due to the current economic situation, the EESC strongly supports the measures proposed in the Programme: a clear focus on key actions; reduced fragmentation of current actions, objectives and programmes; extended use of lump sum, unit cost or flat rate grants, as well as reduction of formal requirements for beneficiaries and Member States; reduction of administrative workload for the National Agencies; and the proposal that a single National Agency per country, where appropriate, should be charged with increasing critical mass and cutting down on management costs.

1.5 However, the Committee notes that, while applying austerity measures, it is necessary to take the long-term prospects of individual sectors into account and to apply the principles of reasonable austerity and 'smart' budgeting.

1.6 Taking all proposed austerity measures into account, the EESC strongly recommends retention of the separate and independent sub-Programmes with an individual minimum budget allocation for the main sectors in the Programme (namely, higher education, vocational education and training, adult education and learning, school education, youth initiatives, and sport) and the further development of these where appropriate. This applies in particular to the mobility of schoolchildren and young people in classes or groups, the mobility of researchers and lecturers at universities, the integration of disadvantaged young people, preparatory visits, bilateral and multilateral educational projects and partnerships, and mobility and learning partnerships in adult education. Attention should be paid to the specific learning interests of women and men who are not working.

Many of the proposed administrative reforms would ensure that overall management costs remain essentially unchanged and that the separate sub-Programmes guarantee the intended impact and preserve the Programme initiatives from possible instability and decline.

1.7 The Committee stresses that education plays a very important role in addressing the current situation, and is pleased that this is reflected in the Programme. However, in order to implement the main strategic objectives of the EU, it

is necessary to pursue coherence of formal education and non-formal and informal learning, which means that non-formal and informal learning must be of equal significance to formal education in the current Programme proposal.

1.8 The EESC is concerned that some of the actions that currently work well and are appreciated in the Youth in Action Programme are missing, and that their absence may lead to a significant decline in European cooperation in the field of youth.

1.9 The EESC believes that acquiring and improving skills and knowledge involves more than the current key aim of eliminating barriers to employment, and encompasses **development of active citizenship and social cohesion**, but these objectives are not given attention in the proposal. Moreover, the role of the social partners should be strengthened as well as other civil society organisations in the new Erasmus Programme.

1.10 The EESC welcomes the objective of increasing learning mobility, as it is one of the factors allowing development of key skills, particularly ones relevant to the labour market and society, as well as increased participation of young people in democratic life in Europe. However, mobility by itself will not resolve the aforementioned issues. More attention should be paid to opportunities to apply the skills obtained through mobility actions, and to the significance of mobility in the lifelong learning process.

1.11 The Committee believes that learning should be accessible to all at all stages of life, and therefore strongly supports the proposed lifelong approach to learning aimed at putting various ways of accessing formal, non-formal or informal learning within equal reach of all. The EESC emphasises the call it has already made for: "Learning for a Long Life. However, the proposed Regulation does not seem to adopt such a lifelong learning approach in terms of opening the Programme up to all type of learners, from young children to seniors. The Programme should be more inclusive and tailored to each learner group; therefore, the EESC calls for an operational and clear definition of lifelong learning and more targeted policies for improving accessibility for each learner group.

1.12 Participants in Actions that form part of the Programme are to be seen as ambassadors of European values, which should be prominently reflected in the Programme.

1.13 The EESC recognises that the current Erasmus Programme has been a considerable success (as has, for instance, European Voluntary Service). At the same time, the Committee is concerned that the *Erasmus* brand is mainly recognisable among the wider public as a synonym for activities in higher education and formal education in general. The issue of better dissemination of information about Erasmus as a single concept for all sectors of education has not yet been addressed and may cause additional obstacles, such as increased costs for public relations and other unforeseen expenses. The EESC is concerned that the dissemination of such a brand may not be possible or successful when only one year is left until the official start of the Programme. It is also recommended that the current names of the sub-programmes be kept.

1.14 The Committee is pleased that it has been decided to continue in full with Jean Monnet activities to promote university teaching and research on European integration, but feels that this specific support should not only focus on the two institutions mentioned in the European Commission's proposal. The Committee would like all six European academic institutions supported by the 2007-2013 Jean Monnet programme to be included here, in order to tap into the added value, academic contributions and greater cultural diversity offered by the other four institutions of European interest.

Therefore, the Committee proposes that Article 10 be amended as follows:

c) support the following European academic institutions pursuing an aim of European interest;

(i) the European University Institute of Florence;

(ii) the College of Europe (Bruges and Natolin campuses);

(iii) the Academy of European Law in Trier;

(iv) the Centre International de Formation Européenne in Nice;

(v) the European Institute of Public Administration in Maastricht;

(vi) the European Agency for Development in Special Needs Education in Odense;

2. The Commission's proposal

2.1 With *Erasmus for all* the Commission intends to bring together all the current EU and international schemes for education, training, youth and sport, replacing seven existing programmes – the Lifelong Learning Programme, Youth in Action, Erasmus Mundus, Tempus, Alfa, Edulink and the bilateral cooperation programme with industrialised countries – with one single programme. The stated purpose is to increase efficiency, make it easier to apply for grants and reduce duplication and fragmentation.

2.2 The Commission proposes an increase of approximately 70 % compared to the current seven-year budget, which would see EUR 19 billion allocated to the new programme for the period 2014-2020. Two-thirds of the funding is to be spent on individual mobility grants to enhance knowledge and skills.

2.3 The new Programme is expected to focus on EU added value and systemic impact, with support for three types of action: learning opportunities for individuals, both within the EU and beyond; institutional cooperation between educational institutions, youth organisations, businesses, local and regional authorities and NGOs; and support for reforms in Member States to modernise education and training systems and promote innovation, entrepreneurship and employability.

2.4 The Commission argues that the streamlined structure of the new Programme – together with its significantly increased investment – means the EU will be able to deliver many more opportunities for students, trainees, young people, teachers, youth workers and others to improve their skills, personal development and job prospects. *Erasmus for all* is intended to promote research and teaching on European integration, and support sport at the grassroots level.

2.5 The proposed Programme is expected to contribute to the objectives of the Europe 2020 strategy (EU2020), Education and Training Strategic Framework 2020 (ET2020), European Cooperation in the Youth Field (2010-2018) and to the implementation of EU2020 flagship initiatives, such as Youth on the Move and the Agenda for New Skills, as well as to the sustainable development of third countries in the field of higher education and to developing the European dimension in sport.

3. **General remarks**

3.1 The main strategic documents of the EU in the areas of education, training and youth give equal priority to initiatives in the aforementioned areas. The EESC stresses that, while shaping the goals of the Programme, the impression must not be given that formal education has higher priority than non-formal and informal learning, such as adult and vocational education and training, school education, youth activities and sport. It is vital to avoid causing inequalities between the different sectors as it risks undermining the lifelong learning approach contained in the Programme.

3.2 The Committee welcomes the possibility of support for policy reforms, such as implementation of the Bologna and Copenhagen processes and the structured dialogue with young people, as well as the support for the implementation of EU transparency tools.

3.3 The Programme assures that the 'grants for learning mobility awarded to individuals shall be exempted from any taxes and social levies. The same exemption shall apply to intermediary bodies awarding such financial support to the individuals concerned'. The Committee is in favour of such exemptions and asks for the Commission, in cooperation with the Member States, to investigate and resolve cases (where, for example, mobility grants are credited to family income, triggering a loss of social support) seen in the implementation of the present mobility actions.

3.4 The inclusion of sport actions in the Programme as separate chapter with a dedicated budget is strongly supported, as through transnational projects, capacity building for sports organisations and increased opportunities for partnership, it will ensure greater and more effective involvement of stakeholders in sport policy-making and better governance of sports bodies, as well as motivate European citizens, especially young people, to be more active.

3.5 The Committee acknowledges that a single National Agency within the Member States, where appropriate, with responsibility for managing the Programme Actions is likely to be a more effective solution in terms of 'user-friendliness', workload and cost effectiveness. However, the regional access should be ensured for grant applicants and it should be noted that the establishment of a single National Agency might not be in line with the various national contexts in the Member States. At the same time, overall administrative requirements for applicants, especially for non-governmental organisations in the field of non-formal learning, should not increase. On the contrary, the administrative burden should be constantly assessed and reduced. Also, the EESC encourages recommending Member States to more actively involve civil society and social partners in the government of the Programme at national level.

3.6 The EESC welcomes the aim of reducing the current complexity and fragmentation of separate objectives and Actions, in order to enhance cost-effectiveness and to discontinue the Actions that lack the critical mass required for long lasting impact. However, as stated in point 1.6 of this Opinion, the Committee strongly encourages the retention of separate and independent sub-Programmes with an individual minimum budget allocation for the main sectors in the Programme.

3.7 While more extensive efficiency and cost reduction measures are strongly supported, the Committee notes that the need for larger and more efficient projects must be balanced against the need for inclusiveness. The contribution to all forms of education made by small organisations cannot be underestimated and their access to the Programme must be maintained.

3.8 The Committee notes that mobility for schoolchildren is not mentioned in the Programme. It therefore points out that mobility facilities must be offered early on and not only at the stage of vocational or further education. In this context continuation of the successful Comenius School Partnerships, which include the possibility of short periods of mobility for schoolchildren, is of considerable importance.

3.9 The Committee notes that the measures taken in the Programme to improve the access of disadvantaged groups to mobility actions are insufficient. Broadening participation in education and learning for under-represented groups should become a clear priority, as it is essential to achieve more equitable societies, as well as economic growth. Currently, parents' education and socio-economic background still play a disproportionate role in the chances of individuals to access and succeed in education, and specific groups are under-represented in certain national contexts.

3.10 Quality and equity have to be balanced against quantity in mobility schemes in a way that allows those from disadvantaged backgrounds to take part – for example, by considering a review of the size of mobility grants, which are currently rated as inadequate and inflexible for the different economic environments of the participating countries ([1]).

3.11 The possibility of utilising the European Social Fund and the structural funds to finance participation of young people from less developed regions in the individual learning mobility Actions, as well as in internships and apprenticeships in enterprises in other Member States, could be considered.

3.12 The Committee encourages greater efforts for improved data collection and analysis, particularly on employability, the social dimension, lifelong learning, the portability of grants and loans, and overall quality and impact of mobility, and proposes an ex-post evaluation of the mobility experience. Such data will help monitor the implementation of the Programme and allow active response to possible changes.

3.13 The Committee reiterates its support for the provision increasing the efficiency of the Programme's resources and reducing the duplication and fragmentation of current actions, and therefore invites broader consideration of this issue in principle and a review of all programmes existing under the authority of the European Commission with objectives that are fully or partly in line with the proposed Programme. For example, the *Erasmus for Young Entrepreneurs*, which is partly financed by the Commission, is administered separately even though it may contribute to the objectives set out in *Erasmus for all*.

3.14 There is a lack of clarity about the current proportions of allocations mentioned in Point 3 of Article 13 (Budget). The Committee suggests an increase in the percentage allocated to cooperation for innovation and good practices, as most analysis carried out during previous stages of the lifelong learning programmes proved that institutional cooperation is highly cost-effective.

4. **Education and training actions**

4.1 The EESC acknowledges the higher budget allocation for vocational education and training. However, it is recommended that a clear target be set in the Programme, so that it contributes to achieving the VET benchmark: 'By 2020, an EU average of at least 6 % of 18-34 year olds with an initial vocational education and training qualification should have had an initial VET-related study or training period (including work placements) abroad lasting a minimum of two weeks (10 working days), or less if documented by Europass' ([2]). Furthermore, part of the budget should be earmarked for encouraging apprenticeship programmes.

([1]) SEC(2011) 1402 final, COM(2011) 788 final.

([2]) Council conclusions on a benchmark for learning mobility, 3 128th Education, Youth, Culture and Sport Council meeting, 28-29.11.2011.

4.2 In view of this benchmark, specific efforts are needed to remove the practical, technical and legal obstacles to learning mobility, to support the sending and hosting of small and medium enterprises and increase the value of their engagement in mobility for apprentices and interns. Bearing in mind the amount and scope of activities in this sector and the findings in the *Impact Assessment on Education and Training Actions* ([3]), the Committee suggests considering if the currently proposed minimum allocation of 17 % for VET is sufficient.

4.3 The EESC also suggests identifying apprentices and interns as a separate target group in the Programme. This would help to implement the new political commitments on promoting apprenticeships and work-based learning to tackle high youth unemployment.

4.4 The EESC would like to underline the low participation of adults in lifelong learning and the low level of skills and qualifications of a large number of adults in Europe ([4]). In order to reach the ET2020 target of 'an average of at least 15 % of adults should participate in lifelong learning' ([5]), strong adult education systems, providers, methodology, staff and provision across Europe are needed. Adult education must be the place for active European citizenship, which a strong adult education programme can further develop and promote.

4.5 It is important that there be close links with vocational education and training, but a distinct stream for adult education is nevertheless necessary to tackle the challenges mentioned in point 4.4. Therefore, the Committee suggests considering retaining adult education and learning as a sector of its own in the Programme proposal.

4.6 While the proposed increase in the budget for adult education is welcome, the 2 % minimum allocation for adult education seems inadequate in view of the demographic ageing of Europe and the need to increase the participation of adults in lifelong learning. Taking into consideration that the adult education sector is very broad and accommodates a large number of social enterprises, a more pronounced increase should be considered.

4.7 With regard to adult education and learning, the Programme should more clearly contribute to the implementation of the *Renewed European Agenda for Adult Learning* ([6]). In supporting this agenda, the Programme has a real opportunity to boost progress and positive change in adult learning, which would mean an improvement in self-confidence, participation, activity, creativity, personal development and employability for a large number of European citizens.

([3]) Vocational education and training (VET) under the Leonardo da Vinci sub-Programme supports the development of the Copenhagen process and the implementation of quality systems for VET, and provides unique opportunities for internationalisation, mobility and innovation in VET.

([4]) COM(2007) 558 final.

([5]) http://ec.europa.eu/education/lifelong-learning-policy/doc34_en.htm.

([6]) Council Resolution on a renewed European Agenda for Adult Learning (16743/11), 17.11.2011.

4.8 Both Grundtvig workshops and Senior Volunteering have opened the opportunity of European participation to many people who would not otherwise have had the chance. Taking into consideration the benefits provided by these actions, the EESC points to the need to preserve equal opportunities for adult learners to participate in mobility schemes and volunteering.

4.9 The Committee finds the Programme invaluable as a way of achieving the Bologna process student mobility target ([7]), also set by the Council of the European Union ([8]): 'In 2020, at least 20 % of those graduating in the European Higher Education Area should have had a study or training period abroad'. However, the EESC notes that the size of individual mobility grants has to be reviewed in order to allow those from disadvantaged backgrounds to have equal opportunities to participate in the mobility schemes.

4.10 Further development of joint programmes and joint degrees across the European Higher Education Area (EHEA) is encouraged, as joint programmes and joint degrees have the potential to bring attention to national rules and legislation that hamper mobility, as well as to increase the overall quality of education and foster international institutional cooperation.

4.11 Synchronisation of the Recognition of Prior Learning (RPL) systems with ECTS and implementation of ECVET based on a learning outcomes approach is crucial to successfully reaching the Bologna student mobility target and assuring the quality of the mobility schemes and overall education and learning. The EESC notes that a number of countries have not linked ECTS and ECVET with learning outcomes and the goal of equal opportunities for all has not been achieved. Therefore, urgent actions should be considered in order to embed ECTS and ECVET as common tools in the EU as a way of ensuring transparency of qualifications for both students and employers.

4.12 The Committee would also like to stress that continued coordination at the European level is needed to help Member States to adopt measures, so that all new qualification documents contain a clear reference, by way of national qualification systems, to the appropriate European Qualifications Framework level. As it is clear that this target ([9]) will not be reached until the official deadline of 2012, further coordination and action are needed to accelerate the implementation of EQF.

4.13 The EESC proposes placing higher priority on staff mobility, which greatly contributes to high quality education programmes and to more internationally oriented institutions. The Committee asks for closer cooperation with the Member States to remove obstacles to staff mobility linked to social security systems, pension arrangements and professional recognition.

4.14 Following the statement of the EESC in the opinion on the *Youth on the Move* initiative ([10]), the Committee asks for a more detailed description of the proposed loan scheme for students who undertake a Master's degree in another EU country to ensure that the procedure for granting loans is 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. Considering the efforts to establish the proposed loan scheme, it should be ensured that such loans are attractive and affordable (especially to disadvantaged students) in order to reach the estimated total of 331 100 students.

4.15 In addition, the Committee asks to evaluate all possible consequences of the proposed loan scheme, including the impact on the national and regional financial support systems and towards the size of tuition fees in higher education institutions. The results of such evaluation should be disseminated as widely as possible.

4.16 In addition to the proposed loan scheme, the EESC asks the European Union institutions to further underpin the national efforts by the Member States through its policies to ensure the full portability of national grants and loans across the EU in promoting mobility and ensuring equal access to mobility and education.

5. **Youth actions**

5.1 The EESC highlights the efficiency of the current *Youth in Action* programme ([11]). It is estimated that *Youth in Action* will have provided around 1 000 000 young Europeans with experience of non-formal education and opportunities for mobility, and it is clear that the current programme has made a lasting impact on young Europeans by supporting youth organisations. Thus, the impact of Youth in Action on young people might be seen as greater than that of any other EU programme, which is not adequately reflected in the proposal.

5.2 The Committee is concerned that the present proposal tends to treat its beneficiaries unequally and make it harder to reach those disadvantaged young people that can presently access the Youth in Action programme through small and local youth organisations.

5.3 The EESC believes that a stronger political and financial priority in the Programme should be given to youth and youth policy, bearing in mind the number of the targets associated with youth in the EU2020 and ET2020 strategies and in European Cooperation in the Youth Field (2010-2018), as well as in the flagship initiatives such as Youth on the Move and the Agenda for New Skills and Jobs.

([7]) Communiqué of the Conference of European Ministers Responsible for Higher Education, Leuven and Louvain-la-Neuve, 28-29.4.2009.

([8]) Council conclusions on the modernisation of higher education, 3 128th Education, Youth, Culture and Sport Council meeting, 28-29.11.2011.

([9]) Recommendation of the European Parliament and of the Council on the establishment of the European Qualifications Framework for Lifelong Learning (2008/C 111/01), 23.4.2008.

([10]) OJ C 132/55, 3.5.2011.

([11]) SEC(2011) 1402 final, COM(2011) 788 final.

5.4 Considering the scope and amount of activities and the number of participants in the current *Youth in Action* programme, as well as the ability to involve ones from disadvantaged groups, the Committee asks for a reconsideration of whether the proposed minimum allocation to youth of only 7 % will ensure that the objectives set for the youth sector will be achieved, and that a separate youth action sub-programme be designed as part of the Programme with an adequate allocated budget. Such an approach was already stated in the Committee's Opinion on the *Youth on the Move* initiative ([12]). All the current sub-Actions of the *Youth in Action* Programme should be maintained.

5.5 The Committee stresses that currently the Youth in Action programme helps to support activities that would not be supported otherwise through alternative funding sources, and that it is one of the main sources of funding for youth projects. This particularly applies to small and local/regional organisations. The lack of such support could cause serious negative consequences for the European youth sector. In the event of such a situation, many youth organisations might become less Europe-focused, as it is the European networks that support smaller and local organisations to take part in European programmes. This would leave space for only large organisations and institutions, directly disadvantaging local, regional and small organisations.

5.6 The Committee notes that the Programme should more clearly contribute towards the implementation of *Article 165(2) of the Treaty on the Functioning of the European Union*: 'encouraging the development of youth exchanges and of exchanges of socio-educational instructors, and encouraging the participation of young people in democratic life in Europe'.

6. **Measures in response to demographic change**

For the EU funding period 2014-2020, the EESC proposes having a separate funding programme entitled 'Generations in Action.' Dialogue between the generations is called for in many programmes and proposals, such as in the fields of active and healthy ageing, sustainability (a sustainable lifestyle), energy efficiency, etc.

The EESC is convinced that mobility for both young and old helps to strengthen mutual respect, promote social cohesion and maintain shared responsibility for European values.

Brussels, 29 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([12]) OJ C 132/55, 03.05.2011.

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on serious cross-border threats to health'

COM(2011) 866 final — 2011/0421 (COD)

(2012/C 181/28)

Rapporteur (no study group): **Ms OUIN**

The Council and the European Parliament decided, on 19 and 17 January 2012 respectively, to consult the European Economic and Social Committee under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the European Parliament and of the Council on serious cross-border threats to health

COM(2011) 866 final — 2011/0421 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 149 votes to 2 with 4 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee supports the proposal for a decision on serious cross-border threats to health.

1.2 It welcomes the approach adopted, which takes the successful system for communicable diseases [1] and an analysis of recent crises as a basis for remedying the short-comings of the current mechanism, as allowed for by the Lisbon treaty.

1.3 Europe-wide coordination that cuts across sectoral boundaries will be needed in order to more effectively counter risks that do not stop at borders.

1.4 Nonetheless, the Committee stresses that all elements of civil society must be involved both in planning to ensure preparedness for crisis situations, and in communication should a crisis occur. An approach that limits coordination to healthcare professionals and civil protection experts is no longer in keeping with the way society now operates, with the media having a significant role in disseminating information to the public.

2. The background

2.1 The great plague, cholera and flu epidemics of previous centuries have remained in the collective memory as scourges that seemed able to decimate the population within a matter of weeks.

2.2 20th century Europeans thought they had seen the last of these risks with the arrival of modern medicine: states set up public health systems (compulsory vaccinations, health monitoring) to protect the public, and Europe developed effective legislation and networks to combat communicable diseases. The system works well with respect to known viruses that were identified a long time ago, but has proved less effective against new diseases such as AIDS or SARS [2].

2.3 Other threats have emerged that could also put the populations of entire regions at risk. The widespread mobility of people, food, products etc. has produced new weaknesses: viruses that were previously restricted to local areas can now travel very quickly, and may be dangerous in regions where they are unknown.

2.4 The discovery and mass production of new chemical products have made it possible to treat diseases, improve agricultural yields, facilitate construction and travel, make better-quality products available, and speed up and expand all forms of communication, but they also have a downside: people now live in a 'chemical soup' of pollutants of all kinds in the air, in water and in food.

2.5 Rivers, rain, wind and viruses know no borders. If there is any domain that absolutely must be organised at European level, it is public health protection.

2.6 The consequences of industrial mass production include global warming and its myriad repercussions, but they also include industrial accidents, new viruses, etc. Health protection can no longer focus solely on communicable diseases or on public health monitoring.

[1] Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community (OJ L 268, 3.10.1998, p. 1).

[2] Severe Acute Respiratory Syndrome.

2.7 In an interdependent society, health risks may come from anywhere: health crises may start with industrial pollution, a veterinary epidemic or a natural disaster. It is therefore not only geographical boundaries that need to be removed, but also sectoral ones.

2.8 There is already an effective global instrument for dealing with communicable diseases, run by the World Health Organization [3].

2.9 The EU is not starting from scratch: it, too, has a well-established, effective system for communicable diseases. The H1N1 flu pandemic, however, revealed shortcomings with regard to the purchase of vaccines that could not be developed until the new virus had emerged. Industrial production of the vaccine and negotiations on the price thereof led to differences in European countries' attitudes to vaccination, which could have had serious consequences in terms of propagation of the virus, had it been more virulent.

2.10 In the wake of the attacks on 11 September 2001, and the delivery in the United States of letters and parcels containing anthrax spores, a Health Security Committee [4] was set up at EU level. It covers risks other than communicable diseases, but has not been placed on an institutional footing and therefore cannot take policy decisions should the need arise.

3. **Improving the existing system**

3.1 The proposal in question therefore remedies the current shortcomings on the basis of the Lisbon treaty [5], which establishes new competences in this field, and based on an analysis of the problems encountered during recent health crises.

3.2 There have been many such crises, including mad cow disease, the H1N1 pandemic, E. coli/STEC O104 bacteria, chlorine attacks in Iraq, melamine contamination, toxic red mud, oil spills and ash clouds. Each crisis reveals the weaknesses in the current system and suggests improvements. The proposed decision aims to create a consistent framework, based on the existing system, and to improve national and sectoral cooperation.

3.3 The proposal does not deal with the issue of radiological and nuclear risks, which are already covered by other European legislation.

3.4 Current EU legislation relates only to threats connected with communicable diseases [6]. The network for the epidemiological surveillance and control of communicable diseases, which issues warnings and coordinates responses at European level, does not meet current standards or needs. The intention is therefore for it to be replaced by the provisions set out in the proposed decision.

3.5 Strengthening the existing system by expanding it to cover other risks will make it more effective without entailing significant additional costs.

3.6 The Committee supports the objectives of the proposal:

— in the area of preparedness planning, coordinating the efforts of the Member States in terms of improved preparedness and capacity building. 'To this end, the Commission will ensure coordination between national planning and between key sectors such as transport, energy and civil protection, and will support Member States in setting up a joint procurement mechanism for medical countermeasures.'

— an ad hoc network will be set up in situations where a Member State has raised an alert on a serious threat other than a communicable disease, in order to provide the relevant information and data for risk assessment and monitoring of emerging threats. Communicable diseases will continue to be monitored as they are today.

— the use of the existing Early Warning and Response System will be expanded to cover all serious threats to health, and not only communicable diseases.

— coordinated development of national or European public health risk assessments for threats of biological, chemical, environmental or unknown origin in a crisis situation.

— finally, the Decision sets up a coherent framework for the EU response to a public health crisis. In concrete terms, by formalising the existing Health Security Committee, the EU will be in a better position to coordinate national crisis responses in a public health emergency.

3.7 The stated aims of this proposal are to improve coordination and effectiveness, allow for European-level procurement to negotiate prices with pharmaceutical laboratories, thus providing protection for all Europeans, establish a warning system at European rather than just international (WHO) level, and expand existing instruments to cover chemical, bacteriological, environmental risks etc. The Committee is, of course, completely in favour of this.

3.8 Measures that will help make the existing system work better without adding new mechanisms that might make it cumbersome include: assessing risks with a European network of specialists; agreeing on the severity of a threat in order to determine the appropriate response and decide jointly on the messages to issue; exchanging sensitive information in compliance with the rules (in particular those relating to the processing of personal data), both with comparable data between Member States and with neighbouring countries; and drafting joint travel advisories.

[3] International Health Regulations (IHR): http://www.who.int/ihr/en/
[4] See the Presidency conclusions of 15 November 2001 on bioterrorism (13826/01) and the Council conclusions of 22 February 2007 temporarily prolonging and extending the mandate of the Health Security Committee (6226/07).
[5] Article 6(a) and Article 168(1) of the Treaty on the Functioning of the European Union.
[6] Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community (OJ L 268, 3.10.1998, p. 1).

4. **Taking account of current developments**

4.1 The EESC would nonetheless draw the attention of European and national public authorities to the course of events during recent crises.

4.2 In the case of both the H1N1 flu pandemic and the E. coli/STEC O104 bacteria outbreak, it was clear that the public authorities were not the only ones disseminating information and that some of the public put more trust in unverified information circulating on the Internet. This information overload could complicate matters for handling a crisis and have a serious impact both on public health and on entire economic sectors, for example if some doctors were to be critical of vaccines or if incorrect information were to be spread regarding the origin of the bacteria.

4.3 Poor dissemination of information may lead to huge waste and may reduce the effectiveness of the mechanisms in place. As much importance must be attached to educational aspects as to economic considerations.

4.4 The Committee therefore recommends that all elements of civil society be involved in crisis mechanisms, as conduits for information. It also recommends that awareness-raising campaigns be carried out in schools and workplaces, at a time when no crisis is actually occurring, to explain to the European public how they are being protected, how the monitoring and alert systems work, and whom to believe in the event of a crisis, i.e. who is qualified to provide reliable information.

4.5 Communication has become a major challenge during public health crises, and is just as important as having adequate supplies of vaccines: there is no point having a good vaccine if the public do not believe that they need to be vaccinated.

4.6 Calling on people to take responsibility will only be worthwhile if they actually have the means to exercise that responsibility. They therefore need to be informed and educated in advance about existing systems and the role that each individual can play. The public can make a contribution to and be real players in common protection, but they can also make matters worse if they are not properly informed and made aware of their responsibilities. The public authorities must, in the general interest, ensure that all organisations concerned with public welfare are involved in protecting everyone, by promoting appropriate information sharing.

Brussels, 28 March 2012.

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, the Council, the European Economic and Social Committee and the Committee of the Regions on "A Roadmap to a Resource Efficient Europe" '

COM(2011) 571 final

(2012/C 181/29)

Rapporteur: **Ms EGAN**

On 20 September 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Roadmap to a Resource Efficient Europe

COM(2011) 571 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 14 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March) the European Economic and Social Committee adopted the following opinion by 146 votes in favour, with 5 votes against and 4 abstentions.

1. **Conclusions and recommendations**

1.1 The Commission's 2020 Strategy and flagship initiative on 'A Resource Efficient Europe' aim at making Europe's economies more resilient and sustainable by using all natural resources much more efficiently. The Committee has previously supported the flagship initiative and now welcomes the Commission's more detailed 'Roadmap to a Resource Efficient Europe' setting milestones for the transformation and providing a framework for policies needed to initiate this process.

1.2 The EESC urges all the Institutions, European leaders, European businesses and social partners and European society at large to join together in a broadly-based political and societal movement in support of the major transformation needed, and to use the framework provided by the Roadmap to guide and monitor progress.

1.3 The EESC urges the creation of strong high level coordinating machinery in the Commission and in individual Member States to monitor and stimulate progress in implementing the actions proposed in the Roadmap.

1.4 At Member State level the EESC urges the adoption of comprehensive resource efficiency strategies including fiscal reforms, elimination of perverse subsidies, strong regulation of product standards, programmes for education and skills development, and full engagement of regional and local government, business, social partners, consumers and other organisations and citizens. Strategies should include active policy measures ensuring a socially just transition, including education and training of employees and their involvement in turning businesses into new resource efficient businesses.

1.5 At European level the EESC supports all the measures proposed in the Roadmap and urges particular attention to:

— The rapid development of appropriate indicators, including the general indicator of the level of resource efficiency in national economies recommended by the Roadmap, a 'beyond GDP' measure of well-being in the economy, and other more sector specific measures.

— Effective machinery for giving resource efficiency a high profile in annual national reform reports and their review with the Commission and peers in the Semester process being developed for the 2020 Strategy.

— Review and updating of the over-arching European Sustainable Development Strategy after the Rio Earth Summit in June 2012 with emphasis on resource efficiency, and its relationship to other sustainability objectives.

— Detailed analysis of the interaction between resource efficiency and environmental goals, such as in the 7th Environmental Action Programme.

— Coordinating machinery for ensuring that progress is maintained across the Board on the 20 separate initiatives identified by the Commission as contributing to resource efficiency and others that may be added to this list.

— Incorporation of resource efficiency objectives in the criteria for all European spending programmes and in public procurement.

— Full engagement with civil society in regular monitoring and review of progress.

1.6 The EESC intends to play its full part in engaging stakeholders and monitoring progress on this crucial subject and will be glad to work together with the other Institutions in doing so.

2. **Background**

2.1 In January 2011 the Commission published 'A resource-efficient Europe' as one of seven new flagship initiatives, forming part of the EU 2020 Strategy [1]. It was intended to launch a major transformation in the way in which material resources are deployed in all parts of the European economy – decoupling economic wellbeing from the consumption of resources.

2.2 In a previous opinion on the Resource Efficiency Flagship Initiative the EESC welcomed the general objectives of the resources efficiency strategy and called for it to be embedded within a revised and up-dated version of the overarching European Sustainable Development Strategy [2]. The EESC urged that the Commission should provide more detail when they followed through with individual initiatives in particular areas and with the Roadmap.

2.3 During 2011 the Commission launched a number of separate initiatives [3] intended to promote resource efficiency in particular sectors. The Commission's Roadmap to a Resource Efficient Europe now draws all this activity together. It presents a vision of the transformed economy that should be achieved by 2050 with milestones to be achieved by 2020 and indicates areas where further action by the Commission and Member states will be needed to deliver these goals.

3. **General comments**

3.1 The EESC shares the Commission's view about the critical importance for Europe and the world of achieving greater efficiency in the use of resources. Greater resource efficiency has a major part to play in reconciling the continuing quest for economic growth with the need to recognise the finite nature of many of the world's natural resources and the limits that these planetary boundaries place on the continued expansion of physical production and consumption. It is also crucial in order to limit the growth of greenhouse gas emissions and other pollutants, and protect biotic resources and the public benefits derived from ecosystems. The advancement of resource efficiency should be at the heart of the management of the world's economies and of the world's leading businesses.

3.2 Businesses of all kinds have always had a direct incentive to operate efficiently in the use of all resources in their production processes so as to keep their costs down. But on the output side they have always had the opposite incentive to encourage their consumers to consume as much as possible so as to maximise sales. Leaving the resource efficiency to the processes of business as usual cannot therefore be expected to bring about the transformation needed to cope with the pressures arising from rapidly growing global population, rapid expansion of consumption aspirations especially in the emerging economies, and growing problems of resource depletion and pollution. We need a new form of 'sustainable' or 'green' growth where the growth of economic activity and of well-being or prosperity is decoupled from growth in the consumption of resources, and can actually be achieved with lower levels of resource consumption.

3.3 Governments and society as a whole will therefore have to play a major role in bringing about the scale and speed of transformation that is needed over the next generation. Government action is needed to:

— ensure proper pricing of externalities through fiscal measures,

— eliminate inappropriate subsidies,

— establish minimum standards of resource efficiency for particular sectors through appropriate regulation,

— support appropriate R&D,

— encourage investment in resource efficient processes and discourage inefficient ones,

— promote understanding of the resource efficiency through the media, education and training.

3.4 Transformation on the scale and pace required is bound to have a significant impact on the labour market. Businesses that are inefficient in their use of resources or which produce wasteful products will come under pressure, and may have to shed labour. But the businesses that make efficient use of resources and provide efficient products and services should prosper as the economy recovers be the creators of new jobs. The countries that lead the way in this transition will be the most successful and competitive in the new world of constrained supplies of natural resources, and the most successful in creating new jobs in this new green economy.

3.5 In order to ensure that this transition is a fair one that does indeed create good new jobs and assist reskilling, active

(1) COM(2011) 571 final.

(2) EESC opinion A resource-efficient Europe – Flagship initiative under the Europe 2020 Strategy, OJ C 376, 22.12.2011 P 0097-0101.

(3) COM(2011)21, Annex I.

programmes of training and assisted redeployment may be needed [4]. This and other aspects of the social dimension are currently missing in the Roadmap and need to be developed further.

3.6 Delivering greater resource efficiency on the scale required is a big and urgent challenge for all parts of Europe, and all sectors of society. It will need strong political and societal commitment at all levels, and an ambitious and wide-ranging programme of initiatives and actions by the EU and by individual Member States national and local level.

3.7 The Roadmap should provide the framework for creating this trans-European political momentum, and an inspiring vision of what it could achieve. The EESC welcomes its general approach and the vision proposed for 2050.

3.8 Implementation is crucial. The specific milestones which the Roadmap proposes for 2020 are a useful tool for pinning the long-term vision down to more concrete and immediate objectives that need to be pursued immediately. But much remains to be done to bring about the transformation of economic policy, industry strategies and investment flows that are required to deliver the Roadmap. The Commission has identified the crucial importance of the resource efficiency transformation and the Environment Council has given some support (Conclusions of the Council of Environmental Ministers from 19 December 2011). But effective implementation of the transformation will require the full engagement and commitment of all parts of the Commission and Member State Governments. Promoting resource efficiency needs to be much higher on the agendas of Heads of Government and the European Council in all its formations where both the overall vision as well as the steps required to achieve this need active and continuing supporting all sectors, and determination to achieve the various milestones identified.

3.9 Understanding of the imperative of resource efficiency also needs to be inculcated much more widely amongst businesses and civil society organisations of all kinds as well as with the general public and consumers, and actively supported by all available means including the establishment of dialogue structures so as to assist the transition [5].

3.10 The Roadmap will stand or fall by its ability to galvanise more political determination and commitment to achieve greater resource efficiency. It needs to bring about real change at the heart of economic management. Centrally coordinated follow–up machinery is needed to provide momentum for all the separate initiatives already identified in the Roadmap, to overcome any obstacles that may arise for them, and to build the case for further action wherever progress towards the goals lags behind.

4. Implementation at Member State level

4.1 In several European countries a good start has been made in moving away from excessive reliance on finite supplies of fossil fuels, developing more renewable sources of energy, reducing waste, promoting more efficient buildings and vehicles etc.. But the progress has been fitful, and investment is currently in danger of slowing down in some countries at this crucial moment because of premature withdrawal of the necessary incentives for change. The Committee recommends that positive experiences and examples of past efforts be systematically collected and disseminated with a view to achieving impact as soon as possible in countries and sectors that have not yet shown the desired progress. Consistency and constancy of purpose are crucial.

4.2 Member States need to embed the drive for resource efficiency at the heart of their own national economic strategies and programmes, and drive it forward in all sectors of their economies. In the EESC's view high level political direction and coordinating machinery needs to be established in each Member State to ensure that progress is driven forward more urgently and more steadily and consistently than at present.

4.3 The resource efficiency crusade will ultimately depend as much on a transformation of public aspirations and consumer demand as on transformation of modes of production.

4.4 Member States need to initiate intensive dialogue with opinion formers, including media on how the resource efficiency vital message can best be promoted so that peoples' preferences and choices may themselves shift over time to favour more resource efficient goods and services, and against unnecessarily resource intensive and wasteful products.

4.5 Resource efficiency should be an important goal at local and regional level as well as at national level. Member States need to consider how best to promote this objective with their regional and local governments.

4.6 The transition will require use of all the policy instruments available to governments. Fiscal policies need to be reshaped to penalise inefficient use of energy and other resources, and to reward more efficient use. Fiscally neutral reforms to increase the level of taxation on carbon fuels and other natural resources, while encouraging employment and

(4) EESC opinion *Promoting sustainable green jobs for the EU energy and climate change package*, OJ C 44 of 11.2.2011, p. 110-117.

(5) EESC opinion *Building a sustainable economy by transforming our model of consumption*, OJ C 44 of 11.2.2011, p. 57–61.

better social security have a crucial part to play in guiding the transition to a low-carbon and resource efficient economy [6] and job creation [7] Perverse subsidies that encourage or sanction inefficient use of energy and mismanagement of other resources need to be progressively eliminated – a goal often proclaimed but still not pursued vigorously. Strong regulatory requirements are needed to enforce efficient use of resources in key sectors such as building, transport and agriculture. Strong waste management policies are needed to promote further waste minimisation, and the reuse or recycling of discarded materials. Education, public information programmes, skills development and innovation are all needed to drive home the message to all parts of society. Concerted action between Member States and the EU over a broad front will be needed to carry this through.

4.7 Member States should commit themselves publicly to reporting openly and regularly on progress on resource efficiency and how policy and the flows of public and private investment are supporting the transition. The Commission could help by analysing the different methods adopted in different Member States to promote resource efficiency and encouraging more widespread and consistent use of the best methods.

5. **Implementation at European level**

5.1 The EU has a crucial part to play both in stimulating and supporting action at Member State level, and in promoting European level initiatives that will support the resource efficiency transition. The EESC supports all of the policies and initiatives spelt out in the Roadmap and comments on the following:

— Measurement and indicators

— Integration with the 2020 strategy and the Semester process

— The European Sustainable Development Strategy and the 7th Environmental Action Programme

— The 20 specific initiatives and the three key sectors in the Roadmap

— European spending programmes and Public Procurement

— Engagement with civil society and the public.

5.2 *Measurement, indicators, targets and milestones*

The process will need to identify specific indicators of progress on the different aspects of resource efficiency, and ensure that reliable, consistent and timely information on these indicators is made available. In the EESC's view monitoring should also record progress on

— the key policy elements needed to promote resource efficiency (fiscal measures, regulatory measures etc.),

— how far public and private investment flows are being rebalanced to support resource efficient production and consumption and to discourage inefficient and wasteful processes,

— how far employment is being reoriented to resource efficient jobs creating resource efficient products and services, and the progress of training and other measures to support this change.

5.3 The EESC welcomes the proposed introduction of a new lead indicator of resource productivity as an overall measure of progress in decoupling economic well-being from the consumption of material resources. We urge that equal priority be given to the development of robust indicators of natural and social capital and availability and condition of natural resources.

5.4 The EESC considers that the milestones proposed on environmentally harmful subsidies, on biodiversity and on the three key sectors of food, buildings and mobility are not yet adequately characterised and need to be further developed. The programme of indicator development needs to be given a higher priority and adequate resources to make faster progress.

5.5 In particular we need a better measure of the performance of the national economies which will demonstrate how improvements in resource efficiency in the economy represent a real improvement in the overall well-being of that society and the sustainability of the world. In our view the long-running studies of better alternatives to GDP need to be brought to a head and implemented so that overall progress in moving towards greater resource efficiency and the associated improvements in well-being and sustainability can be properly calibrated [8].

5.6 *Integration with the 2020 Strategy and the Semester process*

Given the cross-cutting nature of the Resource Efficiency initiative and in order to ensure that resource efficiency continues to be given a high political profile, it will need to be backed up at European level by an effective, centrally-coordinated and adequately resourced implementation governance structure, operating openly and transparently with maximum stakeholder participation.

(6) EESC opinion *A Roadmap for moving to a competitive low carbon economy in 2050*, See 3.15 f)., OJ C 376 of 22.12.2011, p. 102-110.
(7) EESC opinion *Rio+20: towards the green economy and better governance*. See 4.15, OJ C 376 of 22.12.2011, p. 110-116.

(8) EESC opinion *Beyond GDP – measurements for sustainable development*, OJ C 100, 30.4.2009, p. 53, and the opinion on the *Communication from the Commission to the Council and the European Parliament: Beyond GDP – Measuring progress in a changing world*, OJ C 18, 19.1.2011, p. 64.

5.7 The EESC welcomes the objective of using the Semester review process to ensure that resource efficiency takes its place at the centre of economic policy making in the European Council and in top level dialogue with Member States. We believe that the reporting must be based on precise and rigorously-defined monitoring requirements that will give an accurate and up-to-date view of progress on resource efficiency. Where there is insufficient progress on particular topics this will need to be promptly identified and corrective action put in place.

5.8 We are unhappy that the Programme Countries are apparently exempt from the Semester reporting process for the time being. While recognising that they have special problems of economic adjustment at the present time we believe that they could derive particular benefit from integrating resource efficiency strongly with their recovery programmes and that they should be fully involved in this aspect of the Semester process from the beginning.

5.9 To assist the process to gain greater public visibility and political traction the EESC urges that the national reports which form the basis of the Semester review process should be subject to public consultation and debate with stakeholders of all kinds in each country, and that the peer group dialogue about each national report should also be opened up to participation and debate. The EESC could itself be a useful forum for regular debate with stakeholders at European level on the progress of the transformation and any action needed to keep it on track.

5.10 The EESC considers it important that the Commission should not rely exclusively on the Semester process to promote effective implementation of resource efficiency. It is essential that other relevant programmes and strategies should also play their part.

5.11 *The European Sustainable Development Strategy, and the 7th Environmental Action Programme*

The Resource Efficiency Strategy and the 2020 Strategy itself are both rightly conceived by the Commission as being important contributors to the over-arching goal of sustainable development. Resource efficiency does not include all aspects of sustainability and it is important that the emphasis on it should not lead to neglect of other aspects of sustainable development. This year's UN conference on Sustainable Development in Rio should be used for putting the resource efficiency transformation at the heart of the global drive for a greener economy within an over-arching sustainable development framework. In the EESC's view Europe's own over-arching Sustainable Development Strategy should then be reviewed and revitalised as part of the follow-up to the Rio Summit, with integrated national reporting on sustainable development and resource efficiency to monitor progress across the whole field.

5.12 The Commission has announced their intention of creating a 7th Environmental Action Programme for Europe this year, and the Council have urged the Commission to ensure that the new Programme is designed to achieve complementarity between environmental policies and plans and the resource efficiency goals of the Roadmap. An admirable objective – but more work will be needed to give it significant content.

5.13 *The 20 initiatives and the three key sectors*

The EESC is actively engaged in commenting on most of the 20 separate initiatives identified in the Strategy and strongly supports the effort proposed in the Roadmap to keep them all moving forward in parallel so as to make the maximum impact on the resource efficiency challenge. They should be kept under regular review individually and collectively to make sure that they are together making the cumulative impact intended.

5.14 The EESC agrees that the three key sectors identified by the Commission (food, buildings and mobility) are particularly important areas for promoting resource efficiency. The Committee believe that the use of water and of land should also be regarded as crucial sectors. It will be important that the units responsible for monitoring overall progress on resources efficiency focus regularly on all these sectors so as to ensure that they do indeed make their proper contribution to the resource efficiency transformation.

5.15 *European Spending Programmes and Public Procurement*

In the past the Structural Funds and other EU spending programmes have not always taken the goal of promoting resource efficiency sufficiently into account. Every time that these programmes come up for review it is important that the opportunity be taken to embed resource efficiency more firmly in their priorities and criteria. The EESC is glad to note that Commission's recent Budget proposals have given greater priority to resource efficiency and the other 2020 objectives. It will be important to ensure that this proposal is followed through in the detailed budget negotiations.

5.16 In particular, greater emphasis on and proactive action to address perverse incentives, ensuring funding and innovation in the area of valuing natural capital, and developing fiscal measures to internalise external costs and determine true costs to society are required. The specific measures cut across a number of the 20 initiatives and are also relevant for cohesion policy and other core policy development areas.

5.17 Similarly public procurement programmes at both European and national level can be powerful instruments for advancing resource efficiency by insisting on efficient standards in all the goods and services they purchase and pushing this priority down the supply chain. The Commission should

reinvigorate policy initiatives in this field so that resource efficiency requirements are made a crucial element of all public procurement specifications.

5.18 *Engaging with Stakeholders, Civil Society and the Public*

The resource efficiency transformation proposed in the Roadmap is crucial for the world and for Europe. It cannot be achieved by technical means alone. A fundamental understanding and acceptance is required by all parts of society of the need for change, and a combined effort is required to bring it about.

5.19 The Committee underlines the importance of promoting awareness of the importance of resource efficiency amongst consumers. We urge the Commission to consider further how the follow up to initiatives such as the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan from 2008 ([9]) can best be integrated with the new work on resource efficiency, and in particular how work on promoting customer awareness of sustainability and resource efficiency considerations can be carried forward at European level with greater ambition.

5.20 The EESC intends to play its full part in engaging stakeholders in the drive for greater resource efficiency. It will monitor progress on this crucial subject and will be glad to work together with the other Institutions in doing so.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([9]) COM(2008) 0397 final.

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change'

COM(2011) 789 final — 2011/0372 (COD)

(2012/C 181/30)

Rapporteur: **Mr ADAMS**

On 23 November 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 192(1) 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 a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change

COM(2011) 789 final — 2011/0372 (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 14 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March) the European Economic and Social Committee adopted the following opinion by 151 votes to 3 and 16 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee recognises and supports the need for accurate and comprehensive data to help the Union and Member States meet their mitigation commitments and implement the climate and energy package. This regulation will strengthen that process.

1.2 In addition to the detailed recommendations made in section 4. the EESC wishes to emphasise the need for proportionality in the data collection process and the need for a continuing focus on using the outcomes to achieve the objectives of climate policy and continue the work of public education in the energy field.

2. **Introduction**

2.1 This new regulation is the instrument which provides the legal basis to implement revised domestic monitoring commitments set out in the 2009 climate and energy package, as well as to ensure timely and accurate monitoring of the progress in implementation of these and international commitments. Although the EU accounts directly for approximately 11 % of the world's CO_2 emissions its strategic commitment and action on greenhouse gas (GHG) reduction and resource efficiency can be regarded as a positive and essential contribution to international implementation mechanisms. The intention is to keep global average temperature increase below 2 °C compared to pre-industrial levels (Targets for 2020 are 20 % reduction in CO_2, 20 % increase in renewable energy and 20 % improvement in energy efficiency over 1990 levels.)

2.2 There is accelerating change in the world's climate due to alterations in the global energy balance. The presence of GHGs in the Earth's atmosphere, with their capacity to absorb and emit infrared radiation, greatly affects temperature. After water vapour the main GHG is carbon dioxide (CO_2), with methane and ozone also making a significant contribution.

2.3 In the last 250 years the burning of fossil fuels has contributed to an increase in CO_2 in the atmosphere from 280ppm to 390ppm. Although natural sources of CO_2 greatly exceed man-made sources these natural sources were previously balanced by carbon 'sinks' such as the photosynthesis of CO_2 by plants and plankton. The increase in anthropogenic GHGs coupled with deforestation has destroyed this balance.

2.4 There is overwhelming scientific evidence of climate change which has already created significant adverse economic, social and environmental impacts. Projections based on some models indicate serious future impacts through rises in sea level, desertification, loss of biodiversity and climatic disruption. In principle it is agreed that prevention is better (and cheaper) than mitigation or adaptation. However, demands for economic growth, inequalities in global development, the continued reliance on fossil fuels as the world's primary energy source and the inexorable rise of the Earth's population have all played a part in failing, so far, to achieve political consensus on how to implement an effective mechanism to reduce anthropogenic GHG emissions.

2.5 In 1992 the Rio 'Earth Summit' produced an international treaty, the United Nations Framework Convention on Climate Change (UNFCCC) designed to stabilise greenhouse gas concentrations in the atmosphere. In 1993 the EU established

a mechanism for monitoring GHG emissions in response to this treaty [1]. In 1997 the Kyoto Protocol to the UNFCCC sought to contain GHG emissions in ways that reflected underlying national differences, wealth, and capacity to make the reductions. In response the EU updated their monitoring mechanisms for GHGs in 2004 [2] and developed a series of low carbon strategies [3], the most recent of which being the Energy Roadmap 2050 [4]. Progress on the essential international agreements continues to be slow but this regulation will provide the necessary monitoring framework for the EU to support national, Union and international commitments.

3. **Summary of the Commission's proposal**

3.1 The objectives of the regulation are to help the Union and Member States meet their mitigation commitments and implement the climate and energy package. It will improve many aspects of the data reported and ensure that international monitoring and reporting obligations are met, including the reporting on financial and technical support provided to developing countries. It will also facilitate the development of new climate change mitigation and adaptation instruments and provide a legal basis for the implementation of future reporting requirements and guidelines.

3.2 The regulation deals with the reporting required under the UNFCCC and the Kyoto Protocol, covering emissions of seven greenhouse gases from all sectors (energy, industrial processes, land use, land use change and forestry (LULUCF), waste, agriculture, etc.). The 2009 and 2010 UNFCCC conferences agreed enhanced reporting to enable the EU, amongst others, to meet commitments on the provision of financial, technological and capacity-building support to developing countries.

3.3 The new regulation will implement the monitoring and reporting requirements of the Effort Sharing Decision and the revised EU ETS Directive through establishing a review and compliance cycle under the Effort Sharing Decision, incorporating the reporting requirements for the use of revenues from auctioning carbon allowances, as stipulated in the revised ETS Directive. It will also enhance the current monitoring and reporting framework to meet the needs of future EU and international legislation through establishing a basis for monitoring and reporting emissions from maritime transport, non-CO_2 climate impacts from aviation, LULUCF, and adaptation.

3.4 Generally, it enhances EU reporting on financial and technology support provided to developing countries, improves the consistency of reporting in line with other EU legal instruments that address air pollutants and, by taking into account lessons learned from past implementation, enhances reporting of actual emissions, projections, policies and measures.

3.5 The new regulation also provides the basis for the reporting of auctioning revenues from the EU ETS, ensuring transparency and monitoring the intention to use at least half of the annual auctioning revenues for measures to fight climate change in the EU and third countries.

3.6 It contributes to the 20 % emission reduction objective by making the annual review process faster and more efficient, and by enabling the annual determination of compliance by the Member States with their targets. It requires specific reporting on policies and measures implemented by the Member States in both the ETS and non-ETS sectors and sets the basis for reporting emissions from maritime transport and the non-CO_2 impacts from aviation, paving the way for the implementation of effective measures in these sectors.

3.7 The revision, which replaces earlier legislation, does not require additional data collection from SMEs or industry and applies to national authority level reporting. It thus does not impose any further obligations on companies.

4. **General and specific comments**

4.1 The Committee shares the Commission's view that accurate and comprehensive monitoring and reporting of emissions and other climate change data is absolutely essential to effective implementation of international obligations under the UNFCCC and to building trust and confidence among countries around the world that all are playing their fair part in tackling climate change.

4.2 In the European Union the Commission with the support of the European Environment Agency have long had responsibilities for assembling monitoring information from Member States and transmitting it to the UNFCCC as part of an EU overview of European emissions, and for assembling the necessary information to monitor compliance with the intra-EU agreements about burden-sharing of climate change requirements. It is therefore essential that the Commission has the powers to require the necessary information from Member States, to check its accuracy, timeliness and consistency and to take any necessary action to enforce compliance where reporting is unsatisfactory.

(1) Council Decision 93/389/EEC of 24 June 1993.
(2) Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004.
(3) COM(2011) 112.
(4) COM(2011) 885/2.

4.3 The various reporting requirements have grown piecemeal over time and contain some overlaps, gaps and inconsistencies. New requirements have recently been added in the climate and energy package, and it can be foreseen that others such as reporting of marine emissions are likely to be added before long. It is particularly important that there be accurate and timely monitoring and reporting on progress towards the 20 % reduction target agreed for the year 2020.

4.4 The Committee agrees with the Commission's view that it is now therefore timely to consolidate all the requirements into a single new regulation. This will both extend the coverage in some important areas at the same time as simplifying the overall compliance regime by consolidating all the requirements into a single monitoring and reporting system that captures all present and currently anticipated monitoring and reporting requirements.

4.5 The Committee welcomes the building of the reporting systems (providing they are proportionate and beneficial) around national and EU inventory systems (Articles 5 and 6) that will enable progress to be annually assessed against the overall 2020 target and the national low-carbon development strategies provided for in Article 4. This is the best sort of proactive information-gathering, collected to enable progress to be monitored and re-energised where necessary, so that we can make sure we reach a crucial medium-term goal.

4.6 The regulation provides for comprehensive monitoring and reporting of greenhouse gas emissions and 'sinks' from all sectors within the European Union which is clearly one essential element to obtain an accurate assessment of the overall impact that Europe is having on global emission levels. The Committee supports the proposed extension of coverage to include maritime transport emissions (Article 10) and any other types of emission there may be that are not yet included in monitoring and reporting requirements. As the Committee has previously commented ([5]) we are concerned about the suggestion in paragraph (10) of the recitals that certain flights should be excluded from the reporting of aviation emissions because this kind of loophole can sometimes be exploited; we think this should be kept under active review.

4.7 In addition to monitoring GHG emissions themselves it is also important to monitor and report on the extent of measures and investment being taken to reduce or limit emissions and their impact, and the efforts and investment being made to adapt to the impacts of the climate change that is already taking place. Information about both public and private sector efforts and investment is needed and the Committee fully supports the proposals in Articles 13-16 of the regulation on these aspects. Article 16 is, however, somewhat imprecise about the information to be provided in relation to adaptation measures and in the Committee's view this Article needs to be developed further. Due proportional benefit must be taken into account and duplication of effort avoided.

4.8 The Committee believes that efforts should also be made to monitor and report on the Union's carbon footprint or impact on other parts of the world through its trade and investment with them. Article 17 covers reporting on development assistance and technology transfer. But it does not cover trade impacts or private financial flows. We are aware that emissions from other countries (both developed and developing) have to be accounted for under the UNFCCC by those countries themselves, and that as part of the 2010 and 2011 agreements developed countries including the EU will be assisting efforts to improve inventory and monitoring systems in developing countries. This is a useful development but it will not in itself get to the heart of the issues about the EU's carbon footprint in the rest of the world. We urge the Commission to consider these aspects more.

4.9 We also encourage the Commission and Member States to do their utmost to ensure the inclusion in the financial and technology reporting of the financial and technology support that is provided **in addition** to Official Development Assistance (ODA). In this way a more comprehensive picture of the scope and size of the aid provided to developing countries by the EU as a whole will be obtained and thus improve policy design and help prioritise implementation interventions.

4.10 Accuracy and consistency of reporting information is particularly important in this area because of the crucial importance for the world of dealing effectively with climate change, and of ensuring that every country plays its part fairly. Timeliness is also crucial so that any divergences from plans and commitment can be identified promptly and corrective action taken promptly. The Committee supports the tighter discipline and review procedures on these aspects reflected in the new regulation.

4.11 Most of the articles of the regulation lay duties on Member States to provide information of specified types to the Commission. We understand that there are close working relationships between the Commission, Member States and the European Environment Agency, and that most of the requirements have been worked out cooperatively and consensually between the Commission and the Member States and with the European Environment Agency which is responsible for much of the detailed data gathering and quality control. We strongly support that cooperative approach which we believe is much the most likely to secure the best flow of timely and accurate information and to iron out difficulties.

([5]) OJ C 175, 27.7.2007, p. 47.

4.12 We note that there may still be occasions when some data or reports are not forthcoming from individual Member States at the right time. We support the provisions enabling estimates of missing information to be made in such cases (Article 9), and the possibility for the Commission to initiate infringement procedures in the case of persistent or wilful non-compliance.

4.13 We welcome the explicit recognition of the EEA's role in Article 25, and the Commission's assurance to us that it is intended to continue to build the regular monitoring effort around the excellent professional and cooperative networks which the EEA has created around Europe. The EEA has the professional skills and networks for the task, and their independent reports about environmental information and trends have a high standing and credibility in the world. The Committee believes that the EEA should have a leading role in the implementation of this regulation and that the more the EEA can be used as the agent to publish or validate the collected information the more independent authority and credibility the regulation will be seen to have.

4.14 The EEA are also in the best position to informally extend the same or similar monitoring and reporting methods to some of the Union's immediate neighbours who already cooperate regularly with the EEA with obvious advantages. Ultimately the objective should be to establish in Europe a monitoring regime that is capable of being generally recognised as a model or standard for practice throughout the world.

4.15 Capacity-building. A successful monitoring and reporting system in Europe depends on there being skilled and professional teams and networks in each Member State to assemble the prime data in an accurate, objective and timely manner. The Committee welcomes the intention of the Commission and the EEA to help support and maintain Member State capacity in this area through cooperative networking, peer grouping activities and support for appropriate training. It could be helpful to devote some specific budget funding to these tasks.

4.16 We are glad to note that the Commission believes that the regulation should secure a considerable improvement in the scope and quality of information in this field at a modest extra total cost because of the offsetting savings that will be made through the stream-lining of the requirements. Given the critical importance of the climate change issue for Europe and the world it is clearly essential that monitoring and reporting be done thoroughly and reliably as provided for in the regulation. Equally however it is clearly important at the present time that any additional burdens should be kept to a minimum. We are therefore glad to note that the regulation should not impose any additional burdens on business.

4.17 At the general level, we would urge that country specific data (see Article 2) is shared within relevant DGs in the Commission and units in the European External Action Service. This will encourage wider use of valuable information by those who set sectoral and other priorities in relevant planning DGs/units.

4.18 As well as providing aggregate data for purposes of national and international monitoring of progress on climate commitments it is extremely important to continue to develop disaggregated data so that the contribution of individuals and organisations of all kinds to the climate change challenge and its solutions can be assessed and monitored both by the individuals and organisations themselves and by others. It is very desirable that any local or individual measuring and monitoring systems that are put in place should be consistent with the national and international measuring and monitoring systems so that data can be readily aggregated and disaggregated and the contribution of different policies and of actions by different actors can be compared and assessed. Although this is not the immediate purpose of the present regulation it is very important that this requirement should be fully taken into account in the development of national and European monitoring systems so that a fully coherent monitoring system at all levels can be developed.

4.19 We also suggest that this significant exercise in data collection and monitoring offers scope for engaging the citizen through information and educational material and related practical actionprogrammes. Every opportunity should be taken to raise awareness, explain and monitor the social impact of climate change policy to European citizens and the Committee will continue to play an active role in this area.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Airport Package' containing the following four documents:

'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Airport policy in the European Union — addressing capacity and quality to promote growth, connectivity and sustainable mobility'

COM(2011) 823 final,

'Proposal for a Regulation of the European Parliament and of the Council on groundhandling services at Union airports and repealing Council Directive 96/67/EC'

COM(2011) 824 final — 2011/0397 (COD),

'Proposal for a Regulation of the European Parliament and of the Council on common rules for the allocation of slots at European Union airports (recast)'

COM(2011) 827 final — 2011/0391 (COD),

'Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council'

COM(2011) 828 final — 2011/0398 (COD)

(2012/C 181/31)

Rapporteur: **Mr McDONOGH**

On 1, 13 and 15 December 2011 and 20 January 2012 respectively, the European Commission, the European Parliament and the Council of the European Union decided to consult the European Economic and Social Committee, under Articles 100(2) and 304 of the Treaty on the Functioning of the European Union (TFEU), on the

Airport Package containing the following four documents:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Airport policy in the European Union - addressing capacity and quality to promote growth, connectivity and sustainable mobility

COM(2011) 823 final

Proposal for a Regulation of the European Parliament and of the Council on groundhandling services at Union airports and repealing Council Directive 96/67/EC

COM(2011) 824 final — 2011/0397 (COD)

Proposal for a Regulation of the European Parliament and of the Council on common rules for the allocation of slots at European Union airports (Recast)

COM(2011) 827 final — 2011/0391 (COD)

Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council

COM(2011) 828 final — 2011/0398 (COD).

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 13 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 169 votes to 1 with 4 abstentions.

1. **Conclusions and recommendations**

1.1 The one stop Airport Security System proposed by the European Commission should be implemented (see the EESC opinion on 'Aviation security for passengers' ([1])).

1.2 When looking at slots, the nature of competition between airlines or alliances of airlines should be considered to prevent any unfair competition.

1.3 On-line booking charges such as for security should be transparent, as demanded by the EESC opinion on 'Air passenger rights' ([2]). When a passenger doesn't travel the fare should be at a minimum, and those elements of the fare which the airline is not liable to pay should be refunded to the passenger.

1.4 National aviation authorities and regulators should allow airports the flexibility to manage demand by varying airport charges to match demand, e.g. higher charges for peak periods of travel, than for off peak times.

1.5 Passenger rights need to be more clearly defined, and hand luggage rules to be evenly enforced, respecting the rights of passengers to make purchases before boarding the aircraft.

1.6 It is very important that the Single European Air Traffic Control System should be installed as soon as possible, which for efficiency should include Ukraine and Turkey. This will help to reduce costs and increase efficiency across the national boundaries. This will lead to considerable savings in costs. It will also cut down on flying time between airports and thus put further pressure on airport capacity indirectly.

1.7 Airport security is becoming more sophisticated and more costly but not necessarily more efficient. An examination should take place of the effectiveness of it, because this is paid for by the travelling public. Security costs currently made up 29 % of airport operating expenditure in 2009 – the latest year for which information is available.

1.8 Revenues from airport shops and restaurants are widely used to subsidise airline's airport operations (charges for runway use, parking, etc.). Airports should continue to be incentivised to maximise these revenues and deliver retail offerings tailored to the needs of their particular travellers as this model ensures that charges to airlines are kept competitive, enabling them to retain and expand services which ultimately benefits passengers.

1.9 Airlines should be obliged to interline all baggage for a reasonable fee, regardless of the carrier. This should speed and aid passengers in transit.

1.10 Monitoring of noise and pollution reports should be published on all major airports.

1.11 The revised EU Regulation on groundhandling services must provide for the safety, security and quality of those services, in the interests of all airport users including passengers, in particular passengers with specific needs such as children, older people, passengers with reduced mobility and passengers with disabilities.

1.12 More service providers should be approved only if a fall in quality is ruled out, and binding rules have come into effect to prevent wage dumping and ensure transfer of staff on equal terms in the event of a change in service provider, as well as adequate qualification requirements for workers, which includes security vetting.

1.13 It is necessary in the interests of airlines, airport operators and ground-handling companies to ensure that prices charged for ground-handling services are reasonable.

1.14 Security of contents of checked baggage against theft needs to be re-enforced.

1.15 The EESC generally welcomes the Commission's analysis of the need to enhance capacity and quality at the airports.

2. **Background – Airport Package**

2.1 This consists of four papers, which are:

— A Communication on Airport Policy in the European Union – addressing capacity and quality to promote growth, connectivity, and sustainable mobility.

— Three proposals for Regulations on

  — Rules for the allocation of slots at European Union airports.

  — Rules and procedures with regard to the introduction of noise related restrictions at Union airports.

  — Groundhandling services at European Union airports.

All of the proposed measures are very important, if European airports are to keep pace with the projected increase in air traffic in the EU in the next 10 years.

2.2 Many advances have been made in European Aviation which will speed air travel and also reduce costs.

([1]) OJ C 100, 30.4.2009, pp. 39-43.
([2]) OJ C 24, 28.1.2012, p. 125.

2.3 SESAR (see the relevant EESC opinion [3]) will have revolutionary effect on efficiency and will reduce time and delays in the air, and thereby noise and pollution at the airport. However, this must be matched by increased efficiency on the ground to improve turnaround time.

2.4 The Single European Sky will also increase traffic volumes at airports, and action must be taken by national and European decision makers to allow airports to properly plan for this.

2.5 Galileo, no doubt when fully up and running, will improve and speed up air navigations.

2.6 As an initiative to reduce emissions, as of 1 January 2012 airlines will be held accountable for their entire emissions of the journey if they take off or land in any EU country from anywhere in the world, and it should lead to the phasing out of older type aircraft.

3. **Slots**

3.1 The 2007 Action Plan had identified a growing gap between capacity and demand at a number of busy EU airports. Congestion at these airports will remain a concern. Slots should go to airlines that make good use of them and that really need them, especially in the context of growing traffic.

3.2 Europe will not be in a position to meet a large part of this demand due to a shortage of airport capacity. Despite the worldwide economic crisis and a predicted 40 % airport capacity increase between 2007 and 2030 (including new airports, new runways and new air- and ground-side infrastructure), some 2 million flights - 10 % of predicted demand - will not be accommodated because of capacity shortfalls.

3.3 In concrete terms, by 2030 no fewer than 19 European airports will be operating at full capacity eight hours a day, every day of the year (compared to 2007 when just five airports were operating at or near to capacity 10 % of the time). This will have a major impact on the entire aviation network since by 2030 congestion at these airports will mean 50 % of all flights affected by delays upon departure or arrival.

3.4 One of Europe's largest hubs, Frankfurt, has a new runway, but by 2025 demand will continue to exceed capacity all day, also at London Heathrow, London Gatwick, Paris Orly, Milan Linate and Düsseldorf. If capacity cannot be increased above the planned 120 movements/hour, demand will also exceed capacity all day at Paris Charles de Gaulle. In addition, demand will continue to exceed capacity during part of the day at Amsterdam, Madrid, Munich, Rome Fiumicino and Vienna.

3.5 This capacity challenge is being faced in a context of increased demand and a shift in the global aviation market towards Far Eastern travel.

3.6 Making better use of existing capacity at congested airports by ensuring a more resource-efficient slot allocation system will be vital. The way the Commission deals with 'Granny Rights' under slots, would need to be re-visited. Many of these were acquired up to 50 years ago, and many changes have taken place in the aviation industry since then, with some airlines going out of business.

3.7 National aviation authorities and regulators should allow airports the flexibility to manage demand by varying airport charges to match demand, e.g. higher charges for peak periods of travel, like morning and evening, than for off peak times, like mid afternoon, etc. This is in order to level traffic flows, and to make it more attractive for passengers to travel off peak.

3.8 The analysis of how the current Slot Regulation is working has shown that the allocation system in place prevents optimal use of the scarce capacity at busy airports.

3.9 Therefore the Commission is proposing changes to the current Regulation to allow for the introduction of market-based mechanisms across the EU provided that safeguards to ensure transparency or undistorted competition are established, including greater independence for slot coordinators. This will help to ensure that slots go to those carriers able to make the best use of them.

3.10 It has been estimated that by revising the current allocation system, up to 24 million additional passengers would be accommodated each year at European airports meaning more than EUR 5 billion in economic benefits and up to 62 000 jobs by 2025 thanks to a more resource efficient allocation system.

3.11 The EESC notes that this big increase in passenger numbers at airports that the Commission expects to result from the proposed changes to the slot allocation rules obviously relates primarily to volume and economic viability. As the number of slots is not itself being increased, the proposal to expand trading in slots, in particular, will primarily favour large, high-capacity aircraft and the busiest routes, which are able to bear the additional costs. The EESC considers that such a trend will not benefit regional feeder airlines in Europe, which play a major role in cohesion policy within the EU and in the general network effects of aviation. The airlines that are strongest financially will probably benefit most, and a fair number of these are based outside Europe. The EESC therefore urges the Commission to further analyse these effects and the possible need for countermeasures before any changes are made.

(3) OJ C 309, 16.12.2006, pp. 133-134.

3.12 The takeover of some airlines, which hold valuable slots in Heathrow and other airports, as well as the nature of competition between airlines or alliances of airlines should be examined to prevent diminished or unfair competition.

3.13 The issue of runway slots allocation, and the accompanying problem of distortions, risks of airline dominance and of regions being underserved are as mentioned above all a consequence of inadequate airport capacity. While these issues can be managed to an extent, the only viable long term solution is to address the issue of inadequate airport capacity.

4. **Noise Reduction/Restrictions**

4.1 The European Commission has proposed to change the rules governing noise related operating restrictions at airports, with the aim of ensuring consistent and reasonable use of ICAO's Balanced Approach. The Balanced Approach respects the need to manage noise at and around airports, but balances this with the needs of the travelling public. The ultimate objective of these proposed changes is to maximise the efficient and sustainable runway capacity of Europe's airports, and this must be borne in mind by all EU decision makers when considering these proposals.

4.2 This can be achieved in a number of ways, by eliminating older aircraft, which are not fuel efficient (see the EESC opinion on 'Reduction of CO_2 emissions from airports through new airport management' ([4])). Increasing the use of solar power should be encouraged for running the air conditioning and heating, like in Madrid and Athens airport.

4.3 Another key way of reducing air traffic noise while bringing fuel costs and emissions down is to bring forward the implementation of the Single European Sky programme, in particular the SESAR programme, in order to cut unnecessary holding while waiting for a take-off/landing slot.

4.4 The Commission is therefore proposing changes to current rules on noise-related operating restrictions, putting authorities in a better position to phase out the noisiest aircraft from airports, which is an important step to reach the Commission's objective of using existing runway capacity as efficiently as possible.

4.5 In noise abatement, the safety of operations must be of paramount importance. Noise around airports may require local adjustment measures and active dialogue with residents, while the impact of various restrictions on airport capacity, e.g. opening hours, can have major implications for the whole aviation system.

4.6 Noise restricts the operating hours of many airports, and of course adversely affects capacity, leading to diversions in adverse weather conditions. Available take-off and landing runways should be used efficiently. Account must be taken for those living in close proximity to the airport.

4.7 The reports that result from the monitoring of noise and pollution should be published on all major airports, which would reassure those living in the airport vicinity, so that they are not subject to excessive noise and pollution levels. The populations living around airports should have all proper sources of information (noise, air quality …) available to them to be able to express an opinion about any envisaged change. The EESC suggests the creation of Local Committees of Information wherever they do not currently exist.

4.8 The new rules must allow for local input into the solutions for noise problems. The EESC asks the Commission to examine whether these rules are coherent with the objectives of the Directive on Air Quality ([5]).

5. **Groundhandling**

5.1 Aligning capacity on the ground and in the air is paramount.

5.2 Since 2007, the process of establishing a regulatory framework for the Single European Sky (hereinafter 'SES') has continued at a fast pace. A second package of legislation was adopted in 2009 with the objective of ensuring that a Single Sky is in place from 2012 onwards. Today, the framework is almost complete. Airports, which together with air traffic management constitute the infrastructure of civil aviation, are one of the pillars of this architecture. Indeed, they are essential to the network and if capacity on the ground is lacking, the SES project as a whole will be negatively affected.

5.3 From 2012 to 2014 only en route air navigation services will be subject to performance targets while the performance of terminal air navigation services will be monitored as from 2012. Delays are also caused by airlines or their groundhandlers (technical, boarding, etc.), airports (equipment, etc.) or other parties involved in the turn around process.

5.4 In the light of these findings, the Commission considers that the logic of the performance scheme should be extended to airports as a whole in accordance with a true gate-to-gate approach and with the objective of optimising and integrating all phases of a flight, from airport to airport. Performance should not stop at the control tower, it should be enhanced on ground level as well. Ground handling is imperative for increasing airport capacity, without any major capital investment.

([4]) OJ C 204, 9.8.2008, pp. 39-42.

([5]) OJ L 152, 11.6.2008, pp. 1-44.

5.5 Airports also participate in the technological dimension of the SES, the SESAR programme. SESAR has the potential to expand capacity at airports, thus accommodating additional demand, reducing the number of delayed flights or cancellations.

6. **Improving Groundhandling Services**

6.1 Even though groundhandling services are not always visible, the passenger experience both in airports and in the air relies on the quality of these services. Whether it concerns the proper reception of passengers and the handling of their luggage at the airport, freight and mail handling, the correct preparation of the aircraft (for example, cleaning the cabin) or vital functions for the safe operation of a flight (for example, de-icing the aircraft), comfortable, reliable, safe and value-for-money flights cannot be operated without them.

The original 1996 Directive on groundhandling focused primarily on opening access to the groundhandling market and led to increasingly dynamic groundhandling markets. However, the degree of competition in restricted services and the access regime still vary significantly across Member States.

6.2 A regulation on groundhandling services must provide for the safety and efficiency of those services, in the interests of all airport users. These services should take environmental aspects into account.

6.3 Handling of mobility equipment, medical equipment and other types of devices vital for passengers with disabilities must be carried out according to the best possible quality standards. Damage to such equipment can be detrimental for passengers with disabilities by implying medical risks and serious limitations of mobility. Specific training of ground handling staff, exemptions to general rules on baggage handling and sufficient financial compensation for damage to such equipment must be considered alongside other possible measures in this regard.

6.4 It is necessary in the interests of airlines, airport operators and groundhandling companies to ensure that prices charged for services are reasonable.

6.5 The EESC shares the Commission's view stated in its proposal for a regulation that the current situation in the market for groundhandling at airports is unsatisfactory and that the 1996 legal framework is no longer adequate. Groundhandling services are not efficient enough. Due to the lack of criteria governing market entry as a result of Directive 96/67/EC, substantial quality differences persist between different airports in the EU. The EESC supports the aim of improved capacity and quality in this market based on competition, independent public decision-making, and harmonised procedures.

In a labour-intensive sector such as groundhandling, there are important social issues to be considered. The system of tenders affects staff working conditions and encourages turnover of staff. The criteria applied in approval and award procedures must ensure that well-trained personnel are retained and recruited if necessary, and that competition is not achieved at the cost of ever-declining wages. Service quality at a reasonable price must be the chief criterion for awarding contracts. The Commission's proposal must be improved with respect to award criteria.

6.6 More service providers should be approved only if a fall in quality is ruled out, and binding rules have come into effect to prevent wage dumping and ensure transfer of staff on equal terms in the event of a change in service provider, as well as adequate qualification requirements for workers, which includes security vetting.

6.7 Major events leading to critical flight disruptions such as the volcanic ash crisis and heavy snowfalls disrupting key hub airports have shown the need for increased coordination of ground operations for European airports and the network as a whole, and for stronger protection of air passengers' rights.

6.8 The EESC welcomes the aim of standardising the quality of groundhandling at EU airports. This reform should also oblige airlines to interline all baggage for a reasonable fee, regardless of the carrier. This should speed and aid passengers in transit. Security of contents of checked baggage against theft needs to be reinforced. Provisions for enforcement of quality standards must also be established if the new systems are to be successfully implemented.

6.9 Fair access to airport infrastructure at a fair price to airlines makes an important contribution to an efficient overall aviation system. The emergence of airport competition has done much to deliver this and another important step was taken in the European Union in 2009 with the adoption of the Airport Charges Directive on common minimum standards for the setting of charges levied on airlines for the usage of the necessary airport infrastructure for operating flights.

6.10 Three ground handling providers should be allowed in airports with more than 5 million passengers a year once the measures on safety, quality and social conditions for staff proposed by the EESC in this opinion have been introduced and taken effect. Airlines should have the right to organise their 'self handling', but bearing in mind quality and safety standards.

7. **Efficiency of Airports & Runway Operations**

7.1 Efficiency of airports and runway operations will depend to no small extent on the groundhandling operations.

7.2 Airports are a key interface between passengers and airlines, and the quality of service provided at airports is a key determinant of the passenger and airlines experience. Revenues from airport shops and restaurants are widely used to subsidise airline's airport operations (charges for runway use, parking, etc.). In 2009 airline related charges only covered 29 % of airport operating costs (to say nothing of capital costs). This model ensures that charges to airlines are kept competitive, enabling them to retain and expand services which ultimately benefits passengers. Airports should continue to be incentivised to maximise these revenues and deliver retail offerings tailored to the needs of their particular travellers.

7.3 Promoting airport accessibility and efficiency through rail links is a key requirement for an efficient airport. While small sized airports can rationalise airport access through a well organised network of bus services, rail is an additional, sustainable option for airports of a certain size or which already have rail tracks in the vicinity of the terminal. Where practical, water transport should be provided to airports like Schiphol and Nice, and many others.

8. **Security**

8.1 One stop security which is already agreed by the Commission needs to be urgently introduced at all European airports (see the EESC opinion on 'Aviation Security Charges' ([6])).

8.2 The second objective relates to security charges. Since 2002, EU law has imposed stricter security requirements on Member States and airports. At present, the recovery of aviation security costs is regulated at national level.

8.3 On-line booking charges such as for security should be transparent, as demanded by the EESC opinion on 'Air passenger rights' ([7]). When a passenger doesn't travel the fare should be at a minimum, and those elements of the fare which the airline is not liable to pay e.g. airport charges and government taxes, should be refunded to the passenger.

8.4 Security checks are often perceived as burdensome by passengers, aviation industry and airports. A balance is needed between enhancing security and facilitating travel (see the EESC opinion on the 'Use of Security Scanners at EU airports' ([8])). Common European standards should be established to ensure that the security checks applicable to air passengers who use mobility equipment or medical devices are clear and comprehensive, and that the personal dignity of the passengers in question is respected.

8.5 The current ban on liquids and gels in hand luggage is to be lifted by April 2013: passengers will be allowed to take liquids onboard aircraft provided that they are screened at EU airports. Air passenger rights as a whole need to be more clearly defined, and hand luggage rules to be evenly enforced, respecting the right to make purchases before boarding the aircraft.

8.6 The scanner technology is developing rapidly and has the potential to facilitate security operations for both passengers and airports - for example by reducing hand searches. This must not infringe on basic human dignity rights of passengers ([9]).

8.7 The U.S. Government this year will expand its expedited screening program known as 'pre-check' to 28 airports. The program is now in place at seven airports. It allows frequent fliers and individuals enrolled in a trusted traveller scheme to avoid removing their shoes, belts, and coats while passing through security. This should also be considered for European airports.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([6]) OJ C 100, 30.4.2009, pp. 39-43.
([7]) OJ C 24, 28.01.2012, p. 125.
([8]) OJ C 107, 6.4.2011, pp. 49-52.
([9]) Idem.

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems'

COM(2011) 814 final — 2011/0392 (COD)

(2012/C 181/32)

Rapporteur: **Mr McDONOGH**

On 15 December 2011 the European Parliament and on 20 January 2012 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 172 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 the implementation and exploitation of European satellite navigation systems

COM(2011) 814 final — 2011-392-COD.

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 13 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 167 votes in favour, with 4 abstentions.

1. **Conclusions and recommendations**

1.1 The Committee welcomes the Commission Proposal for a Regulation of the European Parliament and of the Council on the implementation and exploitation of European satellite navigation systems. The success of the European Global Navigation Satellite System (GNSS) programmes is vitally important to the future prosperity and security of the EU. We support the Commission's proposal to replace Regulation (EC) No 683/2008 with the new regulation to provide the funding and governance model for the Galileo and EGNOS programmes.

1.2 The Committee strongly supports the objective of the Galileo programme to create the first global satellite navigation system (GNSS) under civilian control, completely independent of other existing systems, to provide uninterrupted GNSS services and a strategic advantage for Europe. Satellite navigation is already an essential utility for European transport, industry and citizens and it is unacceptable that we are currently so dependent on the American GPS and Russian GLONASS for positioning, navigation and time. European GNSS services must be provided on European infrastructure, which does not depend on the priorities of the US, Russian nor Chinese military for its reliability.

1.3 Given that 6 %-7 % of European GDP-27, i.e. EUR800bn, already depends on the American GPS system (European Global Navigation Satellite System Impact Assessment Executive Summary accompanying the document 'Proposal for a Regulation of the European Parliament and of the Council on further implementation of the European satellite navigation programmes (2014 – 2020)' – SEC(2011) 1447, 30.11.2011), the Committee welcomes the focus in the regulation on interoperability between Galileo and GPS. However, the EESC believes that in parallel with interoperability, Europe should pursue an aggressive policy of replacing GPS with Galileo and EGNOS technology as the primary technologies for GNSS in Europe.

1.4 The EESC recommends that the innovation potential of the European GNSS is heavily promoted in the EU research and innovation programme, Horizon 2020 (Horizon 2020, is the EU EUR80 billion programme for investment in research and innovation for 2014-2020). The satellite navigation systems will be of considerable value to technology innovation and can yield major macro-economic benefits for the Union.

1.5 The successful delivery and management of the European GNSS programmes, both Galileo and EGNOS, is critical to achieving the vision of smart, sustainable and inclusive growth envisioned by the Europe 2020 strategy (EUROPE 2020 A strategy for smart, sustainable and inclusive growth – COM(2010) 2020). The Committee notes that the cost-benefit analysis from the Commission (Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council on further implementation of European satellite navigation programmes (2014-2020) – SEC(2011) 1446 final) estimates that the GNSS programmes, as proposed, will generate EUR68.63bn (EUR116.88bn at constant prices discounted at 4 % per annum, in accordance with EU Impact Assessment Guidelines) of net benefits to the Union during the system lifecycle of 2014-2034.

1.6 While the EESC supports the policy objectives of the European GNSS and the proposed Regulation for the implementation and exploitation of the systems, the Committee must stress its concern about Europe's management of the programmes to-date, which has resulted in considerable delays, cost escalation and lost benefits. It is hoped that

the proposed Regulation will provide the necessary political support, management structures and framework to deliver the European GNSS as now envisaged and the resulting benefits.

1.7 The Committee notes that 19,5 % of the financial benefits accruing from the European GNSS programme will come from growth in the downstream market for European GNSS applications (Impact Assessment accompanying the Proposal for a Regulation of the European Parliament and of the Council on further implementation of European satellite navigation programmes (2014-2020) – SEC(2011) 1446 final). In this regard, the Committee directs the Commission's attention to its Opinion of 16 February 2011 on the Action Plan on Global Navigation Satellite System (GNSS) Applications ([1]). In particular, the Committee calls for a detailed business plan from the European GNSS Agency (GSA) to grow this crucial market.

1.8 The Committee believes that strong marketing and commercial leadership is urgently needed for the European satellite navigation systems, backed by adequate investment in commercialisation programmes. The commercial development of EGNOS and GALILEO is critical to long-term success; it is essential that the value of the European GNSS is communicated to the market and use promoted. Too little work has been done to-date on this vital, complex challenge.

1.9 The EESC welcomes that the Commission stresses the requirement for sound financial management of the programmes, budgeted to cost EUR7.89bn at current prices during the next financial framework period, 2014-2020. The Committee welcomes that the Regulation specifies that the EC must manage the funds allocated to the programmes, and supervise the implementation of all activities of the programmes, including those delegated to both the European GNSS Agency (GSA) and the European Space Agency (ESA). The EESC also welcomes the Commission's plans to develop a risk management mechanism and management tools to minimise the probability of programme cost overruns.

1.10 However, the EESC also notes the Commission's warning that investment in satellite navigation technology is subject to great uncertainty and risk that makes it difficult to accurately forecast the programme costs. Therefore, notwithstanding any delegation agreements (in accordance with Regulation (EC, Euratom) No 1605/2002 and, in particular, Article 54 thereof), the Committee recommends that the Commission should hold monthly stewardship meetings with both the GSA and the ESA to monitor the progress of the programmes and to deal quickly with any problems that arise. Furthermore, the EC should receive detailed management reports and accounts from both the GSA and the ESA at least every three months.

([1]) OJ C 107, 6.4.2011, p 44-48.

1.11 The Committee refers the Commission to previous opinions by the Committee on GALILEO, EGNOS, and Europe 2020 ([2]).

2. **Background**

2.1 Global Navigation Satellite System (GNSS) technologies, with their ability to provide highly reliable accurate measurements of position, velocity and time, are fundamental to improving efficiency in many sectors of the economy and in many areas of citizens' daily life.

2.2 Until Galileo is operational, Europe has to use the satnav services of the American GPS or Russian GLONASS for positioning, navigation and time. Europe's dependence on GPS satellite navigation is estimated to represent 6 %-7 % of EU-27 GDP, i.e. EUR800bn (SEC(2011) 1447 of 30.11.2011). Yet the military operators of these systems can give no guarantee of maintaining an uninterrupted service.

2.3 Although independence in global satellite navigation is the main driver behind the Galileo programme, interoperability with existing and future satellite navigation systems, particularly the US GPS, is an important added value.

2.4 The Galileo programme was initiated with the aim of establishing an independent European Global Navigation Satellite System (GNSS).

2.5 EGNOS is a regional satellite-based augmentation system for Europe that improves the signals coming from existing satellite navigation systems such as GPS.

2.6 Galileo, the European satellite navigation programme, was launched in 2001. Initially the project was based on a Public-Private-Partnership with the Galileo Joint Undertaking (GJU) acting as a common management and funding platform. In 2006, GJU was replaced by the European GNSS Agency (GSA) (formerly known as the European GNSS Supervisory Authority – GSA), in charge of managing the public interest aspects of the European GNSS programmes. The European Space Agency (ESA) was responsible for the technical management and implementation of the GNSS programmes.

2.7 Adopted in 2008, the GNSS Regulation ([3]) made the EU the sole political body in charge of steering and fully funding the European GNSS policy. The GNSS Regulation set out the EU funding for the Galileo and EGNOS programmes for 2007-2013. The budget of EUR3.4 billion was split across the remaining of Galileo development phase, the Galileo deployment phase and the operation of EGNOS.

([2]) OJ C 221, 8.9.2005, p. 28; OJ C 317, 23.12.2009, p. 103–104 and OJ C 107, 6.4.2011, p 44-48.
([3]) OJ L 196, 24.8.2008, p. 1.

2.8 The Commission's proposal for the next multiannual financial framework for the EU Budget 2014-2020 (COM(2011) 500 of 29.6.2011 - A Budget for Europe 2020) proposes financing the GNSS programmes fully from the EU budget with a proposed ceiling of EUR7 billion at 2011 constant prices.

2.9 Progress on implementing the European satellite navigation programmes is hampered by two key problems:

1) Because of cost overruns and delays in delivering the system, the GNSS to be established under the Galileo programme will not be fully operational in 2013 as planned.

2) As the 2008 GNSS Regulation does not lay down the financing and governance framework for Galileo and EGNOS programmes after 2013, a new legal basis is needed for the systems to be operational, maintained and managed in the long term.

2.10 The proposal from the Commission will address these problems by creating a new Regulation to replace Regulation (EC) No 683/2008, thus providing the funding and governance structure for the successful delivery and operation of the Galileo and EGNOS programmes.

2.11 Regarding infrastructure, the cost-benefit analysis attached to the proposal shows that the optimum solution is to deploy the 30-satellite constellation as originally planned, but to implement a simpler ground infrastructure. This solution would enable the GNSS to provide all of the planned services and benefits originally envisaged, except that the full 'Safety of Life Service' (the EGNOS Safety-of-Life Service enables precision approaches by aircraft, rendering air navigation safer. It also helps reducing delays, diversions and cancellation of flights. The EGNOS Safety-of-Life Service also allows airports to increase their capacity and to cut operating costs. Last, it contributes to CO_2 emissions reduction in the sector) would only be available in interoperability with the US GPS.

2.12 The best option for providing a governance framework is to add the programme management tasks of the exploitation phase to the existing security and market-related responsibilities of the European GNSS Agency. The Commission will retain responsibility for managing the funds allocated to the programmes, and supervise the implementation of all activities of the programmes, including those delegated to both the European GNSS Agency (GSA) and the European Space Agency (ESA).

3. **General comments**

3.1 The EGNOS and Galileo programmes need clear leadership and unambiguous, full support from the EU to repair the damage to market confidence caused by the collapse of the GJU PPP. The 2014-2020 budget allocation and the proposed Regulation from the Commission is a good beginning, but it will be necessary to demonstrate good management and consistent policy support for the programmes from now-on to underpin market confidence.

3.2 Europe needs to accelerate the pace of GNSS deployment and market development, especially considering the cost of Galileo's delay and the increasing competition from the US, Russia and China. China is expanding its military Beidou satellite navigation system into the global COMPASS system with the intent of offering competitive civil service worldwide by 2020, including Europe. GALILEO and EGNOS must become the GNSS standard in Europe as quickly as possible.

3.3 The European satellite navigation systems should be an important part of the Horizon 2020 research and innovation programme. The creation of new products and services based on the European GNSS will not only boost smart growth, but will also support sustainable development by helping to increase energy efficiency and by reducing the environmental impact of economic development.

3.4 While respecting global competition laws, perhaps EU measures should be identified which would favour the selection of Galileo technologies over inferior technologies, especially for applications that demand confidence in continuity of service or high levels of accuracy and integrity, or for security.

3.5 Given the importance of receiver chipsets (a chipset or chip set refers to a group of integrated circuits, or chips, that are designed to work together. They are usually marketed as a single product. A chipset is usually designed to work with a specific family of microprocessors. Because it controls communications between the processor and external devices, the chipset plays a crucial role in determining system performance) to a market penetration and application development strategy, the development of low-cost dual receiver chipsets (GPS + Galileo) is critical. R&D spend should be especially targeted at this objective.

3.6 A strategy is needed to capture the experience curve effects of high volume production critical to low cost manufacture of receiver chipsets, so that dual GPS + Galileo chipsets can compete on a cost-basis with GPS only chipsets.

3.7 To grow the downstream market for European GNSS products and applications, the GSA needs an aggressive market development strategy, led by a highly skilled team.

3.8 A global brand strategy should be developed for EGNOS/Galileo to align objectives, highlight the brand value, simplify market communications, and bring clarity to marketing priorities.

3.9 The quality of Galileo technology and services introduced to the market must be always of the highest standard. Strict quality control on technology development and implementation at end-user level must be maintained.

3.10 Unfortunately, some early EGNOS products have not been technically good enough to meet customer requirements. As part of a brand strategy, a quality mark should be developed for all EGNOS/Galileo approved technology so that the brand can be protected from reputational damage.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products'

COM(2011) 416 final,

'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Reform of the common fisheries policy'

COM(2011) 417 final,

'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on "External Dimension of the common fisheries policy" '

COM(2011) 424 final,

and the 'Proposal for a Regulation of the European Parliament and of the Council on the common fisheries policy'

COM(2011) 425 final

(2012/C 181/33)

Rapporteur: **Mr Gabriel SARRÓ**

Co-rapporteur: **Mr Franco CHIRIACO**

On 1 September, 13 September and 5 October 2011 respectively, the Council of the European Union and the European Parliament with regard to proposals COM(2011) 416 final and COM(2011) 425 final and the Commission, with regard to proposals COM(2011) 417 final and COM(2011) 424 final, decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products

COM(2011) 416 final

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Reform of the Common Fisheries Policy

COM(2011) 417 final,

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions

on External Dimension of the Common Fisheries Policy

COM(2011) 424 final and the

Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy

COM(2011) 425 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 14 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 152 votes to 5, with 14 abstentions.

1. **Conclusions**

1.1 The EESC agrees with the Commission on the need to propose that the Common Fisheries Policy (CFP) and the Common Organisation of the Markets (COM) be reviewed simultaneously, thereby enhancing the necessary integration, coherence and coordination of the production, processing and marketing aspects of fishing, aquaculture and shellfishing.

1.2 Overall, the EESC agrees with the proposal's general and specific objectives, as well as its principles of good governance. The CFP must guarantee that fishing and aquaculture activities create long-term sustainable environmental, economic and social conditions and that they contribute to the availability of food, applying the precautionary principle and an ecosystem-based approach.

1.3 However, the EESC does not believe that the proposal for a Regulation lays down the fisheries management measures needed to fully restore and maintain fish stocks to levels above those capable of producing the maximum sustainable yield (MSY), ensure healthy and high-quality fishery and aquaculture products for citizens, to contribute to the prosperity of fishing communities and the viability of production and processing companies and provide jobs that are attractive and more secure.

1.4 The Committee welcomes the general provisions regarding access to EU waters, which are already in force and which benefit local fishing communities more.

1.5 The Committee approves of the types of conservation and technical measures proposed, which will have to be adapted to the different forms of fishing.

1.6 The EESC supports the proposal to establish multiannual plans with the aim of restoring and maintaining, as far as possible, all fish stocks above levels which can produce the MSY by 2015. Though laudable, this objective is difficult to apply in the case of mixed fisheries, and the EESC therefore calls upon the Commission to provide practical solutions to resolve any problems which may arise in those forms of fishery.

1.7 The EESC considers it a priority for the Member States, backed by the Commission, to provide scientific institutes with the resources they need to meet applied research needs and to deal with all commercially-fished species and associated and dependent species and their environment.

1.8 With regard to the policy of banning discards, the EESC welcomes this objective, but advocates a more gradual and proportionate approach, based on progressively reducing discards, promoting and encouraging more selective fishing gear, implementing measures designed to process fisheries products in a manner that offers added value, searching for market outlets and adapting the infrastructure of vessels and fishing ports.

1.9 The EESC believes that the proposal does not introduce sufficient regionalisation and offers no measures for decentralisation.

1.10 With regard to relative stability and its application in the allocation of fishing opportunities to the Member States, the Committee would stress the need to update this principle, since it is out of date and no longer reflects the real situation of fishing fleets and areas highly dependent on fishing. Moreover, the Committee suggests that allocation of fishing opportunities, once the principle of relative stability has been updated, should be based primarily on a set of transparent environmental, economic and social criteria.

1.11 The Committee finds the proposal relating to transferable fishing concessions to be confused and believes that the Commission should clarify the interpretation of the relevant articles, particularly in relation to the definition of 'transparent and objective criteria' for the allocation of concessions. The Committee also calls for this measure's impact on employment to be taken into account and for specific measures to be provided for employed fishermen.

1.12 With regard to the management of fishing capacity, the EESC believes that the Commission should carry out, by 2014 at the latest, a detailed assessment of fishing capacity, covering not only power and tonnage, but also types of fishing gear and other vessel characteristics, and that Member States should be obliged to align fishing capacity with available resources on the basis of this assessment.

1.13 In relation to ecosystem-based fisheries management, the Committee considers it crucial that data collection include the greatest possible amount of environmental data in accordance with the Marine Strategy Framework Directive and the GES (Good Environmental Status) criteria.

1.14 The EESC agrees in general terms with the Commission's proposals regarding external policy. It has concerns, however, regarding certain issues mentioned in point 3.7.9 of this opinion.

1.15 The EESC applauds the Commission's recognition of the common European dimension of aquaculture policy. The EESC calls for the strengthening of environmental control and the creation of a streamlined administrative framework and a single legal area in order to develop a sustainable aquaculture sector that can help maintain the population and generate wealth in outlying and rural regions, while also respecting and fitting in with the local environment.

1.16 With regard to the new financial instrument, the EESC believes that the role of fishermen and fishing communities in the sustainable development of coastal areas should be boosted and that this should include social measures, particularly support measures in cases of job losses and assistance with training and redeployment, placing the emphasis on young people and women.

1.17 The EESC is disappointed that the proposal does not address the social dimension, which is taken into account throughout the fisheries and aquaculture sector (production, processing and marketing), and puts forward no concrete measures to improve working and living conditions and believes that the participation of the social partners at the appropriate level should be promoted.

1.18 The EESC calls upon the Commission to take account of the range of demands expressed by the sectors' different stakeholders. The reform of the CFP should meet the needs of both shipowners and crews.

1.19 The EESC believes that a definition of small-scale fishing based solely on vessel length is too simplistic and results in a large proportion of the small-scale fleet falling into the category of industrial fishing.

1.20 The EESC supports the objectives and principles governing the new COM regulation and urges the Commission to take account of the Committee's views expressed in this opinion.

1.21 In order to prevent unfair competition on the EU market, the EESC recommends that imported products be subject to the same hygiene and health and monitoring requirements as EU products, including full 'sea-to-table' traceability, and calls for exhaustive controls, at borders and at origin, to ensure full compliance with these rules, which contribute to food safety. In this regard, the Committee feels that a consistent approach should be established amongst the European Commission's various Directorates-General.

1.22 The EESC stresses that all these proposals also apply to freshwater fishing and aquaculture and calls on the Commission to devote appropriate attention to the specific characteristics of these.

2. **Background**

2.1 *Context of the Regulation on the CFP ('Basic Regulation')*

2.1.1 The CFP was created in 1983 and remained in force, with slight modifications, for twenty years, until it underwent a thorough reform under Regulation (EC) No 2371/2002. In 2009, the Commission studied how the reformed CFP was working and concluded that, despite the progress that had been made, not all aspects (environmental, economic and social) of the sustainable fisheries objectives had been achieved, and that many fish stocks were being over-fished.

2.1.2 This conclusion was laid out in the Green Paper [1] on the reform of the Common Fisheries Policy. The corresponding Committee opinion, approved by a large majority, recommended 'that the measures which are adopted protect jobs and safeguard territorial cohesion, and that the strategic objectives maintain a balance between the economic, social and environmental pillars, guaranteeing and promoting responsible and sustainable behaviour throughout the fisheries chain'. The future reform should deal with the following issues in more depth:

— 'establishing a differentiated regime for small-scale fleets;

— including a section on social issues that harmonises fishermen's working conditions;

— improving market conditions and commercial practices;

— ensuring the CFP dovetails with marine environment policy, which also requires more and better research that is applicable to fisheries policy;

— fully integrating the CFP into the framework of international organisations (such as the UN and the FAO) [2].'

2.1.3 The Committee's opinion on 'The development of regional areas for the management of fish stocks and the control of fishing' [3] states that 'the Committee welcomes the intention to radically reform the CFP and in particular its objective to establish a de-centralised policy, less dependent on detailed decisions taken in Brussels and allowing more opportunity for local and regional involvement in fisheries management. However, the essential detail, clarity and sanctions regime needed for such a policy to work effectively is missing and needs to be included' and that 'without flourishing fish stocks there can be no sustainable fishing industry', recommending 'that environmental sustainability should be prioritised as the basis for economic and social sustainability'.

2.1.4 That opinion also argues that 'to be effective the strengthening of quota-based management plans based on "maximum sustainable yield" (MSY) requires higher levels to be established that genuinely enable all regulated species to flourish and this should be done by 2015'.

2.2 *Context of the Regulation on the COM in fishery and aquaculture products*

2.2.1 The origin of the COM in the fisheries and aquaculture sector can be traced back to 1970. Its legal framework is provided by Regulation (EC) No 104/2000. Since 2008, the Commission has carried out wide-ranging assessments and consultations with a view to taking account of the shortcomings noted in the application of the provisions currently in force, recent developments on European and world markets and trends in fishing and aquaculture activities.

(1) COM(2009) 163 final.

(2) CESE, OJ C 18, 19.1.2011, pp. 53-58.

(3) CESE, OJ C 24, 28.01.2012 p. 48.

2.2.2 The new proposal for a Regulation sets up a COM for fisheries and aquaculture products which will be made up of the following instruments:

a) professional organisations (producer organisations and inter-branch organisations),

b) marketing standards,

c) consumer information,

d) competition rules,

e) market intelligence.

2.2.3 The EESC believes that another section should be added to the above sections to regulate trade relations with third countries, to ensure that all imported products conform to European Union standards and are subject to effective controls.

3. Analysis of the proposed reform of the CFP and the Committee's comments

3.1 *Scope and objectives*

3.1.1 The CFP will cover the conservation, management and exploitation of marine and fresh water biological resources and aquaculture, as well as the processing and marketing of fishery and aquaculture products, where such activities take place on the territory of Member States, or in Union waters, including by fishing vessels of third countries, or by Union fishing vessels outside of Union waters, or by nationals of Member States.

3.1.2 The CFP must ensure that fishing and aquaculture activities create long-term sustainable environmental, economic and social conditions, contributing to the availability of food supplies, implementing the precautionary and ecosystem-based approaches to fisheries management, aimed at exploitation of living marine biological resources that restores and maintains fish resources above levels which can produce the maximum sustainable yield, not later than 2015, all while meeting the requirements of EU environmental legislation.

3.1.3 In order to achieve these objectives, the CFP must, in particular, eliminate unwanted catches of commercial stocks and gradually ensure that all catches of such stocks are landed. Furthermore, it must create the conditions for efficient fishing activities, promote the development of aquaculture activities in the Union and contribute to a fair standard of living for those who depend on fishing activities, while taking account of consumers' interests and ensuring systematic and harmonised data collection and management.

3.1.4 Overall, the EESC supports the scope and the general and specific objectives of the CFP, as well as its principles of good governance. It regrets, however, that not enough attention is paid to the conservation, management and exploitation of freshwater biological resources. The Committee calls on the Commission to take account of the specificities of freshwater fishing in the proposals, including their alignment with the CAP. It points out that appropriate counterparts to the marine working groups still need to be created that can bring together experience in implementing a freshwater common fisheries policy and make proposals for updating it.

3.1.5 However, the EESC does not believe that the proposal for a regulation lays down the management measures needed to manage fisheries in order to restore and conserve fish stocks and thereby achieve these objectives and to deliver the building blocks for sustainable fisheries that respect the ecosystem as well as providing high-quality, healthy fish products for the public, thriving coastal communities, profitable industries producing and processing fish, and attractive and safer jobs, with the involvement of social partners at all levels being of utmost importance to this end ([4]).

3.2 *Access to waters*

3.2.1 From 1 January 2013 to 31 December 2022, Members States will be authorised to restrict fishing in waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction to fishing vessels that traditionally fish in those waters from ports on the adjacent coast and to EU fishing vessels belonging to another Member State which fish under existing neighbourhood relations between Member States.

3.2.2 Furthermore, between the same dates, in waters up to 100 nautical miles from the baselines of the Azores, Madeira and the Canary Islands, the Member States concerned may restrict fishing to vessels registered in the ports of those islands. Such restrictions shall not apply to Union vessels that traditionally fish in those waters, in so far as those vessels do not exceed the fishing effort traditionally exerted.

3.2.3 The Committee agrees with these measures on access to waters, which are already in force and which should be complemented by measures to ensure preferential access for those who fish in a way that is environmentally and socially sustainable and which most benefits local fishing communities.

3.3 *Measures for the conservation of marine biological resources*

3.3.1 The EESC believes that the multiannual plans introduced in the current CFP have had a significant positive impact in some cases, and that they should continue to be applied, as provided for in the new proposal. The problems affecting those cases which have not worked properly should be analysed, always on the basis of solid scientific studies carried out by Community scientific bodies. Furthermore, the Committee believes that provision should be made for suitable correction mechanisms which are adaptable and flexible.

([4]) COM(2011) 417 final.

3.3.2 The multiannual plans are designed to maintain or restore all fish stocks above levels capable of producing maximum sustainable yield by 2015. The EESC considers that this is a laudable objective, which is based on United Nations Convention on the Law of the Sea (UNCLOS) provisions which are legally binding on the EU since 1998, and was reiterated in the report of the 2002 World Summit on Sustainable Development, on the basis of which the Commission is proposing this measure, which states that 'to achieve sustainable fisheries, the following actions are required at all levels: maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015'.

3.3.3 The Committee believes that the MSY objective leaves some margin for interpretation in terms of implementation methods, and that it will be difficult to achieve in certain mixed fisheries, since the different fish species interact and the catch rates determining the level of fishing effort do not correspond to the MSY for each individual species. The EESC calls upon the Commission to provide for practical solutions to resolve any problems arising in mixed fisheries.

3.3.4 The EESC would urge the Commission to take account of the fact that measures for the improvement of stocks status in EU waters should not have a negative impact on the sustainability of stocks in other areas, as a result of the increasing international trade in fishery products and displacement of EU fishing capacity.

3.3.5 In order to ensure that multiannual plans are based on the best possible scientific evaluation of fish stocks, the EESC considers it a priority for the Member States, backed by the Commission via the EMFF (European Maritime and Fisheries Fund), to provide scientific institutes with all the resources they need to carry out the required research and to deal with all fish species caught. In cases where there is no adequate scientific evaluation, the precautionary approach should be applied, as defined in the 1995 UN Fish Stocks Agreement. At the same time, the Committee considers it essential to promote dialogue between scientists and fishermen.

3.3.6 Furthermore, the Committee considers that the application of measures to maintain or restore fish stocks above levels which can produce maximum sustainable yield by 2015 will have an impact on the fishing capacity of Member States' fleets and should ensure that the most environmentally-destructive and socially disadvantageous fleet segments are eliminated in priority. The Commission should therefore provide for adjustment measures by offering social and labour-related alternatives for the fisheries sector to prevent the current loss of jobs due to the poor state of fish stocks. In this regard, the EESC calls for a detailed evaluation of the multiannual plans' socio-economic impact in the short, medium and long term.

3.3.7 The content of the multiannual plans and the technical measures framework should indicate their scope, in terms of stocks, fisheries and marine ecosystems, and their objectives should be consistent with the general and specific objectives of the CFP mentioned in point 3.1.1. The technical measures framework for each multiannual plan should contribute to maintaining or restoring fish stocks above levels which can produce maximum sustainable yield, to reducing catches of undersized individuals and of unwanted marine organisms, and to mitigating the impact of fishing gear on the ecosystem.

3.3.8 The EESC agrees with the content and framework of the technical measures provided for under Article 14, since they are in line with the objectives of the CFP reform. These technical measures should be applied taking into account the specific circumstances of the different fisheries.

3.3.9 With regard to the obligation to land all catches (the ban on discards), proposed by the Commission, the proposed reform of the CFP sets a timetable between 1 January 2014 and 1 January 2016, during which certain fish stocks subject to catch limits must be brought and retained on board fishing vessels from 1 January of each of those years. Minimum conservation reference sizes will be established for all of these fish stocks, the sale of which will be restricted for reduction to fish meal or pet food only. Marketing standards for catches of fish caught in excess of fishing opportunities shall be established in accordance with the common organisation of the markets.

3.3.10 With regard to the proposal to ban discards of certain species according to a precise timetable, the EESC believes this to be a worthy objective, but considers that it is currently very difficult to achieve in certain fisheries, particularly mixed fisheries In fact, the socio-economic consequences would be so serious that many vessels would have to be decommissioned. The Committee therefore believes that measures should be established to alleviate these consequences. The EESC advocates a more gradual and proportionate approach, based on more selective fishing gear and a gradual reduction in discards, promoting and encouraging measures aimed at the processing of fisheries products in a manner that offers added value, and adapting the infrastructure of vessels and fishing ports.

3.3.11 The Committee believes it would be highly appropriate and useful to carry out an assessment, fishery by fishery, of the origin of discards with a view to using the most appropriate tools in each fishery to reduce the volume of discards.

3.3.12 The Committee believes that the ban on discards cannot be applied effectively unless workers are suitably trained. The EMFF should provide support for the relevant training actions.

3.3.13 With regard to regionalisation, the Commission will be able to authorise Member States, as part of a multiannual plan, to specify conservation and technical measures applicable to vessels flying their flag in relation to stocks in Union waters for which they have been allocated fishing opportunities, provided that they are compatible with the objectives of the CFP and the scope of the multiannual plan and are no less stringent than those laid down in existing EU legislation. These measures will be notified to the Commission - which may evaluate them at any time - and where appropriate, to other interested Member States and relevant advisory councils.

3.3.14 In relation to national measures which a Member State can take to conserve fish stocks in Union waters, these may be adopted provided that they only apply to fishing vessels flying their flag or to the fishing activities of persons established in the territory of the Member State, and provided that they are compatible with the objectives of the CFP and are no less stringent than those laid down in existing EU legislation.

3.3.15 A Member State may take non-discriminatory measures for the conservation and management of fish stocks and to minimise the effect of fishing within 12 nautical miles of its baselines provided that the Union has not adopted measures addressing conservation and management specifically for that area. If these measures are liable to affect fishing vessels of other Member States, such measures shall be adopted only after consulting the Commission, the relevant Member States and relevant advisory councils on a draft of the measures accompanied by an explanatory memorandum.

3.3.16 The EESC believes that, while the measures proposed may be appropriate, the proposal for a regulation does not include clear mechanisms for decentralising decision-making. The Committee also believes that the comments made in its recent opinion on *The development of regional areas for the management of fish stocks and the control of fishing* should be taken into account.

3.4 *Access to resources*

3.4.1 The new proposal once again guarantees the fishing opportunities allocated to the Member States on the basis of the TAC (total allowable catches) and quotas system, applying the principle of relative stability amongst the Member States.

3.4.2 With regard to relative stability, the EESC reiterates what it said in its opinion on the Green Paper, stressing the need to update this principle to take account of the changes which have taken place since its creation in 1976. The need for this updating is demonstrated by the fact that the Commission is again proposing that Member States be authorised to exchange all or part of the fishing opportunities allocated to them, a clear indication that the relative stability established more than 35 years ago no longer reflects the real situation of fishing fleets and areas highly dependent on fishing. Moreover, the EESC is of the opinion that, once the principle of relative stability has been updated, historical catches alone should not be the basis for quota allocation but that this should also include a set of transparent environmental, economic and social criteria.

3.4.3 The proposal states that, no later than 31 December 2013, each Member State must establish a system of transferable fishing concessions for all fishing vessels of 12 metres' length or over and for all fishing vessels of under 12 metres' overall length fishing with towed gear. Member States may extend the system of transferable fishing concessions to fishing vessels of less than 12 metres' overall length and deploying other types of gear than towed gear and shall inform the Commission thereof.

3.4.4 The Committee finds the text of the proposal to be confused and believes that the Commission should provide clarification regarding its interpretation, particularly the definition of 'transparent and objective criteria' for the allocation of concessions. For example, the EESC believes that operators who do not respect workers' rights should not be eligible. The establishment of transferable fishing concessions can offer an opportunity to ensure compliance with social standards throughout the sector, guaranteeing high-quality and secure employment in the European fisheries sector and discouraging any unfair competition based on lower operating costs.

3.4.5 The EESC is opposed to the privatisation of marine resources and therefore deems it unacceptable for the Commission to propose a market for the transfer of fishing rights between private companies, because making it easier for them to leave the sector would result in jobs becoming more precarious. Fishing rights must be managed exclusively by Member States.

3.4.6 Transferable fishing concessions may lead to a quantitative reduction in capacity but not a qualitative reduction and elimination of the most environmentally destructive, energy-inefficient and socially disadvantageous elements of the fleet. Moreover, often fishing rights have become concentrated amongst a small number of operators, including some from outside the sector, who then sub-contract the fishing activity to others, often the same people who previously fished in those waters.

3.4.7 The Committee would support the proposal to introduce systems of transferable fishing concessions if the systems are not compulsory and left to the decision of Member States to apply in their individual waters, are not applied outside Union waters and have as their primary objective to conserve fish stocks in the long term based on sustainable environmental, economic and social criteria.

3.4.8 The EESC has reservations regarding its application to the Mediterranean fishing fleet, since the Commission's proposal does not specify how this will be done.

3.4.9 The EESC believes that there must be guarantees that transfers of fishing concessions between Member States conform to the same conditions as those laid down for nationals of a single Member State. The assessment of this system's impact on the competitiveness and viability of the different Member States' fleets must pay particular attention to those Member States which import large quantities of fishery products.

3.5 *Management of fishing capacity*

3.5.1 The proposal's explanatory memorandum states that one of the CFP's main problems is fleet overcapacity. The Report from the Commission to the European Parliament and the Council on reporting obligations under Regulation (EC) No 2371/2002 states that 'all Member States have complied with legal fishing capacity limitations' and that 'today most Member States have capacity under the ceilings they are allowed. This margin averages 10 % in tonnage and 8 % in power'.

3.5.2 The Commission is maintaining these limitations in the new proposal, Article 35 of which sets the fishing capacity ceilings for Member States' fleets from 1 January 2013.

3.5.3 The Committee believes that, even if Member States conform to these fishing capacity ceilings, the Commission should adapt them based on a more accurate measurement of fishing capacity, including power and tonnage, and also types of fishing gear and other vessel characteristics, to bring them into balance with available resources.

3.5.4 The EESC also considers that the information laid down in Article 36 on 'Fishing fleet registers' should include this situation of fishing capacity compared to available resources.

3.6 *Scientific basis for fisheries management*

3.6.1 The scientific basis for fisheries management is entirely the responsibility of the Member States, which are required to collect the biological, technical, environmental and socio-economic data necessary for ecosystem-based fisheries management.

3.6.2 In relation to ecosystem-based fisheries management, the Committee considers it crucial that data collection include the greatest possible amount of environmental data and that timely provision of reliable data should be considered in the quota allocation system, and failure to do so should be sanctioned.

3.6.3 The collection, management and use of data will be carried out in the framework of a multi-annual programme as of 2014. In the meantime, Regulation (EC) No 199/2008 will continue to apply in relation to programmes for the collection and management of data.

3.6.4 Member States will adopt national fisheries scientific data collection, research and innovation programmes. Members States will be required to appoint a national correspondent for the coordination of the collection and management of scientific data for fisheries management.

3.6.5 The EESC supports this bolstering of the scientific dimension and believes that research programmes must seek information on species for which scientific data are currently lacking, and that advisory councils or other decentralised stakeholder bodies must be involved in this task.

3.7 *External policy*

3.7.1 The EU is one of the few large fisheries powers with a strong presence in all of the world's seas and oceans, as a result of the activities of its fleets, investments, bilateral agreements with third countries and its participation in the main regional fisheries management organisations (RFMOs). It also has a highly internationalised processing and marketing sector.

3.7.2 The EU is also one of the main markets for fishery products in terms of consumption and imports, which means that it has an enormous responsibility to commit itself to and guarantee the sustainable management of fishing activities and the conservation of world fisheries resources.

3.7.3 The EESC shares the Commission's view that the EU must promote sustainable fisheries throughout the world on the global and multilateral agenda, upholding the principle of responsible fishing, essentially in environmental terms, but also in social and economic terms. The EU must also promote transparent and equitable commercial measures, since its commercial policy must be consistent with the principles of responsible and sustainable fisheries.

3.7.4 The EESC agrees with the general principles expressed in the proposal regarding international fisheries organisations and sustainable fisheries agreements In this regard, EU fisheries companies with external investments should also be included, and should be specifically covered by EU legislation. Furthermore, Member States should be required to inform the Commission of any arrangement between their nationals and a third country which enables vessels flying their flag to fish in waters under the jurisdiction or sovereignty of a third country. The reform of the external dimension of the CFP is taking place against a complicated backdrop for the EU's fisheries sector and for that of many developing countries, with declining fish stocks, the ever-growing presence of other long-distance fleets and the impact of climate change. The EU should create a favourable environment for private investment in sustainable fishing activities in the ACP countries, creating high added value and decent jobs in those countries by ensuring high management standards.

3.7.5 In the EESC's view, through the EU's presence in international bodies, particularly RFMOs, the Union must seek to improve the conservation of fish stocks and ensure a high degree of compliance with fisheries management measures by all stakeholders.

3.7.6 The fisheries partnership agreements (FPAs) currently in force are intended to enable EU vessels to fish surplus stocks in the exclusive economic zones of a number of third countries in a regulated and legally secure fashion. The Commission believes that the current FPAs should be replaced by sustainable fisheries agreements (SFAs) focusing on resource conservation and environmental sustainability, improved governance and effective sectoral support.

3.7.7 The EESC agrees that this new approach is necessary. The EU should therefore develop SFAs aimed at creating a favourable environment in the third developing country concerned for environmentally, socially and economically sustainable activities, based on a transparent and participatory dialogue mechanism involving all stakeholders to fulfil the developing country's priorities for the sustainable development of its fisheries sector. SFAs should be based on solid and transparent scientific advice, on assessments of the social, economic and environmental implications of each agreement, on a greater contribution from shipowners to the cost of access rights and on respect for human rights. The EESC believes that respect for workers' rights should be added to the criteria to be met by companies operating under SFAs. Furthermore, developing countries should be given support with a view to improving their capacity to carry out research and assessments of marine resources in their own waters. As well as allowing the EU fleet access to third-country waters, SFAs must contribute to the fisheries development of the country concerned, creating in the country's fisheries sector new industries that must promote food security and greater equality, increasing its port activity and generally improving social conditions by promoting new sustainable jobs for its nationals. The Committee urges the Commission to improve governance by applying social and environmental criteria and establishing all the instruments required to ensure constant monitoring of the implementation of SFAs and compliance with them. Evaluations of economic, social and environmental impacts on fisheries development in the third country concerned by the fisheries agreement should be conducted and made publicly available to all stakeholders, so that the parties in the EU and in the ACP countries in question can participate in an informed manner and engage in dialogue.

3.7.8 The EESC welcomes the proposal to include a transparency clause in future fishing agreements, to ensure that the cumulated fishing effort (by local and all foreign fleets active in a respective exclusive economic zone) is known. Such a clause, together with improved data collection and research, will help in the evaluation of the level of surplus stock available. The EESC considers that there is a need for greater transparency in the operation of SFA with regard to the publication of ex-ante and ex-post evaluations, which contain important data, such as, for example, the value of the catches made by EU fleets in ACP waters.

3.7.9 However, the EESC has concerns about some of the Communication's proposals regarding the external dimension of the CFP. In particular, it regrets that the Commission does not mention that SFAs should be instruments to protect the activity and jobs of the EU fleets operating under these agreements, given their specific characteristics and their importance for regions which are highly dependent on fisheries. Furthermore, it does not understand why the exclusivity clause is being tightened up. In fact, the EESC believes that that clause should be made more flexible in order to facilitate access to third-country waters for the EU fleet in exceptional cases. With regard to the fee for access to third-country waters, the EESC believes that EU owners should pay a reasonable and proportionate amount which does not jeopardise companies' competitiveness, and that the situation should be analysed on a case-by-case basis, since fishing conditions are not the same in all third countries. Finally, the Commission does not mention the need to negotiate adequate technical conditions to allow maximum use of fishing opportunities.

3.7.10 The EESC agrees that there is a clear need to promote the conservation of fish stocks and combine efforts at global level to eradicate illegal (IUU) fishing in all relevant international organisations.

3.7.11 The Committee believes that third-country fleets exporting their products to the EU must be required to meet the same social and environmental conditions as the EU fleet.

3.7.12 The EESC welcomes the fact that the proposal includes a paragraph on consistency with other Union policies, which should cover environmental, trade, hygiene and health, social, employment, development and external relations policies.

3.8 *Aquaculture*

3.8.1 The EESC applauds the Commission's recognition of the common European dimension of aquaculture policy and the establishment of non-binding Union strategic guidelines on common priorities and targets for the development of aquaculture activities. In particular, it welcomes the proposal to require Member States to draw up multiannual national strategic plans in their territories by 2014.

3.8.2 The EESC considers the objective of clearly defined indicators for environmental, economic and social sustainability to be important, particularly in view of aquaculture's potential for growth in the European Union and its great contribution to security of food supplies.

3.8.3 The EESC considers it vital that the reformed CFP incorporates the conclusions of the Communication on 'A new impetus for the strategy for the sustainable development of European aquaculture' [5], particularly in terms of promoting companies' competitiveness, laying the foundations for sustainable growth and improving the sector's image and governance.

3.8.4 In this regard, the Committee calls for the creation of a streamlined administrative framework and a single legal area for the development of a sustainable aquaculture sector which can help to maintain population and generate wealth in outlying and rural regions, and reiterates the need to respect, conserve and fit in with the local environment.

3.8.5 The EESC would suggest that the future Regulation could have the inclusive title 'Regulation on the Common Fisheries and Aquaculture Policy'.

3.9 *Control and enforcement*

3.9.1 Compliance with the rules of the Common Fisheries Policy shall be ensured through an effective Union fisheries control system, including the fight against illegal, unreported and unregulated (IUU) fishing.

3.9.2 The EESC agrees with the Commission's proposals regarding the control and enforcement of CFP rules, although it believes that a sufficient legal basis should be established to ensure that those committing infringements cannot escape penalties.

3.9.3 With regard to the proposal that Member States should be able to require their fishing vessels to contribute proportionally to the costs of applying the control system, the Committee believes that this charge would be seriously prejudicial to those vessels, which already pay high costs in material and human terms in order to meet all the control requirements of Regulation (EC) No 1224/2009.

3.10 *Financial instruments*

3.10.1 The Union will be able to grant financial assistance to Member States and operators to contribute to the achievement of the CFP objectives.

3.10.2 Financial assistance to Member States may be interrupted (suspension of payments) or reduced by means of a financial correction, in the event of non-compliance with the CFP objectives. Such measures shall be proportionate to the nature, extent, duration and repetition of the non-compliance.

3.10.3 Serious infringements by operators of the rules of the Common Fisheries Policy may result in temporary or permanent bans on access to the Union financial assistance and/or the application of financial reductions. Such measures shall be proportionate to the nature, extent, duration and repetition of serious infringements. The Committee welcomes this provision and considers that it should extend to Member States that do not apply the rules of the CFP.

3.10.4 The EESC believes that the new financial instrument should boost the role of fishermen in the sustainable development of coastal areas, and that this should include protection against job losses and help for the training and redeployment of workers towards other activities such as aquaculture, processing, conservation and maritime transport.

3.10.5 The EESC, noting that the Commission has not included its financial proposals in the reform package, urges it to do so as soon as possible so that an overall evaluation of the future CFP can be carried out. Although the proposal on the multi-annual financial framework maintains a budget allocation of EUR 6 700 million substantially unchanged [6], it is not clear how it is to be distributed between the Maritime Affairs and Fisheries chapters.

3.11 *Advisory councils*

3.11.1 The proposal creates advisory councils for each of the areas of fisheries competence set out in the regulation, and one for aquaculture, to promote a balanced representation of all stakeholders and to contribute to the achievement of the CFP objectives.

3.11.2 These councils replace the regional advisory councils set up under the 2003 reform. Their tasks are to submit recommendations and suggestions to the Commission and the relevant Member State regarding matters relating to fisheries management and aquaculture, and inform them of any problems; to contribute, in close cooperation with scientists (who, the EESC understands, are to play a part in their formation and operation), to the collection, supply and analysis of the data necessary for the development of conservation measures; and to issue reports and opinions on the proposed management measures on which they are obliged to be consulted.

3.11.3 The Committee believes that the proposal for a regulation should provide more detail regarding the 'balanced representation of all stakeholders', indicating that social actors will participate at the appropriate levels and in line with the customs of each Member State.

3.11.4 EU financial assistance and action by Member States should provide greater support for stakeholders in advisory councils, particularly small-scale fishing.

[5] COM(2009) 162 final, Opinion CESE 646/2010, 28.4.2010, (OJ C 18, 19.1.2011, pp. 59-63).

[6] COM(2011) 500 final, 29.6.2011, *A Budget for Europe 2020*, Part II, p. 82.

3.11.5 The EESC is surprised that the Commission's proposal does not mention the role of the EU's Advisory Committee on Fisheries and Aquaculture and is concerned about the possible disappearance of cross-sectoral working groups which deal with matters relating to the market, trade policy and general issues. The existence of advisory councils, including that for aquaculture, does not provide multisectoral forums to deal jointly with issues common to fishing, aquaculture and processing.

3.12 *The social dimension and small-scale fisheries*

3.12.1 The EESC believes that there are gaps in the Commission's proposal which should be filled, in particular the lack of a social dimension and of an adequate definition of small-scale coastal fishing and shellfishing.

3.12.2 According to Eurostat, between 2001 and 2010, the number of fishermen dropped by 20 % to 203 200, of whom just 40 % were self-employed. The sector as a whole employed five million people in 2005. The EESC believes that as much attention should be paid to the socio-economic dimension of sustainability as to the environmental dimension.

3.12.3 As it pointed out in its opinion on the Green Paper, the EESC believes that the Commission does not take the social aspects of the CFP sufficiently into account. It therefore reiterates what it said in that opinion, particularly in relation to the lack of systematic recognition of professional qualifications between the Member States, the need to compile harmonised statistics on accidents and their causes, which currently do not exist at EU level, and the urgent need to upgrade the sector, guaranteeing decent levels of earnings.

3.12.4 The EESC does not believe that the current reform will solve the employment problems facing the sector's workers and therefore recommends the introduction of accompanying measures of a socio-economic nature (diversification of activities, redeployment, training and safety of the sector's workers) to alleviate the impact of the reform process, with the greatest possible participation by institutional, economic and social actors.

3.12.5 Social aspects should be considered throughout the fishing and aquaculture sector (production, processing and marketing), providing concrete proposals to improve working and living conditions.

3.12.6 With regard to the small-scale coastal fishing fleet, the Commission maintains the current definition of vessels under 12 metres in length except for towed gear. The Committee believes that the reality of the small-scale fleet in the different Member States is not being taken into account and that a single arbitrary criterion is being set which is likely to lead to discrimination. The EESC therefore advocates criteria in addition to size which could be used to define this highly diversified form of fishing, such as time spent at sea, distance from the coast and links to local communities. This definition results in a large proportion of the small-scale fleet being included within industrial fishing, and in the Committee's view, it would be more appropriate to define this concept at national, regional or local level than to impose a uniform definition at Community level.

3.12.7 The EESC also believes that trap-nets should be included in the definition of small-scale fishing, where appropriate giving them the same rights and obligations as other small-scale fleets.

3.13 The EESC notes that the proposal for a Regulation grants the Commission wide powers to adopt delegated acts. However, given that the Commission must notify the adoption of a delegated act simultaneously to the European Parliament and the Council, and that this can be revoked by either of them, the EESC considers that safeguards are in place.

4. Analysis of the proposed reform of the COM and the Committee's comments

4.1 *Introduction*

4.1.1 The common organisation of the markets in fishery and aquaculture products will apply to the fishery and aquaculture products listed in the annex to the Regulation which are marketed in the EU, contribute to the achievement of the objectives of the CFP and be subject to the principles of good governance established therein.

4.1.2 As mentioned in point 2.2.2, it will include the following instruments: professional organisations, marketing standards, consumer information, competition rules and market intelligence.

4.1.3 The EESC supports the objectives and principles of the new COM regulation.

4.2 *Professional organisations*

4.2.1 Fishery producer organisations may be established as a group set up on the own initiative of producers of fishery products in one or more Member States and recognised in accordance with the proposal for a Regulation.

4.2.2 Despite the key role they play in the implementation of the CFP, the development of producer organisations has been restricted both by the complexity of the COM and, above all, by marketing difficulties in a situation in which competition rules make it hard to stand up to large retailers and in which cheap imports are allowed of fish and shellfish which do not meet basic food safety requirements, such as full 'sea-to-table' traceability.

4.2.3 The EESC advocates cutting red tape and simplifying administrative rules, particularly if producer organisations have to deal with the unwanted catches which will result from the ban on discards. It also recommends a review of competition policy to enable producer organisations to concentrate supply, which is currently excessively fragmented, in an operationally effective and legally secure manner. In particular, the integration of small-scale fishermen must be enhanced.

4.2.4 Aquaculture producer organisations may be established as a group set up on the own initiative of producers of aquaculture products in one or more Member States and recognised in accordance with the proposal for a Regulation.

4.2.5 The Committee supports the creation of producer organisations in the fishery and aquaculture sectors, despite the difficulties mentioned, because to date they have provided the CFP with great impetus.

4.2.6 Inter-branch organisations may be established as a group set up on the own initiative of operators of fishery and aquaculture products in one or more Member States and recognised in accordance with the proposal for a Regulation.

4.2.7 The Committee welcomes the possibility of creating inter-branch organisations which represent a significant share of at least two of the following activities: production, processing or marketing of fishery and aquaculture products. Although they are not permitted to engage directly in production, processing or marketing activities, inter-branch organisations could, in addition to the measures laid down in the proposal, help to diversify fishery products in different markets and improve profitability at all stages in the fisheries and aquaculture chain.

4.2.8 The EESC supports the objectives of inter-branch organisations and the measures they may adopt, but feels there should be an article concerning the funding of this kind of organisation.

4.3 *Extension of rules*

4.3.1 Member States may decide to make the rules agreed within a producer organisation or inter-branch organisation binding, under certain conditions, on producers and operators who do not belong to the organisation in question. They may also make those producers and operators liable to the producer organisation or inter-branch organisation for the equivalent of all or part of the costs paid by members of the organisation.

4.3.2 The EESC believes that this proposal could improve conditions for the processing and marketing of fishery and aquaculture products and help to stabilise the markets.

4.4 *Stabilisation of the markets*

4.4.1 Producer organisations may finance the storage of certain fishery products with a view to maintaining the stability of the market, provided that they meet certain conditions.

4.4.2 The EESC considers this mechanism to be appropriate. However, it believes that producer organisations should also have the autonomy to decide which species can be included in it. Furthermore, it believes that reference prices should be set for aquaculture products in the same way as is proposed for fishery products. These reference prices should be accompanied by effective intervention mechanisms tailored to the characteristics of markets in fishery and aquaculture products.

4.4.3 The EESC urges the Commission, the Member States and the sector to seek more streamlined and effective mechanisms for balancing the supply and demand of sea products. Coordination measures and agreement within inter-branch organisations could provide a good starting point.

4.5 *Consumer information*

4.5.1 An annex to the proposal lists fishery and aquaculture products which may be marketed within the EU, including imports. These products may only be offered for retail sale to the final consumer if their marking or labelling indicates the following minimum information: the commercial designation, the production method, the area where the product was caught or farmed, the date of catch or harvest and whether the product is fresh or defrosted. Prepared and preserved fish, caviar and caviar substitutes, and prepared and preserved crustaceans, molluscs and other aquatic invertebrates may only be sold if the first three elements obligatory for other fishery and aquaculture products are indicated on the marking or labelling: the commercial designation of the species, the production method and the area where the product was caught or farmed.

4.5.2 The proposed consumer information introduces new requirements (both for those in Chapter 3 and for those in Chapter 16 included in Annex II containing the description of goods) which are not included in the current COM regulations, and extends these measures to imports.

4.5.3 The EESC believes that the new consumer information requirements are positive, but should be carefully studied in order to take account of the specific characteristics of the various ways in which fishery and aquaculture products are presented.

4.5.4 These new requirements must genuinely respond to positive elements which offer the consumer true added value, do not create confusion between labelling and traceability, do not constitute technical barriers for producers and are in line with the recent reforms of Regulation (EU) No 1169/2011 on the provision of information to consumers [7] and Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the CFP [8].

(7) OJ L 304, 22.11.2011, p. 18-63.
(8) OJ L 343, 22.12.2009, p. 1.

4.5.5 The EESC therefore believes that, before introducing new labelling requirements, the Commission should carry out an impact assessment, analysing their viability, applicability and usefulness for consumers.

4.5.6 In response to the demand for greater transparency, the proposal provides for the possibility, on a voluntary basis and without detriment to the space available for the mandatory information, also to provide environmental, ethical or social information, information on production techniques, and information on the nutritional content of the product. The EESC believes that any proposal for voluntary information should be based on regulated minimum standards which prevent this information from becoming a source of consumer confusion and market distortion.

4.5.7 The Committee stresses the need to strengthen control of the rules on the traceability of sea products. This will tighten up the identification of the origin of products fished or farmed and help to ensure compliance with food safety requirements at all stages in the fishery and aquaculture chain: production, processing and marketing.

4.5.8 In order to prevent unfair competition on the EU market, the EESC recommends that imported products be subject to the same hygiene and health and control requirements as EU products, including full 'sea-to-table' traceability, and calls for exhaustive controls, at borders and at origin, to ensure proper compliance with these rules, which contribute to food safety. In this regard, the Committee feels that a consistent approach should be established amongst the European Commission's various Directorates-General.

4.5.9 The Committee believes that consideration should be given to the possibility of extending the harmonisation of production criteria to social and employment aspects and to environmental protection and sustainability. To this end, it proposes that the social and environmental impact and scope of trade agreements between the EU and third countries be analysed before they are concluded, and that their results be closely and regularly monitored, in order to prevent the competitiveness of the European fishery, shellfishing and aquaculture sector and its marketing and processing chain from being undermined.

4.6 *Market intelligence*

4.6.1 The Commission proposes to carry out a series of actions aimed at providing the sector's various stakeholders with information on the situation and developments, taking into account the international context, monitoring the supply chain, analysing market trends and providing ad-hoc market studies on price formation. The EESC welcomes this proposal.

4.7 *Exercise of delegation*

4.7.1 The EESC agrees with the delegation of powers conferred on the Commission, since they all concern the effective compliance with and monitoring of the proposal for a Regulation on the COM.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1185/2003 on the removal of fins of sharks on board vessels'

COM(2011) 798 final — 2011/0364 (COD)

(2012/C 181/34)

Rapporteur: **Mr Espuny MOYANO**

On 30 November and 13 December 2011, the European Parliament and the Council 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 Regulation of the European Parliament and of the Council amending Regulation (EC) No 1185/2003 on the removal of fins of sharks on board vessels

COM(2011) 798 final — 2011/0364 (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 14 March 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), the European Economic and Social Committee adopted the following opinion by 103 votes to 30 and 22 abstentions.

1. **Conclusions**

1.1 The Committee roundly rejects the practice of finning by any fleet in the world.

1.2 The EESC agrees with the Commission that abolishing temporary permits and introducing an 'attached fins' policy would prevent finning from being practised in the EU. However, the Committee is concerned about the economic and social consequences of these measures and feels that, alternative methods should be sought to ensure compliance with the ban on finning without seriously affecting the profitability of businesses and the safety of crew members, even though these alternatives will not eliminate the problems of monitoring and enforcement that have been documented by the Commission.

1.3 The EESC suggests the following alternative measures:

1.3.1 An obligation to land bodies and fins in the same port;

1.3.2 Abolishing special permits for the wet fish fleet;

1.3.3 Authorising special permits for freezer vessels provided that they use a traceability mechanism which guarantees the link between bodies and fins that are landed;

1.3.4 The introduction in all Regional Fisheries Organisations (RFOs) of a statistical document programme for the shark fin trade.

1.4 The Committee recommends that plans to manage shark catches be adopted in all RFOs, which should establish, among other things, measures to restrict fishing effort, closed seasons/areas and a ban on high seas transhipment.

1.5 The Committee calls on the European Commission to do everything possible to ensure compliance with the ban on finning in those third country fleets where this deplorable practice still persists, and with the obligations concerning the referral of reliable data on catches of these species by third country fleets within the framework of RFOs.

1.6 The EESC calls on the European Commission to guarantee in writing that the process of cutting off the fin completely, which would have to be carried out in the third country where the catch is landed, be regarded as 'simple cutting', thus not altering the Community origin of the product.

2. **Introduction**

2.1 Council Regulation (EC) No 1185/2003 on the removal of fins of sharks on board vessels [1] establishes a general prohibition to the practice of 'shark finning', whereby the fins are removed from sharks, with the remainder of the shark being discarded at sea.

2.2 It also allows Member States to issue special fishing permits allowing processing on board, whereby shark fins can be removed from the bodies without the body of the shark being thrown back into the sea. In order to ensure the correspondence between the weight of fins and bodies, a fin-to-live weight ratio has been established.

2.3 The Commission believes that these special permits do not ensure control of finning and thus proposes, on the one hand, that they be abolished and, on the other, that shark fins could be partially sliced through and folded against the carcass.

[1] OJ L 167, 4.7.2003, p. 2.

3. **General comments**

3.1 The Committee roundly rejects the practice of finning by any fleet in the world.

3.2 The EESC has noted that many scientists, Member States, NGOs and the fishing sector believe that there is no proof that finning exists in the EU ([2]). It is clear, however, that finning does occur in other countries outside the EU.

3.3 The Committee feels that, in order to understand why special fishing permits should be maintained, it is important to be familiar with the activities of the surface-set longline fleet which catches pelagic sharks and which until now has used these permits.

3.3.1 The Community surface-set longline fleet which catches sharks comprises some 200 vessels ([3]). Each vessel needs between 12 and 15 crew members on board.

3.3.2 These vessels specialise mainly in catching swordfish and also catch species of pelagic shark: blue shark (prionace glauca) accounts for approximately 87 % and shortfin mako shark (isurus oxyrinchus) around 10 % of the total catch of pelagic sharks. Both species are very common in the epipelagic ocean system and have broad geographical distribution in the Atlantic, Indian and Pacific Oceans. According to the most recent assessments by ICCAT, stocks of prionace glauca and isurus oxyrinchus are in a good situation from a biological point of view and from the point of view of exploitation rates. Their respective biomasses were identified as exceeding or being around the same level as the Maximum Sustainable Yield.

3.3.3 The presentation by the EU fleet of all fins at first sale differs from the approach of other fleets from non-European Western countries, in which only some of them are used or they are discarded.

3.3.4 It is essential to distinguish between the activities of wet fish and freezer vessels:

3.3.4.1 Wet fish or mixed vessels (freezer vessels with some fresh catch): these operate in the Atlantic and usually land their catches in the port of Vigo or other Community ports with the fins uncut. Fishing trips usually last just over one month.

3.3.4.2 Freezer vessels: they operate in the Atlantic, Indian and Pacific Oceans, with fishing trips usually lasting at least three months. On board these vessels, after the shark has been caught, the head is removed, it is gutted and all fins are removed. All parts of the shark are washed with abundant water and put in the tunnel freezer. The livers are placed in a bag and then in a plastic box. Once the freezing process is complete, the bodies are packaged, first in plastic raffia and then in cotton sacking (in order to protect the product and achieve better quality).

The fins and livers are placed in boxes. Before storing the products in the hold of the vessel, all parts are labelled, indicating the type of product, how it is presented and the area in which it was caught. Catches are usually landed in Vigo, in other Community ports or in foreign ports:

— North Atlantic: Cape Verde (Praia), Azores (Horta), the Canaries (Las Palmas);

— Indian Ocean: South Africa (Durban), Mauritius (Port Louis), Indonesia (Jakarta);

— Pacific Ocean: Peru (Callao, Chimbote, Puerto Pisco), Panama (Vacamonte), New Zealand (Napier), French Polynesia (Papeete - Tahiti).

— South Atlantic: Uruguay (Montevideo), Namibia (Walvis Bay), South Africa (Cape Town);

3.3.5 Bodies and fins are usually landed in the same ports. However, the sale of shark fins and bodies usually follows different routes. For example, once they have been landed, bodies are sent to Vigo or to South America (mainly Brazil, Peru and Columbia). Those which are sent to Vigo are usually sold in Italy, Greece, Romania, Ukraine, Poland, Russia, Portugal, Andalusia and South America. Fins, on the other hand, are normally sent to Vigo and, subsequently, to Japan, Hong Kong, China, California, etc., or are sent directly to those countries from the place in which they were landed.

3.3.6 In terms of price, the reality is that shark bodies are usually sold at first sale for a price of between 0.5 and 2 EUR/kg, whereas the fins of blue and shortfin mako sharks are sold at first sale for between 10 and 15 EUR/kg.

3.3.7 Currently, the revenue obtained by ship owners for the sale of shark bodies accounts for around 55 % of total revenue, while sale of fins accounts for some 45 %.

3.3.8 From a nutritional point of view, the shark, which is bone-free, provides around 130 calories for every 100 grammes. Its meat is partially fatty – 4.5 grammes of fat for every 100 grammes – and very rich in high-quality proteins – 21 grammes for every 100 grammes of meat –, containing all the essential amino acids. Its fat is mainly unsaturated, which means that its consumption is suitable for prevention diets and for treatment of cardiovascular diseases, provided that it is cooked in the right oils, such as olive or seed oil. It is easy to digest and although it contains smaller quantities of group B vitamins than other fish, it is rich in the fat-soluble vitamins A and E. The main minerals it contains are phosphorous, potassium, magnesium and iron.

([2]) Report from the Commission to the Council and the European Parliament on the operation of Council Regulation (EC) No 1185/2003, 23.12.2005 (COM(2005) 700); own-initiative report of the European Parliament Fisheries Committee, INI/2054/2006; position of the Long Distance Fleet Regional Advisory Council (LDRAC) on the consultation of the Commission on an EU shark action plan and the LDRAC minutes of the joint meeting on the public consultation of the amended regulation on removing the fins of sharks, 18.2.2011.

([3]) Excluding Mediterranean vessels, which do not require special permits.

3.3.9 At present, the whole of the shark is used in accordance with FAO recommendations. Apart from the body and fins being used, the pharmacological and cosmetics industry uses the liver to extract vitamin A and squalene, and the skin is used to make leather goods.

3.4 The Committee believes it is important to know the reasons why the European fleet needs special permits:

3.4.1 Safety. When the animal is frozen, attached fins are like sharp knives, which means that handling them on board vessels which are subject to a constant swaying movement poses a serious risk for crewmembers during the handling and landing process.

3.4.2 Quality. Storing fins when attached naturally to the trunk of the shark causes the quality of the catch to deteriorate, both in respect of the fins and the body, since it causes grazes and cuts to them. A product which has just been caught and frozen offers high quality from both the nutritional and the health/hygiene points of view. Cutting off the fins before freezing the body means that at no point is the cold chain broken.

3.4.3 Use of space. Storing shark bodies and fins separately (or between the spaces created when the shark bodies are stowed) enables the space available in the hold to be used more effectively, thus making vessels more profitable.

3.4.4 Different sales channels for shark fins and bodies. This would mean that when the product is landed in a third country, the fins would have to be cut off on land, with the following consequences:

3.4.4.1 Handling them in a foreign port may mean that the origin of the product would change if this procedure were not considered to be 'simple cutting' ([4]), in which case it would no longer be a Community product and would come under the category of products exported into the EU, with all the health and customs requirements and conditions this entails.

3.4.4.2 It would also introduce new risk factors for the unloading of the catch which would become more complicated, in addition to increasing the time needed for this particular action.

3.4.4.3 At the same time, this increase in the time taken for unloading reduces the quality of the products by causing a significant loss in the cold chain. It poses a health risk, since it might cause histamines to appear and an increase in the total number of volatile bases containing nitrogen, with the product deteriorating as a result.

3.4.4.4 Furthermore, the main ports for landing frozen catches are normally in third countries which lack the appropriate infrastructure. What is more, the vast majority are in tropical areas, something which accelerates the loss of cold, making the consequences highlighted in the previous point even worse.

3.5 Finning is practised by non-European vessels which, despite not having systems for freezing, operate in distant waters and for prolonged periods and thus preserve only the fins (using dehydration) while discarding the bodies which otherwise would cause them to decay. For European freezer vessels which would be affected by the Commission proposal, practising finning would involve throwing overboard a valuable source of revenue based on the sale of bodies, which does not make any business sense.

3.6 The EESC agrees with the Commission that abolishing temporary permits and introducing an 'attached fins' policy would ensure that finning is not practised in the EU. However, taking account of the abovementioned factors and the potential negative consequences of those measures for fishermen, feels that alternative, methods should be sought to ensure compliance with the ban on finning without seriously affecting the profitability of businesses and the safety of crew members, even though these alternatives will not eliminate the problems of monitoring and enforcement that have been documented by the Commission.

3.7 The EESC suggests the following alternative measures:

3.7.1 An obligation to land bodies and fins in the same port;

3.7.2 Abolishing special permits for the wet fish fleet;

3.7.3 Authorising special permits for freezer vessels provided that they use a traceability mechanism which guarantees the link between bodies and fins that are landed;

3.7.4 The introduction in all RFOs of a statistical document programme for the shark fin trade, such as the one that exists for bluefin tuna in the International Commission for the Conservation of Atlantic Tuna (ICCAT).

3.8 In addition, the Committee recommends that plans to manage shark catches be adopted in all RFOs, which should establish, among other things, measures to restrict fishing effort, closed seasons/areas and the ban on high seas transhipment.

3.9 The Committee believes that the European Commission should step up its efforts to ensure compliance with the ban on finning in those fleets where this deplorable practice still persists, and with the obligations concerning the referral of reliable data on catches of these species by the third country fleet within the framework of RFOs.

([4]) Commission Regulation (EU) No 1063/2010, 18 November 2010 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 307, 23.11.2010, Art. 78(1)(i).

4. **Specific comments**

4.1 The Committee welcomes the initiatives taken by certain Member States to protect the most vulnerable species of shark, in particular Spain's ban on catching thresher (Alopiidae family) and hammerhead sharks (Sphyrnidae family) [5]; therefore calls for appropriate measures to be adopted in all RFOs to protect and manage the most vulnerable species of shark.

4.2 The Committee believes that the current model based on ratios is appropriate and effective. However, various scientific studies on the subject carried out by European research bodies lead to the conclusion that the ratio of 5 % is not suitable (too low) either for the fishing practices of the European fleet, which are based on the full and maximised use of the weight of the fins, or for the main species of shark caught (blue shark and shortfin mako). It is therefore also not suitable for all species combined. The EESC believes that, in view of the studies already carried out, the maximum admissible ratios, established by using realistic criteria with an adequate technical and scientific basis, should be redefined. The new ratio should refer explicitly to the live weight of sharks in order to avoid the current problems of interpretation.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

([5]) Order ARM/2689/2009, 28 September, banning the capture of thresher sharks (Alopiidae family) and hammerhead and winghead sharks (Sphirnidae family). Spanish Official Gazette No 240, Monday 5 October 2009, p. 84098.

Opinion of the European Economic and Social Committee on the 'Amended proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC as regards information to the general public on medicinal products subject to medical prescription'

COM(2012) 48 final — 2008/0256 (COD)

(2012/C 181/35)

On 27 February and 13 March 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 168 (4)(c) of the Treaty on the Functioning of the European Union, on the

Amended proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC as regards information to the general public on medicinal products subject to medical prescription

COM(2012) 48 final — 2008/0256 (COD).

Since the Committee had already set out its views on the contents of the proposal in question in opinion CESE 1022/2009, adopted on 10 June 2009 (*), it decided at its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), by 161 votes to 1 with 9 abstentions, not to draw up a new opinion on the subject, but to refer to the position it had taken in the above-mentioned document.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(*) OJ C 306, 16.12.2009, p. 18.

Opinion of the European Economic and Social Committee on the 'Amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription'

COM(2012) 49 final — 2008/0255 (COD)

(2012/C 181/36)

On 27 February and 13 March 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 168 (4)(c) of the Treaty on the Functioning of the European Union, on the

Amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 726/2004 as regards information to the general public on medicinal products for human use subject to medical prescription

COM(2012) 49 final — 2008/0255 (COD).

Since the Committee had already set out its views on the contents of the proposal in question in opinion CESE 1025/2009, adopted on 10 June 2009 (*), it decided at its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March), by 156 votes to 1 with 9 abstentions, not to draw up a new opinion on the subject, but to refer to the position it had taken in the above-mentioned document.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(*) OJ C 306, 16.12.2009, p. 33.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2001/83/EC as regards pharmacovigilance'

COM(2012) 52 final — 2012/0025 (COD)

(2012/C 181/37)

On 27 February and 16 February 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 168 (4)(c)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 2001/83/EC as regards pharmacovigilance

COM(2012) 52 final — 2012/0025 (COD).

Since the Committee endorses the content of the proposal and has already set out its views on the subject in its earlier opinion CESE 1022/2009, adopted on 10 June 2009 (*), it decided, at its 479th plenary session of 28 and 29 March 2012 (meeting of 28 March), by 158 votes to 1 with 6 abstentions, not to draw up a new opinion on the subject but to refer to the position it had taken in the above-mentioned document.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(*) OJ C 306, 16.12.2009, p. 18.

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 726/2004 as regards pharmacovigilance'

COM(2012) 51 final — 2012/0023 (COD)

(2012/C 181/38)

On 27 February and 16 February 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 168 (4)(c) 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 726/2004 as regards pharmacovigilance.

COM(2012) 51 final — 2012/0023 (COD).

Since the Committee endorses the content of the proposal and has already set out its views on the subject in its earlier opinion CESE 1025/2009, adopted on 10 June 2009 (*), it decided, at its 479th plenary session of 28 and 29 March 2012 (meeting of 28 March), by 157 votes to 1 with 9 abstentions, not to draw up a new opinion on the subject but to refer to the position it had taken in the above-mentioned document.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(*) OJ C 306, 16.12.2009, p. 33.

Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on the classification, packaging and labelling of dangerous preparations'

COM(2012) 8 final — 2012/007 (COD)

(2012/C 181/39)

On 2 February 2012 the European Parliament and on 8 March 2012 the Council decided to consult the European Economic and Social Committee, under Article 114 and Article 304 of the Treaty on the Functioning of the European Union, on the

Proposal for Proposal for a Directive of the European Parliament and of the Council on the classification, packaging and labelling of dangerous preparations

COM(2012) 8 final — 2012/007 (COD).

Since the Committee endorses the contents of the proposal and has already set out its views on the subject in its earlier opinion CES 330/97, adopted on 20 March 1997 (*), it decided, at its 479th plenary session of 28 and 29 March 2012 (meeting of 28 March 2012), by 166 votes to 2 with 9 abstentions, to issue an opinion endorsing the proposed text and to refer to the position it had taken in the above-mentioned document.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

(*) ESC opinion on the Proposal for a European Parliament and Council Directive concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations, OJ C 158/1997, page 76, 26 May 1997.

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 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks'

COM(2012) 21 final — 2012/0013 (COD)

(2012/C 181/40)

On 13 March 2012 the European Parliament and on 22 February 2012 the Council 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 Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks

COM(2012) 21 final — 2012/0013 (COD).

Since the Committee endorses the contents of the proposal, it decided, at its 479th plenary session of 28 and 29 March 2012 (meeting of 28 March 2012), by 158 votes to 2 with 10 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON

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