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## I

(Resolutions, recommendations and opinions)

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

485TH PLENARY SESSION HELD ON 12 AND 13 DECEMBER 2012

**Opinion of the European Economic and Social Committee on 'Developing a macro-regional strategy in the Mediterranean — the benefits for island Member States' (exploratory opinion for the Cyprus Presidency)**

(2013/C 44/01)

Rapporteur: **Mr DIMITRIADIS**

On 22 May 2012, Andreas MAVROYIANNIS, Deputy Minister to the President for European Affairs of the Republic of Cyprus, asked the European Economic and Social Committee, on behalf of the forthcoming Cyprus Presidency, to draw up an exploratory opinion on:

*Developing a macro-regional strategy in the Mediterranean — the benefits for island Member States.*

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 21 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 147 votes to 1 with 5 abstentions.

## 1. Conclusions

1.1 The EESC believes that despite the very fragile and still indeterminate situation prevailing in the Mediterranean, the conditions are in place for multilevel dialogue to begin between the Commission, the Member States, the countries involved in Euro-Mediterranean cooperation, local and regional authorities and civil society to establish a Mediterranean macro-regional strategy (divided into two parts) that will meet the needs of the region by strengthening its international competitiveness<sup>(1)</sup>.

1.2 The EESC concedes that the Mediterranean region is geographically very large and has varying economic, social, political and cultural features, and countries with different systems and infrastructures (EU countries, non-EU countries with EU candidate status, and non-EU countries taking part in Euro-Mediterranean cooperation). For this reason it is proposed that two subregional policies (for the eastern and western Mediterranean) should be set up, which would be complementary, coordinating their work with each other and with that of the macro-regional Adriatic-Ionian strategy.

1.3 The EESC takes note of the decisions taken by the Council and the concurring view of the European Parliament that a macro-regional strategy should not require more money, more regulation or new management bodies (the three 'noes'), but it believes that funding is needed for technical assistance to collect data and promote the necessary structural projects.

<sup>(1)</sup> See European Parliament report on *The evolution of EU macro-regional strategies: present practice and future prospects, especially in the Mediterranean*. Rapporteur: François Alfonsi (A7-0219/2012). Resolution of the European Parliament of 3 July 2012 on *The evolution of EU macro-regional strategies: present practice and future prospects, especially in the Mediterranean* (2011/2179(INI)).

1.4 The EESC believes that funding sources in the form of the considerable resources that have already been committed by the EU for measures and programmes through the structural funds and the financing instruments of the EIB represent adequate means that must be used transparently as well as flexibly. It also advocates the setting up of a Euro-Mediterranean investment bank through the EIB, as well as an open policy on funding from various financial bodies (KfW, EBRD, World Bank, African Development Bank and Islamic Development Bank).

1.5 The EESC believes that subregional cooperation must be consolidated without delay by boosting the trade, tourism and industrial links of the southern Mediterranean countries.

1.6 The EESC believes that the necessary political decisions must be taken by the Council in order to remove outstanding issues so that the Union for the Mediterranean can be a body responsible for strategic planning and implementing the new macro-regional policy.

1.7 The EESC believes that prompt approval by the Council of the Adriatic-Ionian Strategy (see Council Conclusions of 24 June 2011) will open the way for establishing a macro-regional strategy for the Mediterranean.

1.8 The EESC believes that Cyprus and Malta will play a particularly important role in any new strategy framed by the EU, as will all the islands of the Mediterranean, which face a very difficult situation owing to their poor connections and communications with the continental EU Member States.

1.9 The EESC draws attention to the considerable importance for the wider Mediterranean region of stimulating agricultural production.

1.10 The EESC believes it is necessary to generally improve maritime and air links between the countries of the Mediterranean and, more broadly, with the rest of the EU.

1.11 The EESC considers that the present opinion will serve to open a dialogue on the new Mediterranean macro-regional

strategy and submit the main issues of the strategy for consultation. The Committee explicitly undertakes to continue working on this very important issue by producing further opinions that explore in more detail and depth all of the questions addressed in this opinion.

## 2. Introduction

2.1 On assuming the presidency of the EU Council in the second half of 2012, Cyprus prioritised the drawing up of an opinion on *A macro-regional strategy for the Mediterranean* that would focus on how such a strategy could benefit the island countries.

2.2 The decision to task the EESC with drawing up this opinion can be attributed to the role that the Committee has played in producing advisory opinions that express and represent the views of civil society organisations in the Member States, thus strengthening participatory democracy in the EU.

2.3 The topic was selected following the successful framing of macro-regional approaches for the Baltic Sea region<sup>(2)</sup> – as well as the macro-regional strategies for the Danube, the Adriatic and Ionian region, and the Atlantic – since the Mediterranean is a region with particular characteristics and consequent needs.

2.4 The objective of this strategy will be to create policies helping countries in the Mediterranean region to strengthen their economic and social relations, and to cooperate in resolving common problems, allowing the region to become internationally competitive, prosperous, safe and environmentally sustainable. Such a macro-regional strategy will also coordinate all the policies, objectives and measures of EU bodies with those of the Member States, the regions, local economic and social councils, and all stakeholders in the Mediterranean, in particular small and isolated island Member States in the region.

2.5 The strategy is also expected to resolve the problems caused by the current economic crisis, by accelerating rates of growth, creating job opportunities and reducing unemployment.

<sup>(2)</sup> See EESC opinions on *Macro-regional cooperation - Rolling out the Baltic Sea Strategy to other macro-regions in Europe*, OJ C 318, 23.12.2009, p.6; and on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning *The European Union Strategy for the Baltic Sea Region*. COM(2009) 248 final, OJ C 339, 14.12.2010, p. 29.

2.6 To this end, the opinion adopts the definition used by the Commission<sup>(3)</sup>, whereby a macro-regional strategy is considered to be a strategy for a region that comprises territories in different countries and regions that have shared features, such as a single maritime or other type of space, or which face the same challenges, such as development problems, climate change, limited economic and cultural exchanges, etc. Macro-regional strategies are approaches that draw on existing instruments, programmes and funding and deploy them to achieve the specific goals set for the macro-region, while aiming to include public and private sources in their planning so as to match broader policies with available funding (EU, national, regional). They also facilitate convergence between the resources of the regions and those of the various Member States, based on the implementation of coordinated 'governance', and the creation of 'mutual benefit' for all parties.

2.7 In view of the shifting and very unsettled political and social conditions prevailing in the countries of the southern Mediterranean following the recent uprisings, the EU has established a new approach to the region which it calls the 'partnership for democracy and shared prosperity'. This partnership will reward those countries that make progress in implementing the necessary reforms based on specific and measurable goals<sup>(4)</sup>.

### 3. Challenges faced by the Mediterranean region

3.1 It is worth noting that given the plethora of programmes and initiatives already devised both for the wider Mediterranean region (the Euro-Mediterranean relationship, also known as the Barcelona Process) and for more specific regions of the Mediterranean, such as the Ionian and Adriatic (territorial cooperation in the Mediterranean through the Adriatic-Ionian macro-region), this new macro-regional strategy should encompass all the countries of the Mediterranean, namely EU Member States (Portugal, Spain, France, Italy, Greece, Cyprus, Slovenia and Malta) and third countries (Croatia, Montenegro, Albania, Turkey, Lebanon, Syria, the Palestinian Authority, Jordan, Israel, Egypt, Libya, Algeria, Tunisia and Morocco).

3.2 Before outlining the framework of objectives and policies, the challenges which the region faces must be defined.

3.2.1 The Mediterranean, and in particular the eastern Mediterranean, is very important historically, and comprises EU Member States as well as countries outside the EU that are at different stages of development. Because the Mediterranean has

<sup>(3)</sup> See the Communication from the Commission to the European Parliament, the Council, the European Economic and Social and the Committee of the Regions concerning *The European Union Strategy for the Baltic Sea Region* (COM(2009) 248 final, OJ C 339, 14.12.2010).

<sup>(4)</sup> Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A partnership for democracy and shared prosperity with the Southern Mediterranean*, COM(2011) 200 final, 8.3.2011.

been populated and a centre of business and intensive circulation of goods, people and shipping since ancient times, it is characterised by substantial flows of people and trade yet economic relations between the countries of the region remain very limited; for instance, there are no direct flights or sea connections between the countries of the eastern Mediterranean. Those who see 'Euro-Mediterranean cooperation' as regrettably limited to cooperation between the countries of the southern Mediterranean and the EU, or to bilateral relations between those countries and certain EU Member States, understand the reality of the situation.

3.2.2 It should be noted that the prevailing economic imbalances, different levels of development and wealth, as well as the frequent tensions, particularly at the present time, in the region mean that movement of people has taken on the dimensions of permanent economic migration (legal and illegal)<sup>(5)</sup>. This is having negative effects in both countries of origin and destination countries, with movements of people seeking political asylum a particularly serious aspect of the problem.

3.2.3 The Mediterranean region remains a breeding-ground of political instability and armed conflict, with undesirable loss of life, destruction of property, and consequences for business and trade, as well as the environment. Furthermore, since the start of the Arab uprisings there has been a pressing need to formulate a strategy to reinforce economic and social ties between countries in the region, with an EU initiative that will be built through democratic dialogue with both governments and civil society<sup>(6)</sup>, demonstrating that the EU effectively stands alongside the peoples of the southern Mediterranean<sup>(7)</sup>.

3.2.4 The region is rich in valuable raw materials, above all energy reserves in the wider Middle East and North Africa region. An important development is the recent discovery of new natural gas reserves, which are expected to yield new, and more stable, sources of energy for the EU. However, it is necessary to ensure a secure environment and to improve sea, air and other communication routes between the countries of the Mediterranean and the rest of the world, with particular emphasis on merchant shipping, which is an important economic activity in the region.

<sup>(5)</sup> See EESC opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - *Communication on migration*, COM(2011) 248 final, OJ C 248, 25.8.2011, p. 135.

<sup>(6)</sup> See EESC opinions on *Promoting representative civil societies in the Euromed region*, OJ C 376, 22.12.2011, p. 32 and *The Baltic Sea region: the role of organised civil society in improving regional cooperation and identifying a regional strategy*, OJ C 277, 17.11.2009, p. 42.

<sup>(7)</sup> See EESC opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - *A new response to a changing neighbourhood*, OJ C 43, 15.2.2012, p. 89, and EESC opinion on *The role of the European Union in peace building in external relations: best practice and perspectives*, OJ C 68, 6.3.2012, p. 21.

3.2.5 It has been observed that years of resource use, farming, recent and frequent droughts, overfishing, as well as dense marine traffic, have resulted in pollution, with negative effects on marine life and coastlines, which are affecting tourism. Agricultural activity is yielding steadily fewer and inferior agricultural products<sup>(8)</sup>, while marine assets have been gradually eroded and a decrease in fishing yields can be observed.

3.2.6 A common feature of all the Mediterranean countries is the important role of the tourism industry in providing employment and generating growth; promoting tourism cooperation between countries in the region must therefore be a key plank of the strategy, with the aim of addressing serious problems, especially seasonality.

3.2.7 Finally, use of internet technology and communications is limited, especially on the southern side of the Mediterranean, and there is a dearth of research activity and innovation, which are essential elements in a modern economy. Connectivity between the Mediterranean countries is very limited.

3.3 It should be noted that economic, political and social relations between the countries of North Africa are particularly underdeveloped, so that what is referred to as Euro-Mediterranean cooperation is effectively limited to certain countries. At the same time, the programmes that the EU has implemented in the region have had limited success, owing to a shortage of capable local partners, to corruption<sup>(9)</sup> and to inadequate understanding of local mores, traditions and social perceptions. The Barcelona Process, launched in 1995, has had poor results, while neither the MEDA programme nor the Union for the Mediterranean (UfM) have so far had the anticipated effect in terms of properly promoting EU cooperation with the countries of the Mediterranean basin.

#### 4. Objectives of a macro-regional strategy in the Mediterranean

4.1 In light of the challenges described above, it is proposed that the main objectives of a macro-regional strategy in the Mediterranean should be:

4.1.1 to achieve sustainable development while strengthening the competitiveness of the economies and countries in the region, so as to respond to the current international economic crisis, creating job opportunities and reducing unemployment;

4.1.2 to strengthen relations between the Mediterranean countries and make them a bridge between the EU, the

Middle East and Africa, with the aim of establishing peace, prosperity and regional cohesion;

4.1.3 to frame an ambitious energy policy serving the interests both of countries in the region and of the EU, given the need for the Union to ensure a diversity of energy suppliers and reduce its reliance on Russia;

4.1.4 to boost the free movement of goods, services, capital and people between the non-EU Mediterranean countries;

4.1.5 to improve connectivity so as to ensure fast and unhindered access to goods, people and services, with the focus on safe transport of energy goods;

4.1.6 to strengthen the role of small EU island Member States in the Mediterranean – i.e. Cyprus and Malta – by setting up specific initiatives to improve relations with the Mediterranean partners, especially by expanding internet links between these countries and the rest of the world;

4.1.7 to promote job-creation programmes for population groups that require special attention (women<sup>(10)</sup>, young people, people with special needs, etc.)

4.2 The aim of the macro-regional strategy in the Mediterranean (divided into subregional strategies for the eastern and western Mediterranean) must be to make the region really pioneering in terms of business, tourism, culture, ideas, innovation, research and educational activities, transforming it into an area of peace so that there can be sustainable social development and prosperity.

#### 5. Strategic approach to the Mediterranean macro-region

5.1 The above analysis can be used to identify the main elements of a strategy, based on the following six pillars, which are consistent with the Europe 2020 strategy<sup>(11)</sup>.

5.1.1 The first **pillar** concerns economic cooperation and development coupled with the objectives of sustainability, including far-reaching action on the economy, e.g.:

- establishing a long-term strategy within the CAP to promote sustainable farming activity, backed up by training, technology, innovation and research;

- implementing policies to expand aquaculture;

<sup>(8)</sup> See EESC opinion on *Agriculture in Euromed (including the importance of women's work in the agricultural sector and the role of cooperatives)*, OJ C 347, 18.12.2010, p. 41.

<sup>(9)</sup> See EESC opinion on *Civil society's role in combating corruption in the southern Mediterranean countries*, OJ C 351, 15.11.2012, p. 27.

<sup>(10)</sup> See EESC opinion on *Promotion of women's entrepreneurship in the Euromed region*, OJ C 256, 27.10.2007, p. 144.

<sup>(11)</sup> [http://ec.europa.eu/europe2020/index\\_en.htm](http://ec.europa.eu/europe2020/index_en.htm)

- strengthening SMEs, which are the backbone of local economies;
- liberalising trade between countries in the region;
- combating corruption, which destroys economic and social structures and reduces competitiveness;
- promoting tourism and cultural development, with the emphasis on transnational cooperation, attracting foreign investment, developing cruise tourism with a range of destinations, enhancing the cultural heritage, and upgrading beaches to quality-flag level.

5.1.2 The second **pillar** relates to environmental protection and combating climate change, in particular:

- conserving marine and underwater resources by renewing fish stocks and minimising the problems of climate change;
- taking additional measures to protect coastlines;
- stepping up cooperation between countries in the region to protect and ensure fair distribution of limited water resources;
- applying the principles of sustainability in sea transport by using new technologies for shipping traffic that will lower operating costs and reduce CO<sub>2</sub> emissions.

5.1.3 The **third pillar** is about transport and ensuring sea and air connectivity and safe transport of goods and people. This would include:

- strengthening and improving merchant shipping through cooperation between the countries of the Mediterranean, and ensuring secure conditions for international sea, coastal and air routes;
- improving air and sea connections between Mediterranean regions, between the eastern and western Mediterranean, and with the rest of the EU;

- creating new shipping routes and improving existing ones, especially to ensure safe and competitive connections for the island Member States.

5.1.4 The fourth **pillar** is cooperation in the sphere of energy <sup>(12)</sup>, concerning hydrocarbons and renewable energy sources, as well as safe transport of energy from producer countries to the EU and elsewhere. The long-term objective of creating an EU-Southern Mediterranean Energy Community is a bold, but necessary, plan. This objective will call for the framing of a multilevel energy policy for the Mediterranean with a view to:

- exploitation of newly discovered sources of natural gas and renewable energy sources such as solar and wind power;
- discovery and exploitation of new natural gas reserves;
- development of renewable energy sources through regional initiatives such as the Mediterranean Solar Plan, Dii - Renewable energy bridging continents, and Medgrid;
- integration of the southern Mediterranean region into the EU internal energy market.

5.1.5 The **fifth pillar** concerns innovation and competitiveness. The strategy must capitalise on the opportunities provided by existing EU initiatives in the sphere of research and innovation, so as to improve competitiveness and further the prosperity of people and countries in the wider Mediterranean region, by:

- promoting educational reform and adapting education systems to current development requirements, with workforce training and continuing training policies;
- providing for closer cooperation in research and technology between universities, businesses and research bodies;
- promoting exchange programmes for scientific staff and students (e.g. Erasmus and Leonardo da Vinci programmes);
- stepping up cooperation between countries on upgrading IT connections and improving internet access.

<sup>(12)</sup> See EESC opinion on The promotion of renewable energies and the European Neighbourhood Policy: the case of the Euro-Mediterranean region, OJ C 376, 22.12.2011, p. 1.  
See EESC opinion on The external dimension of the EU's energy policy, OJ C 182, 4.8.2009, p. 8.

5.1.6 The **sixth pillar** is about immigration and mobility<sup>(13)</sup>, which means promoting legal, managed migration, respect for international asylum law, a reduction in illegal immigration, measures against criminal human trafficking networks, and protection of human rights during border controls.

- Strengthened cooperation in monitoring immigration and movements of people between countries of origin, transit countries and host countries, which are generally EU Member States.
- Improved transport flows, guaranteed safe passage ensured, and a new, comprehensive EU asylum policy, based on:
  - the priorities of the Common European Asylum System (CEAS);
  - improved police cooperation to prevent and combat cross-border crime.

## 6. Prerequisites for achieving the goals of the macro-regional development strategy in the Mediterranean

6.1 The macro-regional strategy in the Mediterranean (divided into two subregional strategies) will be implemented within the framework of the Europe 2020 strategy, existing EU programmes and funding measures<sup>(14)</sup>, and using EU initiatives such as the INTERACT programme to provide technical assistance and training<sup>(15)</sup>. But it will be necessary to create a new management mechanism and improve administrative functioning. The macro-regional strategy should offer new approaches which will benefit the countries concerned,

<sup>(13)</sup> See EESC opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on *The global approach to migration and mobility*, COM(2011) 743 final, OJ C 191, 29.6.2012, p. 134, and EESC opinion on the *Proposal for a regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa*, COM(2011) 750 final – 2011/0365 (COD), the *Proposal for a regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund*, COM(2011) 751 final – 2011/0366 (COD), the *Proposal for a regulation of the European Parliament and of the Council laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management*, COM(2011) 752 final – 2011/0367 (COD), and the *Proposal for a regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management*, COM(2011) 753 final – 2011/0368 (COD), OJ C 299, 4.10.2012, p. 108.

<sup>(14)</sup> See Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument. OJ L 310, 9.11.2006.

<sup>(15)</sup> — [http://www.interact-eu.net/about\\_us/about\\_interact/22/2911](http://www.interact-eu.net/about_us/about_interact/22/2911)  
 — <http://www.interact-eu.net/ipvalencia/ipvalencia/117/619>  
 (INTERACT point for the Mediterranean in Valencia).

with the prospect of practical measures or policies that can be implemented effectively.

6.2 The Mediterranean strategy (subdivided into the eastern and western Mediterranean strategies) will draw on all existing measures and will be linked to the relevant external relations aspects of the approach to the Mediterranean. It will focus on achieving more effective coordination of European Commission action and policies with those of the Member States, regions, local authorities and other players in order to achieve good results.

6.3 Recognising the crucial role played by the Mediterranean, the EU decided at the Paris Summit for the Mediterranean in 2008 to reinforce cooperation directly by setting up a permanent mechanism to be called the Union for the Mediterranean<sup>(16)</sup>. The original mechanism, launched in Barcelona with high hopes, was tasked with specific projects in relation to marine pollution, maritime safety, energy and development of economic links between all the countries belonging to the Euro-Mediterranean partnership. Unfortunately, the Union for the Mediterranean has so far shown very disappointing results.

6.4 Macro-regions do not have strictly defined borders, and the issues that they choose to focus on must reflect the agreed challenges and commonalities that can be addressed and must be linked to other macro-regional strategies established by the EU, implementing a defined mix of policies and measures selected by the participating countries.

## 7. Measures needed to implement the new strategy

7.1 Within the above framework, the macro-regional strategy approach for the Mediterranean should comprise the following specific measures:

7.1.1 Development of an appropriate coordination-management mechanism for implementing the macro-regional strategy that can coordinate the large number of EU bodies and local authorities involved. The following approach is therefore proposed:

- coordination of measures under the macro-regional strategy by the Commission (DG Regio in cooperation with the EEAS) to make this an official EU policy;

<sup>(16)</sup> [http://eeas.europa.eu/euromed/index\\_en.htm](http://eeas.europa.eu/euromed/index_en.htm)

— framing of two subregional macro-strategies for the Mediterranean – one for the eastern Mediterranean and the other for the western Mediterranean – to reflect their particular economic, social, geographical and cultural characteristics. The two subregional strategies, together with the Adriatic-Ionian strategy, would cover the whole of the Mediterranean;

— The EESC also suggests taking as a working model systems that have been used under the EU Atlantic Strategy (DG MARE), namely:

1. Launching two forums on the Mediterranean (eastern and western) on the initiative of DG Regio, which will report on the situation in each region and propose action plans. The forums would be made up of representatives from the European institutions (Commission, Parliament, EESC and CoR), representatives from the Mediterranean governments, and representatives of local and regional authorities and civil society.
2. The forums would be supported by two steering committees.
3. The Commission and governments would assess the final proposals of the forums.

7.1.2 Implementation of EU ‘good neighbour’ policy. The approach to macro-regional strategies hitherto has been limited to implementing EU internal policies. However, to be effective, such a strategy in the Mediterranean where many non-EU countries are involved requires implementation of elements of external policy, obviously with the emphasis on EU ‘good neighbour’ policy.

7.1.3 Framing policies on:

7.1.3.1 workforce training and education;

7.1.3.2 improving internet and IT communications and ongoing improvement of online services in e-government;

7.1.3.3 joint planning of research and innovation to support sustainable development and professional training;

7.1.3.4 ensuring free transit by sea and movement of goods, people and energy by implementing a policy of safe and cheap transport connections and creating new shipping routes; improving merchant shipping;

7.1.3.5 effective sea and air connectivity for all parts of the Mediterranean and the rest of the world;

7.1.3.6 expanding trade and political relations by creating free trade areas based on existing Euro-Mediterranean agreements and removing import duties, and coordinated measures such as regulatory convergence;

7.1.3.7 measures in the sphere of competition, public procurement, protection of investments and health and plant health issues.

7.1.4 Cross-border and interregional cooperation projects can be funded from existing sources, i.e. the EU Structural Funds<sup>(17)</sup>, from contributions by the Member States, contributions by other donor countries (e.g. Norway and Switzerland), from the European Investment Bank (EIB)<sup>(18)</sup>, provided through FEMIP (the Facility for Euro-Mediterranean Investment and Partnership)<sup>(19)</sup>, use of the European Bank for Reconstruction and Development (EBRD), and budget allocations for the Union for the Mediterranean, where local authorities, private stakeholders and NGOs are able to take part.

7.1.5 The new macro-regional strategy must be operationally linked with other EU policies, such as the Europe 2020 strategy, cohesion policy, the new Common Agricultural Policy and Common Fisheries Policy, the Connecting Europe Facility and the trans-European transport, telecommunications and energy networks, the Horizon 2020 programme, the Digital Agenda, the COSME programme and, in particular, the Integrated Maritime Policy, as well as policy on the CEAS<sup>(20)</sup>.

## 8. Role of islands in the new macro-regional strategy

8.1 It is an undeniable fact that no comprehensive, permanent strategy has been established to date at EU level in the particular interests of the EU’s island Member States (Cyprus and Malta), which face problems in areas such as transport and energy. Poor accessibility is preventing completion of the internal market.

8.2 A new macro-regional strategy for the Mediterranean will accurately identify connectivity approaches for Cyprus and Malta, and so establish the proper preconditions for deployment of EU funding.

8.3 Cyprus (in the eastern Mediterranean) and Malta (in the western Mediterranean) could play a specific role in implementing and managing the new macro-regional strategy as the headquarters of any management bodies set up in or transferred to the region.

<sup>(17)</sup> For the period to the end of 2013 some EUR 4 billion of funding is available to support the EU’s southern neighbours through the European Neighbourhood and Partnership Instrument.

<sup>(18)</sup> <http://www.eib.europa.eu/projects/regions/med/index.htm?lang=en>

<sup>(19)</sup> <http://www.eib.europa.eu/infocentre/publications/all/femip-2011-annual-report.htm>

<sup>(20)</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the *Policy plan on asylum – an integrated approach to protection across the EU*. COM(2008) 360 final.

**9. Potential role of the EESC in the macro-regional strategy in the Mediterranean**

9.1 In cooperation with the economic and social councils of the Member States in the Mediterranean and the equivalent bodies (where they exist) in the countries of North Africa, as well as civil society organisations, the EESC has decided to organise a meeting of Euro-Mediterranean economic and social councils, which is expected to be called soon.

9.2 The EESC has the experience and knowledge to be a member of any forums for the Mediterranean that are set up.

9.3 The EESC intends to continue drawing up specific opinions that explore the macro-regional strategy in the Mediterranean in more detail.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on ‘Getting EU energy islands connected: growth, competitiveness, solidarity and sustainability in the EU internal energy market’ (exploratory opinion requested by the Cyprus presidency)**

(2013/C 44/02)

Rapporteur: **Pierre-Jean COULON**

On 18 July 2012 the Cyprus presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

*Getting EU energy islands connected: growth, competitiveness, solidarity and sustainability in the EU internal energy market (exploratory opinion requested by the Cyprus presidency).*

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 26 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 159 votes to 5 with 13 abstentions.

## 1. Conclusions and recommendations

1.1 Energy insularity, in its broadest meaning, places the affected countries and regions in Europe at an economic, as well as social and environmental disadvantage since they are often heavily dependent on fossil fuels. It leads to significant price discrepancies, which contribute to creating disparities in terms of solidarity and uniform development across European regions.

1.2 The EESC endorses the objective of eliminating energy insularity, set by the European Council in February 2011. To this end, it supports, in particular, initiatives to improve energy interconnections, around priority corridors, between EU countries. Interconnections between energy islands and third-country networks may be a priority when this is the best way to secure and diversify their energy supply.

1.3 Not all Member States affected by energy insularity are in the same situation when it comes to energy production or importation options. In addition to developing interconnections, a necessity for all energy islands, but also for other Member States, local energy solutions must be adapted to each situation.

1.4 More specifically with respect to the Baltic States and Central and Eastern European countries, the EESC calls for the abolition of disparities in the interpretation of principles of energy markets and energy supply between Russia and the EU, and for this to be recorded in international agreements, one of which could be a new partnership and cooperation agreement, with particular emphasis on energy (Cf. European Parliament resolution of 12 September 2012 on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy (12562/2011 - 2012/2050(INI)).

1.5 The EESC calls for the Energy Community of South-East Europe to incorporate an external consultation and integration aspect, together with a ‘civil society’ dimension.

1.6 Some of Europe's island States or regions clearly find themselves in special situations. The Republic of Cyprus's geostrategic position could make it a veritable energy hub for renewable energy as well as gas flows. Generally speaking, indigenous energy production needs to be developed on islands. From this point of view, they could serve as privileged test beds for demonstrating and validating new energy technologies. Evaluation criteria that take their specificities and needs into account could be applied when granting them EU funds for development and demonstration activities. This joint effort could contribute to correcting the disadvantages they suffer in terms of energy because they are not sufficiently connected to the rest of Europe.

1.7 The EESC recommends simultaneously encouraging the improvement of interconnections, the development of indigenous renewable energies and the deployment of energy efficiency and energy demand optimisation measures. The evaluation criteria applied to EU programmes in these areas should take into account the goals of reducing energy insularity, particularly when selecting energy infrastructure projects of common interest.

1.8 In any event, if the EU – in cooperation with the Member States, the industries, civil society and the regions concerned - does not act swiftly to launch initiatives to gradually eliminate energy insularity, it will become considerably more difficult to fully achieve the Europe 2020 goals and to reap the full benefit of the joint efforts already launched to promote the EU's growth and competitiveness.

1.9 The EESC believes that, in this context, energy poverty can no longer be viewed as a purely national or local problem, to be tackled entirely through social policies. Since some of the major causes of this type of poverty extend beyond the national scope, the EESC would like EU energy policy to address the large imbalances which contribute to it. As a result, concrete policy measures should henceforth be evaluated in the light of the impact they are expected to have on the factors that could accentuate or reduce energy poverty.

1.10 The EESC considers that energy islands represent a cost for all. This cost must be evaluated and the solutions for reducing it must be incorporated in a comprehensive approach. The European energy policy has to be completed and granted appropriate means of action, commensurate with both the Member States' level of interdependence and the difficulties they encounter. In order to assess the full impact of this situation, the EESC calls on the Commission to carry out an exhaustive study on the 'cost of non-Europe in the energy sector' caused by the existence by these 'energy islands'.

1.11 The EESC advocates a transparent, comprehensive and precise evaluation of the costs – including external costs – of fossil fuels and renewable energy sources, including the indirect costs associated with strengthening the network, the back-up capacity and the support needed for green technologies. This evaluation is essential to reaching optimal investment and policy decisions, especially with a view to a powerful boost to the development of renewable energy production in some energy islands in order to export such energy to EU or non-EU countries.

## 2. Introduction: multiple geographical and political insularities

2.1 The Cyprus presidency's request is another example of the need to Europeanise energy policy and to establish a European Energy Community (EEC), as advocated by the EESC<sup>(1)</sup>. This presupposes stronger regional cohesion and a uniform vision of development in Europe's regions. The goal of improving connections for the EU's 'energy islands' is therefore consistent with the practical guidelines for improving cooperation in the area of energy advocated in the opinion on *Involving civil society in the establishment of a future European Energy Community*<sup>(2)</sup> in January 2012.

2.2 In the context of the Cyprus presidency and EU-level discussions (see in particular, point 5 of the conclusions of the European Council (4 February 2011) EUCO 2/1/11 rev. 1, the term 'energy insularity' or 'energy island'), for the purposes of this opinion, refers to island or mainland regions with little or no indigenous energy sources and insufficient links to energy transmission networks and which, as a result, are often dependent on a single external energy source or supplier. The differences between the Member States' energy balances reveal major fault lines between them. As a result, the concept of energy islands is both technical and (geo)political (dependence on a single supplier).

2.3 The factors to be kept in mind include the lack of inter-connections, dependence on a single energy source and/or supplier, the distance from production sites/energy transmission corridors, investment costs relative to the size of the market, the difficulties involved in altering strong tendencies in national energy policies, and specific geographic/climatic conditions.

2.4 According to the Eurostat definition, the European Union has several hundred physical islands of various dimensions and statuses. In addition to four Member States - Cyprus, the Republic of Ireland, Malta and the United Kingdom - over 286 islands in Europe are inhabited by over 10 million people in the North Sea and the Baltic Sea, and the outermost regions (ORs) of three Member States (the Canary Islands for Spain, Madeira and Azores for Portugal and Réunion, Mayotte, French Guiana, Martinique and Guadeloupe for France. Islands belonging to Member States, including the ORs, are not covered individually in this opinion.

2.5 There is another type of energy insularity, mainly connected with 20th Century history. The Iberian Peninsula is still a quasi-energy island due to the Franco and Salazar regimes' autarkic approach to most policies involving transport (especially rail) and electricity networks, with few external links, especially with the rest of Europe via France. This situation has persisted over the last twenty years due to many instances of local opposition to the various projects for improving grids across the Pyrenees. This problem is being resolved and a new direct current link will soon improve connections with the South-West Mediterranean. However, in addition to improving French-Spanish electricity interconnections (which will raise the exchange capacity from 1 400 to 2 800 MW in 2014), it will undoubtedly also be necessary to plan other energy corridors between the Iberian Peninsula and the rest of the continent. The goal of achieving an exchange capacity of 4 000 MW by 2020, mainly through a new electricity interconnection on the Atlantic side must be supported.

<sup>(1)</sup> OJ C 68, 6.3.2012, p. 15-20.

<sup>(2)</sup> Ibid.

This project must be added to the list of projects of common European interest, to be drawn up in the context of the regulation on guidelines for trans-European energy infrastructure.

2.6 The Baltic States (Lithuania, Latvia and Estonia) are also energy islands vis-à-vis the EU since their networks are still entirely dependent on their former 'exclusive' partner, Russia (to a lesser extent, Belarus). This is one priority that argues in favour of European energy integration. It is indeed a paradox that while the three Baltic States are an integral part of the political union, they do not reap the benefits of intra-European integration and solidarity in the energy sector. How can we accept that they continue to depend on a third country, moreover a WTO member now, which does not respect European standards regarding access to networks, has not signed the Energy Charter, and does not facilitate the improvement of interconnections between central and eastern European countries (CEEC)? The EESC therefore calls for a reduction in disparities between the Russian and European energy markets and for an ambitious and comprehensive new partnership and cooperation agreement that includes a chapter on energy cooperation (Cf. European Parliament resolution of 12 September 2012 on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy (12562/2011 - 2012/2050(INI)).

2.7 South-East Europe (the Balkan Region) is a transit region and the progress of some States towards EU accession (Croatia, but also Serbia, Montenegro, FYROM, etc.) calls for further developments, mainly with respect to their EU neighbours (Romania, Bulgaria, Greece, Slovenia, Austria, and soon Croatia). The establishment of an energy community in this region is a sign of growing awareness and needs to be encouraged and nurtured, especially through effective and transparent consultation with the region's civil society organisations on the energy strategy.

2.8 On the whole, all EU Member States find themselves in a situation of very close interdependence. Some of them, although they are not strictly speaking 'energy islands', are very dependent on their neighbours, especially in Central and Eastern Europe, and Hungary in particular. As a consequence, the EESC believes that we need to develop a common energy policy that takes account of this situation. These circumstances demand a general EU debate on improving solidarity between EU States. Moreover, this aspect is alluded to in Article 194 TFEU.

### **3. Energy insularity: a drag on Europe's economic performance and social progress**

3.1 Energy insularity covers a range of varying circumstances, but which have virtually identical consequences irrespective of the situation. These types of 'insularity' almost always result in:

- increased supply insecurity;
- price variations, often with an upward trend, and dependent industrial and trade activities;
- more significant energy poverty for people in these States or regions;
- a negative impact on their economic competitiveness;
- increased environmental pressure;
- instability in political and economic relations between the EU and third countries.

3.2 Demand for energy is high and rising in energy islands, just as in other parts of the EU. Given this situation, the consequences of a potentially less reliable and, in any case, significantly more expensive supply is severely undermining the economic competitiveness of energy islands. This may threaten certain industrial sectors, and therefore jobs, because some activities are becoming insufficiently profitable.

3.3 Similarly, high energy bills put significant pressure on household budgets. Energy poverty has long been considered a purely national, or even local, problem. It is indeed these levels that are responsible for direct support measures to help these groups. That said, some of the key causes of energy poverty transcend the national framework and, by addressing major imbalances, EU energy policy should also help to reduce this problem.

3.4 CO<sub>2</sub> emissions are kept high by a dependence on fossil fuels, especially oil, which is often very significant. In the light of environmental standards (the industrial emissions directive) and general health concerns, substantial investments will have to be made to reduce these emissions. These costs must also be factored into the energy bills of energy islands.

3.5 The consequences of energy insularity should be better assessed in terms of the growth, competitiveness, and sustainable development of the affected regions as well as in

terms of solidarity, cohesion and 'lost revenues' for the rest of the EU due to the absence of a complete and functional energy market throughout the EU. The EESC considers that energy islands represent a cost for all. This cost must be evaluated and the solutions for reducing it must be incorporated in a comprehensive approach. The European energy policy has to be completed and granted appropriate means of action, commensurate with both the Member States' level of interdependence and the difficulties they encounter.

3.6 Beyond demonstrating the benefits of greater European integration, the purpose is in fact to promote industrial development, and hence employment. The competitiveness of European industry depends on several factors over which the public authorities have no, or little control. The challenge is therefore to prevent energy policy – an area where the EU can and should take action – from becoming a brake on growth and employment. The EESC calls on the Member States and the Commission, as of now, to push ahead with the application of already identified measures that can reduce energy costs and increase security of supply, e.g. better coordination of national decisions relating to energy and joint infrastructure and network planning, the creation of European fossil fuel purchasing groups and, if need be, mandates for EU negotiations with external partners.

#### 4. What solutions? Developing renewable energy sources and improving network infrastructure

4.1 There appear to be two preferred solutions at this stage: firstly, more interconnections between energy islands and the internal energy market (market infrastructure and organisation) in order to increase practical solidarity and to align the technical organisation of the European network with the EU's political and legislative objectives and, secondly, to promote alternative energy sources, i.e. local renewable energy production. This involves highlighting potential - if it exists - and suggesting measures for its full and viable exploitation. Finally, using smart grids to encourage energy efficiency and demand management can help to optimise energy demand.

4.2 The European Commission has already launched a major reform of the EU's energy infrastructure support policy, especially through interconnections (cf. the Connecting Europe Facility), which the EESC supported in its opinion <sup>(3)</sup>. This being the case, it might be worth taking this even further through the joint planning of infrastructure, as the EESC advocated in its opinion on the European Energy Community <sup>(4)</sup>. In 2002, the European Council had already set Member States the target of achieving a capacity of electricity interconnections equivalent to 10 % of their installed production capacity. We are still far from

achieving this target on certain European electricity borders, which are still congested.

4.3 Massive growth in renewable energy in the North Sea, and in solar and wind power in Southern Europe means that new 'smarter' infrastructure will be needed to maximise their integration with the European mainland grid. These improvements to smart grids could make it possible to reduce consumption by 9 % by 2020 and cut CO<sub>2</sub> emissions by 9 to 15 %. It might be easier to deploy smart grids and measures for managing demand in smaller markets, which could deliver better results faster. Combined with enhanced energy efficiency measures, it could contribute significantly to the optimisation of energy demand. The substantial investments required have to be seen in a context of complete control of action in this area, lower energy costs in a context of higher prices and less need to invest in conventional (reduced volume of operating margins) or renewable energy production capacity.

4.4 In total, ENTSO-E estimates that over the next ten years, 52 300 km of new high-voltage power lines will need to be constructed in Europe, amounting to an overall investment of EUR 104 billion, involving about one hundred priority projects, 80 % of which will be due to the development of renewable energy sources. The concept of 'scale' in energy islands that have potential in this area makes the integration of renewable energy sources an even more sensitive issue if they have small networks. The production capacity of renewable energy industrial installations (as opposed to decentralised production) can represent a relatively high percentage of production or consumption, the effects of which, especially its intermittent nature, are more difficult to manage.

4.5 It is therefore vital to improve interconnections in order to increase security of supply but also to allow more balanced energy production and consumption across an extended network in a context of strong renewable energy development. This also applies to conventional capacity, which takes over when renewable energy production stops or slows down significantly.

4.6 Developing renewable energy sources requires an appropriate, flexible back-up capacity capable of functioning at a low baseload. Liquefied natural gas (LNG) might be a solution to dependence on single gas suppliers and the high prices they charge, which would also offer a more flexible and cheaper alternative to oil, alongside the development of renewable energy sources. Nevertheless, developing LNG involves substantial investment in port and storage infrastructure.

<sup>(3)</sup> OJ C 143, 22.5.2012, p. 125-129.

<sup>(4)</sup> See footnote 2.

4.7 The EESC is convinced that the future of the European energy systems depends in particular on better interconnections and the development of renewable energy sources, especially for energy islands, in order to improve security of supply. The use of fossil fuels will continue to predominate but higher renewable energy production will make it vital to improve national and European networks dramatically (cf. EESC opinion *Energy Roadmap 2050* and the 'no-regrets' option<sup>(5)</sup>).

4.8 However, this need cannot be substantiated efficiently without a transparent, global and precise evaluation of the costs. The most objective knowledge possible is required concerning the costs – including external costs – of fossil fuels as well as the additional costs created by renewable sources in order to be able to reach optimal investment and policy decisions. Studies on these indirect costs are highly contradictory, which makes this need all the more urgent.

4.9 With regard to renewable energy, it is important to consider not only the amount of investment in new production capacities, but also the cost entailed by improving the network and possible subsidies. On this last point, it may be necessary to provide more support for regions that are more dependent in terms of energy and where renewable energy sources are still less developed. That said, the pace at which green energy production increases must be compatible with the pace at which the network is improved. It is also important to establish the back-up capacity per additional renewable energy production unit. The back-up can nevertheless be imported but this requires efficient interconnections and regional and European cooperation. Support arrangements for renewable energy should take this aspect into consideration in order to optimise the pace of development and the cost of support to be borne by the taxpayer.

4.10 Once all these costs have been precisely evaluated, they should be compared with the energy bill for imported fossil fuels integrating all costs, including political and environmental costs. This is essential in order to assess the positive and negative repercussions on the region's competitiveness. It is also in this perspective that renewable energy production can be developed in some energy islands, with a view to exporting it to other EU countries or to third countries.

4.11 The EESC believes that the improvement of this infrastructure should include, as a matter of priority, the States and regions affected by energy insularity since their higher dependence needs to be considered when priority corridors are being decided. For instance, the Baltic Energy Market Interconnection Plan (BEMIP) could pave the way to improving energy policy coordination and the energy mix in the region. This would help to connect the region's energy networks, especially Lithuania's, Latvia's and Estonia's.

4.12 There has been recent progress in cooperation between Lithuania and Latvia. There is a flagship initiative in this area: Lithuania is to build a liquefied gas terminal in Klaipeda, which will feed the Incukalns storage facility in Latvia. Lithuania believes that this storage facility could serve as a 'regional gas reserve'. In this context, the EESC reiterates its suggestion to pool fossil fuel energy sources, and in particular to form gas purchasing groups<sup>(6)</sup>. Lithuania, Latvia and Estonia are developing and implementing electricity interconnection projects (LitPol Link NordBalt and Estlink 2) with other EU countries, in particular Poland. At the same time, the three Baltic countries are working towards fully-fledged integration into the European energy system combining electrical power systems with the continental European electricity networks for synchronous mode (currently undergoing a feasibility study). The Baltic States are also jointly developing the Visaginas nuclear power plant project, which could help to ensure the energy security of these countries and could be an important element in the integration of the European electricity system.

4.12.1 The new development in Cyprus's energy situation (the discovery of substantial gas reserves in its territorial waters) could make it a key regional player. A significant increase in its means of renewable energy production and strong involvement in the abovementioned projects could turn it into an energy hub, geared to improving regional integration, and a neighbourhood policy player in the energy sector. In this respect, the recent selection of the operators that will be responsible for the future exploitation of Cyprus's gas fields will simultaneously guarantee better EU integration and promote an active neighbourhood policy.

4.13 Furthermore, dependence on a single supplier can be reduced by implementing the 3rd energy package. The question of regional market organisation is also vital. Lithuania and Estonia are participating in Nord Pool Spot, the electricity market of the Baltic and Nordic States, and Latvia is planning to join next year. Beyond this example, the EESC urges the Baltic States to seek shared responses to their needs and to develop regional dialogue on energy.

4.14 Interconnections have to be increased with the EU's third-country neighbours, which could either produce and export energy to the EU or ensure its transmission to the EU from other producing countries. This applies mainly to the energy projects in the Mediterranean region (the Mediterranean Solar Plan, Medgrid, the 'energy' dimension of the Union for the Mediterranean, Desertec etc.) by calling for the relevant countries (Cyprus and Malta) or regions (Crete, Sardinia, Corsica, Sicily, the Balearic Islands, etc.) to be involved in these projects.

<sup>(5)</sup> OJ C 229, 31.7.2012, p. 126-132.

<sup>(6)</sup> See footnote 1.

4.15 The Energy Community [of South-East Europe] must incorporate an external consultation and integration aspect, together with a 'civil society' dimension. This is an area where the EESC's joint consultative committees (FYROM, Montenegro and Croatia) and the ESCs and similar institutions of these countries have a role to play.

4.16 Furthermore, the demonstration and development of renewable energy sources could be further promoted, especially in connection with the Energy Roadmap 2050 and the recent Communication on integrating renewable energy into the internal market (COM(2012) 271 final).

4.17 Joint solutions and proposals are needed within the EU and with its neighbours, involving:

- the Member States;
- the European Commission, an essential coordinator for these discussions and proposed solutions;
- energy operators, especially network operators (electricity, gas), without which nothing can be achieved (technical expertise, financial clout);
- the local and regional authorities, which have decision-making powers alongside States, and which are increasingly the managers of transport, and above all, distribution

networks. The Committee of the Regions could be an ideal intermediary;

- organised civil society and its organisations, which the EESC reflects: consumer organisations, the social partners, environmental organisations, anti-poverty organisations, minority representatives, etc.

4.18 Inter-State and interoperable solutions are the only viable ones. Energy policies, be they in the area of supply, network construction, research and development, etc. cannot be undertaken by a few EU States which can have an 'autonomous' energy policy because this would have significant repercussions for the other States. Stronger coordination of the energy mix is needed, e.g. between States and regions affected by energy insularity and which have very constrained energy policies. By doing this, these States and regions could even lead the way to greater EU-level cooperation, beyond concerns of 'energy sovereignty'.

4.19 These solutions – infrastructure, renewable energy production, strengthened energy policy coordination between States and regions – must nevertheless be accompanied by greater civil society involvement due to their implications for the energy mix, market organisation, prices, competitiveness, environmental considerations or even social acceptance. On this point, the EESC recalls the suggestion it made during the course of its work on the European Energy Community<sup>(7)</sup> to set up a civil society forum on energy issues.

Brussels, 13 December 2012.

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

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<sup>(7)</sup> See footnote 1.

## APPENDIX

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

The following amendment, which received at least a quarter of the votes cast, was rejected at the plenary session:

**Point 2.5**

Amend as follows:

*There is another type of energy insularity, mainly connected with ~~difficulties in developing interconnections~~ 20th Century history. The Iberian Peninsula is still a quasi-energy island ~~because interconnections could not be completed due to the Franco and Salazar regimes' autarkic approach to most policies involving transport (especially rail) and electricity networks, with few external links, especially with the rest of Europe via France. This situation has persisted over~~ during the last twenty years due to many instances of local opposition to the various projects for improving grids across the Pyrenees. This problem is being resolved and a new direct current link will soon improve connections with the South-West Mediterranean. However, in addition to improving French-Spanish electricity interconnections (which will raise the exchange capacity from 1 400 to 2 800 MW in 2014), it will undoubtedly also be necessary to plan other energy corridors between the Iberian Peninsula and the rest of the continent. The goal of achieving an exchange capacity of 4 000 MW by 2020, mainly through a new electricity interconnection on the Atlantic side must be supported. This project must be added to the list of projects of common European interest, to be drawn up in the context of the regulation on guidelines for trans-European energy infrastructure.*

**Outcome of the vote:**

Votes in favour: 60

Votes against: 81

Abstentions: 18

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**Opinion of the European Economic and Social Committee on ‘The Trends and consequences of future developments in the area of personal social, health and educational services industries in the European Union’ (own-initiative opinion)**

(2013/C 44/03)

Rapporteur: **Mr PEZZINI**

Co-rapporteur: **Mr JARRÉ**

On 19 January 2012, 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

*Trends and consequences of future developments in the area of personal social, health and educational services industries in the European Union.*

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 159 votes to 3 with 11 abstentions.

## 1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) believes that in Europe, personal social, health and educational services form an important cornerstone of the European social model. These services, which are interdependent and mutually reinforcing in their effectiveness, form a ‘golden triangle’ essential to the smooth functioning and quality of society.

1.2 In the EESC's view, these services firstly play a key role in both integrating people into society and preserving social cohesion, thus ensuring effective democratic participation and social justice. Secondly, they are of key importance in the drive to achieve the Europe 2020 goals in respect of sustainability, smart job creation and reinforced economic and social cohesion across the EU.

1.3 The EESC believes that more awareness is needed of the fact that as the population ages and demand for care grows due to the falling number of family caregivers (due, inter alia, to the growing participation of women in the labour market), better planning and programming has become essential, in terms of requirements and training for healthcare workers on the one hand, and in terms of budgetary funding priorities on the other.

1.4 The EESC is aware of the competence of the Member States in this field and the discretion of national, regional and local authorities in the provision of these services. However, the EESC draws attention to the fact that the EU Member States also have a major shared responsibility in this field, pointing out that the Lisbon Treaty has brought in an important innovation here, with the protocol on services of general interest (SGIs) appended to the Treaty; it would take the view that harmonisation between the Member States needs to be pursued, in order to overcome existing inequalities and guarantee the

fundamental freedom to establish (while complying at least with the social standards set out in regulations and agreements in the host country) and provide services.

1.5 In view of the sector's importance in terms of its contribution to EU gross domestic product, the significant employment prospects it offers in terms of job and new-business creation, as well as its capacity to deliver innovative, quality responses to the structural changes and needs in European society, and to the Lisbon Treaty objectives in this field, the EESC calls on the Commission, the Council and the European Parliament to:

- launch a fully-fledged strategy on innovative and ‘smart’ social and health services in Europe, involving the optimisation of human resources, lifelong training, the definition of quality principles, the introduction of appropriate technologies to support service recipients and providers, the development of a European area of integrated services, and support policies;
- promote greater efficiency in the use of financial and human resources; effective management governed by collective bargaining; adequate involvement of the private and voluntary sectors; and prudent assessments of services' efficiency and cost-effectiveness; and
- calls specifically on the Commission to establish a common basic framework on personal services, with a regulatory framework and principles on quality, together with well-defined curricular requirements, in order to make easy professional mobility a reality across the EU.

1.6 At EU level, the EESC thinks that a proportion of the various Structural Funds should be earmarked in a coordinated way for developing social infrastructure and health services where shortcomings exist, and for local employment initiatives in the sector. In particular, there should be a funding line for rural areas. The same applies to the Horizon 2020 and Culture programmes and lifelong learning measures that relate to new technologies applied to health and social care. Moreover, research into optimising the results of services should be encouraged, as well as the documenting and exchange of success stories.

1.7 The EESC considers it important to establish a constructive and well-structured social dialogue between all levels (local, national and European) in all sectors of the personal services industries. This social dialogue should play a crucial role in:

- analysing the sector's economic and social significance;
- studying development paths for the sector;
- preparing projects to allow for upward harmonisation of regulation for the sector;
- fighting irregular employment;
- improving professional standards and career opportunities in the sector;
- improving working conditions and salaries in the sector;
- improving the sector's attractiveness and image; and
- monitoring the application of collective agreements and regulation in this sector.

The European Commission and the Member States should provide concrete and active support to set up and develop this social dialogue and to organise its work. At first, this support could take the form of studies on these sectors and European-level conferences for the sector's social partners.

## 2. Introduction

2.1 The purpose of this opinion is to identify changes in ongoing trends and future developments in the areas of

personal social and health services, related educational and training services, and, in particular, prospects for creating quality jobs in the sector.

2.2 Social and health services concern the basic needs of the individual. The industry, in this sector, operates in various fields ranging from institutions that provide medical and psychosocial treatment to those that provide health and social care services, housing support, in addition to nursing homes, mental health care, and care for children, older people and the differently able.

2.3 Furthermore, the sector is marked by significant migration flows from outside the EU, as well as a strong tendency to use black market labour, with all the harmful consequences that this entails for the individual and for society in general.

2.4 The EESC intends to use this opinion to help identify the added value that the personal services sector can offer the Europe 2020 strategy, in order to identify needs in terms of qualified human resources and new occupational profiles, with a view to innovative social prospects, more and better jobs and improved public wellbeing, as a result of the enhanced integration that ensues from a more cohesive society.

2.5 In Europe, personal social, health and educational services form an important cornerstone of the European social model. These services, which are interdependent and mutually reinforcing in their effectiveness, form a 'golden triangle' essential to the smooth functioning and quality of society.

2.6 The EESC endorses this concept of the 'golden triangle' of integrated services, aimed at quality education, efficient healthcare and full social integration, and at attaining the highest level of effectiveness possible in all three types of service in terms of the following criteria: availability, universal access, centrality of the person, universality, continuity, high level of quality with a clear focus on results, respect of fundamental rights, participation and partnership, integrated governance, investment in human capital and in social infrastructure, high-level performance and professional jobs with decent working conditions, with career prospects, solidarity and social cohesion.

2.7 The EESC believes that precisely because of these characteristics, the golden triangle of professional personal services should be given priority attention in the drive to achieve the Europe 2020 goals in respect of sustainability, economic development and job creation and economic and social cohesion across the EU.

2.8 The opinion is based on various information sources ranging from general studies to concrete business cases. It should be noted that demographic trends and active ageing, and the consequences of an ageing population on healthcare and welfare systems are issues that have been covered in previous EESC opinions<sup>(1)</sup>. In addition, the EESC itself is engaged in framing roadmap initiatives on problems associated with the ageing of European society, in the context of the next RTDT framework programme and on the participation of older people in society<sup>(2)</sup>.

2.9 Furthermore, personal educational services are mentioned in this opinion only insofar as they are relevant to the delivery of quality and up-to-date social and healthcare services. Numerous detailed EESC opinions on this subject may be consulted for more detailed information on education and lifelong training services<sup>(3)</sup>.

### 3. The sector's characteristics and prospects

3.1 Over 21.5 million people in the European Union are employed in the healthcare and social sectors and related educational services, as can be seen from Eurostat statistics for the EU-27 in 2009<sup>(4)</sup>. However, these are more concentrated in the old rather than the new Member States, and are predominantly women, who account for 78 % of workers in this sector, and extremely young, since over 43 % are aged below 40. Over four million new jobs were created by the sector in personal and home social and health services between 2000 and 2010. This has been in sharp contrast to the steady fall in overall employment across the EU due to the economic crisis, with substantial employment growth in this

sector over the period 2008-2010, amounting to some 770 000 new jobs<sup>(5)</sup>.

3.2 In the EU, healthcare represents about 10 % of GDP and employs one in ten workers, with a higher-than-average percentage of service-sector workers having tertiary-level education<sup>(6)</sup>. Employment in the sector is rising as the population ages<sup>(7)</sup>, more and more women enter the labour market, and demand for healthcare grows, and this is creating a growing need for harmonised definitions and training standards at EU level to ensure geographical mobility and evolving job profiles for effective and sustainable high-quality services across Europe.

3.3 Occupation profiles identified include, amongst others, care assistants, nurses, youth workers, social workers and doctors in all branches of medicine: according to recent studies<sup>(8)</sup>, despite low wage levels and the lack of recognition for their work, care workers have a high work morale and sense of responsibility. Some studies also reveal serious staff shortages and growing problems to recruit and retain suitable and qualified operational managerial staff.

3.4 A European strategy within Europe 2020 is needed<sup>(9)</sup>, to ensure higher levels of technical and structural innovation, reduce costs and promote quality jobs, while improving access to healthcare, especially in disadvantaged areas and in specific medical fields facing national staff shortages, by setting up networks of high-quality European medical centres with highly-motivated qualified staff to be made available to all EU citizens.

<sup>(1)</sup> EESC opinions on *The impact of population ageing on health and welfare systems*, OJ C 44, 11.2.2011, p. 10; *Solidarity in health: reducing health inequalities in the EU*, OJ C 18, 19.1.2011, p. 74; *Taking into account the needs of older people*, OJ C 77, 31.3.2009, p. 115; and *Elder abuse*, OJ C 44, 16.2.2008, p. 109.

<sup>(2)</sup> EESC opinions on *Active ageing/Horizon 2020*, OJ C 229, 31.7.2012, p. 13; and *The involvement and participation of older people in society* (not yet published in the OJ).

<sup>(3)</sup> EESC opinions on *Taking into account the needs of older people*, OJ C 77, 31.3.2009, p. 115; *Adult learning*, OJ C 204, 9.8.2008, p. 89; *Migration, mobility and education*, OJ C 218, 11.9.2009, p. 85; *Quality assurance in Vocational Education and Training (VET)*, OJ C 100, 30.4.2009, p. 136.

<sup>(4)</sup> Eurostat, *Labour Force Survey – DS-073433*, 3/2010.

<sup>(5)</sup> *Joint contribution of EPSU and ETUC to the EC consultation on the employment potential of personal and household services*; Brussels 18 July 2012.

<sup>(6)</sup> COM(2011) 709 final.

<sup>(7)</sup> *The European Economy Series 2011/4 – The 2012 Ageing Report – European Commission, Directorate-General for Economic and Financial Affairs*.

<sup>(8)</sup> Report on the study by EPSU on *Pay in the care sector in relation to overall pay levels and the gender pay gap in different countries in the European Union*, by J. Pillinger, February 2010.

<sup>(9)</sup> COM(2010) 2020 final with priority initiatives such as Innovation Union and the Digital Agenda for Europe.

3.5 As regards pay levels in this sector, these are generally below the national average for comparable jobs, and female workers – who are the vast majority and are often immigrants – are generally underpaid<sup>(10)</sup>, overlooked, and have precarious contracts even if well-qualified, according to recent studies in the following sub-sectors<sup>(11)</sup>: health care, childcare, care for older people and other dependant care.

3.6 Furthermore, the sector has other specific characteristics that distinguish it from others<sup>(12)</sup>:

- average working hours per week are less than in other sectors of the economy, whereas shifts, night work, part-time work and temporary contracts are more common when compared with the economy as a whole;
- there is a growing demand for a unified service that combines all healthcare aspects and skills with the specificities of social care;
- recurrent vocational and language training is important for stepping up the use of IT-assisted first-line care, telemedicine and telediagnosis; and
- the need for better, more coordinated infrastructure for the three types of service in question, accessible to all through suitable means (and reference structures on the ground?).

3.7 Furthermore, as has been pointed out concerning personal services, account needs to be taken ‘of the specific characteristics of small operators providing SGEL, social services and non-profit services, whose particular features and contribution to the general interest must be better taken on board’<sup>(13)</sup>, in the context of social dialogue with the social partners and civil society at large.

3.8 The situation is particularly worrying in rural areas and other disadvantaged areas, where the lack of social, medical and

educational infrastructure often leads to an exodus of skilled labour, with repercussions on the creation and location of businesses and the development of those areas: more balanced regional development thus needs to be ensured and greater territorial cohesion promoted, especially in terms of personal social, healthcare and educational services for children and infants<sup>(14)</sup>.

3.9 To promote better migrant worker integration, it is necessary to provide for financial and organisational support measures comprising language courses, enhancing the image of their work, reception and housing and vocational training in care practices, taking into account subsequent reintegration in their countries of origin, to avoid a brain-drain in the health field<sup>(15)</sup>.

3.10 Investment costs in the sector are therefore quite high and often controversial in terms of sustainability since the financial crisis has revealed the need to improve the cost-efficiency ratio of health and social services and Member States are under pressure to find the right balance between providing healthcare services for everyone and respecting budgetary constraints. However, looking at the results obtained, it is clear that investment in this service sector is highly productive and profitable: the workforce enjoys better health and is better integrated, more skilled, more motivated and more stable.

3.11 The Lisbon Treaty has also brought in an important innovation here, with the protocol on services of general interest (SGIs) appended to the Treaty, ‘as it covers all SGIs and for the first time in a treaty introduces the concept of “non-economic services of general interest” in contrast to “services of general economic interest”’<sup>(16)</sup>. Unquestionably, personal services have both an ‘economic’ and a ‘non-economic’ aspect. The general economic interest aspect is connected to their importance for the smooth functioning of all industries, both manufacturing and services, while the non-economic aspect refers to their importance for the integration of all individuals and the cohesion of society.

3.12 In the EESC’s view, ‘the protocol is not just an interpretative declaration on the Union’s treaties and common values regarding SGIs; rather, it is a set of operating instructions aimed at the Union and its Member States. It consistently places the user, the satisfaction of his needs, his preferences and rights at the heart of the proposals and enshrines the common principles of a high level of quality, safety and accessibility, equal treatment and promotion of universal access’<sup>(17)</sup>.

<sup>(10)</sup> EESC opinions on *Tackling the pay gap between women and men*, OJ C 211, 19.8.2008, p. 54; *Equality between men and women 2006-2010*, OJ C 318, 23.12.2006, p. 173; the ETUC *Charter on Gender Mainstreaming in Trade Unions*, ETUC Congress in Seville, 23.5.2007; and the *European Commission Manual for Gender Mainstreaming of Employment Policies*, 2007.

<sup>(11)</sup> Report on the study by EPSU on *Pay in the care sector in relation to overall pay levels and the gender pay gap in different countries in the European Union*, J. Pillinger, February 2010.

<sup>(12)</sup> AMECO database – Employment in Europe – EU KLEMS Accounts (Capital (K), Labour (L), Energy (E), Material (M) and Service inputs (S)). European Commission quarterly review.

<sup>(13)</sup> ETUC report on preparation of implementation of the Directive on Services in the Internal Market 2010.

<sup>(14)</sup> COM(2011) 66 final.

<sup>(15)</sup> EESC opinions on *Family policy and demographic change*, OJ C 218, 23.7.2011, p. 7; and *Modernisation of higher education*, OJ C 181, 21.6.2012, p. 143-149.

<sup>(16)</sup> EESC opinion on *Services of general economic interest: how should responsibilities be divided up between the EU and the Member States?*, OJ C 128, 18.5.2010, p. 65-68.

<sup>(17)</sup> See footnote 16.

3.13 It is therefore necessary, above all, to provide this sector with a strong European dimension through a harmonised EU framework backed up by an EU strategy of structural measures; at the same time, the Committee would emphasise again 'the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users' <sup>(18)</sup>.

#### 4. Towards a European strategy on innovative and 'smart' health and social services

4.1 The Committee considers it vital to launch a European strategy in order to anticipate and manage the current changes in European society and its socio-economic model which require strategic priorities to be set for Europe's personal social, health and educational services industries, with regard to:

- human resources and training and information measures;
- appropriate technologies;
- a European area of integrated services;
- better conditions for mobility and exchanges;
- the acceptance of European quality principles;
- full recognition of diplomas;
- research aimed at optimising the results of services;
- the documentation and exchange of success stories; and
- support policies, structures and infrastructure.

4.2 Human resources constitute the first fundamental pillar of the personal services industry, as demonstrated by the funds allocated under the Europe 2020 strategy towards the objective of keeping Europeans active, socially integrated and healthy for longer, which will have a positive impact on productivity and competitiveness. This sector is among the first listed in the *Lead Markets Initiative for Europe* and is an integral part of the flagship initiative *An agenda for new skills and jobs*.

4.2.1 Given the significance of the services in question, the EU's strategic action on human resources should be geared towards:

- information systems on occupation profiles needed and job opportunities;

- measures to increase and consolidate the acquisition of skills;
- international recognition of qualifications/diplomas to facilitate mobility;
- efficient systems for career guidance and communication, including, in particular, with a view to language-learning;
- IT training/e-literacy;
- training and refresher courses on new technologies and new therapeutic methods;
- stabilisation mechanisms in the sector and attractive working conditions and career prospects, and better gender balance;
- enhancing the image of the various professions in this service sector;
- regulatory agreement on quality principles and their application, and well-defined curricular requirements; and
- the introduction of support services, such as temporary replacements, training and advice to ensure the quality of the social economy and of care and improve the welfare of carers; and
- drawing on the valuable resources of the voluntary sector, which can make an important contribution in terms of quality, emotional warmth, and disinterested interpersonal relations, vital for the mental and physical wellbeing of those receiving care.

These EU-level actions should be accompanied by continuous monitoring based on rigorous, scientific assessment.

4.3 **The introduction of appropriate technologies** in the sector to support both service recipients and providers constitutes **the second pillar** of this strategy: innovation – both structural, and methodological and technical – in personal health and social services can contribute to meeting the challenge of sustainability in the context of ongoing demographic changes and achieving inclusive growth.

4.3.1 Communication and information technologies must be used to facilitate autonomy and a greater assumption of responsibility, and a personal health culture, as well as coordination between health and social services to develop increasingly integrated services that place people at the heart of a coordinated continuum of quality services.

<sup>(18)</sup> See footnote 16.

4.3.2 e-Health, e-literacy in information technology and tele-medicine constitute a fundamental pillar of the drive for innovation in healthcare and rehabilitation in that they enable patients to carry their medical history with them wherever they go and thus to benefit from the most customised medical care possible<sup>(19)</sup>.

4.3.3 In order to be efficient, personal services systems need an advanced technological platform for sharing the most successful practices among LTC users and providers, sharing guidelines to steer decision-making and quality assessment at the local level, and fine-tuning the use of care planning processes to improve social, health and paramedical service cost-sharing systems for services<sup>(20)</sup>.

4.3.4 It is vital to maximise the IT skills applied to personal social, health and educational services, by means of national and EU R&D, in order to optimise new occupation profiles, tailored to the different needs of children, the disabled, older people and physical and mental illnesses.

4.4 **Third pillar:** the creation of a **European area of integrated services** should be carefully considered, with the aim of overcoming the existing inequalities and properly ensuring the fundamental freedom of establishment (while complying at least with the social standards set out in regulations and agreements in the host country) and to provide services (particularly in this sector, being of vital importance to ensuring the free movement of services) by means of mutual recognition, administrative cooperation and, where necessary, harmonisation, in order to ensure the provision of a set of responsible people-centred services throughout the EU. To achieve this objective, the Member States and the EU will have to exercise their responsibilities jointly.

4.4.1 The challenge of transforming Europe's economy into an innovative and modern economy based on the full implementation of the fourth freedom (the free movement of services), as well as the development of a 'fifth freedom', i.e. full and free movement of knowledge, would allow Europe to fully tap its creative potential. In this context, the performance of innovation in the health and social services would have to be monitored on the basis of an EU assessment system set up for that purpose.

4.4.2 A solidarity-based European services area is needed which guarantees access to high-quality basic services in the area of personal social, health and educational services across the whole EU, including by implementing a 'voluntary European Quality Framework in different Member States and in a variety of sectors'<sup>(21)</sup>, involving users in the definition and evaluation of quality.

4.4.3 A system of integrated services requires – in addition to harmonised quality principles – mutual recognition of qualifications, monitoring of service quality, and the launch of social dialogue at the various levels, close to the citizen, which involves all stakeholders, to step up cooperation.

4.5 **Support policies, structures and infrastructure** constitute the fourth pillar on which the European strategy for the personal services industry should be built.

4.5.1 A key element of this pillar is the targeted activation – alongside the actions provided for under Europe 2020 – of EU structural programmes and measures, with particular regard to the European Social Fund, the European Regional Development Fund and the European Agricultural Fund for Rural Development, as well as the EU Culture and Horizon programmes 2014/2020.

4.5.2 Also required at EU level are measures to develop an EU framework which facilitates and encourages good performance in respect of professional qualifications and service quality, the documentation and exchange of success stories, and standardised systems for monitoring quality, customer satisfaction and value for money in the sector, with regard to the professionalisation and the working conditions and career prospects of service providers, the public, private and social-economy enterprises operating in this sector, and, finally, the service recipients and their families, as well as the social economy.

4.5.2.1 The voluntary sector constitutes a significant element here, which should be supported and encouraged especially as regards its high-quality human, social and emotional contribution: EU measures supporting the exchange of best practice in volunteering in the personal services sector merit particular attention.

4.5.3 Account needs to be taken of the importance of committing investment and, in particular, of the need to diversify financial cover (tax, various contributory forms of social security (protection), insurance, inter-generational solidarity, public-private partnerships) taking into consideration that the cost of long-term healthcare and support is not sustainable for most of the population.

4.5.4 At EU level, a proportion of the Structural Funds should be earmarked for developing social infrastructure, health and care services, where shortcomings exist, and for local employment initiatives in the sector. In particular, there should be a funding line here for rural areas and other disadvantaged areas, tapping into the European Agricultural Fund for Rural Development and the Leader initiative.

<sup>(19)</sup> eHealth conference 2012, Copenhagen.

<sup>(20)</sup> *Help Wanted? Providing and Paying for Long-Term Care*, OECD, 2011.

<sup>(21)</sup> COM(2011) 900 final.

4.5.5 Also at EU level, support measures for family policies and for ensuring more flexible arrangements in the workplace for those providing care in their family need to be reviewed.

## 5. Concluding comments

5.1 The EESC is convinced that ‘in areas such as health care, childcare or care for the elderly, assistance to disabled persons or social housing, these services provide an essential safety net for citizens and help promote social cohesion’<sup>(22)</sup>.

5.2 The Committee emphasises that social, health and educational services are a matter of general interest – both economic and non-economic – and play an important role in the quality and functioning of European society, contributing to social protection, inclusion and in a significant way to the performance and competitiveness of the economy. At the same time, demand for these services is growing, while the capacity to fund them becomes more limited as a result of the economic crisis and, in the longer term, demographic trends.

5.3 The Committee strongly reaffirms the objectives in the Lisbon Treaty as regards education, social protection and health, which reflect the collective social conscience and the desire to give people as high a standard of living as is compatible with the economic potential of all Member States.

5.4 The EESC thus believes that in the current climate, further developments in these sectors require:

- the launch of a fully-fledged European strategy on innovative and ‘smart’ social and health services and the associated educational services, involving the optimisation of human resources, the introduction of appropriate technologies to support service recipients and providers, the development of a European area of integrated services, and structural and infrastructural support policies, backed up by social dialogue and dialogue with civil society at the various levels; as well as
- greater efficiency in the use of financial and human resources, and of the existing infrastructure, the application of quality principles, and performance assessment, with measures to increase and consolidate the acquisition of skills; increasing competitiveness through collective bargaining; greater involvement of the private and voluntary sectors and the social economy; new forms of partnership between the sectors and prudent spending reviews and joint assessments of services’ efficiency and cost-effectiveness.

Brussels, 13 December 2012.

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

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<sup>(22)</sup> COM(2011) 900 final.

**Opinion of the European Economic and Social Committee on ‘The partnership principle in the implementation of the Common Strategic Framework Funds — elements for a European Code of Conduct on Partnership’**

(own-initiative opinion)

(2013/C 44/04)

Rapporteur: **Mr PLOSCEANU**

On 24 May 2012, 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

*The partnership principle in the implementation of the Common Strategic Framework Funds – elements for a European Code of Conduct on Partnership*

SWD(2012) 106 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 21 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 158 votes in favour with 1 abstention.

## 1. Conclusions and recommendations

1.1 The EESC strongly believes that genuine partnership which involves all partners and stakeholders of organised civil society<sup>(1)</sup> in the preparation, execution and ex-post evaluation of the programmes and projects in EU cohesion policy contributes directly to their enhanced quality and efficient delivery. The partnership principle is an excellent example of how good governance can be applied in other EU policies thereby efficiently implementing the EU 2020 strategy.

1.2 Having asked for a code of good conduct, the EESC strongly supports the Commission initiative and agrees very much with its proposed recommendations. The EESC appreciates the support for the code given by the European Parliament (EP) and the Committee of the Regions (CoR); the EESC recalls, however, that partnership should be at equal terms for all public and private partners.

1.3 However, the EESC is deeply disappointed that the Council for the moment has deleted the proposed Code of Conduct from the Commission’s proposal. The EESC calls for a joint action with the CoR to defend the Code of Conduct.

<sup>(1)</sup> Organised civil society is defined by the EESC as: Organised civil society is that part of civil society that finds expression in organisations which are themselves building blocks of society. In other words, organised civil society comprises all private-initiative non-state organisations and their members who are actively involved in shaping public affairs on the basis of their own concerns and drawing on their own specific knowledge, abilities and scope for action. This definition covers a wide range of organisations: employers’ federations, trade unions, associations set up to promote certain matters of general interest as well as what are termed non-governmental organisations (NGOs).

1.4 The EESC is deeply worried about the increasing concern felt among organised civil society with regard to the implementation of the partnership principle. Reports from some Member States (MS) show an on-going trend towards a dilution of this partnership principle and a decrease of participation by organised civil society. The deletion of the Code of Conduct from the Commission proposals is also a major concern. In this time of crisis, there is a need for an even stronger commitment of social partners and other civil society organisations.

1.5 Even if still just a Commission staff working document (SWD), this text comes at an appropriate point in time as in several Member States and regions structural fund programming for 2014-20 has already started. It should actively be disseminated by the Commission in order to be used by the relevant partners. The EESC calls on its members to actively engage their organisations to participate in projects and programmes of EU cohesion policy, backed by the Code of Conduct.

1.6 The EESC would like to strongly emphasise that operational programmes should be geared towards ‘partnership-friendly’ actions and measures. Equal treatment and pluralism in partnership, targeted partnerships for targeted programmes and enhanced capacity building should be major guidelines.

1.7 The EESC believes that Monitoring Committees should be supplemented by other partnership instruments. In this context the EESC recalls that the wording proposed by the European Parliament’s amendments to Article 5 of the CPR: ‘cooperate with the partners’ be substituted by ‘involve the partners’.

1.8 The EESC proposes a '**partnership check**' managed by the partners themselves. Such a European monitoring system should be based on a simple checklist and peer reviews put in place by the Commission together with European stakeholder organisations. The EESC is very keen to take part actively in this process.

1.9 The proper implementation of the partnership principle as laid out in the Code of Conduct should be a condition before the Commission signs the Partnership Contracts with the different Member States. Within this context, resources to the operational programmes might be topped up as an incentive to fulfil this condition.

## 2. The context – partnership in evolution

2.1 The implementation of the partnership principle has been piecemeal and slow since it was launched in 1988. Organised civil society was included in the process, particularly the social partners. The principle was more easily taken on board in countries where partnership is an endogenous part of policy-making. The principle was reinforced when the Commission had more of direct responsibility in the cohesion policy and when Community initiatives like EQUAL and LEADER were introduced.

2.2 However, in many cases partnership was just formal. In the 2006-2013 programming period, partnership was not actively promoted even if at the same time stakeholder participation became a cornerstone to implement the Lisbon strategy. EU cohesion policy faced new challenges when 10 countries joined the EU in 2004, followed by Bulgaria and Romania in 2007.

2.3 Deficiencies were spotted by the Commission and setbacks were criticised by civil society partners. As a response to the changed relationship between Member States (MS) and the Commission in managing EU cohesion policy, dissemination of good practice came into focus.

2.4 In 2009, the Commission asked the EESC for an exploratory opinion on how to promote partnership in the structural funds on the basis of good practice. The EESC opinion at the time was supplemented with a publication 'It takes two to tango' presenting selected cases of good practice in MS. The EESC proposal for a code of good practice has been since taken up by the Commission.

2.5 The current situation illustrates that partnership with organised civil society is evolving in most Member States. Poland can in some cases serve as model for its evolving good practice. Implementing partnership is certainly a challenge for the latest new-comers such as Bulgaria and Romania and soon Croatia. This is also the case in some MS that joined in 2004, as well as in those that have been members for several years like Portugal and Greece.

2.6 There is actually a growing concern among organised civil society with regard to the implementation of the partnership principle. Expectations are not fulfilled. Reports from some MS show an on-going trend towards a dilution of this partnership principle, the decrease of the organised civil society participation and the deletion, by the Council, of the Code of Conduct. In some countries, programming for the 2014-20 period has started without the private stakeholders being invited in a genuine way. This political reluctance must be reduced to enable the proper implementation of the ECCP.

## 3. Commission proposal

3.1 Under the Commission's proposals for the CSF Funds in the period 2014-2020, MS will have a clear obligation to organise a partnership. This will be supported by a European Code of Conduct on Partnership (ECCP) which will lay down objectives and criteria for the implementation of partnership and facilitate the sharing of information, experience, results and good practices among Member States. The ECCP is to be adopted by the Commission as a delegated act within three months of adopting the Common Provisions Regulation (CPR).

3.2 The Commission SWD is a first step to make the partnership principle effective. Under six headings it enumerates 18 detailed guidelines. These six headings are, respectively:

- Which partners to select
- How to involve the partners in preparation of the programming documents
- How to involve the partners in the implementation phase
- How to involve the partners in the evaluation

— Assistance to partners

— Exchange of good practice.

3.3 It should be noted that the proposed ECCP has been translated in all EU languages, which will facilitate its dissemination and use.

#### 4. Previous EESC work on partnership

4.1 The EESC, at the specific request of the European Commission, worked on the partnership principle in 2010 (ECO/258 – rapporteur OLSSON <sup>(2)</sup>), and has extensively commented on the EC's proposals for partnership in its Opinion on the CPR (ECO/314 – rapporteur VARDAKASTANIS).

4.2 The EESC proposed that a **Code of Good Practice** should be based on a number of guidelines, nearly all of which have been taken account of in the Commission SWD:

— an information/consultation/participation plan to involve partners,

— accountability by the authorities,

— selection of partners from a broad spectra of society,

— technical assistance to partners,

— partnership as criteria for projects,

— **simplification** of procedures and controls,

— **payments** to be speeded up.

4.3 The EESC strongly believes that **partnership** which involves all partners as defined in Article 5(1) of the CPR in the preparation, execution and ex-post evaluation of projects undertaken in the framework of EU cohesion policy contributes directly to its success. It welcomes the progress in Article 5 of the European Commission's proposals which make partnership a mandatory feature; it recalls that participation should be real at all stages of the implementation of the funds, including these partners with the right to vote in the monitoring committees.

<sup>(2)</sup> EESC opinion on *Efficient partnership in cohesion policy* – OJ C 44, 11.2.2011, p. 1.

4.4 The EESC calls for joint action with the CoR to defend the ECCP and it calls upon the EC and EP to overturn its deletion by the Council. The EESC has stated so strongly at the informal ministerial meeting in Nicosia on 6 November 2012.

#### 5. Initial reactions of other EU institutions

##### *Council*

5.1 The Council has rejected the Commission's proposal for a code of conduct, which undoubtedly will weaken in practice the implementation of the partnership principle.

##### *European Parliament*

5.2 The European Parliament has proposed a comprehensive amendment on the code of conduct in Article 5 of the CPR based on nine specifications. The EESC supports this approach. The amendment is reproduced below <sup>(3)</sup>. However, the EESC is worried that the EP distinguishes between private and public partners and this might pave way for an unequal treatment of partners.

##### *Committee of the Regions*

5.3 The CoR supports the ECCP and calls on concerned territorial bodies to organise partnerships. It emphasises inter alia that consideration should be given to specific conditions in the MS, the importance of subsidiarity and proportionality, the procedure of selecting partners supporting pluralism in order to also include marginalised groups. The CoR raises the question of rights and responsibilities of the partners thereby also distinguishing between private and public partners.

<sup>(3)</sup> 3a. The European Code of Conduct shall outline inter alia the following specifications:

- a) minimum requirements and principles to ensure transparent selection of partners and clarity about their role in the policy process and their responsibilities;
- b) minimum requirements, recommendations, and indications on how to identify relevant partners, ranging from authorities of different territorial levels, social and economic partners, civil society, religious communities, science and technology organisations and bodies responsible for promoting gender equality, social inclusion and non-discrimination or active in the areas of culture, education and youth policy;
- c) the cooperation procedure among the competent national, regional and local authorities;
- d) guidance on how to tailor partnership to programmes, including the particular characteristics of multifund programmes, joint action plans and integrated territorial investments;
- e) minimum requirements for ensuring meaningful involvement of partners in the preparation of the Partnership Contract and the programmes;
- f) minimum requirements, forming part of the procedures established to ensure effective organisation of partnerships;
- g) guidance on the involvement of partners in monitoring committees, project selection, monitoring and evaluation;
- h) minimum requirements on providing guidance to partners and on facilitating capacity building among partners;
- i) outlining the framework for exchange good practices across Member States.

## 6. Reactions from organised civil society

6.1 European organised civil society believes that the absence of partnership was one of the main reasons for the reduced impact of structural funds in 2007-2013 in several MS.

6.2 It should be more clearly stated that organised civil society represents the general interest, alongside public authorities.

6.3 Organised civil society is often excluded from real and genuine partnership due to barriers created by rules in co-funding, administrative burdens, inadequate goals of the national Operational Programmes and lack of participation in monitoring of the funds.

6.4 Organised civil society recognises the efforts undertaken by the EC to simplify procedures but considers these are still insufficient for timely and easy absorption of funds by the private sector at large. Too much complexity and administrative burdens remain, bureaucracy needs to be reduced. The following aspects have to be taken into account:

- documentation standardisation (timely - easily accessible – easily understood),
- avoiding to introduce changes during the implementation,
- flexible co-financing rates,
- reducing of late payments periods.

6.5 Organised civil society underlines the importance of capacity building for partners and calls for the inclusion of a definition of capacity building. The definition of capacity building should be understood as the enhancement of the participation of partners in the preparation, implementation and monitoring of the SFs at all stages.

6.6 The EESC highlights the need to create a broad partnership that should represent a large spectrum of different interests. Clear ways to fix responsibilities and functions of these different partners should be established.

## 7. General comments

7.1 To effectively put in place the partnership principle is a continuous process. The Commission proposal is a first step in formalising and codifying the partnership principle at EU level. The EESC is pleased to note that both the EP and the CoR support an effective partnership principle. The partnership principle is in fact an excellent example of how good governance can be applied in other EU policies thereby efficiently implementing the EU 2020 strategy.

7.2 The EESC is deeply worried that the Council wants to restrict the partnership principle by reverting to the current more restrictive rules for the programming period 2006-13; it calls upon the Commission and the EP to help reverse this development.

## 8. Specific comments

8.1 As structural fund programming for 2014-2020 has already started in several MS, it is important for both public administrations and organised civil society to make use of the Commission's SWD. The EESC appreciates that the code of conduct has been translated into all the EU languages. The Commission should actively disseminate its proposals in the MS in cooperation both with public administration and organised civil society.

8.2 The EESC believes that monitoring has not been developed enough in the Commission's proposals. A European monitoring system based on a simple checklist and peer reviews should be set in place together with the European stakeholders' organisations. The EESC is quite keen to take part in this process.

8.3 The checklist should be based on minimum specifications particularly on selection, participation in the different stages and capacity building of the partners. Also how conflicts of interest are solved should be evaluated. The specifications could be supported by a SWOT-analysis (focussing on the Strengths, Weaknesses, Opportunities and Threats) to pave the way for improvements.

8.4 As part of this system the private stakeholders/partners should make a '**partnership check**' based on the above proposed checklist. The EESC proposes a simple assessment scheme with three levels insufficient/sufficient/excellent. Such a check would reinforce the participation of partners in evaluation as suggested in the SWD.

8.5 The EESC recalls that the proposed wording in the CPR in Article 5 by the EP '*cooperate* with the partners' must be substituted by '*involve* the partners'.

8.6 The EESC reiterates its earlier proposal that regions wanting to share their experience and disseminate good practice set up a network of 'regions of excellence in partnership'.

8.7 The good practices presented in the EESC brochure 'It takes two to tango' were widely appreciated; these examples could be very useful to test in other countries (even if partnership has to be adapted to national circumstances). The EESC proposes to update this brochure with a revised edition, which would include lessons learned from bad practices.

8.8 The EESC underlines the importance to involve partners from the earliest stage in a dialogue within a framework of a work programme (information/consultation/participation plan) and a precise roadmap as suggested by the EESC and supported by the Commission. The process must also be defined in the partnership contract. The proper implementation of the partnership principle as laid out in the ECCP should be a condition before the Commission signs the partnership contracts with the different MS. The EESC suggests that resources of the operational programmes be used to benefit capacity building within the partners as an incentive to fulfil this condition.

8.9 The selection of partners should be within the framework of 'pluralism in partnership'. Alongside economic and social partners and relevant civil society bodies, other players are to be included such as innovative, emerging and marginalised sectors of society, which must have access to and a role to play in the partnership. For these sectors, the model of coordination platforms is very useful. Also smallest, micro enterprises (with their high job potential) and the social economy (as follow up on the Social Business Initiative) must be involved as economic partners in the partnership.

8.10 The proposed thematic concentration in the programmes, as well as other targeting of programmes – geographically, groups, sectors etc. – will facilitate a focused and more effective partnership.

8.11 The work in the Monitoring Committees is often very formal and does not fulfil the demand for a genuine partnership. It should be supplemented by consultative bodies, working groups and other partnership instruments to reinforce the partnership process.

8.12 Capacity building is necessary for partners in all MS to contribute substantially to the process. Technical assistance but also Member State own funds should be used for this.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on ‘The Implementation and monitoring of the UN Convention on the Rights of Persons with Disabilities by the EU institutions and the role of the EESC’ (own-initiative opinion)**

(2013/C 44/05)

Rapporteur: **Mr Ioannis VARDAKASTANIS**

On 26 April 2012, 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 the

*Implementation and monitoring of the UN Convention on the Rights of Persons with Disabilities by the EU institutions and the role of the EESC.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 144 votes to 0 with 2 abstentions.

## 1. Conclusions and recommendations

1.1 The EESC urges the Council to revive the negotiations on concluding the Optional Protocol of the UN CRPD in order to ensure full enjoyment of the UN CRPD by Europeans with disabilities.

1.2 The EESC invites the presidents of the European Council, the European Commission and the European Parliament to organise a second *State of the Union on Disability* in December 2013, co-chaired with the European Disability Forum, to review implementation of the UN CRPD.

1.3 The EESC highlights the fact that the UN CRPD includes obligations that require legislative and policy changes at EU and Member State levels, and that the financial situation cannot be used as an excuse for delaying action on the rights of persons with disabilities.

1.4 The EESC calls on the Commission to conduct a thorough and participatory review of the implementation of the Disability strategy as an integral part of the future overall EU strategy, which would include the review of existing legislation, policy and programmes and the development of new proposals.

1.5 The EESC thus invites the European Commission, through its secretariat-general, to develop an impact assessment tool on the UN CRPD.

1.6 The EESC welcomes the establishment by the Council of an independent framework to promote, protect and monitor the implementation of the UN CRPD, and calls for the adoption of a dedicated budget which will enable framework participants to perform their tasks with full independence from the focal point.

1.7 The EESC is looking forward to being consulted by the European Commission on an ambitious legislative proposal for a European Accessibility Act with the broadest possible scope, which includes requirements for public and private service providers and manufacturers to provide full accessibility for persons with disabilities, as well as with a clear and extensive definition of accessibility.

1.8 The EESC welcomes the inclusion in the Digital Agenda of legislation on the accessibility of public websites and websites delivering basic services to the public and is looking forward to the presentation of robust legislation in 2012.

1.9 The EESC invites the Council and the European Parliament to reinforce or maintain provisions in favour of persons with disabilities in the Structural Fund regulations, the Connecting Europe Facility<sup>(1)</sup> and TEN-T regulations and in Horizon 2020<sup>(2)</sup>, the Rights and Citizenship programme, and the programmes in the area of development cooperation and humanitarian assistance by including measures that ensure the participation of persons with disabilities, through funding and capacity building.

<sup>(1)</sup> COM(2011) 665 final.

<sup>(2)</sup> [http://ec.europa.eu/research/horizon2020/index\\_en.cfm](http://ec.europa.eu/research/horizon2020/index_en.cfm)

1.10 The EESC calls on the European External Action Service, the European Commission and the Council to ensure mainstreaming of the UN CRPD in foreign relations and international cooperation, as well as in international trade agreements including by ensuring coordination of the EU and Member State positions on the rights of persons with disabilities within the various UN bodies.

1.11 The EESC urges the European institutions to take appropriate actions to implement the UN CRPD internally by reviewing their practices in terms of employment, working conditions, recruitment, training, accessibility of premises, work environment and communication tools, and the requirements of EU funded agencies.

1.12 The EESC takes note of Mr Barroso's commitment in December 2011 to discuss the implementation of the UN CRPD at a meeting of the College of Commissioners and the directors-general, and calls for this issue to feature on the agenda annually.

1.13 The EESC welcomes the organisation of a work forum gathering government focal points, coordination mechanisms, and independent mechanisms from the EU and the Member States in charge of the implementation of the UN CRPD, as well as civil society, and expresses its interest in participating in the forthcoming meetings.

1.14 The EESC looks forward to contributing with an opinion to the report by the EU to the UN Committee on the rights of persons with disabilities in 2013.

1.15 The EESC believes that it should take appropriate action to implement the UN CRPD internally and comply with its obligations by encouraging the employment of persons with disabilities in the EESC, ensuring a non-discriminatory recruitment process, improving the accessibility of buildings, websites, ICT tools and documents; providing reasonable accommodation for employees, members and experts, organising training for its staff, including through the production of a leaflet on the UN CRPD, and mainstreaming disability in its activities.

1.16 The EESC underlines the need for a systematic monitoring and implementation of the UN CRPD by the EU institutions and therefore commits to create a steering committee on the implementation and monitoring of the UN CRPD calling on the EU institutions to report on their work and gathering reactions from persons with disabilities through their representative organisations as well as civil society in order to develop an independent view on progress in the implementation of the UN CRPD.

1.17 The EESC proposes to organise a meeting involving national economic and social councils, civil society organisations and national human rights institutions on the implementation of the UN CRPD.

1.18 The EESC calls on the social partners to mainstream the implementation of the UN CRPD in collective bargaining on the basis of agreed guidelines.

## 2. Introduction

2.1 Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

2.2 There are around 80 million persons with disabilities in Europe and, according to Eurostat figures, they are two to three times more likely to be unemployed than non-disabled people; only 20 % of people with severe disabilities have a job, compared to 68 % of those without disabilities. Persons with disabilities are more than 50 % less likely to reach third-level education than non-disabled persons. Only 38 % of persons with disabilities aged 16-34 across Europe have an earned income, compared to 64 % of non-disabled people.

2.3 The EESC recalls its opinions 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 Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe* <sup>(3)</sup> and *Young persons with disabilities: employment, inclusion and participation in society* <sup>(4)</sup>.

<sup>(3)</sup> OJ C 376, 22.12.2011, p. 81–86

<sup>(4)</sup> OJ C 181, 21.6.2012, p. 2-6.

2.4 The EESC acknowledges that the UN CRPD and its Optional Protocol were adopted on 13 December 2006 at the United Nations Headquarters in New York, opened for signature on 30 March 2007 and entered into force on 3 May 2008.

2.5 The EESC highlights that the UN CRPD has enjoyed broad international support and has already received 154 signatories and 126 ratifications. The Optional Protocol has received 90 signatories and 76 ratifications so far. All 27 EU Member States have signed the UN CRPD and 24 have already ratified it.

2.6 The EESC emphasises that the UN CRPD is an integral human rights instrument which covers civil, political, economic, social and cultural rights. It reaffirms that all persons with disabilities must enjoy full human rights and fundamental freedoms.

2.7 The EESC underlines that the UN CRPD covers all persons with disabilities and explicitly recognises that multiple discrimination based on disability and other factors such as ethnicity, gender or economic status is a significant problem which can only be addressed through a multi-disciplinary approach taking into account the different roots of this complex form of discrimination.

2.8 The EESC stresses that the UN CRPD includes provisions on equality and non-discrimination, accessibility, liberty of movement and nationality, access to justice, freedom from violence, independent living and life in the community, right to family life, personal mobility, education, employment, health, social protection, international cooperation, civil protection, amongst others, as well as the participation of persons with disabilities through their representative organisations in decision-making processes, and mainstreaming of women and children with disabilities.

2.9 The EESC stresses that the UN CRPD introduces a paradigm shift, viewing persons with disabilities not as 'objects' of charity and medical treatment, but rather focusing on persons with disabilities as 'subjects' with rights, capable of

claiming them and of making decisions in their lives based on free and informed consent. Restoring voice, enhancing choice and expanding life chances are key themes of the UN CRPD.

2.10 The EESC welcomes the fact that the Convention clarifies and qualifies how all categories of human rights apply to persons with disabilities regardless of the intensity of support they need, and identifies areas in which changes are needed for the effective exercise and protection of rights of persons with disabilities.

2.11 The EESC acknowledges that the UN CRPD is the first international human rights treaty to be open for ratification by regional integration organisations such as the EU, and points to the decision of the Council of 26 November 2009 under which the European Community concluded the UN CRPD<sup>(5)</sup> and which designates the Commission as the focal point for matters relating to the implementation of the UN CRPD.

2.12 The EESC highlights that the decision includes a list of areas falling within the Union's exclusive or shared competence; this list is of an evolving nature and is likely to expand overtime. Areas of exclusive competence include the compatibility of State aid with the common market and the Common Custom Tariff. Areas of shared competence include actions to combat discrimination on the ground of disability, free movement of goods, persons, services and capital, agriculture, transport by rail, road, sea and air, taxation, the internal market, equal pay for work of equal value of male and female workers, trans-European network policy and statistics.

2.13 The EESC notes the Code of Conduct between the Council, the Member States and the Commission<sup>(6)</sup> setting out arrangements between the Council, the Member States and the Commission on various aspects of the CRPD's implementation and on representation in the bodies established by the CRPD, procedures for the preparation of the EU's report to the UN Committee on the Rights of Persons with Disabilities and the procedure for establishing a monitoring framework for one or more independent mechanisms involving civil society.

<sup>(5)</sup> 2010/48/EC.

<sup>(6)</sup> 16243/10 of 29 November 2010.

### 3. The UN CRPD: the implications of the EU's first accession to a human rights treaty

3.1 The EESC welcomes the fact that the European Union became, for the first time in its history, a party to an international human rights convention by concluding the UN CRPD on 23 December 2010, and acknowledges the leadership role played by the EU and its Member States, as well as the European disability movement through the European Disability Forum, in the drafting of the CRPD and considers that a special responsibility falls on the EU to intensify efforts on implementation and monitoring and provide a model for others in the world.

3.2 The EESC urges the Council to revive the negotiations on concluding the Optional Protocol of the UN CRPD, which would allow individuals or groups to submit complaints to the UN CRPD Committee once all legal remedies within the EU had been exhausted, as proposed by the European Commission in 2008, thereby preventing gaps and eliminating existing gaps in protection for persons with disabilities whenever violations of rights occurred in areas of EU competence.

3.3 The EESC calls on the Commission to consider ratification of other human rights treaties, such as the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination against Women, including their optional protocols. It calls on the EU to participate in the talks currently underway in the UN open-ended working group which is considering the drafting of a new thematic UN human rights treaty on the rights of older persons, and to ensure that its work is fully consistent with the UN CRPD.

3.4 The EESC acknowledges that, as a Party to the UN CRPD, the European Union must comply with all of the obligations laid down in the UN CRPD to the extent of its competences including the obligation to report periodically to the UN CRPD Committee.

3.5 The EESC emphasises that Articles 10 and 19 of the TFEU and Articles 21 and 26 of the Charter of Fundamental Rights of the European Union provide a clear reference to the protection of the rights of persons with disabilities <sup>(7)</sup>.

<sup>(7)</sup> SEC(2011) 567 final.

3.6 The EESC calls on the European institutions to enact legislation, policies and programmes that fully implement the UN CRPD on matters falling within the Union's exclusive and shared competence and to review existing legislation and policies in order to ensure the full protection of all persons with disabilities in the European Union.

3.7 The EESC invites the presidents of the European Council, the European Commission and the European Parliament to organise, in cooperation with the European Disability Forum, a second *State of the Union on Disability* in December 2013, focusing on the implementation of the UN CRPD <sup>(8)</sup>.

3.8 The EESC welcomes the organisation by the European Parliament, together with the European Disability Forum, of a European Parliament of persons with disabilities in December 2012, in view of its contribution to the EU report to the UN CRPD Committee.

3.9 The EESC urges the European institutions to take appropriate actions to implement the UN CRPD internally. This includes:

- encouraging the employment of persons with disabilities in the EU institutions and developing policies to reconcile work and family life;
- reviewing internal regulations, procedures and working methods with a view to ensuring equal opportunities for employees with disabilities;
- ensuring that in the recruitment process persons with disabilities have the opportunity to compete with non-disabled candidates on an equal basis by providing reasonable accommodation;
- ensuring reasonable accommodation for all employees with disabilities where needed in their daily work, including personal assistance, sign language interpretation, suitable transport etc.;

<sup>(8)</sup> The *State of the Union on Disability* was convened by the European Commission president, Mr Barroso, on 6 December 2011, and brought together Mr Van Rompuy, European Council president, Mr Buzek, European Parliament president, and the president of the European Disability Forum, Mr Vardakastanis.

- ensuring access to vocational and continuous training;
  - improving the accessibility of buildings, websites, ICT tools and documents;
  - ensuring that all EU agencies and EU-funded bodies, including the European schools, comply with the UN CRPD;
  - ensuring the participation of organisations of persons with disabilities in the development of legislation and policies, including through adequate funding.
- to include accessibility provisions in the Connecting Europe Facility and TEN-T regulations <sup>(11)</sup>;
  - to ensure that Horizon 2020 <sup>(12)</sup> guarantees that research funded by the EU will be inclusive of persons with disabilities by promoting user participation and accessibility of research deliverables, as well as generating new and innovative ideas on how to implement the CRPD in EU law and policy including in employment;
  - to include disability-related provisions in its development and humanitarian assistance programmes.

#### 4. The implementation of the UN CRPD by the EU and the Member States

4.1 The EESC welcomed the European Disability Strategy 2010-2020 in its resolution of 21 September 2011, as a key political tool for implementing the UN CRPD in the European Union, while calling on the European Commission to ensure that existing and future secondary legislation respects the UN CRPD and provides for the participation and involvement of persons with disabilities <sup>(9)</sup>.

4.2 The EESC calls for a thorough and participatory review of the implementation of the Disability strategy, including by setting new goals and objectives.

4.3 The EESC calls on the Council and the European Parliament to mainstream the implementation of the UN CRPD within the EU's multiannual financial framework by ensuring that not a single eurocent will be spent on inaccessible projects or infrastructures.

4.4 The EESC invites the Council and the European Parliament:

- to reinforce or maintain provisions aiming at implementing the UN CRPD in the Structural Fund regulations, notably regarding the ex-ante conditionalities <sup>(10)</sup>, the partnership principles and the horizontal principles;

4.5 The EESC invites the European Commission to create a mechanism that will reward excellence in CRPD compliance in projects funded by the EU with regard to the development of accessible solutions and inclusion of persons with disabilities.

4.6 The EESC recalls the disability provisions included in the Europe 2020 strategy, particularly regarding the third pillar on social inclusion, as well as the digital agenda, and calls for mainstreaming of the implementation of the UN CRPD in all flagship initiatives.

4.7 The EESC is worried about the negative impact that the austerity measures that have been put in place in many EU Member States are having also on persons with disabilities and their families leading to further social exclusion, discrimination, inequality and unemployment, and highlights that the crisis cannot be used to postpone implementation of the UN CRPD.

4.8 The EESC calls on the European Council to adopt a real strategy for growth that provides for measures in favour of disadvantaged groups such as persons with disabilities, including measures to stimulate employment opportunities, fostering services that promote independent living and participation in the community, taking into account also the situation of persons that become disabled in their old age, as well as the development of accessible infrastructure.

<sup>(9)</sup> OJ C 376, 22.12.2011, p. 81–86.

<sup>(10)</sup> Ex ante conditionalities on the UN CRPD, accessibility, and independent living were already included in the European Commission proposal.

<sup>(11)</sup> COM(2011) 665 final.

<sup>(12)</sup> [http://ec.europa.eu/research/horizon2020/index\\_en.cfm](http://ec.europa.eu/research/horizon2020/index_en.cfm)

4.9 The EESC invites the Member States to take measures to ensure that persons with disabilities have access to the labour market through fiscal incentives to companies, measures favouring entrepreneurship, the possibility to move in and out of employment, and equal access to social protection and workers' rights.

4.10 The EESC is looking forward to being consulted by the European Commission on its proposal for an ambitious European Accessibility Act with the broadest possible scope, and which includes requirements for public and private service providers and manufacturers to provide full accessibility, and a clear and extensive definition of accessibility covering both virtual and built environments, allowing interoperability and compatibility with assistive technologies and linked to European standards.

4.11 The EESC calls on the Council to continue work on the proposal for a directive implementing the principle of equal treatment between persons irrespective of sex, religion or belief, disability, age or sexual orientation, and to align the proposal with the UN CRPD by including a definition of disability and discrimination by association, prohibiting discrimination in access to financial and insurance services, addressing access to education, and clearly separating the notion of reasonable accommodation to ensure individual access from the notion of accessibility which involves an anticipatory and group-based duty.

4.12 The EESC stresses that the needs of persons with disabilities should be mainstreamed in all programmes, strategies and policies at EU level targeting women, children, discriminated groups such as ethnic or religious minorities, gays and lesbians, and older people.

4.13 The EESC highlights the need to ensure the maximum degree of congruence with the EU's internal laws and policies by mainstreaming the UN CRPD in its foreign relations and development and humanitarian assistance including through the development of ad hoc guidelines.

4.14 In particular, the EESC urges the EU to coordinate its position with that of the Member States in UN discussions that have an impact on the rights of persons with disabilities, by, for

instance, ensuring that the position of the EU on the post-Millennium Development Goals framework incorporates the human rights of persons with disabilities, and that persons with disabilities are mentioned in the quadrennial comprehensive policy review.

4.15 The EESC calls on the EU to carry forward its commitment to the UN CRPD into other ongoing multi-lateral fora such as the negotiations currently underway at the World Intellectual Property Organisation on the reform and liberalisation of copyright law.

4.16 The EESC lauds the work done to date with respect to the policy exchange dialogue in the New Transatlantic Agenda between the USA and the EU on disability reform and given the impending US ratification call on enhancing the transatlantic disability policy dialogue further in order to further contribute to driving the global reform process forward.

4.17 The EESC urges the European Commission to ensure that, within each directorate-general, relevant services are given the task of mainstreaming the implementation of the UN CRPD in the preparation of policies and legislation.

4.18 The EESC calls on the secretariat-general of the Commission to develop an impact assessment tool on disability rights for all new legislative proposals and to include a module on UN CRPD rights in the training of new staff and in re-training.

4.19 The EESC emphasises that, according to paragraph (o) of the preamble and Article 4.3 of the UN CRPD, persons with disabilities must be involved in all policy- and decision-making processes, policies and programmes relating to persons with disabilities and calls on the EU institutions and national governments to put in place appropriate processes.

## 5. Monitoring of the UN CRPD in the EU

5.1 The EESC notes that Article 33(2) of the UN CRPD obliges State Parties to designate or establish within the State Party, a framework, including one or more independent mechanisms, to 'promote, protect and monitor' the implementation of the Convention.

5.2 The EESC calls on the Council to formally designate such a framework through a decision.

5.3 The EESC points out that when designating or establishing such a mechanism, State Parties must take account of the Paris Principle regarding the status and functioning of national institutions for the protection and promotion of human rights.

5.4 The EESC calls, in particular, for the independence of the framework from the focal point and coordination mechanism that has been designated within the EU, and for the definition of a mandate for each framework participant, as well as a budget enabling them to perform their tasks.

5.5 The EESC stresses the need for the establishment of clear rules for structured consultation of the framework participants within their respective roles, particularly with regard to the preparation of legislation.

5.6 The EESC acknowledges that according to Article 33(3) of the UN CRPD, civil society, and in particular persons with disabilities and their representative organisations, must be involved and participate fully in the monitoring process, including in the focal point and coordination mechanism designated by the Council for the implementation of the UN CRPD.

5.7 The EESC believes that the European Disability Forum, as the European umbrella organisation representing the 80 million citizens with disabilities in Europe, should be involved in European-level monitoring of the UN CRPD, and in all EU-level policy- and decision-making processes relating to the lives of persons with disabilities.

5.8 The EESC strongly believes that partnership is a tool for sustainable, economic and social development and must be based on a long term perspective of real participation of civil society by including also continuous capacity building of all partners, as well as providing adequate means for participation<sup>(13)</sup>.

5.9 The EESC urges the EU to include in its future Rights and Citizenship funding programme funding to support the implementation of the UN CRPD, which should also include capacity building and sufficient funding for representative organisations of persons with disabilities.

5.10 The EESC recognises the importance of setting-up a CRPD-compliant EU-level framework so that countries outside the EU, in particular those that belong to regional organisations, may look to the EU framework for an example.

5.11 The EESC stresses that the EU must submit its first periodic report to the UN CRPD Committee by early 2013 and is looking forward to being consulted by the European Commission in its preparation, alongside a broad range of stakeholders, including civil society and in particular the disability movement.

5.12 The EESC welcomes all the actions proposed by the European Commission and Eurostat to improve and increase data collection and detailed statistics and indicators on disability in view of developing more effective policies and better monitoring their implementation. The EESC looks forward to the publication of the data from the ad hoc module on disability included in the Labour Force Survey 2011 and encourages the Commission, Eurostat, the Fundamental Rights Agency and the Member States to systematically include disability questions in all main surveys as well as to develop specific surveys and indicators that will allow to measure the interaction between persons with disabilities and the barriers encountered in daily life, as well as the impact of policy instruments designed to break down such barriers.

5.13 The EESC urges the EU and the Member States to develop awareness campaigns on the rights and obligations enshrined in the CRPD by targeting public authorities at all levels, private companies, media, universities and research centres, schools, social and health services.

5.14 The EESC calls on Member States to ensure implementation of the CRPD at the different levels of decision making by mainstreaming its provisions in legislation, policies and administrative decisions and by developing CRPD-compliant disability action plans.

5.15 The EESC encourages partnerships between trade unions, employers' organisations, social economy organisations, and organisations of persons with disabilities in order to promote access to employment for persons with disabilities in line with the UN CRPD.

<sup>(13)</sup> OJ C 44, 11.2.2011 p. 1–9.

## 6. The EESC and the UN CRPD – internal implementation

6.1 The EESC believes that it should take appropriate action to implement the UN CRPD internally and comply with its obligations. This includes in particular:

- encouraging the employment of persons with disabilities in the EESC, including by developing a traineeship programme and encouraging applications of detached national experts with disabilities;
- ensuring a non-discriminatory recruitment process for candidates with disabilities;
- providing access for persons with disabilities to placement services and vocational and continuous training;
- improving the accessibility of buildings, websites, ICT tools and documents;
- providing reasonable accommodation including personal assistance for employees, members and experts;
- organising training for its staff to raise awareness of disability and of the UN CRPD, including through the preparation of a leaflet and a video on mainstreaming the implementation of the UN CRPD;
- participating in the interinstitutional working group on the implementation of the UN CRPD;
- mainstreaming disability in its activities.

6.2 The EESC stresses that disability rights should be a cross-cutting issue addressed in all of its opinions that have an impact on the lives of persons with disabilities.

6.3 The EESC highlights that the rights enshrined in the UN CRPD must be mainstreamed in the work of all its sections, as they touch on all areas of social, cultural, and economic activity.

6.4 The EESC underlines to that effect the need to establish a steering committee on the implementation and monitoring of the UN CRPD which would call on the different EU institutions to report on their work and would seek the views of civil society, and particularly the European Disability Forum, as the representative organisation of persons with disabilities, to feed into the preparation and presentation of the EU report to the UN CRPD Committee. Through the involvement of these different sections, the steering committee would provide an independent view of progress in the implementation of the UN CRPD.

6.5 The EESC recalls the role it plays in terms of strengthening the EU's democratic legitimacy by emphasising participatory democracy, as well as the role of civil society organisations.

6.6 The EESC calls for the creation of a body to stimulate and coordinate dialogue between EU institutions and bodies and civil society on the implementation of the UN CRPD at EU level.

6.7 The EESC recommends that it contribute to the report to be presented by the EU to the UN Committee on the Rights of Persons with Disabilities by means of opinion.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on ‘The European Year of Mental Health — Better work, better quality of life’ (own-initiative opinion)**

(2013/C 44/06)

Rapporteur: **Mr SCHLÜTER**

On 12 July 2012, 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

*European Year of Mental Health — Better Work, Better Quality of Life.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 23 November 2012.

At its 485th plenary session on 12 and 13 December 2012 (meeting of 13 December 2012) the European Economic and Social Committee adopted the following opinion by 74 votes to 1 with 2 abstentions:

### 1. Summary and recommendations

1.1 Mental health forms **an integral part of quality of life** and well-being for all people in the EU. The WHO defines mental health as ‘a state of well-being in which an individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and is able to make a contribution to his or her community’<sup>(1)</sup>. Economic data such as GDP are an inadequate reflection of this. The current crisis has plunged many millions of people into fear for their very existence, identity crises, and unemployment, and has had an impact on the risk of suicide. Mental well-being, rather than abstract financial issues, is therefore the key to the happiness of a very large number of people. Mental well-being is the prerequisite for individuals being able to realise their intellectual and emotional potential. For society, it is a source of social cohesion and of better social well-being and economic prosperity.

1.2 This initiative is geared towards **improving mental health** and the public’s awareness of it in the broad sense. In addition to chronic and acute mental illnesses and disabilities, it also covers debilitating stresses which are not classified as illnesses and which may also have physical causes or effects. There are many facets to the subject of mental health and these are impacted by medical and socio-political issues as well as aspects of life such as the world of work, young people, old age and poverty.

1.3 Mental disorders can have **various causes and consequences** – such as trauma, stressful childhood experiences, drug use, stress, unemployment, homelessness, exclusion – and may be combined with genetic predisposition. The solutions and the relevant policies are just as diverse. It is often possible to influence these causes, which should therefore

be given appropriate consideration in any inclusive policy and economic system. The social economy, civil society and new approaches predicated on social entrepreneurship can play a key role. Prevention, early recognition and treatment of mental illness must be based on a multidimensional approach (psychotherapy, as well as medical and socio-economic measures). Greater account must be taken of mental disorders and illnesses in the general education of health professionals, educators, teachers and people in executive positions. A publicly supported health promotion plan and a modern corporate culture can support people with disabilities and minimise the occurrence of work-related problems.

1.4 It is vital to strengthen civil, voluntary, family and professional **networks and boost the participation of those affected** and associations representing them. Prevention and raising awareness are tasks for society as a whole. Community-based outpatient support and assisted living can often help prevent restrictions on freedom and inpatient treatments. European recommendations and good practices are particularly important here and should include an appropriate reduction of inpatient psychiatric treatment and medication in order to help build up socio-environmental support measures and other alternative forms of assistance. The resources this would generate for science and research could also be directed more towards maintaining mental health. Even for financially weaker Member States, restructuring and new priorities are possible.

1.5 **Raising broad public awareness** of this issue, including in nurseries and schools, in businesses, among doctors and in care establishments, should be promoted across the EU. Campaigns to destigmatise mental illness and the use of non-discriminatory language in the media could reduce the discrimination experienced by people with mental health problems.

<sup>(1)</sup> <http://www.who.int/mediacentre/factsheets/fs220/en/> (visited 4.10.2012).

People's state of health also has major economic consequences. These are secondary when compared with the more serious personal consequences of mental health problems <sup>(2)</sup>. More questions should be asked about the social, political and economic interests and structures which make this problem worse and how inclusion can be promoted actively through the effective development of **care systems geared towards the individual** and through supporting families as the setting in which people first start to learn about life. Major advances in medicine, professional and voluntary support as well as the business model on preventative health care must be given greater consideration and promoted more strongly.

## 2. Background

2.1 The most common mental illnesses in Europe are anxiety disorders, depression and dependency-based illnesses. According to studies from 2010, 38 % of Europeans suffer from mental health problems <sup>(3)</sup>. The figure was already 27 % in 2005 <sup>(4)</sup>. Each year, 58 000 people commit suicide. By 2020 depression will become the second most common illness in industrialised countries <sup>(5)</sup>. According to figures for people insured by a major German health insurance fund, between 2006 and 2009, mental illness accounted for a 38 % increase in lost working hours among workers and a 44 % increase among unemployed people <sup>(6)</sup>. Prescriptions of 'medication to treat the nervous system', which includes antidepressants, increased by 33 % <sup>(7)</sup> in this period. In Great Britain too, 44 % of employers reported an increase in problems related to mental health and 40 % an increase in stress-related absences <sup>(8)</sup>.

2.2 Mental health and well-being has so far not been the focus of a European Year. However, prejudice around mental health problems and psychosocial disabilities, and stigmatisation in society or at work, for example, is still a daily occurrence. The **Europe 2020 strategy** calls for greater social inclusion of this group and for relevant EU health programmes to be set up with an eye to inclusive and sustainable growth. Furthermore, the UN Convention on the Rights of Persons with Disabilities, which was concluded by the EU as the first ever international human rights instrument, provides a clear set of rights for persons with psychosocial disabilities. The rights enshrined in this convention need to be respected and implemented by means of all relevant EU policies and activities. Dedicating a

<sup>(2)</sup> COM(2005) 484 final.

<sup>(3)</sup> *The size and burden of mental disorders and other disorders of the brain in Europe 2010*, H.U. Wittchen et al., European Neuropsychopharmacology (2011) 21, pp. 655 – 679.

<sup>(4)</sup> <http://www.psychiatrie-psychotherapie.de/archives/14> (visited 15.8.2012).

<sup>(5)</sup> See footnote 1.

<sup>(6)</sup> Health report 2010, Techniker Krankenkasse, Germany.

<sup>(7)</sup> See footnote 6.

<sup>(8)</sup> Catherine Kilfedder, British Telecom, Hearing EESC, 30.10.2012.

European Year to mental health and well-being would therefore be a means of giving these requirements appropriate attention.

2.3 Since the mid-1990s, mental health has been the subject of several specific projects on **European health policy** and has been given a place of central importance <sup>(9)</sup>. In 2005, the Commission launched a consultation based on the Green Paper on mental health <sup>(10)</sup>.

2.4 **The EESC stands by its opinion** on the Green Paper <sup>(11)</sup> and underlines the social and personal importance of mental health as a key component in the concept of health. For the European Union, which is viewed as a community of values, mental health is an important source of social cohesion and universal participation. This is also advocated by the UN Convention on the Rights of Persons with Disabilities, which seeks to ensure through its human rights provisions that people with disabilities participate and are viewed from a holistic perspective.

2.5 In looking at this subject, **the Commission** also addresses issues relating to the economy, employment policy and public health. Ensuring a high level of health protection is one of the EU's cross-cutting tasks, as stated in Article 168 of the Treaty on the Functioning of the European Union (TFEU). What is more, a European Year of Mental Health would enable the EU to carry out the task specified in Article 6 TFEU, namely 'to carry out actions to support, coordinate or supplement the actions of the Member States [... on...] protection and improvement of human health', at European level.

2.6 **The EU strategy for mental health** has, among other things, promoted the 2008 *European Pact for Mental Health and Well-Being* <sup>(12)</sup>, which also informed the Council's conclusions of June 2011 <sup>(13)</sup>.

<sup>(9)</sup> Action for Mental Health. Activities co-funded from European Community Public Health Programmes 1997–2004.

<sup>(10)</sup> See footnote 1.

<sup>(11)</sup> COM(2005) 484 final.

<sup>(12)</sup> European Pact for Mental Health and Well-being, Brussels, 12-13 June 2008.

<sup>(13)</sup> 309th Council meeting, EPSCO, 6.6.2011.

2.7 The conferences in this field held as part of the EU strategy were not adequately geared to raising **broader public awareness** and putting mental health issues on everyone's lips in Europe. This is something a European Year on Mental Health could achieve. Public authorities at all levels would focus on the issue, as well as civil society stakeholders in their multiple roles as experts, disseminators and social enterprises. A European Year of Mental Health would, first and foremost, have to be consistent with the UN Convention on the Rights of Persons with Disabilities (CRPD). People with mental health problems or disabilities must be recognised as equal before the law and be able to enjoy in full their legal freedoms and their freedom to act (see Article 12 CRPD).

2.8 From a technical and ethical point of view, many people with mental health problems do not receive the necessary forms of **treatment, rehabilitation and support to enable them to participate in society**, although medicine and social services have made great progress in this area. Mental health is often not a health policy priority. Instead of support structures being built up, essential services and treatments are often scaled back or made more expensive, especially **when budgets are under pressure and in periods of crisis**. Instead, and especially in the economic crisis, investments in fostering participation, education and the social economy would be required. In times of crisis especially, government cannot be allowed to simply withdraw from the welfare sector.

Particularly in the case of acute problems, waiting lists and long distances are counterproductive. Residential care and restrictions on freedom should be kept to an absolute minimum, in favour of community-based outpatient services, meeting points, advice centres and possibilities for medical treatment. It is essential to put in place legal entitlements and appropriate schemes to **boost the autonomy of the people affected**, so that, rather than having decisions taken for them, they are given the requisite support to determine for themselves, for instance, what assistance or therapy they need, without thereby ultimately having to have their legal capacity curtailed. Classification into disease categories, unilateral referral into the psychiatric system, the administration of psychotropic drugs and the use of force must, systematically, be subject both to critical review and to the application of standards underpinned by the rule of law and human rights. In all types of facilities and living arrangements, the overall concept must include provision for the people concerned to take part in society, engage in meaningful employment and have a properly structured day. The effects of psychotropic drugs on the ability to participate and morbidity should be considered in a more sensitive manner. The accessibility of support must not be curtailed through a fragmentation of support structures and bureaucratic and time-consuming application procedures. Crisis intervention and suicide prevention require easily accessible, specialist

services. National emergency numbers and other specific support measures should be introduced across Europe.

2.9 At the same time, account must also be taken of the mutually reinforcing nature of **socio-economic circumstances**, unemployment and the burdens of illness. Furthermore, there are people with psychiatric illness who need resources and support in order to have a good quality of life. This means that promoting opportunities for participation and strengthening the legal status of those with chronic psychiatric illnesses and mental disabilities should be taken into account when setting the priorities for a European Year of Mental Health.

2.10 Assistance for people with mental disabilities should take into consideration **philosophical**, religious, pastoral and spiritual needs and beliefs.

2.11 Social factors are important in maintaining good mental health. Decent work plays a key role here in providing a meaningful sense of identity. To some extent, however, everyday living and working conditions are no longer governed by reliable cultural traditions and democratic decisions taken at local level, but by centralised economic choices and structures. Economic and structural policy should therefore take account of peoples' mental health and the goals of decent and inclusive residential areas and working conditions.

2.12 People in the modern world see new opportunities in today's multi-option, media and consumer-based society, but also new **stress factors**. In this connection, education systems are in many cases unable to meet the urgent need for high-quality ethical, cognitive and social education. Such education could, however, promote the independence and mental well-being that is required. Social ties continue to weaken, leading to a loss of external resources, such as friends, families and colleagues. Frequent changes of job and domicile, unemployment and loosening ties in personal relations do not contribute to the development of social networks in one's immediate neighbourhood. It is thus all the more important to ensure the mandatory involvement of the people affected and the associations representing them in the design of assistance and network structures.

2.13 Where the **balance of personal responsibility and social security** is disturbed, the risk of mental illness increases. This is relevant, for example, to incentives to enter the labour market, which can have no demonstrable effect because of a lack of jobs and a structurally-based lack of opportunities for business start-ups. Homelessness and mental impairments are also often closely intertwined, so that assistance must address both these issues. Parents in insecure employment and their children are prey to a whole range of stresses and strains caused by uncertainty, poverty, the sheer demands of child-rearing, time pressure and family stress. Assistance must be correspondingly diverse and must include, for example, publicly-funded pedagogical support and family recreational facilities. High levels of public debt and economic difficulties as well as cuts to social security and high unemployment are significantly increasing the risk of depression, anxiety and addictions. The suicide rate in eleven EU Member States increased by more than 10 % in the first half of 2011. Proper investment in social security and social services would alleviate this situation considerably<sup>(14)</sup>.

### 3. Mental health in particular areas of life

#### 3.1 *The world of work*

3.1.1 Discontinuity in employment, frequent restructuring, the need to be available at all times, time pressure, excessive workloads and **increasing demands on flexibility and mobility**: all of these often have repercussions for mental health<sup>(15)</sup>. Disability statistics from the Netherlands show that, in 2010, mental health problems were the main reason for long-term sick leave (55 days). In Great Britain the HSE<sup>(16)</sup> estimates that about 9,8 million working days were lost through work-related stress (2009-2010), and on average, each person suffering from work-related stress was written off sick for 22,6 days. In 2010-2011, 10,8 million working days were lost<sup>(17)</sup>. The inability to reconcile a professional life with family, care for relatives and time for cultural, physical and mental recreation poses further risks. Some countries have introduced measures enabling employees to take time off work to care for a relative and a right to ask for leave of absence. Often, businesses also have to deal with problems that have arisen outside the work context. There should be stronger public promotion of model approaches to preventive health care, inclusion, suitable part-time solutions, assistance at the workplace and ongoing training for management and staff. Innovative corporate cultures can also enhance the quality of work and products. Proactive stress risk management, based on research into stress factors and their reduction and elimination, should be part of a consistent prevention strategy, in accordance with the Treaty provisions, Framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work

and the Framework agreement on work-related stress reached by the European social partners in 2004.

Uncertainty over jobs and livelihoods and powerful structural forces in the labour market pose additional risks. There must be clear limits on any competition among employees to outdo one another in terms of productivity and any competition to undercut on working conditions. The losers in the labour market are often given the blame, even if they are not responsible. Employers' demands for employees to show the requisite reasonable flexibility are just as valid as employees' own demands for flexibility so that they can look after their families, care for individuals and deal with personal problems (care on the part of the employer and a 'person-centred' approach). People with mental health problems have a **higher risk of losing their jobs** or being unable to work because of their illness. Here too, social prejudices play a crucial role. This leads to losses for workers, resources in general and wealth creation.

3.1.1.1 The current quota rules for people with disabilities in some countries are, for example, far from sufficient as instruments. What is needed is a bold employment integration policy to help the many people who are currently excluded and to help society.

3.1.2 A more open approach to this subject could be brought about by the establishment of joint publicly backed advice and redress bodies. Bodies should be set up either inside the company or externally to represent the interests of working people with disabilities and mental health issues at the workplace. What is more, the risks should be limited by appropriate protection against dismissal, statutory employment protection, unemployment support schemes, a publicly promoted occupational health management system, return-to-work plans and an active labour market and family policy. In the interests of employers, and SMEs in particular, it is essential to safeguard competitiveness, avoid red tape and ensure the reliability of public support structures. Community service bodies and welfare associations and other civil society stakeholders can play an important role in providing political and practical support for those concerned, for businesses and for employment services<sup>(18)</sup>.

<sup>(14)</sup> Press release, *Depressions and suicides: how to reduce the human cost of the crisis*, EP press service, 25.6.2012.

<sup>(15)</sup> Health report 2011, Betriebskrankenkassen (BKK), Germany.

<sup>(16)</sup> Health and Safety Executive, <http://www.hse.gov.uk/>

<sup>(17)</sup> European Agency for Health and Safety at the Workplace, Bilbao/Spain.

<sup>(18)</sup> OJ C 351, 15.11.2012, pp. 45–51.

### 3.2 Children and young people

3.2.1 There are hardly any precise statistics on mental health problems in children and young people. This is partly because it is often difficult to differentiate between someone who is ill and someone with behavioural problems for psychological reasons, between people in need of advice, education or treatment. This means that, generally speaking, it is almost impossible to distinguish between these needs: transitions are fluid. For example, according to the German *Psychotherapeutenkammer* (association of psychotherapists) the annual prevalence is between 9,7 % (mentally ill) and 21,9 % (behavioural problems) <sup>(19)</sup>. Regarding depression, the risk of becoming ill for the first time is increasing, while the age at which the illness initially occurs is going down. Experts are seeing a **growing number of anxiety and behavioural disorders** and a definite increase in the use of psychotropic drugs among children and young people.

3.2.2 At the same time, child day care centres and schools have reported an increasing number of children and young people who are dropping out (14,4 % across the EU), who have behavioural problems or concentration difficulties or who have been violent. Often there is a combination of problems, accompanied by mental health disorders, an inability to resist consumer products <sup>(20)</sup> and media entertainment, computer or other addictions as well as general development deficits. What is alarming is the increasing consumption of antidepressants, methylphenidate and other medications among children and young people. There is an urgent need to compile statistics across Europe and to develop alternatives.

3.2.3 The increasing uncertainty experienced by children and young people as well as their parents is a problem that child and adolescent psychiatry is unable to solve, at least by itself. Early childhood assistance and support for the key role played by families are just as important as fostering **the requisite skills** among nursery staff and paediatricians and in schools. It is therefore not helpful if every behavioural problem is defined as a mental health problem or illness and complex individual and social problems are made into problems of the medical profession alone <sup>(21)</sup>. Individualisation, varying levels of access to school education, unemployment, poverty, social exclusion, personal shame and parents who are unable to cope as well as systems of education based on an increasing sense of competition from the earliest age, limiting opportunities for those unable to keep up with the leaders in the race may be factors that a preventive approach has to take into account. Shared responsibility among all social stakeholders is what is needed here: a dynamic living environment, appro-

priate approaches to young people's education, well equipped schools and day care centres, a standard provision of **non-commercial leisure activities**, youth groups, clubs and cultural events and a comprehensive network of professional interdisciplinary care, such as advisory services to help with child-rearing issues and non-formal education. Drug abuse should be tackled consistently through early detection, prevention, counselling and therapies, as well as by controlling supply channels. Investing in this area will avoid immense personal and social damage. Inclusion in education, work and other forms of useful employment must be legally guaranteed for adolescents and young adults. In all these fields, non-profit services and social welfare and civil society organisations have a key political and practical role to play.

### 3.3 Older people <sup>(22)</sup>

3.3.1 Increased and further increasing life expectancy is one of several crucial explanations for the overall rise in the number of mental health problems. Physical multi-morbidity increases in old age, accompanied by a heightened risk of depression. Furthermore, depression is often a side-effect of certain age-related illnesses, such as Alzheimer's and Parkinson's. A dynamic living environment favourable to participation, accessible and outpatient social services, opportunities to volunteer, appropriate forms of workforce participation and participation in business and ensuring that care institutions have the right focus: these are all key factors in heading off loneliness and in preventative healthcare. Social facilities, care services and doctors should be sufficiently competent in handling psychiatric issues in older people. Best practice models, especially as regards people suffering from dementia, should be examined more thoroughly at European level.

3.3.2 Older people are usually cared for by general practitioners, who do not refer enough cases to neuro-psychiatric specialists. In cases of dementia and depression, however, early diagnosis is important, so there is a uniform need for a cross-cutting approach to care: in most general old people's homes, there is a lack of regular **specialist psychiatric care**. This is also true of other services for older people, such as advice centres. Advances in medicine and especially gerontology and technical assistance should be used in a suitable way for the benefit of all those concerned.

3.3.3 Overall, the particular features of child, adolescent and geriatric psychiatry should be given greater consideration both in the training programmes for general medicine and general psychiatry and in general psychotherapy.

<sup>(19)</sup> See details provided by the *Bundespsychotherapeutenkammer*, Germany, <http://www.bptk.de/presse/zahlen-fakten.html> (visited 15.8.2012).

<sup>(20)</sup> OJ C 351, 15.11.2012, p. 6–11.

<sup>(21)</sup> Study group on psychiatry of AOLG – Report for the regional health minister conference in Germany 2012, 15.3.2012, p. 20.

<sup>(22)</sup> OJ C 51, 17.2.2011, p. 55-58.

#### 4. Destigmatisation policy

4.1 An **approach based on human rights** would be of central importance in a European Year of Mental Health. Medical as well as mental welfare services should support the individuals concerned and make them stronger, boosting their potential for self-help through empowerment. The dignity and legal rights of the individual should play a central role here, providing a focus for those supporting that person through their crisis. Furthermore, professionals from different types of services require capacity building in order to increase their understanding of mental health problems and psychosocial disabilities.

4.2 People going through a mental crisis often do not deal with their illnesses because of the **social stigma** involved. The media contribute significantly to this. The image conveyed of mental illness often generates fear amongst the general public makes people defensive and causes mistrust in useful forms of treatment. Europe-wide campaigns to destigmatise mental illness are urgently required. They must be organised on a long-term basis and focus on prevention. These campaigns should also involve people employed in all legally relevant sectors (justice, police, public authorities, etc.), in order to improve the technical and professional conditions at their disposal for dealing with people with mental health problems. Stigmatisation should also be avoided whenever possible in the organisation and financing of assistance. In particular, facilities to strengthen life management skills should be generally available to all. The promotion of encounters and exchanges between patients and people without psychiatric experience should be a key element of such a policy.

4.3 In employment too, every effort should be made to avoid the creation of **separate worlds**, which pigeonhole people with mental health problems without taking account of their wishes and their right to choose. First of all, the individuals concerned should be able to decide for themselves whether they carry out supported work in a specialised institution or in a general working environment. In many cases, job-based support enabling those concerned to return to work increases the chances of restoring their working capacity ('supported employment')<sup>(23)</sup>. Generally speaking, a standard wage must be paid, which should be negotiated by the social partners. Providing 'pocket money' to cover basic needs is not appropriate for people with mental health problems or disabilities.

<sup>(23)</sup> Opinion of the associations belonging to Kontaktgespräch Psychiatrie (psychiatry discussion forum) on the United Nations Convention on the Rights of Persons with Disabilities, Freiburg/Berlin/Stuttgart, 15.5.2012.

A relatively successful model for gradual reintegration is the so-called Hamburg model<sup>(24)</sup>.

4.4 The following human rights violations against people with mental health problems have been reported in the EU: **excessive restrictions on freedom** and forced treatment without the informed consent of the person concerned, and often there are few opportunities to appeal. There is an important role for de-institutionalisation programmes, community-based outpatient care services, unbureaucratic access to support, agreements on treatment which respect human rights and a destigmatisation policy, which should also involve people with mental health problems, who are experts on their own lives.

4.5 The EU mental health strategy should be reviewed. Above all, the EESC sees a need to examine the extent to which the **exclusion from society of people with mental illness** has become widespread, especially in the labour market. The issue of how full and partial work incapacity can be avoided through prevention or good care should also be examined. There is also the question of how the use of language in medicine, the media and society hampers or prevents inclusion.

4.6 This initiative will increase the chances of raising the public profile of mental health issues. It will influence the thematic priorities of the political agenda and create a good climate for promoting innovative ideas which can benefit everyone.

4.7 In order to promote the European Year of Mental Health, not only the EESC itself, but also relevant civil society stakeholders must be involved first and foremost, including groups and associations and other players with experience of psychiatry and health services, as well as the relevant directorates-general of the Commission, MEPs and the Committee of the Regions. At national level, the relevant ministries should participate as well as the members of national parliaments. Those actually affected must be more involved overall in framing the relevant policies.

<sup>(24)</sup> Section 74, volume V of the social code and section 28, volume IX of the social code (for people with disabilities or more specifically at risk of disability). The employee agrees on an integration plan with their doctor, which corresponds to the progress of the employee's recovery. The doctor's certificate includes a reintegration plan and, where possible, a prediction of when the employee is expected to be able to work again. The employer and the health insurance fund are required to give their consent before this process begins. Employees continue to receive sick pay from their health insurance fund or an interim allowance from the pension insurance system.

4.8 In order to ensure that **the initiative has a tangible impact in Member States**, the Mental Health Action Framework should be used in parallel, involving the development of commonly endorsed reference frameworks for action on mental health through health systems and social policy as well as in relevant fields such as schools and workplaces. As an instrument for mutual learning, peer reviews should be used in a similar way to the OMC. These measures must take the form of legislation, financial rules and activities under the ESF, as well as rights for people with mental health problems and for businesses. Consideration should be given to whether a permanent observatory can provide continuous monitoring of the issue. EU health reporting should include more detailed European data on mental impairment and especially on the type of aid, the number of inpatient psychiatric units and the consumption of psychotropic drugs. Potential partners from right across society should be enlisted over time as long-term supporters. The impact of the initiative and the European year itself should not have a limited timeframe. Instead, they should give rise to a lasting and sustainable awareness of mental health issues and have a tangible impact on those concerned.

Brussels, 13 December 2012.

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

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## APPENDIX

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

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

**Point 3.1.1**

*“[...] to ask for leave of absence]. Such measures should take **business competitiveness** into account and keep the bureaucratic burden to a minimum. Alleviating the financial burden on inclusive, family-friendly and socially sensitive businesses can also improve matters.”*

**Result of the vote:**

Votes in favour of amending this point:	35
Against and:	26
Abstentions:	6

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## Opinion of the European Economic and Social Committee on 'Social farming: green care and social and health policies' (own-initiative opinion)

(2013/C 44/07)

Rapporteur: Ms WILLEMS

On 19 January 2012, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*Social farming: green care and social and health policies.*

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 22 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 124 votes with 3 abstentions.

### 1. Conclusions and recommendations

1.1 Social farming is an innovative approach that brings together two concepts: multipurpose farming and social services/health care at local level. It makes a contribution in the ambit of agricultural production to the well-being and the social integration of people with particular needs. The EESC has been prompted to draw up an own-initiative opinion on the matter by the substantial expansion in social farming.

1.2 Social farming has spread throughout Europe in a variety of guises that have some similarities but also numerous differences in terms of approach, how they relate to other sectors, and funding.

1.3 Nevertheless, a definition is needed at European level in order to identify the activities that comprise it and to define a framework and criteria – including quality criteria – that these activities must meet in order to benefit from support under the various policies. However, this definition must not be too narrow so as not to set in stone a situation that is constantly evolving.

1.4 Since there is no EU or national regulatory framework for social farming, there is a lack of coordination between the various policies or institutions concerned. The EESC believes that the EU institutions and national and regional authorities and institutions should encourage and support social farming by putting in place an appropriate and conducive regulatory framework and implementing the measures set out below.

1.5 Available statistics on social farming are few and partial. The EESC thinks it would be useful, therefore, to launch a programme of statistical research in order to quantify and analyse in greater depth its presence and the forms it takes in

the Member States. The resultant database could be extended to promote research programmes in all the Member States.

1.6 Social farming must be underpinned by interdisciplinary research in different spheres in order to validate empirical results, analyse its impact and benefits from different perspectives (social, economic, health, individual, etc.) and ensure the dissemination of experience on the ground. To this end, it would be expedient to promote and develop the cooperation efforts initiated at European level by the SoFar and COST Action projects in the next Horizon 2020 framework programme (2014-2020).

1.7 The EESC also considers it crucial to put in place and bolster social farming networks in order to share lessons learned, pool experience and raise awareness. Also desirable are a joint representation of social farming interests at the political level and the establishment of an umbrella organisation at European level. This would reinforce both exchanges between those involved and the role of civil society organisations.

1.8 In addition, particular attention should be devoted to the training of those involved – those with particular needs and benefiting from these services as well as service providers – in order to ensure a high level of quality and skills in social farming operations.

1.9 If it is to become entrenched throughout Europe, social farming needs a conducive environment, greater civil society involvement and fruitful collaboration between different policy areas and administrations (health/social affairs, farming, employment) at European, national, regional and local levels. This means that it should be recognised and provided with targeted support by public authorities to give it sustained access to funding for various aspects of this type of farming.

1.10 Equally, it could be useful for the European Commission to erect a permanent system bringing together all the directorates-general concerned. The Member States could make similar arrangements. The Commission should also encourage a comparative study to be carried out of the social protection systems – and how much they cost – in the Member States in order to boost any savings that could be made through social farming projects.

1.11 The EESC is very pleased to note that the Commission's proposals for the 2014-2020 period open up new avenues for social farming. Nevertheless, it would still seem to need better support in the future programming period. To this end, the EU and the Member States should coordinate recourse to the different policies relevant to social farming. The EESC thinks that the Member States and the various authorities (national and EU) tasked with and responsible for the management of EU funds should work more closely together in order to remove barriers to access to structural funds and to facilitate this access for those in the front line.

1.12 The Common Strategic Framework makes it possible to combine funds as a part of a multiple financing strategy. In this connection, the Commission should call on the Member States to refer to social farming in their planning and to take an integrated approach in designing particular programmes that enable the sector to benefit more from the various structural funds. Another possibility would be to conceive thematic sub-programmes devoted to social farming or to support Leader projects in this sphere.

## 2. General comments

2.1 Almost all of Europe's rural areas have experienced the development of social farming since the end of the last century as a new, economically sustainable practice and experience with it is constantly expanding. While social farming is the umbrella term for these activities, the expressions 'farming for health', 'care farming', 'green care' and 'green therapies' are also used. Each of these refers to different practices or operations in the care, social reintegration, training and rehabilitation of the disadvantaged or the training of people with particular needs. These activities enable those in difficulty to re-establish contact with productive activity and the natural environment and contribute to their well-being, improved health and social inclusion; they facilitate learning and boost self-esteem and hence participation in the life of society.

In this sense, social farming is an innovative approach that brings together two concepts: multipurpose farming and social services/health care at local level. On the one hand, it ties in closely with the multipurpose nature of farming and is part and parcel of the concept of rural development, giving farmers the opportunity to diversify their sources of income. On the other hand, it benefits society by delivering social services and improving existing services for those living in

rural areas by drawing on agricultural and rural resources in the broadest sense.

2.2 Although social farming practices in Europe share similarities in being closely related to traditional rural economy activities and taking place on the farm (organic farms, labour-intensive farms, high degree of multifunctionality, local outreach, diversification and increased flexibility), there are also many differences between countries given their history, approaches and focus. Although approaches vary, there are essentially three main ones:

- an institutional approach, with the prevalence of public/health institutions (the main approach in Germany, France, Ireland and Slovenia)
- a private approach based on therapeutic farms (the main approach in the Netherlands and Flanders in Belgium)
- a mixed approach based on social cooperatives and private farms (the main approach in Italy).

2.3 Their focus is also different: in Italy and France, social farming is mostly connected with the social and healthcare sector; in the Netherlands it is closer to the health system; in Flanders it is nearer to agriculture and in Germany, Great Britain, Ireland and Slovenia it lies somewhere between the social/health and health sectors.

2.4 Financing patterns differ from country to country:

- public projects and charity based on voluntary associations (Italy and France) and social cooperatives (Italy)
- public funds (health/care/education sectors) directed to public bodies (Germany, Ireland and Slovenia), farms (Netherlands) and social cooperatives (Italy)
- rural development policies to support the launch and development of social farms in the 2007-2013 programming period (Italy)
- direct access to food markets for ethical products and direct selling (France and Italy).

In reality, however, funding methods are often more diverse and mixed.

2.5 Social farming can take a number of forms. It may involve privately run farm businesses for which it provides an alternative source of income while still producing for the market; it may also involve social enterprises or cooperatives, associations and foundations – i.e., non-profit organisations. In other instances social farming – while taking place on farms – is carried out by public bodies or agencies in the health sector.

### 3. Definition of social farming

3.1 Social farming includes a broad range of different practices and so is not easy to define. Nevertheless, a definition is needed at European level in order to identify the operations that comprise it and to define a framework and criteria – including quality criteria – that these must meet in order to benefit from support under the various policies. However, this definition must not be too narrow so as not to set in stone a situation that is constantly evolving. It must instead supply a framework that maintains the flexibility needed to encompass social farming's multitude of activities and bottom-up approach.

3.2 Even though social farming comprises a very wide range of activities, they always have two elements in common: a) the activities take place on a farm and b) they are designed for people who – either temporarily or permanently – have specific needs, including educational needs. As a result, social farming contributes to the well-being of individuals and helps them thrive, but it also contributes to the development of rural regions and better interaction between town and country.

3.3 Social farming could thus be provisionally defined as a cluster of activities that use agricultural resources – both animal and plant – to generate social services in rural or semi-rural areas, such as rehabilitation, therapy, sheltered jobs, lifelong learning and other activities contributing to social integration (according to the definition used in COST (European Cooperation in Science and Technology) Action 866 – Green Care). In this sense, it is about – among other things – making farms places where people with particular needs can take part in daily farming routines as a way of furthering their development, making progress and improving their well-being.

3.4 There are currently four main areas of social farming:

- a) rehabilitation and therapeutic activities
- b) work inclusion and social integration
- c) education activities

d) personal support services.

### 4. Lack of legal framework at EU and national level

4.1 Through therapy, work and social inclusion, or education, social farming undoubtedly delivers high-value public services and contributes to sustainable development. Moreover, by virtue of the diversification of activities that it generates and the underlying dynamic, it can have a sizeable impact on local development.

4.2 Many instances of social farming have come about through a bottom-up process, creating local networks that enable a global development of geographical areas. This is why social farming is in line with the OECD's 'New Rural Paradigm' publication (2006) and explicitly mentioned in the 'Rural Policy Reviews' concerning the OECD countries (such as Italy). It was also examined at the OECD Rural Development Conference in Quebec (2009). It is worth pointing out here that some social farming initiatives are funded by 2007-2013 rural development policies (Axes III and IV of the Leader programme) and Social Fund social inclusion measures.

4.3 Awareness of the potential of social farming is growing at every level and farmer organisations, local communities, and health and social institutions are taking a fresh look at it. However, only certain countries (France, Italy and the Netherlands) have put sector regulations in place, either at the national or regional level. Moreover, the absence of any linkage between the various policies and/or institutions involved in social farming is evident everywhere.

Nevertheless, its practitioners are beginning to band together to pool experience and the crucial role of spontaneous networks of social farmers has to be recognised.

4.4 In recent years, the European Commission has launched a number of initiatives – such as COST Action 866 – Green Care and the SoFar project (an initiative funded by the European Commission within the Sixth Framework Programme for Research and Technological Development) – to support these activities; an initiative launched in December 2009 within the European Network for Rural Development brought together seven Member States to examine the opportunities and obstacles in national and regional rural development plans cofunded by the EAFRD. A position paper on social farming was drafted by Germany (Prof. Thomas VAN ELSSEN) in 2008 as part of the SoFar project and updated in 2009.

## 5. Action to be taken

### 5.1 *Recognition of social farming at EU level and establishment of a regulatory framework*

5.1.1 In view of the public goods that it produces and its contribution to sustainable development, social farming should be encouraged and supported by the EU institutions and by governments. This includes putting in place an appropriate and conducive regulatory framework at the different levels, recognising social farming's added value and improving its governance, as well as establishing a conducive environment and fruitful cooperation between different policy areas and administrations (health/social/farming/employment) at European, national, regional and local level. Targeted support from public authorities and an integrated deployment of structural funds to underpin social farming are also desirable, as are the promotion and support of interdisciplinary research and the bolstering of communication and exchange of experience.

5.1.2 In putting in place a regulatory framework, particular attention should be devoted to the quality of social farming and setting out general criteria, including quality criteria, that operations must meet. Likewise, the necessary measures should be put in place to ensure appropriate monitoring of social farming operations.

5.1.3 In addition, a permanent organisational structure, created by the European Commission and involving all the relevant directorates-general, could be useful in encouraging, monitoring and coordinating the development of social farming in Europe. Similar arrangements could be put in place in the Member States.

### 5.2 *Creation of a database at EU level*

Although the number of social farms is increasing in every country, they generally account for less than 1% of all farm businesses. Nevertheless, available statistics on social farming are fragmentary and scarce. It would be expedient, therefore, to launch a programme of statistical research at European level in order to quantify and more closely analyse the presence of social farming in Europe and the forms it takes. The Commission could extend this database to promote research programmes in each Member State.

### 5.3 *Encouraging the inclusion of social farming in research programmes*

5.3.1 The cooperation at European level begun by SoFar and the COST Action 866 – Green Care project in farming should be promoted and developed. The production and exchange of scientific, professional and practical data across Europe is very important.

Social farming needs the support of more detailed research in the areas of therapy and medicine, in social work in farming and in farming and training. This research must closely engage

with work on the ground. Positive empirical results obtained in therapies with plants and animals must be validated by rigorous scientific analyses in order to secure acknowledgement from the medical community. Lessons drawn from experience regarding the efficacy of integration of people in the daily and yearly routine of work on the farm must be documented and fed into further developments in social farming.

5.3.2 Interdisciplinary research that analyses the impact and the benefits of social farming from various perspectives (social, economic, health, individual, etc.), ensures the transfer of knowledge gained from experience and involves people on the ground can generate innovative ideas and reinforce their entrenchment in social farming. Scientific support for pilot projects can facilitate the extension of models based on individual businesses or cooperatives across a whole region. Interdisciplinary studies and research should be embarked upon to analyse the impact of social farming in terms of possible savings for health insurance schemes and improvement to the health and well-being of recipients of its services. Some countries, including the Netherlands, have already conducted studies into these aspects.

5.3.3 This research could take place within the Horizon 2020 (2014-2020) framework programme, since this takes on board the social facets of research and innovation. Horizon 2020 support and coordination for social farming is highly desirable, since the programme could facilitate meetings and communication between researchers in various disciplines related to this kind of farming.

### 5.4 *Encouraging the inclusion of social farming in education programmes*

Particular attention should be devoted to the training of those involved – recipients as well as service providers – in order to ensure a high level of quality and skills in social farming operations. It would make sense, therefore, to design and make available continuing education programmes – in close collaboration with teaching and research institutions – to provide a high level of skills to the heads of undertakings and their staff responsible for social farming beneficiaries. It would also be expedient to examine and put in place the sort of training that could be given to these beneficiaries.

### 5.5 *Strengthening the role of civil society and the building up of networks*

5.5.1 Innovative projects in social farming are often developed in isolation, without any awareness of – or swapping of experience with – similar projects. It is vital, however, to put in place and strengthen social farming networks so they can pool experience, help make projects known and promote best practices. A first step in this direction has been taken in the ambit of the European Network for Rural Development. This type of network should be bolstered.

5.5.2 Cooperation should similarly be promoted, as should joint publications and an internet presence.

5.5.3 It would also be good to work towards a joint representation of social farming interests at the political level and to promote the establishment of an umbrella organisation at European level. Such an organisation, which would include civil society, could make it easier for social farming practitioners to compare notes and help them both technically and administratively, while also making sure that farming interests are championed at the political level. Farming organisations have an important role to play here.

5.5.4 All of this could be planned and implemented under the new 2014-2020 rural development policy and be based in particular on the European Network for Rural Development and the Member States' rural development networks, so that the social farming initiative mentioned above would be expanded to include other Member States.

#### 5.6 *Inclusion of social farming in the sustainable development strategy and the Common Strategic Framework*

5.6.1 Social farming has benefited from some support under current rural development policy, especially under Axis 3 (diversification) and Axis 4 (Leader) and under the 'social inclusion' axis of the ESF. The recognition of social farming as an element of rural economy development should enable it to benefit from all the actions promoted and funded by the European structural funds (EAFRD, ESF and ERDF) and so access new sources of financing.

5.6.2 Even if the Commission proposals for the next programming period offer a number of new prospects – in the sense that the fight against poverty, social inclusion and the diversification of farming activities are mentioned as explicit goals of this policy (and ones which can be ideally combined in social farming) –, it would still appear necessary to give social farming even more support by stressing its role in

both the future programming period and the partnership contract. To this end, the EU and the Member States should coordinate recourse to the different policies relevant to social farming. The EESC thinks that the Member States and the various authorities (national and EU) tasked with and responsible for the management of EU funds should work more closely together in order to remove barriers to access to structural funds and to facilitate this access for those in the front line.

5.6.3 In the new programming framework social farming is eligible for funding from several funds – and over several years. It is possible under the Common Strategic Framework to combine the different funds in a multiple financing strategy. Member States should be invited to refer to social farming in their programming and to draft specific programmes that will enable it to benefit more from the various structural funds. It really is crucially important, therefore, to convince national and local authorities to make the most of these possibilities.

Given its multidimensional and multipurpose nature, social farming – and those involved in it – could benefit hugely from a truly integrated approach that facilitates and better coordinates recourse to various funds and the associated procedures and measures.

5.6.4 To achieve this, it could be very useful to put in place a communications policy for the rural development sphere addressed to the Member States that could also include monitoring and reports. Another possibility would be to envisage a thematic sub-programme under Article 8 or to bolster Leader projects dealing with social farming.

5.6.5 Finally, the various directorates-general should step up their collaboration in order to give social farming easier access to all the structural funds by removing the difficulties that have so far prevented farmers from accessing regional policies.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on ‘The quality of rail services in the EU’  
(own-initiative opinion)**

(2013/C 44/08)

Rapporteur: **Mr CINGAL**

On 12 July 2012, 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 quality of rail services in the EU*

(own-initiative opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 26 November 2012.

At its 485th plenary session, held on 12 and 13 December (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 137 votes to 54 with 8 abstentions.

## 1. Conclusions and recommendations

1.1 This opinion relates to passenger transport by rail. It has been written and should be read in the light of the objectives set out in the Lisbon Treaty, namely in Article 14 and Protocol No 26, regarding Services of General Interest. It follows on from the recommendations made in the transport white paper, which reiterated the need to meet greenhouse gas reduction targets and secure sustainable, environmentally-sound mobility.

1.2 Looking beyond whether the mobility objectives required of operators are being met, and assessing the relevant rights and obligations of stakeholders, this opinion aims therefore to address the issue of the accessibility for the European public of rail transport services of general interest in the European Union, and the quality of that transport.

1.3 Since the quality of rail transport services is a necessary condition for the development of this mode of transport but is not in itself sufficient, the EESC considers that there is need to improve performance in order to make rail services more attractive, by making a factual observation of the various contributing factors.

1.4 The EESC calls for investment and maintenance loans for infrastructure to be subject to multi-annual planning and for funding provisions to be spread over a number of years. Consideration must also be given to land-use planning, to the need to keep infrastructure available and to the funds that can be deployed in the short and medium term.

1.5 The EESC also calls on Community, national and regional authorities to reformulate financing conditions for the various types of infrastructure, while upholding the prin-

ciples of subsidiarity, with the aim of bolstering solidarity between the regions. To this end, it recommends redirecting transport funds allocated under regional policy, as this could provide a strong leverage effect in terms of spatial planning.

1.6 The EESC calls for an independent EU-level body to conduct a user satisfaction survey based on a factual assessment (punctuality, frequency, pricing, cleanliness, accessibility, etc.). This evaluation should be conducted using a methodology set by a steering committee that involves all the parties concerned (users, organising authorities, operators, employees, etc.) and that is able to perform a monitoring role.

1.7 The EESC is concerned by the European Commission’s plan to revise Regulation 1370/2007/EC (on public passenger transport services by rail and by road), which was the product of a difficult compromise at institutional level. It notes in particular that this regulation gives Member States broad organisational scope, while upholding the principles of proportionality and subsidiarity, and that the balance it strikes should be assessed in the light of experience, as stated in its Article 8(2).

1.8 With regard to the provisions of Regulation 1371/2007/EC and possibilities for future developments, the EESC calls on the European Commission to study the following potential areas for improvement:

- bolstering the right to compensation for delays by comparing the duration of the delay with the total duration of the journey concerned;
- strengthening the right to compensation for delays by providing for direct payment by the operator concerned, with no prior apportioning of responsibility;

- simplifying access to forms and procedures for claiming compensation, either individually or collectively (use of internet, ticket offices, etc.);
- improving rights to disabled access by making it compulsory to restore accessibility rapidly (within a day);
- improving rights in terms of safety by making it compulsory to install alarm systems for alerting train staff to dangerous situations or health problems;
- bolstering passengers' rights by providing for mediators to act as go betweens in disputes between the various parties.

1.9 Furthermore, the EESC calls on the European Commission and on Member States to conduct a joint study into the following areas for improvement:

- improving passengers' right to information regarding guaranteed connections;
- improving security rights by naming high-risk lines and situations, establishing appropriate procedures, and putting the necessary staff in place.

1.10 Lastly, with regard to subsidiarity, the EESC calls on the Member States to look into the following areas for improvement:

- improving passengers' rights by enabling them and their representatives to join with the relevant authorities and elected representatives from the local areas concerned, to draw up a model for monitoring rail service standards (regularity, punctuality, accessibility, cleanliness, etc.);
- improving procedures providing passengers on journeys with help and assistance in cases of prolonged stoppages (more than one hour).

## 2. General comments: the experience of the public, and of current or potential rail passengers

### 2.1 General observations

2.1.1 Gauging passenger satisfaction and arriving at a common position is made all the more difficult by the fact that it is the companies concerned that hold the basic information for analysis, setting their own service quality standards and monitoring their own performance accordingly

(Article 28 of Regulation 1371/2007/EC). The same applies to commitments made in relation to punctuality, frequency, cleanliness, customer reception, information, and pricing, to give just a few examples.

2.1.2 Many passengers experiencing rail service problems complain of the multiple factors to blame for disruptions, unpredictable services with no immediate possibility of knowing what is happening in real time and a general lack of information when problems arise. They have the impression that the situation is continuing to worsen in individual Member States. Rail service operators that offer the right to compensation under Regulation 1371/2007/EC do not make it easy for passengers to access these measures.

2.1.3 When it comes to rail services subject to public service obligations, which account for the vast majority of day to day transport, there are many examples that have required the intervention of transport authorities, or competent authorities, to maintain services at the necessary level.

2.1.4 The proliferation of services provided by different players, without any operational connection or coherence between them, in an organisational environment that has undergone major structural changes and that lacks stability and transparency, has resulted in local operators responding to situations without immediate access to real-time information, leading to problems and thus to passenger dissatisfaction. In the light of these observations, there is a need to take stock of the situation in the sector in each Member State so as to pinpoint potential areas for improvement.

2.2 Non-exhaustive list of the type of problem observed by passengers and/or their associations:

- difficulty accessing information, faulty or ill-suited information display systems,
- unclear or opaque pricing,
- impossibility of planning journeys far enough ahead of departure dates owing to advance booking limits,
- problems relating to over-booking,
- ill-suited waiting areas in trains and stations and ill-suited platforms (crowded waiting areas), unhygienic facilities, or lack of toilets,

- poor disabled access to platforms, stations, toilet facilities, trains, excessive pre-booking requirement for assistance from specialised services (48 hours), or overly strict load criteria (total weight),
- lack of security on trains and in stations,
- late provision of equipment, failure to take account of platform changes when making connections,
- two trains leaving within a few minutes of each other from the same platform, even when there are many unused platforms,
- insufficient luggage space,
- failure to take account of multi-modal transport options, (difficulties in coping with bicycles, poor or zero organisation and management of connections with other modes of transport, lack of information or integrated pricing and service arrangements),
- poor punctuality, inadequate frequency of services, train cancellations with no prior warning,
- poor passenger care in the event of a disruption, compensation insufficient or refused,
- removal or rescheduling of services with no prior consultation of users, their representatives, or the local authorities concerned (e.g. removal of night trains, timetable changes, changes in frequency, etc.),
- increase in time taken between two stops,
- poor accessibility of sales and distribution circuits.

### 2.3 Main causes of unforeseeable disruptions:

- bad weather: failure to put technical equipment or procedures in place in advance so as to improve the quality of the service provided,
- equipment problems: consequences of poor monitoring of equipment life-cycles and life-spans and failure to address obsolescence and lack of planning and long-term budgeting of maintenance,
- human problems: suicides, associated with access to vulnerable infrastructure; an issue whose causes and effects the EESC does not wish to discuss in this opinion.

2.4 Positive assessments and points that could contribute to a change in transport habits:

- high level of safety for people and transport,
- staff professionalism,
- potential contribution of railways to spatial planning and regional development.

### 3. Specific comments: how the situation has changed over the last few decades

3.1 The European Commission has upheld the Treaty principles of the free movement of people and sustainable mobility. Rail is acknowledged as a high performance mode of mass public transport, capable of meeting the demands of the relevant authorities, environmentally sound and utilising infrastructure that is still very present, well-maintained or easy to restore to use.

3.2 The EU has mapped out a European network of international routes. Extremely large investments have been and will continue to be made to complete this network. This Community initiative must however be able to count on Member States making similar investment choices, so as to enable European passengers to travel door to door without too many changes in mode of transport.

3.3 The examination of regional services and their planning has nevertheless given rise to arbitrary strategic choices, failing to give consideration to the need to design transport systems with fewer of the changes breaking up a journey that have a detrimental effect on public transport use.

3.4 Although, increasingly, the prior examination of such weighty choices is now built into the deliberations of the authorities responsible, they are nevertheless faced with issues relating to unpredictable and unstable medium- and long-term financing.

3.5 After all, transport represents a considerable burden on national and regional budgets. The public are aware of this situation, especially in the current crisis, and they would like to see real transparency and reliable information. They still have concerns about the lack of additional expertise offering a second opinion on new large-scale projects. As the EESC noted in its opinion TEN/479, dialogue between the authorities and civil society is extremely important, particularly where investment in transport infrastructure projects is concerned.

#### 4. This issue ties in with the Committee's programme of priority actions

4.1 This own-initiative opinion follows on from previous opinions:

- TEN/432-433 on the Single European Railway Area;
- TEN/454 on the Roadmap to a Single European Transport Area;
- TEN/471 on Guidelines for trans-European transport network;
- TEN/479 on the Transport White Paper: getting civil society on board; and
- TEN/480 on passenger rights in all transport modes.

4.2 The commitment to establishing a European transport network has meant that the bulk of European funding has naturally gone to mainline railways. This trend has been accompanied by choices favouring the construction of high-speed lines, sometimes at the expense of the upgrading of other existing lines, owing to budget cuts. Public authorities must aim to give a greater role to rail transport within public transport supply, possibly even making it, in some cases, the backbone of a coherent multi-modal system. There is a case here for merging European funds for the benefit of a coherent sustainable mobility policy (allocation of DG Regio's transport funds).

4.3 The Committee therefore calls for an objective evaluation of the current rail transport situation (advantages/disadvantages).

The Commission should conduct this evaluation openly, by providing the requisite information and asking members of the public to say what they expect from rail services, a subject that concerns the overwhelming majority of people (commuting, occasional business trips, family visits, holidays, etc).

#### 5. The EESC would like to draw attention to all these problems

5.1 At this time of crisis, with shrinking public resources available, a policy of recovery based on a strategy of sustainable development would have a positive impact on employment and job quality, helping to meet modal shift objectives and improve access to transport services of general interest for Europeans. The EESC notes therefore that large-scale works must tie in with this global strategy.

5.2 The EESC would like to point out that if services deteriorate as a result of changes to trains or timetables, this can cause people to move house or change job. This forced mobility is not the kind of mobility our fellow Europeans want to see. The EESC emphasises that change often results in a shift in transport use (to car or plane) running counter to transport policy objectives.

5.3 The EESC would like the European Commission to consider and design a European programme to re-develop rail networks and/or support future programmes in the Member States. A European programme aimed at meeting the expectations of rail passengers could easily be built into the European strategies (Sustainable Development Strategy, Horizon 2020, etc.). A dialogue on transport policy with civil society would be very much appreciated by ordinary Europeans. The redirection of transport funds from regional policy could provide the leverage necessary for this strategy.

Brussels, 13 December 2012.

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

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**Opinion of the European Economic and Social Committee on 'Issues with defining social housing as a service of general economic interest' (own-initiative opinion)**

(2013/C 44/09)

Rapporteur: **Mr HENCKS**

On 19 January 2012, 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

*Issues with defining social housing as a service of general economic interest*(own-initiative opinion).

On 21 February 2012, the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee's work on the subject. The section adopted its opinion on 26 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 67 votes to 5 with 4 abstentions.

### **1. The right to housing – general principles**

1.1 The right to housing is an international obligation incumbent on the Member States, which the European Union has a duty to take into account. Indeed, this right is recognised in the United Nations Universal Declaration of Human Rights, which lays down that 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services'. The Council of Europe's revised Social Charter states that 'With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to promote access to housing of an adequate standard, to prevent and reduce homelessness with a view to its gradual elimination and to make the price of housing accessible to those without adequate resources'. The right to housing is incorporated into many Member States' constitutions and/or is covered by specific laws regarding its proper implementation.

1.2 The European Union's own Charter of Fundamental Rights stipulates that 'In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices'.

1.3 In most Member States, these rights are implemented by means of a service of general economic interest (SGEI), in line with Article 36 of the Charter of Fundamental Rights, according to which 'The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union'.

1.4 Pursuant to Article 106(2) of the TFEU, and where universal access to housing is classified as an SGEI, undertakings entrusted with the operation of such services are only subject to Community competition rules and to the prohibition and monitoring of State aid, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them by national, regional or local authorities. The Commission's decision of 20 December 2011 (the SGEI decision) restricts provision of subsidised social housing to people who are disadvantaged or socially less advantaged groups which, due to solvability constraints are unable to obtain housing at market conditions.

1.5 Under the terms of Protocol No 26 annexed to the Treaty of Lisbon, the primary responsibility for commissioning, providing, financing and organising SGEIs falls to the Member States and their national, regional and local authorities, which have wide discretion in the matter and the freedom of democratic choice.

1.6 The same protocol requires, among other things, that Member States ensure a high level of affordability for their SGEIs and promote universal access to them.

1.7 Implementation of the right to housing determines that of other fundamental rights such as the right to human dignity, the protection of private, home and family life, water, health, energy, etc. Having decent housing is essential if an individual is to be able to thrive and integrate into society.

1.8 The effectiveness of the right to housing usually and essentially depends on the availability of an adequate housing supply. The right to housing often simply means a right to access decent and affordable housing.

1.9 Guaranteeing access to housing rarely implies any obligation on the public authorities to provide housing to anyone requesting it. The State, or the public authority responsible, has a political duty to improve access to housing for everyone, by means of its policies and programmes.

1.10 Member States intervene - in highly differing ways and to highly differing degrees - in the workings of their housing markets in the context of enacting this fundamental right, to ensure that every citizen is able to access decent and affordable housing. Appropriate involvement of future occupants in the building of social housing contributes both to the affordability of this form of housing and to the employment prospects of those concerned.

1.11 In this regard, housing is a good (whether public or under trusteeship) for which the Member States set - in line with their own policy choices and collective preferences - minimum standards of fitness for habitation and comfort, specific urban planning and construction rules and maximum effort rates. Some States such as Germany manage increases in housing prices and even establish mechanisms for providing social assistance or tax support to help out with what is the main item of essential household expenditure.

## 2. Social housing

2.1 The fact cannot be avoided that despite these provisions, access to decent housing is no longer affordable for many EU citizens. In 2010, despite the undertaking in the revised Council of Europe Social Charter to prevent and reduce homelessness with a view to its gradual elimination, 5,7 % of Europe's population suffered from housing deprivation (Source: Europe Information Service S.A.), 17,86 % lived in overcrowded or unfit accommodation, and for 10,10 % of households, housing costs absorbed more than 40 % of their disposable income.

2.2 Many Member States have also chosen to define and organise a parallel supply of what is known as 'social housing' to complement the spontaneous supply on the private market. This social housing is provided on specific conditions, primarily by not-for-profit agencies created especially for this purpose, but also by private investors that are natural or legal persons entrusted with this task, subsidised by national, regional or local authorities.

2.3 All Member States except Greece have a stock of social housing. 25 million European households thus occupy social

housing for which conditions for local and regional planning, access and prices are set directly by the public authorities in the Member States.

2.4 This parallel housing supply contributes in particular to limiting the magnitude of property market cycles and housing bubbles, due to its stability and its price management. As a result, Member States that have a substantial stock of social housing have not fallen victim to property bubbles and to the far-reaching consequences of such phenomena.

2.5 Social housing is one way in which the public authorities can respond to the housing market's failure to meet all housing needs and ensure universal access to decent housing at an affordable price/rent. Appropriate involvement of future occupants in the building of social housing makes such housing more affordable, improves occupiers' attitude towards the housing provided and allows them to acquire or improve working habits and skills, thus increasing their chances in the job market.

2.6 The market's failure to meet all housing needs does not only affect individuals who simply have no access to housing but also those living in housing that is unhealthy, unfit or over-occupied, and those spending the lion's share of their income on rent or mortgage repayments.

2.7 These housing needs vary considerably from one Member State to another and within Member States, between countries in western and eastern Europe, between rural and urban areas and, within urban areas, between city centres and suburbs.

2.8 The EU Member States make use of three different approaches

### A) The residual approach

Social housing subsidised by a public authority is reserved exclusively for those who are clearly identified as disadvantaged or excluded. There are very strict rules governing the allocation of such housing. Rent is covered almost entirely by the social security system. This approach does not compete with the private housing sector and fully meets the Community definition of a service of general economic interest for social housing as articulated in the decision of the European Commission of 20 December 2011 limiting the exemption from notification of compensation for public service costs to the 'provision of social housing for disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions'.

This category includes Bulgaria, Cyprus, Estonia, Hungary, Ireland, Latvia, Lithuania, Malta, Portugal, Romania, Slovakia, Spain and the United Kingdom (partially, where the social renting sector is concerned).

#### B) The generalist approach

This approach is designed to assist the disadvantaged or excluded (as under the residual approach) and people with few resources, who struggle to access adequate housing due to their precarious income. Access to housing is usually dependent on ceilings for income and on household composition. Rents are regulated and remain affordable. Broadly speaking, this approach has a limited impact on the overall level of housing supply and prices, and does not effectively come into conflict with the private property market, as profit margins are minimal.

This approach applies to broader categories of the population but also meets Community requirements to focus on social demand and is used in Austria, Belgium, the Czech Republic, France, Finland, Germany, Italy, Luxembourg, Poland, Slovenia and Spain (for accession to ownership).

#### C) The universal approach used in Denmark and in the Netherlands, but differently.

In the Netherlands, this approach is intended to provide housing for anyone, whatever their income (including disadvantaged or low-income individuals), and represents a supply that complements the traditional property market. It has a considerable impact on market conditions and prices through a pricing policy based on the actual costs of housing, rather than referring to market prices, while providing security of tenancy not offered by the private sector market.

Due to its lack of focus on specific social demand, this universal approach to housing is disputed by the European Commission, which believes that it does not match the Community definition of the SGEI for housing. The universal approach is no longer used in Sweden, which has abandoned the explicit classification of housing as an SGEI.

In Denmark, the universal approach is deeply embedded in the welfare model. It does not limit the notion of disadvantaged, vulnerable or excluded groups or persons to a certain income level. The focus is on providing affordable and accessible housing for people in need thereof. It supplements the traditional property market by lifting legal social obligations, ensuring equality and a social mix across ethnicity, gender, income, age, disabilities and mental or physical need. The pricing policy is regulated and based on the actual costs, which excludes the possibility of over-compensation.

### 3. Social housing and Community legislation

3.1 Given the failure of market forces alone to ensure decent housing for everyone, under Community law, social housing can be viewed as a service of general economic interest (SGEI), provided that it is classified as such by the Member State concerned and can consequently receive public subsidies or compensation.

3.2 Protocol No 26 annexed to the Lisbon Treaty confirms the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users. Social housing is subject to public service obligations set by national, regional or local government with regard in particular to planning, pricing and criteria for eligibility and tenancy. This protocol requires Member States to ensure, among other things, that SGEI demonstrate a high level of affordability and equal treatment and promote universal access and user rights.

3.3 If classified as a SGEI, social housing is covered by the provisions of Articles 14 and 106(2) TFEU and its Protocol No 26, which establishes in particular the principle of collective social and cultural preferences and of meeting needs as expressed locally with regard to the Member States' definitions of SGEI. These provisions prioritise fulfilment of the missions assigned to social housing over the rules of competition and the internal market, provided that certain conditions defined in the SGEI decision, as described in point 3.6 below, are met.

3.4 Application of these provisions under the TFEU has led the Commission to exempt state aid granted to social housing agencies from the requirement for prior notification.

3.5 Member States' classification of social housing as a SGEI is subject only to the European Commission checking for obvious errors, under the auspices of the Court of Justice of the European Union.

3.6 In this area, because public service is social in nature, the European Commission considers that social housing should be defined with direct reference to people who are disadvantaged or to socially less advantaged groups rather than to reflect the diversity of housing needs as expressed on local housing markets. This is a permanent bone of contention between the Commission and some Member States, social housing agencies and social housing tenants' representatives, some of which disagree with the Commission's position, whilst others endorse it.

#### **4. A legal framework that destabilises Member States' social housing policies**

4.1 The way the European Commission makes decisions in checking obvious errors in Member States' classification of social housing as a service of general economic interest has led to changes in some Member States' policy choices for organising and financing social housing and generated legal disputes.

4.2 In the Netherlands, implementation of this decision-making method has led to nearly 400 000 households being excluded from access to social housing, as they are deemed too well-off - according to the European Commission - to access social housing. In reality, however, they are not sufficiently well-off to access housing under market conditions.

4.3 In Sweden, the refusal to apply this decision-making method has led to the public authorities excluding social housing from the scope of services of general economic interest, which jeopardises its funding in the form of public service compensation that is the only form compatible with the principle of prohibiting State aid under the Treaty.

4.4 In France, the *Union nationale de la propriété immobilière* [national association of property owners] has filed a complaint with the European Commission against the French government, primarily on the grounds that the income ceilings for accessing social housing are too high and would make it impossible to comply with the decision-making practices established by the Commission.

4.5 The proposed directives on public procurement and on concessions point towards submitting cooperation among social housing agencies covered by the concepts of social enterprises and public bodies to the provisions of these directives and to calls for tenders. By extending case-law relating to cooperation

between public authorities to cover all contracting authorities, the European Commission is also helping to undermine the practices of cooperation and pooling of resources needed to modernise public housing, to ensure its proper management and to strengthen its local consolidation.

4.6 These practical examples demonstrate the direct impact of European Union law on the conditions for defining, organising and financing social housing by the Member States and call for a legal framework favourable to the development of social housing in the European Union.

4.7 Because of its numerous different aspects and its major presence in the European Union, social housing plays a key role in implementing the Europe 2020 strategy. It contributes actively to achieving the goal of making the EU a smart, sustainable and inclusive economy by helping to ensure high levels of employment, productivity, social inclusion and cohesion and makes an active contribution to combating climate change, while at the same time fighting against energy poverty.

4.8 While each Member State should adopt its own national targets in each of these areas, including building up a supply of social housing, practical, European-level measures should underpin the Europe 2020 strategy, not least in the field of social housing.

#### **5. Social housing policies that fully reflect the Europe 2020 objectives and better economic governance**

5.1 Social housing actively contributes to achieving a number of the Europe 2020 strategy's goals, regarding support for the strategy to boost the growth and attractiveness of regions, the investment generated and the creation of jobs that cannot be relocated, combating poverty and social exclusion and the commitment to the fight against climate change and energy poverty.

5.2 The European Union is the world's second largest producer of social housing, following China, which has made social housing a policy to support economic and urban growth and to mitigate housing bubbles in the private sector.

5.3 Social housing is fully eligible for the structural funds for the 2014-2020 period, as proposed by the European Commission, especially for renovations to improve energy efficiency and for promoting renewable energy, in the field of integrated measures for sustainable urban development and for combating exclusion from access to housing for marginalised communities and to affordable and high-quality social services.

5.4 Social housing offers a practical and effective response to the desire of the Commission and Council to strengthen economic governance of the euro area and in particular to monitor housing bubbles and the devastating effects these have on social and macroeconomic balances. Developing a parallel social housing supply helps limit the magnitude of these housing market cycles and bubbles.

5.5 If budgetary constraints or an excessively restrictive interpretation of the definition of people who are disadvantaged or of socially less advantaged groups mean that a Member State's social housing supply is no longer able to meet the real needs of its citizens, as stipulated by its international commitments on the right to housing, universal access to decent and affordable housing will only be achievable through major public authority intervention in the private market.

## 6. Addressing new energy-related and social issues

6.1 Social housing has to deal with the new climate situation and the need to improve the energy efficiency of its existing stock and new supply. Energy investment policies implemented by social housing agencies should receive public support, as they help combat climate change, combat energy poverty in low-income households and promote local employment and regional economic development. Cohesion policy can contribute actively to this process and provide leverage to harness additional financing from other sources.

6.2 Population ageing is also a major issue that will require adapting social housing to meet the needs of elderly and dependent people and to the development of new integrated services making it possible for dependent people to stay in their own homes and to access social housing.

6.3 The increasingly precarious situation of households living in and/or applying for social housing strengthens the need for a social mix and quality in the supply of social housing at local level and for the development of integrated approaches to sustainable urban development covering the social, economic, urban and environmental aspects, as put forward in the European Commission's draft ERDF Regulation.

## 7. The European Union's role

7.1 The European Union must first provide a legal framework that supports the development of social housing

in the Member States, both in terms of financing this supply and the arrangements for defining and operating such housing. This favourable legal framework can be broken down into monitoring obvious mistakes in classifying such supply as a service of general economic interest, the compatibility of state aid granted to social housing agencies, implementation of the provisions on public procurement and cooperation between social housing agencies but also the application of reduced VAT rates as it is a basic necessity.

7.2 The Commission should reconsider its decision-making practices for checking obvious mistakes in Member States' classification of social housing as a service of general economic interest, because they may not always reflect the specific needs of the sector. Member States should be given the discretion to set access conditions and prices for housing in a way that takes account of local needs and local preferences, as well as the real needs of disadvantaged citizens or socially less advantaged groups, in accordance with the provisions of Protocol No 26 on services of general interest.

7.3 The EESC welcomes the European Commission's decision to renew the exemption from the obligation to notify State aid in the form of public service compensations granted to social housing agencies and is pleased to note that the decision takes into account certain features, concerning in particular the length of terms of office and long-term investment.

7.4 The Committee appreciates the willingness expressed by the European Commission in a communication on social entrepreneurship, to promote an ecosystem conducive to the development of social enterprises in the EU, which would also cover access to housing, and to fostering the establishment of socially-inclusive investment funds. It emphasises the need to uphold the role of the social partners in Member States where they are traditionally involved in the management of social housing.

7.5 The Commission, Parliament and the Council should include in the proposed directives on public procurement and concessions, cooperation between social housing agencies in their capacity as public bodies and social enterprises, by incorporating it into the sphere of public-public cooperation, in light of the public interest role of these bodies and their public or private participation.

7.6 The European Commission should reconsider its proposals on the future common VAT system by maintaining the option for Member States to apply reduced rates for the construction and renovation of social housing by public, social and private providers alike, as it is a basic necessity of a local nature that does not affect trade between Member States or the smooth operation of the internal market.

7.7 The EU should also support Member States in increasing the supply of social housing and in modernising it to meet the new demographic, social and climate-related challenges and thereby actively contribute to achieving the objectives of the Europe 2020 strategy.

7.8 The EESC therefore welcomes the Commission proposal on the ERDF and ESF regulations, which consist of making the following areas eligible for the 2014-2020 Structural Funds: priority investments to finance energy-efficient renovation of social housing, integrated measures to ensure sustainable urban development, access to high-quality and affordable social housing for marginalised communities and support for social enterprises. The EESC would point out that the aim is to be able to offer high-quality social housing to anyone in need of it.

7.9 The EESC considers that such measures are necessary and should accompany the provisions of the European Commission's proposed directive on energy efficiency, which requires social housing agencies to improve the energy efficiency of 4 % of the social housing stock each year. This type of obligation must be flanked by specific measures for financing investment, through the ERDF in particular but also by setting up an investment fund at the European level.

7.10 The European Parliament and the Council should adopt the Commission's proposals for the ERDF and ESF regulations, which contribute to implementing the Europe 2020 strategy and for the first time recognise – in the Structural Funds regulations – housing's priority role in Member States' investment policies in the framework of cohesion policy for 2014-2020.

7.11 The regulation of housing markets in the Member States is an important issue for the stability of the euro area, given the macroeconomic and social impact of housing bubbles. Social housing helps to stabilise housing markets and regulate property cycles.

7.12 The EESC welcomes the Commission's proposal to establish stronger macroeconomic surveillance of the euro area and to include a chapter on the macroeconomic effects of housing bubbles. The Committee considers that this stronger surveillance mechanism should be accompanied by measures to promote mechanisms for the smart regulation of housing markets in Member States and for developing a supply of social and private housing to stabilise and mitigate property cycles, in line with the principles of sustainable urban development.

7.13 The EESC believes that a discussion should be opened on European reserves to stabilise the funding of social housing, which is part of the European social model. The idea of a capped European savings account for social housing should be considered. This account could be opened online with the EIB, which would manage the funds. Such a procedure would perform the two-fold task of stabilising investment in social housing and of giving account holders a strong sense of citizenship.

Brussels, 13 December 2012.

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

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**Opinion of the European Economic and Social Committee on ‘An emerging civil society in China: civil society’s contribution to the EU-China Year of Intercultural Dialogue and its enduring impact’**

(2013/C 44/10)

Rapporteur: **Ms SIGMUND**

On 16 September 2010, the European Economic and Social Committee Bureau decided to draw up an opinion on

*An emerging civil society in China; civil society’s contribution to the EU-China Year of Intercultural Dialogue and its enduring impact.*

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 20 November 2012. The rapporteur was Ms SIGMUND.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 68 votes to 1 with 5 abstentions.

## 1. Recommendations

1.1 The Committee calls on the Commission to involve it in the ongoing activities of the various working groups that were set up as part of the third pillar, people-to-people dialogue; as the institutional platform for civil dialogue at EU level, the Committee has amassed a great deal of know-how and experience that it could bring to bear in the development of such dialogue with China. Back in 1999, the Committee pointed out that ‘culture shapes the areas in which civil society operates’<sup>(1)</sup> and thus considers culture, within the broad definition that it has adopted, as a cross-cutting issue. With this approach, it is very well placed, within its areas of competence, to assist and support the soft power policies and intercultural diplomacy of the EU and China in their dialogue.

1.2 In the first instance, the people-to-people initiatives should, where possible, be strengthened at grass roots level through more student exchanges, possibly specific trainee programmes, and partnerships between towns and cities.

1.3 Attention should be given to developing cultural tourism. Experience has shown that cultural tourism not only boosts the economy, but can also make a lasting contribution to enhancing mutual understanding.

1.4 Compliance with international standards regarding human rights and democratic and fundamental freedoms are important preconditions for cultural expression, cultural exchanges and cultural diversity, and must therefore be made a requirement.

1.5 Education and training (including adult education) should be included in the joint activities, as intercultural

dialogue opens up many possibilities in this area, from language learning to consumer education, environmental awareness, etc.

1.6 With the aim of long-term awareness raising in mind, the Committee proposes an annual ‘EU-China interaction day’, involving cultural events on both sides.

1.7 The exchange of good practices should be driven forward in as many areas as possible (this could involve key official as well as opposition players from the socio-economic field such as social partners and human rights organisations, together with various education and training bodies, experts in particular fields such as consumer affairs, environmental protection, penal institutions, etc.).

1.8 In any case, existing initiatives should be better networked with one another and the exchange of information amongst all players be improved, as the current situation is that a number of initiatives are taking place more or less in isolation and valuable synergies are being lost (see, for example, the EUNIC-China Cultural Dialogue).

1.9 Media cooperation (TV, print media) and joint training of journalists should be stepped up; both help to reach larger sections of the population<sup>(2)</sup>.

1.10 In accordance with Article 167(3) TFEU, the Committee will look into what additional, long-term initiatives it can take within the context of its existing cooperation with China and is also prepared to offer other stakeholders a platform for exchanging information and views.

<sup>(1)</sup> See footnote 3.

<sup>(2)</sup> One example is cooperation between CRI (China Radio International) and the Austrian Broadcasting Corporation (ORF)/Bavarian broadcaster Alpha Bayern, with regular co-productions.

## 2. Background

2.1 Since the 2007 European agenda for culture, a new strategic framework for the EU's external action has been steadily emerging. Culture figures prominently within this framework.

This soft power policy is being extended and put into practice through this year's EU-China Year of Intercultural Dialogue and in the long-term structures planned in connection with this as part of EU intercultural policy.

In addition, this European approach was more or less simultaneously supported by President Hu Jintao at the 17th Congress of the Chinese Communist Party. On that occasion, Hu Jintao called for China to invest more in its 'soft power resources'.

2.2 The EU-China joint declaration on culture of 22 October 2007 led to an increase in cooperation and dialogue in this area, and prompted a livelier political exchange on training and education, including multilingualism.

2.3 In May 2011, senior representatives of the EU and China agreed to extend this cooperation by creating a 'third pillar' in the strategic partnership between the EU and China: the EU-China High-Level People-to-People Dialogue. This third pillar was formally agreed at the EU-China summit of 14 and 15 February 2012.

2.4 The EU-China Year of Intercultural Dialogue 2012 (YICD), which was agreed by leading EU and Chinese representatives at the 2010 EU-China summit and officially opened in Brussels on 1 February 2012, should also be viewed in this context.

2.5 The agenda for this year includes not only stepping up cultural relations, but also encouraging political and civil society dialogue in the interest of positive and long-term relations between the EU and China<sup>(3)</sup>. It is expected that by combining our forces and identifying synergies, the Year of

<sup>(3)</sup> The main objectives of the Year are:

- to promote and strengthen intercultural dialogue and mutual understanding between the EU and China through people to people contacts;
- to establish a sustainable policy dialogue on issues of common interest;
- to contribute to consolidate the EU-China strategic partnership'.

Intercultural Dialogue will encourage civil society dialogue between the EU and China and have a lasting impact.

## 3. Introduction

3.1 This opinion builds on opinion CESE 413/2006 (rapporteur: Mr SHARMA) and on the results of the study commissioned by the EESC<sup>(4)</sup>, which included a comprehensive, up-to-date analysis of Chinese civil society.

3.2 It places the findings of the study in the context of historical development and the EU-China Year on Intercultural Dialogue 2012 and the associated tasks and opportunities.

3.3 Of particular importance, in the view of the Committee, is the European Commission's expectation, as articulated in the EU-China YICD concept, that the year will 'contribute to civil society dialogue between the EU and China...'. As an institutional platform for civil dialogue in the European Union, the Committee is prepared to take on a similar role in EU-China relations.

3.4 Since 1999, the Committee has recognised an expanded concept of culture that includes areas like education, training and science alongside art and cultural heritage. Moreover, it has noted that the political development of civil society is also a cultural process<sup>(5)</sup> that shapes people's everyday lives.

3.5 The EESC considers personal mobility to be an essential aspect of cultural exchange between peoples, and therefore calls for the dismantling of all obstacles to such mobility.

3.6 The Committee issued an opinion<sup>(6)</sup> on the *European Year of Intercultural Dialogue 2008*, in which it strongly supported the Commission's view of the importance of the influence of diverse cultural heritage on our way of life. Within the EU, this influence is significant and needs to be taken into account, but takes on particular importance in the context of EU-China intercultural dialogue.

<sup>(4)</sup> Baocheng Liu, University of International Business and Economics, Beijing: Report on Civil Society, May 2011.

<sup>(5)</sup> *The role and contribution of civil society organisations in the building of Europe*, OJ C 329, 17.11.1999, p. 30.

<sup>(6)</sup> *European year of intercultural dialogue (2008)*, OJ C 185, 8.8.2006, p. 42.

3.7 In the area of European legal history and legal philosophy, Montesquieu<sup>(7)</sup>, as long ago as 1748, referred, in addition to the separation of powers which underpins all democratic systems, to the relationship between legal order on the one hand, and a country's natural circumstances (geography, climate) and the economic, social and cultural development of a people on the other.

3.8 In the understanding of culture as a recognition of shared values, espoused by the Committee, it is imperative during this momentous year of EU-China intercultural dialogue that we lead and deepen the dialogue about the values that determine the European Union's political action<sup>(8)</sup>. As well as being urgently necessary for political reasons, there is also a binding legal basis for this in Article 21 of the TEU<sup>(9)</sup>.

3.9 In addition, Title XIII (Culture) contains the following requirement in Article 167(3) TFEU: *The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe*. Since legal opinion is unanimous that 'Union' not only means the European institutions but also – in their respective areas of competence – the advisory bodies, the Committee can claim to have a mandate in primary law to take appropriate initiatives in this area as part of its activities.

3.10 Another key reference document for the EU-China Year of Intercultural Dialogue 2012 is the European Parliament resolution of 12 May 2011<sup>(10)</sup>, in which the European Parliament refers to the major role of civil society in such cooperation and *'stresses that democratic and fundamental freedoms, such as freedom of expression, press freedom, freedom from want, freedom from fear, freedom from intolerance, hatred and the freedom to access printed and digital information, as well as the privilege to connect and communicate – online and offline – are important preconditions for cultural expression, cultural exchanges and cultural diversity*.

3.11 On that basis, the Committee is convinced that intercultural dialogue between the EU and China is a useful tool that,

<sup>(7)</sup> Charles-Louis de Secondat, Baron de Montesquieu: *The Spirit of Laws*.

<sup>(8)</sup> Article 2 TEU: 'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail'.

<sup>(9)</sup> Article 21(1): 'the Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law'.

<sup>(10)</sup> A7-0112/2011: *Cultural dimensions of the EU's external actions*.

as a platform for economic, social, and legal/political cooperation, can contribute to strengthening mutual understanding and thereby trust as well. This foundation of cooperation will also help to ensure that any common steps taken endure. To achieve this, however, it will be necessary for both the European side and the Chinese one to set up the requisite, mutually coordinated structures and to develop and implement specific projects.

## 4. General comments

### 4.1 Citizen and state in China

4.1.1 In the Chinese tradition, and in Confucianism in particular, the role of the individual is different to that in European tradition. The subordination of the individual to larger collective entities (previously: primarily family and clan, today: party and state) has shaped Chinese society for more than two millennia. With its centuries-long evolution of competing states, the idea of the state in Europe is perforce different from that in China, where the concept of *tian xia* ('everything under heaven') made the state's external borders porous until colonial powers imposed the paradigm of national borders on Chinese (at the time, Manchu) state power. Although the historical development of China's political structure reflects global developments in the 20th and 21st centuries, the internal transformation is only beginning. The Chinese Communist Party's power over the individual prevails, because the individual is not seen by the Party as 'enlightened' enough to be trusted with responsibility for himself, which prevents democratic progress. With China's rapid integration into the international community (following self imposed isolation in the 1960s, for example) through (international and bilateral) links of very different origin, an increasing number of people-to-people contacts have become possible, challenging this view.

### 4.2 Individual rights in China

4.2.1 In the EU, the emergence of a modern welfare state has enabled 'social citizenship' to progress, focussing on individual rights at the same time as guaranteeing collective rights. It must be understood, therefore, that the two cultural spaces 'China' and 'Europe' (in all their internal diversity) are very different as a result of their respective historical development, especially when it comes to the relationship between the individual and society. Of course, this does not mean that human rights abuses should be tolerated – they are always unacceptable – but the conditions for active dialogue should be supported, enabling a pragmatic approach that draws on examples of best practice.

4.2.2 The influence of the respective cultural heritage on current attitudes to life and lifestyles mentioned at the beginning of this document applies to both the EU and to China, as does the interrelationship described by Montesquieu between geographical, economic, social and historically developed political structures on the one hand, and current attitudes towards and practice in the law on the other.

4.2.3 As an active member of the United Nations and its organisations (including, amongst others, the ILO) and, most importantly, as a permanent member of the Security Council, the People's Republic of China bears responsibility for the implementation of the spirit and values of the United Nations. This also includes compliance with all UN resolutions on human rights issues (UN Charter).

However, China is still far from compliance in everyday life, especially when it comes to social and individual civil rights, but also consumer and employee rights. Infringements against international treaties and standards are common <sup>(11)</sup>; the same is true for the environment.

4.2.4 The UN charter on human rights <sup>(12)</sup> provides that individuals are entitled to protection under all circumstances. The discrepancy with the traditional Chinese model of society is obvious, as according to the Chinese understanding of a harmonious society, the unity and stability required by the government form the basis and prerequisite for the application of human rights. However, cultural differences cannot excuse violations of these rights, which should always be condemned.

Clearly, the major changes that have taken place as China has modernised have also included the relationship between society and the individual. However, this process is still at a very early stage, so it is impossible at this time to predict how it will proceed.

4.2.5 In keeping with Article 21 TEU, the institutions and public bodies of the Union, i.e. including the Committee, are required to advance in the wider world the fundamental values and principles of the Union, including the indivisibility of human rights and fundamental freedoms. Where appropriate, this can take the form of EU bodies responding to perceived breaches of these values and principles by making public statements or using political means. This also applies to relations between the EU and China.

The Committee considers it to be one of the major challenges of the YICD to engage in a 'Dialogue of Values' so as, particularly in the area of human rights, to develop examples of best practice in order to facilitate some initial progress.

<sup>(11)</sup> See OJ C 110, 9.5.2006, p. 68, point 2.2.6. *et seq.*

<sup>(12)</sup> Universal Declaration of Human Rights, Resolution 217(III), 10 December 1948.

It also feels that future work should take into account the Committee's experience as part of the EU-China Roundtable and the International Association of Economic and Social Councils and Similar Institutions (AICESIS).

4.2.6 The purpose of any dialogue is to break down prejudices, to gain knowledge and thus understanding of different world views and practices, and to work out concrete solutions.

Through mutual understanding that the principle of human dignity, on which human rights are based, fundamentally determines every political order, mechanisms can certainly be found through EU-China intercultural dialogue so that the question of human rights can be discussed constructively (without the EU renouncing the right to protest against violations it considers unacceptable).

#### 4.3 *State of play and the role of civil society in China*

4.3.1 In all probability, one key challenge for China in the future will be the emergence of rapidly accumulating private wealth alongside existing poverty; the income and wealth gap is getting bigger. This problem is exacerbated by demographic development and will have a sustained impact on civil society activities.

4.3.2 Due to the circumstances in which they emerged and under the existing political framework, civil society organisations in China cannot act in the same way as equivalent bodies in the EU. Even if some of them have a certain degree of de facto autonomy, they are subject to extensive bureaucratic control. At best, they enjoy 'dependent autonomy' <sup>(13)</sup>, which in plain English means that the rights of civil society organisations or actors cannot be closely compared with those in the European Union and democratic States in general (this applies particularly to freedom of expression and assembly).

4.3.3 There are already Centres of Research into Human Rights Issues at some Chinese universities, such as the CUPL (Chinese University of Political Science and Law), where the EU-China Law School was jointly established and is jointly run by the EU and the People's Republic of China. At the Renmin University Law School, a human rights component is planned as part of the basic degree studies of law students. Efforts are also underway to promote cooperation with the European Court of Human Rights in Strasbourg in the form of publications, guest lectures, internships etc.

<sup>(13)</sup> See Dr Yiyi Lu: 'The Rise of Dependent Autonomy'.

## 5. Conclusions

5.1 In the view of the Committee, building on existing structures for dialogue between the two civil societies and creating new ones as a result of the EU-China Year of Intercultural Dialogue seem to be a promising way of generating understanding of differences and taking confidence-building measures.

5.2 In view of the fact that the two cultural spaces 'China' and 'Europe' (in all their internal diversity) are very different as a result of their respective historical development, especially when it comes to the relationship between the individual and society

and their respective political systems, intercultural dialogue should take the form of a broad and imaginative spectrum of platforms, forums and activities involving experts and civil society representatives alongside official bodies, and be based on internationally recognised human rights.

5.3 It would be a missed opportunity if the EU-China Year of Intercultural Dialogue failed to yield any tangible and enduring initiatives within appropriate structures. As the institutional platform for civil society organisations at EU level, the Committee is prepared to play a key role in shaping these structures and to help achieve synergies.

Brussels, 13 December 2012.

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

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## Opinion of the European Economic and Social Committee on 'Rio+20: current situation and future prospects' (additional opinion)

(2013/C 44/11)

Rapporteur: **Mr WILMS**

On 14 November 2012, in accordance with Article 29A of the Implementing Provisions of the Rules of Procedure, the European Economic and Social Committee decided to draw up an additional opinion on

*Rio+20: Current situation and future prospects*

(additional opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 152 votes in favour, with 1 abstention.

### 1. Conclusions and recommendations

#### 1.1 Conclusions

1.1.1 The final document of the UN Conference on Sustainable Development in Rio de Janeiro this year (Rio+20 conference), 'The future we want', is weaker than the EESC would have liked. In particular, the urgency of the crisis situation on our planet has not been sufficiently taken into account. However, the final document contains several elements which can also be used as a basis in the EU. Particularly noteworthy is the global agreement on a 'green economy' as an important tool for sustainable development, including the social dimension, and the agreement on a process that is intended to lead to global Sustainable Development Goals (SDG) in close coordination with the Millennium Development Goals (MDG).

1.1.2 The EESC is pleased at the strong civil society mobilisation in the run-up to and at the Rio+20 conference, which has led to the generation of many innovative ideas and new alliances.

1.1.3 The EESC fulfilled its mediating role between civil society and the EU institutions in the preparations for and during the Rio+20 conference. The efforts made by the EESC to promote civil society dialogue within and outside the European Union have been much appreciated by the other EU institutions.

#### 1.2 Recommendations

1.2.1 The EESC believes that the Rio+20 follow-up process and the implementation of the Rio+20 decisions must be done with the involvement and participation of civil society. It therefore expressly welcomes all efforts made in this direction by the other institutions. As it did ahead of the Rio+20 conference, the EESC will continue to promote civil society

dialogue on sustainability issues, also involving European civil society organisations and networks and the national economic and social councils and sustainable development councils.

1.2.2 The EESC will actively contribute to the development of global SDGs by promoting, as it did prior to the Rio+20 conference, civil society dialogue in the EU and with our civil society partners outside the EU. It will try in particular to bring together the actors from the SDG and MDG processes. Furthermore, the EESC can in particular draw on its experience and composition to contribute to the detailed design of the green economy, including the social dimension, as well as to the participation rights of civil society at global level.

1.2.3 The EESC welcomes the Council conclusions on Rio+20 of 25 October 2012, which announce ambitious follow-up measures to Rio+20 that will be effected by means of the Europe 2020 Strategy and the EU Sustainable Development Strategy, and the announced revision of the EU Sustainable Development Strategy. The EESC considers a broad civil society debate on sustainable development in the EU to be necessary and will continue to promote this in its future work.

### 2. The EESC's contribution to the Rio+20 conference

2.1 In its opinion of 22 September 2011 on the Commission Communication *Rio+20: towards the green economy and better governance* (CESE 1386/2011) <sup>(1)</sup> the EESC contributed its ideas on the topics of the UN Conference on Sustainable Development (Rio+20 conference), scheduled for June 2012, to the interinstitutional decision-making process and adopted an

<sup>(1)</sup> OJ C 376, 22.12.2011, pp. 102-109.

action plan for the run-up to the Rio+20 conference. Its aim in particular was to promote European and non-European civil society dialogue on the Rio themes. The present opinion seeks to assess the Rio+20 conference in the light of the EESC's proposals and to identify prospects for follow-up measures.

2.2 The EESC adopted a twin-track approach to the Rio+20 conference.

2.2.1 At European level, the EESC sought dialogue with European civil society organisations and networks on the basis of its opinion adopted in September 2011, and in February 2012 it held a major civil society conference. This conference led to the adoption of a set of core requirements for the Rio negotiators, which were adopted by the EESC in the form of an opinion entitled the *EESC position on the preparation of the United Nations Conference on Sustainable Development (Rio+20)* (CESE 486/2012) <sup>(2)</sup> in time for the establishment of the mandate by the European Council in March 2012. With this, the EESC justified its function as a mediator between European civil society and EU institutions.

2.2.2 In parallel to this, the EESC also discussed these topics bilaterally with its institutional partners, particularly in Brazil, China and Russia. At a multilateral meeting in May 2012 agreement was reached on some common key messages, which subsequently served in Rio de Janeiro as the basis for civil society dialogue with representatives of other countries.

2.3 At the Rio+20 conference the EESC played an active part in organising three well-attended events, two dialogues organised jointly with the Brazilian Economic and Social Development Council (CDES) on sustainability issues, one of which involved representatives of civil society from Brazil and the other representatives from all the BRICS countries; it also organised a session on models of civil society participation in the EU pavilion, with the participation of the president of the European Commission. The members of the EESC delegation were an integral part of the EU delegation at the Rio+20 conference, from which it was clear that there was also a wish for greater interinstitutional cooperation on the Rio follow-up measures.

### 3. The EESC's assessment of the Rio+20 conference

3.1 The EESC is pleased to note that the final document of the UN Conference on Sustainable Development in Rio de Janeiro this year (Rio+20 conference), 'The future we want,' has documented the global commitment to sustainable

development in its environmental, social and economic dimensions. The EESC regrets, however, that the results of the negotiations overall are less binding than called for by civil society and by the EESC in its opinions. In particular, the urgency of the situation on our planet has not been taken sufficiently into account. The EESC regrets that the final text does not mention the limits of our planet.

3.2 At the same time, the Rio+20 conference, however, has caused a broad mobilisation of civil society, which goes much further than what was negotiated at political level. This mobilisation now has to be further harnessed in the wake of Rio to further promote and shape the processes that Rio initiated. Rio was not only a meeting of political leaders, it was also the meeting place for the many willing and creative people who argue tirelessly for a paradigm shift in our economic action or launch and present countless concrete initiatives for restructuring.

3.3 The final document, however, contains several elements which can also be built upon in the EU. Particularly noteworthy is the global agreement on a 'green economy' as an important tool for sustainable development, including the social dimension, and the agreement on a process designed to lead to global SDGs in close coordination with the MDGs.

3.4 In the light of the EESC's core concerns in the run-up to the Rio+20 conference, the following comments can be made on the final document:

3.4.1 A major priority of the EESC for Rio+20 was combating poverty. The EESC argued for access to enough food, clean water and sustainable energy. This area plays a major role in the final document, though for many the funding issues have not been sufficiently clarified. The MDGs and commitments were reaffirmed. The EESC regrets, however, the lack of emphasis on the rights of women.

3.4.2 The next priority of the EESC for Rio+20 was the social dimension of the transformation. The EESC argued for a fair transition to a more sustainable economy and therefore welcomes the first mention of this in a UN text. The EESC also welcomes the references in the final document to the recognition of the social partners, and in particular workers, as active agents in favour of change, the affirmation of decent work and gender equality, the recognition of education and training and the positive mention of the role that minimum social standards can play.

<sup>(2)</sup> OJ C 143, 22.5.2012, pp. 39-42.

3.4.3 In the run-up to Rio+20, and also at the conference itself, the EESC repeatedly stressed the need for the effective participation of civil society. The Rio text here contains some positive developments. The EESC would, however, have liked the general statements to be fleshed out in more detail, e.g. with regard to the integration of multi-stakeholder forums, such as economic and social councils, into the development of national policies for a sustainable economy. In respect of another governance-related proposal which the EESC supported, the introduction of an ombudsman for future generations to take into account the long-term perspective necessary for sustainable policies, the conference asked the UN secretary-general for further analysis.

3.4.4 As regards its other core concerns, the EESC welcomes the agreement on a ten-year framework for sustainable consumption and production patterns, the mention of the principle of the conservation of resources, the announcement that GDP must be complemented by other indicators, and the recognition of role of businesses.

#### 4. Rio+20 follow-up at UN and EU level

4.1 The EESC is convinced that the success of the Rio+20 conference will be seen only when the decisions taken in Rio and the processes launched are implemented. It believes that this must be done with the involvement and effective participation of civil society.

4.2 At the start of this year's UN General Assembly in New York, the processes for establishing a high-level policy forum on the integration of the three dimensions of sustainable development and the definition of global SDGs were begun. The EESC would point out that the involvement of civil society in these processes is not yet satisfactory, despite the quite positive formulations in the Rio+20 final document.

4.3 As regards the formulation of the SDGs, the focus here at present is mainly on procedural issues, not only in terms of opportunities for the participation of civil society but also on the relationship between the already initiated process for the post-2015 development agenda and the newly added SDG process. The Rio+20 final document speaks of the necessary link between the two processes, and the respective players are still emerging.

4.4 In July 2012 the EESC held a major civil society event to bring the results of Rio to Brussels. In the process it became clear that the development of SDGs is seen as a priority theme for the follow-up to Rio, which requires public debate. Also clear was the call by the participants for the processes of

defining the SDGs and revising the MDGs to be combined from the outset, if there is to be an overarching development agenda after 2015. Furthermore, it was repeatedly emphasised at this event as well as at other civil society Rio follow-up events that we in the EU have to do what we called for in Rio. The EESC is therefore convinced of the need to review the fundamental EU strategies to determine whether they meet the EU's demands for Rio+20, whether it be the Europe 2020 Strategy now in its sustainability dimension or the EU Sustainable Development Strategy.

4.5 In the interinstitutional discussions that the EESC has held in the wake of Rio+20, it has become clear that there is a desire to cooperate with and also to involve civil society.

4.6 The EESC welcomes the public on-line consultation held by the Commission in preparation for a communication anticipated in spring 2013 on the follow-up measures to Rio+20, and it will organise related joint events. The Commission communication on the post-2015 development agenda is also expected in spring 2013. An EESC opinion on these matters is in preparation. According to an announcement from the Commissioner responsible, the more environmentally relevant aspects of Rio are to be implemented in the 7th Environmental Action Programme, the publication of which is scheduled before the end of the year.

4.7 The EESC welcomes the conclusions concerning Rio+20 adopted by the Council of the European Union on 25 October 2012, particularly the emphasis on the need to involve civil society. The EESC also welcomes the announcement of ambitious Rio+20 follow-up measures, which are to take place as part of the Europe 2020 Strategy and the EU Sustainable Development Strategy. As regards the latter, the EESC notes with satisfaction that it is to be revised in the light of the outcome of Rio. This was one of the requirements that the EESC set out in its opinion of 21 September 2011.

#### 5. The EESC's role in the post-Rio process

5.1 The EESC's further active involvement in the follow-up to the Rio+20 conference is requested both by civil society actors and the other EU institutions.

5.2 The EESC can make a contribution here by continuing to be a place of social dialogue on sustainability issues and to act as a mediator between civil society and the EU institutions, also involving European civil society organisations and networks and the national economic and social councils and sustainable development councils.

5.3 From its own experience the EESC can make a particular contribution to issues concerning the structuring of the participation of civil society, for example the right to information, consultation and response.

5.4 The EESC is the only EU body which has set up a specific structure for sustainable development, in order to take into account the cross-cutting nature of the issue. After Rio, this is more relevant than ever. On 'green economy' issues the EESC, because of its make-up, can make concrete proposals on the conditions that must be created for this purpose. In particular, the EESC can also help to give form to the social dimension of sustainable development by drawing up operational proposals

for a fair transition to sustainable development. One area of the Rio+20 follow-up process in which the EESC's contribution is urgently sought is the drawing up of global SDGs. Here, as in the run-up to the Rio+20 conference, the EESC can play an important role in promoting civil society dialogue not only within the EU but also with its civil society partners outside the EU.

5.5 The EESC considers that a wide-ranging civil society debate on sustainable development in the EU is essential and will continue to promote this in its future work, particularly in relation to the Rio-relevant aspects of the Europe 2020 Strategy and the revision of the EU Sustainable Development Strategy.

Brussels, 13 December 2012.

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

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## III

(Preparatory acts)

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

## 485TH PLENARY SESSION HELD ON 12 AND 13 DECEMBER 2012

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EEC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EU and Regulation (EU) No 1093/2010’**

COM(2012) 280 final — 2012/0150 (COD)

(2013/C 44/12)

Rapporteur: **Ms ROUSSENOVA**

On 5 and 10 July 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 Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010*

COM(2012) 280 final — 2012/0150 (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 21 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December 2012), the European Economic and Social Committee adopted the following opinion by 153 votes to 1 with 3 abstentions.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the legislative proposal for a framework designed to address banking crises pre-emptively, safeguard financial stability and diminish the burden on public finances by introducing new preventive, early intervention and resolution tools. Ensuring the effective resolution of failing financial institutions within the EU is an essential element in the completion of the internal market. The EESC supports the introduction of the proposed tools but would welcome additional clarity regarding those which are new and have not been tested in systemic crises. The EESC expects that the content of this directive would be coordinated with the provisions on the banking union.

1.2 The EESC accepts the proposal that Resolution Authorities (RAs), in consultation with the competent authorities, should draw up and update resolution plans. The Committee

is convinced that both individual and group resolution planning and updating would be improved if banks were also involved in the process. The professional advice of other stakeholders, for example consumer organisations, trade union representatives, etc., that could be affected by the resolution plans should also be sought on relevant matters where appropriate.

1.2.1 Central banks, including the ECB, are best placed to carry out assessments on matters of public interest and the EESC recommends involving them in the assessment of the recovery and resolution plans, while at the same time fully respecting their independence.

1.3 Confidentiality requirements with respect to credit institutions and their recovery and resolution plans should be

strengthened. Special provisions in the directive should guarantee that all authorities, institutions and stakeholders involved in the drafting, updating and assessment of the banks' recovery and resolution plans strictly respect the confidentiality of the relevant information.

1.4 The EESC welcomes the proposed provisions allowing for the introduction of harmonised rules and conditions under which intra-group financial support is to be provided and at the same time points out that the protection of the transferee's and transferor's interests and rights should be well balanced when there are disagreements among them regarding the support. The Committee fully supports the provisions of Article 19(1) and proposes to expand the requirement in Article 19(1)(f) to additionally include any **higher own funds and liquidity requirements** imposed by the regulators of the transferor's country.

1.5 The key trigger conditions for appointing a special manager (SM) are a matter for the competent authorities to judge. The EESC accepts the need for the competent authorities to enjoy some discretion, but taking into account the **significant role and powers** given to special managers, the Committee would encourage a greater degree of certainty for the institutions by introducing **explicit and more clearly defined trigger rules and conditions**.

1.6 The appointment of the SM is a highly intrusive early intervention measure that has to be applied after the less intrusive measures have been exhausted. However, there might be a situation when a significant deterioration in the financial position of the institution develops too quickly and a special manager has to be appointed without waiting for the implementation of the less intrusive early intervention measures proposed in Article 23(1). Under such circumstances it should be possible to appoint an SM even if one of the trigger conditions described in Article 24 (i.e. '... other measures **taken** in accordance with Article 23 are not sufficient to reverse that deterioration ...') has not been met.

1.7 The powers and responsibilities of RAs need additional distinctions and clarifications. While the competent authorities/supervisors are responsible for early intervention, the RAs are responsible for choosing and applying the resolution tools. However, in some cases certain responsibilities are executed both by supervisors and RAs. Depending on the choices made by MSs, supervisors could perform the responsibilities of RAs but the two functions should be separated in order to minimise the risks of forbearance. The EESC would encourage establishing a clear distinction between the mission of supervisors and RAs and the timing of their intervention.

1.8 The directive proposes that the management body of an institution should **notify the competent authority** when they consider that the institution is failing or likely to fail. The EESC believes that, if the initiative is left entirely to the discretion of the bank's management, **the decision of the RA could be taken too late**. The directive should leave no doubt that the supervisors have the right and opportunity to inform the RA without waiting for notification by the bank's management whenever they deem that the trigger conditions for resolution have been met but the notification is delayed. It should request MSs to provide for heavy penalties for bank managers who are in breach of the rules of professional practice.

1.9 The wide range of powers given to the RAs, coupled with a limited right to redress granted to third parties, **raises concerns regarding the legal solidity of the proposed framework**. In many MSs, especially those governed by common law jurisdictions, the courts would most probably protect their own rights to hear claims of judicial review of any decision made by an administrative authority, when any individual or group can show that they have suffered as a result of that decision. Should anybody feel that the RA or the administrators acted with **gross professional misconduct**, the judges only enjoy a kind of immunity for decisions taken in court, but no law or regulation can extend this privilege to an administrative authority such as the RA, which might then be **held liable in court for damages**.

1.10 The bail-in tool needs additional explanations and clarifications. In order to minimise any uncertainties among investors, clear rules should be introduced regarding eligible liabilities and the threshold conditions for bail in.

1.11 The EESC welcomes the introduction of harmonised funding rules based on ex ante contributions for deposit guarantee funds (DGF) and resolution funds (RF). The criteria for contributing to resolution funding seem to be correct and realistic in relation to the current situation; however the economic and financial conditions may change unexpectedly, as we have seen in recent years. The EESC suggests the introduction of **a rule whereby the criteria for ex ante contribution can be revised from time to time**.

1.12 While accepting the potential benefits from a possible synergy of a single institution for the DGF and RF, the Committee also welcomes the Commission's approach, which allows each MS to decide whether it would prefer to have one or two financing arrangements (funds). In both cases the directive should introduce realistic provisions guaranteeing that the DGF can perform its main function to protect retail depositors at all times, taking account of what is to be established by the banking union.

1.13 The EESC welcomes the introduction of the effective resolution of failing financial institutions within the EU as an essential element in the completion of the internal market. A European system of financing arrangements would ensure that all institutions are subject to equally effective resolution funding rules whilst contributing to the stability of the single market and providing equal conditions for competition. The Committee would welcome the introduction as soon as possible of a **realistic roadmap** towards establishing the future system of financing arrangements.

1.14 The EESC hopes, however, that the directive pursues the objective of greater regulatory integration and convergence, beginning with the euro area countries.

## 2. Introduction

2.1 The Commission proposes a directive <sup>(1)</sup> establishing an effective policy framework **to manage bank failures in an orderly way and to avoid contagion** to other institutions by equipping the relevant authorities with **common and effective tools and powers to address banking crises pre-emptively, safeguarding financial stability and minimising taxpayer exposure to losses**. The current proposal further specifies the Commission's views on the crisis management framework in the financial sector expressed earlier in one of its Communications <sup>(2)</sup>. The new legislative framework is designed as an alternative to existing national insolvency procedures and bailout in particular and is in line with the key attributes of effective resolution regimes for financial institutions, developed by the Financial Stability Board (FSB) <sup>(3)</sup> and the principles agreed upon at the G-20 meetings.

2.2 Bailouts place an enormous burden on public finances, cause distortions to competition, increase moral hazard, and are currently recognised to be an unsatisfactory option in a situation where a bank's closure threatens to create contagion. **The proposed framework is expected to:**

- **reduce taxpayer** exposure to the costs of bailing out banks;
- provide public authorities with the **necessary powers to take preventive action, intervene early and achieve resolution** for banks in crisis;
- **introduce resolution tools**, including the bail-in tool that will give RAs the power **to write down the claims of unsecured creditors of a failing institution and to convert debt claims to equity**.

<sup>(1)</sup> COM(2012) 280 final.

<sup>(2)</sup> COM(2010) 579 final.

<sup>(3)</sup> See FSB, Key Attributes of Effective Resolution Regimes for Financial Institutions, October 2011.

2.3 On 12 September 2012, the Commission proposed the establishment of a single supervisory mechanism (SSM) for banks in the euro area. The ultimate responsibility for specific supervisory tasks related to the financial stability of all Euro area banks will lie with the European Central Bank (ECB). National supervisors will continue to play an important role in day-to-day supervision and in preparing and implementing ECB decisions. The ECB will be able to carry out **early intervention measures** when a bank breaches or risks breaching regulatory capital requirements. Once agreement on the existing Deposit Guarantee Schemes (DGS) and the proposal for a directive on the recovery and resolution of credit institutions is achieved, the Commission envisages drawing up a proposal for a single resolution mechanism, which would be responsible for coordinating the application of resolution tools to banks within the banking union (BU).

## 3. General comments

3.1 The events of the last few years have shown that bank crises should be addressed pre-emptively in order to prevent bank failures as far as possible; the sad lesson derived from the first crisis of 2007 is that a big *individual* failure almost always entails a *systemic* crisis, with the familiar social and economic consequences. Deviations from the established and **generally accepted principles** of bankruptcy laws are then justified by the **public interest**.

3.2 Currently there is no **harmonisation of the procedures for resolving credit institutions at EU level** and the EESC welcomes the legislative proposal for a framework that is designed to address banking crises pre-emptively, safeguard financial stability and diminish the burden on public finances by introducing new tools and procedures. The Committee is aware that the new preventive, early intervention and resolution tools and procedures alone can hardly resolve systemic crises but if applied appropriately and consistently, they could contribute to preventing them from happening. While supporting the introduction of recovery and resolution tools, the EESC warns that some of them (bail in) have not been tested in systemic crises and there is not sufficient experience with their application, which means that they should be treated with special care.

3.3 The EESC welcomes the attempt to establish a framework for managing bank failures in an orderly way and accepts that 'because of ... systemic risk and the important economic function played by institutions the normal insolvency procedure may not be appropriate in some cases ...' <sup>(4)</sup>. It also recognises that whenever the public interest requires an orderly resolution of a failing bank a **specialised resolution authority (RA)**, other than the judicial one, needs to be entrusted with the governance. An RA is in fact **an administrative authority** with

<sup>(4)</sup> COM(2012) 280 final, Explanatory Memorandum, p. 4.

powers, which are traditionally the unchallenged domain of **judicial authorities** as a result of which the transfer of powers involves certain legal amendments. There may be consequences resulting from this transfer of powers:

- the RA powers, in the form of framework legislation, should be established in the EU;
- the RA powers should be established by national parliaments, on the basis of what is established in the EU, at the same time allowing and regulating the transfer of prerogatives from the judicial order to the banking authorities;
- the rights of third parties are established by bankruptcy laws, which should be amended to accommodate a special banking regime, or separate legislation should be adopted by national parliaments;
- in any case, the Commission recognises that an amended law should be consistent with the Charter of Fundamental Rights and especially with the right to property, to an effective remedy and to a fair trial.

3.4 The EESC accepts the Commission's conclusions that the costs of the framework arise from a possible increase in **funding costs** for institutions due to the removal of the implicit certainty of state support, and to the costs of resolution funds. The Committee shares the Commission's concern that those increased costs might be passed on to customers or shareholders by pushing down rates on deposits, increasing lending rates<sup>(5)</sup> and banking fees or reducing returns on equity. The Impact Assessment carried out by the Commission states that, although banks will have to meet 'some' increase in **the operational costs, the overall cost of operations and of drafting recovery and resolution plans** will be 'negligible' or 'immaterial'<sup>(6)</sup>.

3.5 The banks' concerns that **costs** will be far from negligible have been challenged by both the Commission and by the social partners. The Committee shares the Commission's views concerning the potential benefits of the framework in the long term. The **short to medium term impact of costs** on all interested parties should be carefully evaluated and considered by each MS when drawing up their national rules, which should take into account their own specific needs and conditions.

<sup>(5)</sup> The Commission has estimated that higher funding costs may affect investments and reduce GDP growth by 0.1- 0.4 % annually, see Commission Impact Assessment, SWD(2012) 166, p.69 and SWD(2012) 167.

<sup>(6)</sup> Ibid, p. 68.

3.6 The EESC welcomes the Commission proposal for establishing a BU with an SSM and believes that the current recovery and resolution framework should be amended in line with the operation of the new mechanism. At the same time, the Committee is aware that a combination of European supervision and local resolution can hardly operate successfully, especially in cases of failures of systemically important institutions functioning in several MS. Ideally the European competence in bank regulation and supervision should be complemented by a European competence in resolution and deposit insurance<sup>(7)</sup>. The Commission envisages proposing a single resolution mechanism<sup>(8)</sup> but at present it is difficult to judge when this could become a reality.

#### 4. Specific comments

##### 4.1 Recovery and resolution plans

4.1.1 Special attention should be given to the **need for human resources**. Drafting recovery and resolution plans is a **highly specialised job**, and experts in possession of the necessary expertise and experience are not easily found among the staff of banks or public authorities. A major problem for **supervisors and resolution authorities** will consist in acquiring sufficient human resources with specific and highly developed professional abilities. This problem cannot be avoided, as the reliability of the plans and confidence in any adequate intervention both rely on the **high professional quality** of the entire construction.

4.1.2 The EESC accepts the proposal that RAs in consultation with the competent authorities should draw up and update resolution plans at least once a year. These should set out options for applying the resolution tools. The Committee is convinced that both individual and group resolution planning and updating would be improved if banks were also involved in the process, as suggested by the Commission Communication (2010) 579 final<sup>(9)</sup> and the impact assessment document accompanying the proposal for a directive<sup>(10)</sup> but not explicitly stated in the directive. The professional advice of other stakeholders, for example consumer organisations, trade union representatives, etc., that could be affected by the resolution plans should also be sought on relevant matters where appropriate.

4.1.3 The involvement of the supervisory and resolution authorities together with credit institutions would be insufficient when plans have to be assessed in the context of the public interest. Central banks are best placed to carry out similar

<sup>(7)</sup> See ESRB, Reports of the Advisory Scientific Committee, Forbearance, resolution and deposit insurance, No 1/July 2012, p. 23.

<sup>(8)</sup> See COM(2012) 510 final.

<sup>(9)</sup> See COM(2010) 579 final, An EU Framework for Crisis Management in the Financial Sector, p. 6.

<sup>(10)</sup> See Commission Impact Assessment, SWD(2012) 166, p. 26, p. 64, and SWD(2012) 167.

assessments. Assessments as to whether the individual recovery and resolution plans of several institutions could be simultaneously implemented in systemic situations and the extent to which the individual solutions would affect the financial system as a whole in a national or cross-border context require a macro-prudential approach. Given their expertise and experience, central banks are best suited to apply this approach and the EESC recommends allowing them to participate in the assessment of the recovery and resolution plans in the context of the public interest, while at the same time fully respecting their independence. Perhaps in the future the ECB both as a Central Bank and as a Single Supervisory Authority should also conduct similar assessments of banks' plans.

4.1.4 Confidentiality requirements with respect to credit institutions and their recovery and resolution plans should be strengthened. Special provisions in the directive should guarantee that the confidentiality of the relevant information is strictly respected by all authorities, institutions and stakeholders involved in the drafting, updating and assessment of the banks' recovery and resolution plans.

#### 4.2 Intra-group financial support

4.2.1 The EESC welcomes the proposed provisions allowing for the introduction of harmonised rules and conditions under which intra-group financial support is to be provided but at the same time warns that the protection of the transferee's and transferor's interests and rights should be well balanced when there are disagreements among them regarding the support. The EESC fully supports the provisions of Article 19 (1) and points out that the requirement in Article 19(1)(f) should be expanded to additionally include any **higher own funds and liquidity requirements** imposed by the regulators of the transferor's country.

#### 4.3 Special management

4.3.1 The key trigger conditions for appointing an SM, as stipulated by Article 24(1) are a matter for the competent authorities to judge<sup>(1)</sup>. The Committee acknowledges the need for soft triggers and greater flexibility that would allow the competent authorities to enjoy some discretion, but taking into account the **significant role and powers** given to the SM, we would encourage a greater degree of certainty for the institutions by **introducing explicit and more clearly defined trigger rules and conditions**. Experience has demonstrated that early warning signs are often of a **qualitative nature**, whose perception depends, on the **experience and skill of**

**the supervisors** or on efficient intelligence rather than on computer models and ratios. In such cases, in the absence of clearly defined rules exempting them from responsibility for their judgment, supervisors might hesitate to take the initiative, and so lose a precious opportunity for early and timely intervention. Clearly defined trigger rules and conditions are essential also because in cases of real or supposed mismanagement, third parties might request redress not only against the SM for personal liability, but against the **supervisors for poor judgment in deciding that an early intervention procedure needed to be started, or in choosing the person appointed as the SM**.

4.3.2 The directive introduces a certain sequence in the application of the different early intervention measures. The appointment of the SM is a highly intrusive early intervention measure that has to be applied after the less intrusive measures have been exhausted. However, there might be a situation when a significant deterioration in the financial position of the institution develops too quickly and a special manager has to be appointed without waiting for the implementation of the less intrusive early intervention measures proposed in Article 23(1). In such cases it should be possible to appoint an SM even if one of the trigger conditions described in Article 24 (i.e. 'other measures **taken** in accordance with Article 23 are not sufficient to reverse' that deterioration) has not been met.

4.3.3 The Committee would encourage the Commission to consider a scenario where the appointment of a SM could trigger bank runs and to propose appropriate measures preventing them. In certain cases and situations the appointment of a SM might be a signal to the market that the bank was experiencing serious financial difficulties and could trigger a run on its deposits. The situation might be even more challenging if the appointment of several SMs for several banks took place simultaneously at a national or cross-border level and the sector experienced bank runs and a confidence crisis. The Committee is convinced that certain provisions should be put in place in the directive to prevent similar developments from happening during the early intervention phase. The future Single Supervisory Authority should be in a strong position and appropriately equipped to effectively address similar situations in a timely manner.

#### 4.4 Resolution

4.4.1 The powers and responsibilities of RAs need additional clarification. While the competent authorities/supervisors are responsible for early intervention, the RAs are responsible for choosing and applying the resolution tools. However, in some cases certain responsibilities are executed both by supervisors and RAs. For example, Article 27(1)(a) states that the 'competent authority or resolution authority determines that the

<sup>(1)</sup> The competent authorities have to judge when and whether there is 'significant deterioration in the financial situation of an institution', 'serious violations of law ...', 'serious administrative irregularities, and other measures taken in accordance with Article 23 are not sufficient to reverse that deterioration ...'

institution is failing or likely to fail'. Depending on the choices made by MSs, supervisors could perform the responsibilities of RAs but the two functions should be separated in order to minimise the risks of forbearance<sup>(12)</sup>. The Committee would encourage establishing a clear distinction between the mission and responsibilities of supervisors and RAs and the timing of their intervention. The Committee believes that the assessment and notification procedures regarding resolution conditions should be based on clear distinctions between the responsibilities of the different authorities involved and should be simplified in order to speed up the decision and execution of resolution.

4.4.2 The requirement for **the management body of an institution to notify the competent authority** when they consider that the institution is failing or likely to fail would be quite appropriate were it not for a doubt about the timing of the notification by the institution's management board to the competent authority. Past experience has shown that notification might be delayed for various reasons, one of them being doubts regarding the compliance with capital requirement rules. The EESC believes that if the initiative is left entirely to the discretion of the bank's management, **the decision of the RA could be** taken too late. Article 74 should leave no doubt that the supervisors have the right and opportunity to inform the RA without waiting for notification from the bank's management whenever they deem that the trigger conditions for resolution have been met but the notification is delayed. Article 101 (1) (d) and (2) should request MSs to provide for heavy penalties for bank managers who are in breach of the rules of Article 74 (1), not Article 73 (1) as stated in the directive.

4.4.3 Article 27(1)(c) refers to situations where 'a resolution action is necessary in the public interest'. The assessment of public interest is an area where central banks are best placed to provide input due to their expertise and experience in assessing financial stability, continuity of essential services, the protection of public funds and the protection of depositors. It is right to include them among the authorities that have to assess whether resolution trigger conditions have been met, but this should be allowed at an earlier stage, especially when assessments are conducted for several institutions in a national or cross-border context. Perhaps in the future Banking Union the ECB, in close cooperation with the European Systemic Risk Board, would be in a better position and better equipped to conduct similar assessments in the

context of public interest both in its capacity of a Central Bank and a Single Supervisory Authority. The possible establishment of a Single Resolution Mechanism would be particularly helpful in this respect.

4.4.4 The public interest involved in a banks' failure justifies a different **allocation of losses** from that normally provided by the insolvency regimes; thus, the proposal creates a specific hierarchy of claims, whereby the shareholders are first in line, followed by unsecured creditors in a ranking order established by Article 43. The EESC has no objection to the proposed hierarchy of claims, but would like to draw attention to the fact that 'creditors' are also, technically and legally, all **depositors/customers**. With the exception of 'affected creditors', Article 2 provides no definition for 'creditors' and 'depositors' and their different types. The EESC would welcome clear definitions of these terms especially bearing in mind that the ranking of depositors as creditors is currently not harmonised in MS.

4.4.5 Government deposits are treated in different ways in different MS. They could belong to, or could be excluded from, the eligible bail-in-able liabilities, depending on whether they belong to the covered deposits, up to a certain amount, and depending on whether they are securitised. In addition, government deposits, which belong to the eligible liabilities and can be subject to bail in, are in fact the taxpayers' money. However, can a bail-in operation that uses public funds actually be defined as a bail in?

4.4.6 The proposal gives the RA a wide range of powers in establishing the rank of bailed-in liabilities. The RA even has the power of writing down commercial trade credits if they are deemed not 'essential to the functioning of the operations' (Article 38(2)(e)(ii)), meaning that, for instance, the supplier of catering or hotel services might see his claim written down if the RA decides that such services are not 'essential'. The **par condicio of creditors** is a pillar of all insolvency procedures and **must also be respected** in this case.

4.4.7 The EESC understands the need to ensure that institutions have a sufficient amount of eligible liabilities on their balance sheets that can be subject to the bail-in powers. The issuance of debt instruments which can be subject to bail-in might be challenging, as the difference between subordinated debt and unsecured senior debt will be diluted. In less developed markets it might be more challenging, expensive or even impossible in periods of crisis, especially systemic crises. The

<sup>(12)</sup> COM(2010) 579 final explains that each Member State is to identify a resolution authority to exercise the resolution powers. This will allow Member States to retain existing national arrangements under which the Ministry of Finance, the Central Bank or the Deposit Guarantee Scheme may be responsible for resolution. The Commission notes that in many jurisdictions resolution authorities are appropriately separated from supervisors and considers such separation to be important to minimise the risks of forbearance. The resolution authorities should be administrative rather than judicial.

Committee recommends that the proposal for harmonised application of the minimum requirement for eligible liabilities at Union level, to be ensured by Commission delegated acts, should be carefully considered and calibrated, taking into account the degree of development of the local financial market in each MS.

4.4.8 The bail-in tool needs additional explanations and clarifications. In order to minimise any uncertainties among investors, clear rules should be introduced regarding eligible liabilities and the threshold conditions for bail in.

#### 4.5 Legal issues: third party rights

4.5.1 Third party rights seem to come second to those recognised by the insolvency laws in most MSs. The consideration of **public interest prevails over the protection of private rights** and the allocation of losses follows a different logic. Article 78 makes challenging the RA's decision in court possible, but restricts it to the legality of the decision for resolution, the way in which that decision was implemented and the adequacy of any compensation granted. The RA's decisions cannot be stopped nor are they subject to any sort of automatic suspension. Even in the case of annulment of an RA's decision, third party rights are limited to compensation for the loss suffered (Article 78(2)(d)).

4.5.2 In an emergency such as the threat of a bank's failure, the normal insolvency procedures are certainly not appropriate; however, the wide range of powers given to the RAs, coupled with a limited right to redress granted to third parties, **raises concerns regarding the legal solidity of the proposed framework**. In many MSs, especially those governed by common law jurisdictions, the courts would most probably protect their own rights to hear claims of judicial review of any decision made by an administrative authority, when any individual or group can show that they have suffered as a result of that decision.

4.5.3 The concern expressed in the above paragraph has been challenged in various circles, both on legal and social grounds, so the EESC leaves it to the appreciation of the legislative entities. However, it draws attention to an aspect of some importance: should anybody feel that the RA or the administrators acted with **gross professional misconduct**, the judges only enjoy a kind of immunity for decisions taken in court, but no law or regulation can extend this privilege to an administrative authority such as a RA, which might then be **held**

**responsible in court for damages**. In that case, any sums paid out for redress would be *public money*.

#### 4.6 Resolution funding

4.6.1 The Commission has already treated resolution funding in two Communications - on Bank Resolution Funds and on the EU Crisis Management Framework in the Financial Sector<sup>(13)</sup>. The current proposal for a directive further specifies the proposals earlier expressed in the two Communications. The EESC has already explained its views on these Communications in two opinions<sup>(14)</sup>. In both cases the Committee has expressed its support for the Commission's proposal to introduce a harmonised network of national ex ante RF and has recommended designing the network carefully while taking into consideration the specific conditions in each MS.

4.6.2 The directive proposes that resolution costs not covered by shareholders and creditors should be met by additional funding provided by the banking industry; the DGF may be called on to help whenever necessary. The EESC welcomes the introduction of harmonised rules based on ex ante contributions for the DGF and RF. The criteria for contributing ex ante to resolution funding seem to be appropriate and realistic in relation to the current situation; however the economic and financial conditions may change unexpectedly, as we have seen in recent years. Considering that a RF would take ten years to provide for full coverage of costs, the EESC suggests the introduction of **a rule whereby the criteria for ex ante contribution can be revised from time to time**.

4.6.3 The EESC understands the need for solidarity and accepts the proposal for borrowing between financing arrangements (Article 97) and mutualisation of national financing arrangements in the case of a group resolution (Article 98). However, the implementation of the proposed mutualisation of financing arrangements before the financing arrangements have reached their target capacity and certain degree of harmonisation would be challenging. Most MS accept that their RF and DGF should be based on ex ante funding but ex post funding is still preferred by some of them. The requirements of Articles 97(2) and 98 will be problematic for countries where central banks are not allowed to lend in compliance with Articles 96 and 98. The Committee would encourage the Commission to introduce specific steps and recommendations aiming at overcoming the challenges and speeding up the process of harmonisation.

<sup>(13)</sup> See COM(2010) 254 final and COM(2010) 579 final.

<sup>(14)</sup> See EESC opinion on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank on Bank Resolution Funds*, OJ C 107, 6.4.2011, p. 16, and EESC opinion on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Central Bank - An EU Framework for Crisis Management in the Financial Sector*, OJ C 248, 25.8.2011, p. 101.

4.6.4 While accepting the potential benefits of a possible synergy from a single institution for the DGF and RF, a similar arrangement seems challenging for some MS at present, when many DGF are underfunded. The Committee welcomes the Commission's approach, which allows each MS to decide whether it would prefer to have one or two financing arrangements (funds). At the same time the EESC recommends that the directive should introduce provisions guaranteeing that each DGF can perform its main function to protect retail depositors at all times.

4.6.5 The EESC welcomes the Commission's effort to set up a European system of financing arrangements, which should ensure that all EU institutions are subject to equally effective resolution funding rules. Ensuring effective financing of resolution with equal conditions across all MS is in the best interest of each MS as well as the single financial market, as it contributes to stability and equal conditions of competition. The Committee would encourage the introduction as soon as possible of a realistic roadmap towards establishing the future system of resolution financing arrangements.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006’**

COM(2012) 496 final — 2011/0276 (COD)

(2013/C 44/13)

Rapporteur: **Mr MALLIA**

Co-rapporteur: **Mr GRUBER**

On 27 September and 22 October 2012 respectively, the Council and the European Parliament, decided to consult the European Economic and Social Committee, under Articles 177 and 304 of the Treaty on the Functioning of the European Union (TFEU), on the

*Amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006*

COM(2012) 496 final — 2011/0276 (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 21 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 154 votes to 3 with 3 abstentions.

## 1. Conclusions and recommendations

1.1 Cohesion policy is a fundamental policy of the EU and has as its main objective the achievement of economic, social and territorial convergence across the whole of the EU and all its Member States. The EESC agrees that the policy objectives and targets of the Common Strategic Framework (CSF) Funds should be aligned with the Europe 2020 strategy. This however must not come at the cost of weakening the EU's Cohesion policy's main objective of convergence.

1.2 Cohesion policy being the main source for growth and instrument for achievement of Europe 2020 strategy goals especially for the countries strongest hit by the current crisis, it should maintain the level of financing at least at the current level and should be distributed among the Member States in a fair manner to ensure that financing for the less developed Member States is not reduced.

1.3 The EESC supports the creation of a Common Strategic Framework which seeks to enhance the coordination and complementarity between the EU's main funding instruments. An effective CSF will also remove the unnecessary and inefficient separation that currently exists between the key funds.

1.4 The EESC is concerned that the delays in achieving political agreement on the Cohesion legislative package, including the CSF, will have a negative impact on the

preparations of the Partnership Contracts and therefore impinge negatively on the efficient start of the 2014-2020 programming period.

1.5 The indicative actions of high European added value as identified under each thematic objective must give priority to investments that will enhance socio-economic and territorial convergence across the EU. It is also important that the indicative actions are not considered to be an exhaustive list so as to allow country specific responses.

1.6 The CSF has placed a lot of emphasis on the delivery of multi-fund projects. This is an important improvement over the 2007-2013 programming period. There is however no reference to the delivery of multi-thematic projects, which have considerable potential to deliver greater value-added. This possibility should be explicitly allowed through the CSF.

1.7 The higher intensity of coordination requested by the CSF must however lead to a reduction in the administrative burden on the managing and implementing authorities as well as the beneficiaries. Coordination must be reinforced both within Member States and within the Commission in order to exploit synergies between policies and instruments and to reduce overlaps, complexity and bureaucracy. A thorough analysis of the new administrative procedures must be carried out by the Commission prior to actual implementation.

1.8 Organised civil society<sup>(1)</sup> must be involved in a meaningful manner in drawing up Partnership Contracts. Whilst acknowledging that individual Member States and regions have their own mechanisms and structures to engage with civil society, the Commission must monitor such processes. Where it is found that civil society has not been meaningfully involved, then the Partnership Contract should not be accepted by the Commission until proper engagement has taken place.

1.9 The concept of partnership must however not only be restricted to the programming stage. The partnership principle must also be applied throughout the stages of implementation, monitoring and evaluation.

1.10 The focus of the Partnership Contracts on Europe 2020 should not be the Country-specific Recommendations (CSRs). In fact, they should be based on different elements, such as the National Reform Programmes (NRPs) which are designed on the country specific situation of a Member State as opposed to the CSRs which are not necessarily tailored to the specific situation of a Member State. The Partnership Contracts should also focus on national strategies concerning poverty reduction, gender equality, and national disability strategies, as well as sustainable development.

1.11 More flexibility is required to allow Member States and regions to respond in the most effective and efficient way to the common targets being set, while at the same time respecting territorial, economic and social specificities. Furthermore, the CSF must make a specific acknowledgement of territorial specificities which have an impact on the implementation of the CSF Funds.

## 2. Introduction

2.1 The European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF) are the five EU Funds managed by the Member States and the Commission. The Commission is proposing that the objectives of each fund are pursued more effectively through a closer coordination of the funds in order to avoid overlaps and maximise synergies.

2.2 With the aim of facilitating the development of the Partnership Contracts and Operational Programmes, the creation of a Common Strategic Framework (CSF) is being

<sup>(1)</sup> Organised civil society is that part of civil society that finds expression in organisations which are themselves building blocks of society. In other words, organised civil society comprises all private-initiative non-state organisations and their members who are actively involved in shaping public affairs on the basis of their own concerns and drawing on their own specific knowledge, abilities and scope for action. This definition covers a wide range of organisations: employers' federations, trade unions, associations set up to promote certain matters of general interest as well as what are termed non-governmental organisations (NGOs).

proposed by the Commission to increase coherence between the five Funds in terms of the policy commitments made in the context of the Europe 2020 strategy and investments on the ground. The CSF builds on the 11 thematic objectives that are identified in the Common Provisions Regulation (CPR).

2.3 The CSF seeks to improve coordination and secure the more targeted use of European funds. It will also remove the unnecessary and inefficient separation that currently exists between the funds. This is a positive development which should lead to a more effective Cohesion Policy resulting in the policy achieving a greater impact. Such a development is thus strongly supported by the EESC.

## 3. Launching and adopting the CSF

3.1 Clear guidance is needed on how the CSF Funds can most effectively target smart, sustainable and inclusive growth in the Partnership Contracts.

3.2 In response to concerns raised by the Parliament and the Council, the Commission is proposing to split elements of the CSF into i) a new annex of the CPR and ii) a delegated act which will mainly contain the 'indicative actions of high European added value'.

3.3 The EESC supports the approach of the Commission as long as this ensures:

- a quicker adoption of the CSF
- greater clarity as to what can and cannot be funded
- that Member States are able to undertake actions which address particular territorial issues.

3.4 The Commission is however also proposing that all elements of the CSF contained in both the annex and the delegated act can in turn be amended by a delegated act. The EESC finds this to be unacceptable and it defeats the purpose of including the main CSF elements as an annex to the CPR.

3.5 The Commission's role with regard to what constitutes a *technical* versus a more *substantive* amendment should be clearly set out in the regulation so as to avoid issues of interpretation that may arise.

3.6 The EESC must express concern with the delays being experienced in achieving political agreement on the Cohesion legislative package, including the CSF. A continued delay will have an impact on the preparations of the Partnership Contracts and therefore affect on the efficient start of the 2014-2020 programming period.

3.7 The nature and format of the proposed Partnership Contract must be crystallised. Whilst the CPR provides information on the elements that should be included in the Partnership Contract, the exact format of this document is as yet unknown.

#### 4. Linking Cohesion Policy to Europe 2020

4.1 The Europe 2020 strategy was agreed with the aim of stimulating smart, sustainable and inclusive growth. The positive contribution that the CSF Funds can make towards achieving Europe 2020 headline targets is clear and therefore it is logical that the policy objectives and targets of the CSF Funds are aligned with the Europe 2020 strategy.

4.2 The Europe 2020 strategy is a cornerstone for achieving the right balance between sound fiscal discipline and growth and development for the European Union. Achievement of Europe 2020 strategy goals will be the biggest challenge for the less developed Member States of the European Union. Especially States that implement a responsible fiscal discipline will need support and proof of solidarity from the EU via its Cohesion policy. Its financing has to be maintained at least at the current level and no forms of capping shall be acceptable.

4.3 The EESC supports this approach and reiterates its position that all EU policies must be focused on achieving much required growth. In expressing such a position, the EESC is also of the firm opinion that the key objectives of economic, social and territorial integration must remain the top most priority of the EU's Cohesion Policy. The value-added of Cohesion Policy must at no point be jeopardised.

4.4 The EESC is of the firm opinion that the indicative actions of high European added value under each thematic objective must give priority to initiatives that will enhance socio-economic and territorial development across the EU.

#### 5. The thematic approach

5.1 The EC's proposals for thematic concentration as a means to reduce fragmentation of efforts are welcome. A

strong coordination of efforts between the various CSF Funds and indeed all other EU programmes and initiatives is needed.

5.2 The CSF should clarify and confirm that within each thematic area it is up to the individual Member State to decide which Fund should play a key role in the achievement of the key targets and objectives.

5.3 While the main objectives set out in the CSF are valid, flexibility must play an important role. The Partnership Contracts need to take account of local and regional interests. It must be possible to allocate funding to specific regional priorities. The EESC is of the firm view that the principles of subsidiarity and proportionality must continue to play a central role in the implementation of the EU's Cohesion Policy.

5.4 The individual thematic objectives indicate actions that should be undertaken under the specific funds, but the complementarity aspect needs to be clarified as it is not apparent which instruments proposed under the various funds and actions actually complement each other. The EESC believes that the proposed actions under each thematic objective must make investments that accelerate socio-economic cohesion a priority. It is important that the indicative actions can be added to allow country specific responses.

5.5 The EESC is of the opinion that whilst all 11 themes as prescribed by the CPR are valid, a set of core themes should be established; these themes must be addressed by each Member State. Beyond the core themes, each Member State should then have the flexibility to direct its Partnership Contract towards other themes (from the pre-established list) which are appropriate to its individual situation.

5.6 Other specific themes that should be included in addition to the current 11 themes are:

1. Enhancing accessibility for persons with disabilities and people with reduced mobility;
2. Capacity building of stakeholders in cohesion policy <sup>(2)</sup>;
3. Meeting the demographic challenge.

These new thematic areas should be included in the CPR.

<sup>(2)</sup> Suggestions 1 and 2 are as per the EESC opinion 'Structural Funds General Provisions', OJ C 191 of 29.6.2012, p. 30.

5.7 Actions concerning sustainable transport methods and transport management systems are currently excluded from thematic objective 4 (supporting the shift towards a low carbon economy). This should be rectified given the role of transport in emissions.

5.8 Thematic objectives are set out in article 9 of the CPR, whilst fund specific investment priorities are set out for each CSF fund in their respective draft regulations. The thematic objectives and the fund specific investment priorities do not fully match. This creates a degree of uncertainty and possibly confusion about which need to be followed. This is an especially urgent issue in view of the Partnership Contract process, which has already started in some Member States.

5.9 Whilst the CSF places a lot of emphasis on the delivery of multi-fund projects there is no reference to the delivery of multi-thematic projects which have considerable potential to deliver greater value-added. This possibility should be explicitly allowed through the CSF.

## 6. The European Regional Development Fund and the Cohesion Fund

6.1 The EESC has already put forward its detailed views on the two funds in its opinions 'European Regional Development Fund' <sup>(3)</sup> and 'Cohesion Fund' <sup>(4)</sup>.

6.2 The ERDF has been earmarked to contribute to all the 11 thematic objectives.

6.3 The exact impact of this identified 'focus' is unclear. Is preference to be given to one area of focus over another, or will this be up to each Member State to decide? The EESC firmly favours the latter approach as this allows for country/region specific approaches to be adopted.

6.4 The EESC firmly believes that the ERDF must first and foremost continue to provide essential support to SMEs. Such support should take the form of the provision of financing instruments, the setting up of SME networks as well as the provision of essential infrastructure <sup>(5)</sup>.

6.5 The EESC is however concerned about the proposal to totally exclude large enterprises from eligibility for the European Regional Development Fund (ERDF). Large enterprises are important sources of R&D and therefore the carrying out of such R&D should be eligible otherwise we risk aggravating an

already critical situation where Europe is lagging behind in comparison with competing nations such as the USA and Japan.

6.6 Given that the level of financial resources cannot be increased in any significant way, the EESC believes there is a further potential in defining clearer objectives and ensuring that the proposed investment priorities are more precisely linked with the objectives <sup>(6)</sup>.

6.7 The Cohesion Fund has been earmarked to contribute to 4 thematic areas relating to the environment, sustainable development and transport (TEN-T).

6.8 To avoid past mistakes of spreading the Cohesion Fund over too many projects, the EESC wants to once again reiterate its call for a greater concentration on larger projects which are expected to have a greater impact in reducing disparities between Member States and in achieving social, territorial and economic cohesion.

6.9 In establishing such large projects, Member States must ensure consistency and complementarity with other EU funds and initiatives (such as the Connecting Europe Facility, LIFE programme and the various macro-regional strategies) to ensure that the full potential of the different funds and initiatives is achieved. This is for example extremely important when it comes to developing energy and transport infrastructure. It is vital that there is compatibility with, rather than competition between the different instruments.

## 7. The European Social Fund

7.1 The ESF has been earmarked to contribute towards four thematic objectives: employment and labour mobility; education, skills and lifelong learning; promoting social inclusion and combating poverty as well as administrative capacity building. It is however expected to contribute to the other thematic objectives as well.

7.2 This is in line with the views of the EESC expressed in the Opinion European Social Fund <sup>(7)</sup>, which expressed the view that the ESF should be the preferred instrument for implementing the goals of the Europe 2020 strategy, particularly with regard to employment, education, social inclusion and combating poverty. This view is especially relevant in the current scenario of rising unemployment and an unprecedented loss of jobs.

<sup>(3)</sup> OJ C 191 of 29.6.2012, p. 44.

<sup>(4)</sup> OJ C 191 of 29.6.2012, p. 38.

<sup>(5)</sup> For example the setting up of industrial parks.

<sup>(6)</sup> See EESC opinion on the 'European Regional Development Fund', OJ C 191 of 29.6.2012, p. 44.

<sup>(7)</sup> OJ C 143 of 22.5.2012, p. 82.

7.3 The EESC strongly supports the European Commission's proposal that at least 20 % of the total national appropriations of the ESF be earmarked for social inclusion and combating poverty.

## 8. The European Agriculture Fund for Rural Development

8.1 Against the background of the CAP-reform towards 2020, the proposal for a MFF 2014-2020 and the current economic situation, the EC presented a proposal for a new EAFRD Regulation<sup>(8)</sup>. The new EAFRD endorses the priorities of the Strategy 'Europe 2020', is based on the proposal of the Common Provisions Regulation (CPR) and is in line with the economic governance framework of the EU.

8.2 In its opinion on the CAP-reform package<sup>(9)</sup> the EESC welcomed the proposed closer alignment of the CAP with the Europe 2020 strategy and the sustainability strategy for rural development.

8.3 Nevertheless, it is important that Member States are able to set their priorities in a flexible manner in order to find a balance between endorsing the specific targets of the CAP as laid down in the Treaties and enhancing the Europe 2020 strategy. Coherence between the two pillars has to be guaranteed at all times.

8.4 Currently it is uncertain to what extent priorities of the EAFRD will fit into those of the CSF. Therefore, measures taken within the scope of the EAFRD should give incentives to farmers, forest owners and others aiming at contributing to job-creation/-securing and economic growth, while simultaneously achieving sustainable development and climate-change actions.

8.5 This should be accompanied by a strong link to the European Innovation Partnership 'Agricultural Productivity and Sustainability', in order to enhance green growth in all rural areas of the EU.

8.6 The EAFRD foresees a minimum share of 25 % for measures related to environment and climate-change, which the EESC appreciated. However, a dedication of 20 % for climate-related measures seems to be too high in this respect and therefore this needs to be further elaborated in the CSF.

## 9. European Maritime and Fisheries Fund

9.1 On 2 December 2011, the EC adopted the proposal for a Regulation, establishing – in line with the MFF and the

strategy EU 2020 – a new fund, constituting the financial framework for the Common Fishery Policy (CFP) and the Integrated Maritime Policy of the EU 2014-2020<sup>(10)</sup>.

9.2 The proposed key actions can in principle be supported. It is vital that an integrated approach with all other policy areas is adopted.

9.3 As with the EAFRD, the CSF should assist in matching the objectives in a flexible manner, while keeping coherence between the specific targets of the CFP and those of EU 2020.

9.4 The CSF could bring more transparency in possible conflicts between EU-policies, like for example the Water Frame Directive and animal hygiene provisions.

## 10. Horizontal principles and policy objectives

10.1 The CSF sets out the promotion of equality between men and women and non-discrimination, accessibility for persons with disabilities and sustainable development as horizontal principles that should be applied across all funds and hence within all operational programmes. The EESC supports these principles and encourages the effective analysis of all project proposals and the effective monitoring of all programmes to ensure that these principles are well embedded.

10.2 The EESC believes that another horizontal principle that should be applied is that of 'Communicating Europe'. Given the general undermining of and loss of faith in the European Project, each project undertaken through Cohesion Policy must, through its added-value, clearly demonstrate how the EU can make a difference to the life of its citizens.

## 11. Need for flexibility, simplification and momentum

11.1 Simplification of procedures must be at the top of the agenda of both the Commission and the Member State Managing Authorities. Whilst acknowledging that each Euro spent must be well accounted for, it is unacceptable that the process of managing and applying for EU funds continues to remain so burdensome with the result that those beneficiaries most in need (e.g. SMEs, NGOs) end up losing out<sup>(11)</sup>. Furthermore, every effort must also be made to ensure that only those projects which have real added value are chosen to be funded.

<sup>(8)</sup> COM(2011) 627 final, 19.10.2011.

<sup>(9)</sup> OJ C 191 of 29.6.2012, p. 116.

<sup>(10)</sup> COM(2011) 804 final - 2011/0380 (COD).

<sup>(11)</sup> According to UEAPME only 2 % to 3 % of SMEs are benefitting from EU funds which amount to only 1 % to 2 % of the total funding available to SMEs.

11.2 The CSF must lead to a real reduction of administrative burdens and costs, both for beneficiaries and implementing authorities, in order to give an added value. The required higher intensity of coordination requested by the CSF could however lead to an increase in the administrative burden on the managing and implementing authorities which in turn could also result in added burdens and complexities for beneficiaries. A thorough and formal analysis of the current and new administrative procedures must be carried out by the Commission prior to actual implementation.

11.3 Coordination must be reinforced both within Member States and within the Commission in order to exploit synergies between policies and instruments, and to reduce overlaps complexity and bureaucracy. This requires closer coordination between and within the Commission services responsible for the CSF Funds at all stages of negotiation and implementation, in order to ensure a more coherent and harmonised approach. This must be done in ways which do not increase the administrative burden.

11.4 The proposed use of e-Governance to create greater efficiency is welcome. Such a system should not however be restricted to CSF funds only but should include all EU funding streams and be accessible to all.

11.5 At present it is envisaged that the European Parliament and the Council may ask the Commission to submit a proposal to review the CSF when there are major changes to the EU 2020 strategy. This in our view is too restrictive. The EESC believes that there should be the possibility to adapt the CSF to changing circumstances especially if there is a significant change in the socio-economic environment which warrants an EU wide response.

11.6 Similar flexibility should exist for the Member States to adapt their national programmes to a wider range of circumstances than only the thematic objectives of the policy.

11.7 The EESC calls on the Commission to introduce a periodic and mandatory review of the CSF which allows for meaningful changes to take place.

## 12. The partnership contract approach

12.1 The principle of partnership as presented in Art 5 of the CPR is an essential principle which will help improve the effectiveness of the EU's Cohesion Policy and as such needs to be strongly supported by both the Council and the Parliament.

12.2 Consultation with the relevant stakeholders in the drawing up of the Partnership Contracts will be crucial in ensuring that the thematic objectives are translated into

concrete actions and targets for smart, sustainable and inclusive growth.

12.3 Partnership Contracts should translate the elements set out in the CSF into their national context and set out firm commitments for the achievement of the priorities laid down in the regulations governing the CSF Funds. So that the partnership principle can be applied in practice, a bottom-up approach must be pursued in the decision-making process, with the views of civil society properly taken into account prior to the signing of Partnership Contracts by the EC and the Member States.

12.4 The Commission has issued a proposed code of conduct for the drawing up of the Partnership Contract. This is a valid document which provides useful guidance to Member States in engaging with civil society. The EESC cannot understand why the Council has rejected this code of conduct and calls on the Council to reinstate it.

12.5 Whilst it is up to the Member States to adapt their own processes for the involvement of civil society, it is the duty of the Commission to ensure that all relevant players are involved in an active and meaningful manner. The EESC however believes that currently the Commission does not have the necessary monitoring tools and mechanisms to achieve this. Failure by a Member State to involve civil society in a meaningful way should lead to the 'non-conclusion' of the Partnership Contract. Furthermore the concept of partnership should be extended beyond the programming stage and also applied to the implementation, monitoring and evaluation stage.

12.6 The EESC emphasises the need for civil society to be provided with all the information concerning the 'new approach' being undertaken by the Commission with respect to the CSF funds and the Partnership Contracts. An explanation of the process and how civil society will be involved at all stages of the drafting and implementation of the Partnership Contract must be delivered through a clear and effective communication process to ensure effective participation by civil society within the partnership process.

12.7 The focus of the Partnership Contracts on Europe 2020 should not be the Country-specific Recommendations (CSRs). In fact, they should be based on different elements, such as the National Reform Programmes which are designed on the country specific situation of a Member State as opposed to the CSRs which are not necessarily tailored to the specific situation of a Member State. The Partnership Contracts should also focus on national strategies on poverty reduction, on gender equality, and national disability strategies, as well as sustainable development.

### 13. The territorial aspect of the CSF

13.1 The CSF must make a specific acknowledgement of territorial specificities - mainly related to size and profile of the economic, social and territorial structures - and which have an impact on the implementation of the CSF Funds. This is an important aspect of the CSF because it is from here that Member States will be able to ensure that the Partnership will be designed to meet the specific requirements of their development needs and hence their territories.

13.2 In order to ensure commitment to the Europe 2020 strategy, more flexibility is required to allow Member States and

regions to respond in the most effective and efficient way to the common targets being set, while at the same time respecting territorial, economic and social diversity and specificities.

13.3 The CSF should therefore provide further guidance on how the territorial challenges and specific needs are to be addressed in the partnership contract. This applies in particular to those territories referred to in Article 174 (TFEU).

13.4 The EESC recommends that greater consideration of territorial disparities should be given in the allocation formula used for the CSF funds.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Report on Competition Policy 2011’**

COM(2012) 253 final

(2013/C 44/14)

Rapporteur: **Thomas PALMGREN**

On 30 May 2012, 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: Report on Competition Policy 2011*

COM(2012) 253 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 4 December 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion unanimously.

## 1. Conclusions and recommendations

1.1 Each year the European Economic and Social Committee evaluates the Commission’s report on competition policy, and in this connection would like to take the opportunity to put forward a number of comments and suggestions. The EESC welcomes the new, functional structure of the Commission report, along lines that the Committee has recommended in previous opinions.

1.2 It regrets, however, that the report fails to cover a series of issues which the EESC has flagged up in the past, confining itself to the traditional questions that have been the concern of DG Competition and thus revealing a narrow, limited view of what the most important elements of competition policy are. The issues warranting attention go far beyond the usual topics addressed by this annual report: mergers and concentrations, monopolies, state aid and mechanisms for promoting competition to consumers.

1.3 One important priority is to combat the unfair imported competition from some foreign trading partners, who exploit their lack of compliance with fundamental social and environmental principles and rights to acquire market shares in the EU area.

1.4 A renationalisation of policy due to the crisis and possible conflicts between Member States’ interests, along with protectionist measures by governments, present a potential threat in that they could have serious consequences for the

single market and competition policy. In the current economic situation especially it must be ensured that the market is functioning and that the business environment creates the conditions for renewed economic growth. Competition policy must be coordinated and integrated with other policies, as in the case of foreign trade policy and internal market policy, forming a coherent whole that effectively protects the interests of European producers and consumers in the framework of the social market economy, pursuing goals for economic growth and jobs. Competition policy, trade policy, industrial policy and single market policy must balance the interests of consumers and businesses, always ensuring fair market conditions for all parties.

1.5 Competition policy should reflect the EU’s integrated industrial policy, since it is only possible to ensure sustainable growth and the wellbeing of EU citizens if Europe has a strong, diverse, competitive and job-rich industrial base.

1.6 This year’s report is the 41st in the series, and sets out the key milestones in the development of competition policy and their significance to the EU’s objectives.

1.7 The EESC agrees with the Commission that competition enforcement and advocacy serve wider longer-term objectives such as enhancing consumer welfare, supporting the EU’s growth, jobs and competitiveness in line with the Europe 2020 Strategy for smart, sustainable and inclusive growth.

1.8 Cooperation between the Commission and the national competition authorities is of the utmost importance, both in terms of monitoring state aid and regarding the impact of implementing restrictions on competition and the credibility of the entire competition policy system. Cooperation between authorities needs to be flexible and involve active communication.

1.9 The EESC urges the Commission to cooperate actively with non-EU competition authorities to defend open and fair markets. The EESC supports the assessment on the modernisation of the state aid system currently under way since the EU should strive to ensure that competition conditions are as uniform as possible globally, so that its businesses are not put at a competitive disadvantage in relation to their rivals from third countries, which are not obliged to follow strict specifications and comply with rigorous regulations and limits (e.g. food market, energy-intensive industry), but still have free access to the EU and global market.

1.10 The Committee has repeatedly drawn attention to the need to improve systems for protecting consumer rights. It therefore regrets that the legislative proposal on anti-trust damages actions was not adopted in 2011.

1.11 It is important that the Commission's antitrust action and the regulatory measures are complementary, with the aim of ensuring safe, sound and efficient financial markets, especially for the Single Euro Payments Area (SEPA), in the financial services data sector and in the credit rating agencies sector.

## 2. Content of the 2011 report

2.1 2011 was a year of turbulence. The financial crisis turned into a sovereign debt crisis in parts of the euro area, threatening the banking sector and the fiscal sustainability of many European governments. It also severely impaired credit flows towards the real economy.

2.2 The Commission's report is divided into three sections: competition policy in the current economic context, competition policy in the broader context, and competition dialogue with other institutions. It focuses in particular on the financial services, food and airline sectors. The new structure aims at better explaining how the Commission implements competition policy and how the policy contributes to the European economy and to increasing the welfare of EU citizens.

2.3 The new structure of the Commission's report, along lines that the Committee has recommended in previous

opinions, works well. The report is focused, concentrating on key issues and development trends, and provides an excellent overview of the main elements of competition policy, with numerous descriptive examples. It could be expanded with quantitative data, so that the relative importance of different actions and issues can be better assessed. It is useful that a lot of further information supplementing the report can be obtained from the internet pages of the Commission's competition DG.

2.4 The communication presents how in 2011 the Commission used competition policy as an instrument in the resolution of the financial and debt crises and how, generally, competition policy and enforcement actions taken during the year contributed to the wider policy objectives of the Europe 2020 strategy.

## 3. Competition policy in the current economic context

### 3.1 General comments

3.1.1 At the current time, there may be calls to set up protectionist lines of defence. This is understandable, given the many injustices noted by the public, particularly the fact that Europe continues not to act on this matter in the same way as some of our international partners. Although history has confirmed that competition enforcement and advocacy cannot be reduced in times of economic crisis, a naive, unilateral approach on the part of Europe, respecting principles that others do not follow in this key area, would lead to weakening of the competition framework and exacerbate even further the medium- to long-term growth trend.

3.1.2 Competition policy can play an important role in a successful exit strategy from the crisis and in shaping a post-crisis environment that will prevent possible competitive distortions.

3.1.3 The financial crisis has had a dramatic effect on the real economy, through reduced lending to households and businesses, with serious knock-on effects on investment and employment. Several Member States had to implement austerity measures and cuts in their public spending, instead of further investing in measures aiming at re-launching the economy. The crisis has ultimately had, and is still having, an impact on all citizens, consumers and employees, as well as on businesses and the conditions in which they operate. Good, effective and balanced competition policy has a significant impact on the welfare of all groups.

### 3.2 Specific comments

3.2.1 Since the beginning of the crisis, and until 31 December 2011, EUR 1.6 trillion of state aid has been used to rescue and restructure European banks. The Commission has taken 39 decisions on restructuring, for which the Commission monitors the effective implementation of the restructuring plans. Despite massive support efforts, the crisis has progressively deepened.

3.2.2 From the perspective of all social and economic stakeholders, it is important to ensure that the markets continue to function in a situation where states and their banking systems (i.e. banks) are receiving massive support. It is also in the interest of the general public for bank support to be monitored properly.

3.2.3 The performance of the single euro payments area (SEPA) is closely tied to the level of development of the banking system in the various countries, and the differences are significant. In many countries, the challenge is to develop the payment systems so that the benefits of SEPA can be exploited. This requires the banking sector to be customer-focused and to be willing to assist smaller businesses, in particular, with preparations. In many countries, such as Finland, the introduction of SEPA ran almost completely smoothly. One highly publicised problem was that the costs of banking transactions multiplied because cards that worked simply as bank cards were discontinued.

3.2.4 One topic that the Commission highlights is the standardisation of *e-payments*. There are significant economies of scale in electronic payment services, which means that market concentration is intrinsic to the nature of the sector. An effective payment transfer system obviously benefits the entire economy, and it is therefore important for the Commission to be attentive to electronic payment services as an economic sector. The basic principle should be to ensure fair conditions for competition. It is worth noting that the market both for payment transfers and for credit and payment cards is dominated by just a few operators.

3.2.5 Financial markets provide more efficient service when they are transparent, open, competitive and regulated in a way which enables them to fulfil their function of financing the real economy. This is exactly what the Commission is striving to accomplish through its antitrust investigations in the over-the-counter (OTC) derivatives market, the payments services sector, and the distribution of trading data and financial information to the market. The report could include some figures showing the extent of the OTC derivatives issue. There are grounds for stricter regulation and supervision of the derivatives market.

3.2.6 Moreover, the tightening-up of bank regulations now and in the near future should not reduce bank lending, which restricts business investment and makes it more difficult to access operating capital.

3.2.7 The EESC calls on the Commission to continue to monitor the competitive situation in the market of credit rating agencies, given their *modus operandi* and potential conflicts of interest with their clients which may give rise to distortions of competition.

## 4. Competition policy in the broader context

### 4.1 General comments

4.1.1 A major part of the Commission's actions in the field of competition policy addressed the effects of the crisis in the financial markets. Competition enforcement and advocacy also serve other wider objectives such as enhancing consumer welfare, supporting the EU's growth, jobs and competitiveness in line with the Europe 2020 Strategy for smart, sustainable and inclusive growth.

4.1.2 The Commission's intention is to enhance consumer welfare and the interests of equal opportunities for economic operators when applying its *merger policy*, striking a balance between the economic benefits of the merger and other parameters such as price, choice, quality or innovation. This approach has proven fairly effective in the telecommunications sector and should be extended to as many sectors as possible. However, we have to be realistic and acknowledge that increasingly large conglomerates have emerged in recent decades, leaving less room for SMEs in some sectors and thus considerably limiting the possibility of new operators with potential emerging, which, of course, dampens the drive, innovation and, above all, creativity that at different levels benefit society as a whole.

4.1.3 The Committee emphasises that competition policy is closely linked to other policy areas, in particular measures for better regulation, industrial policy and SME policy. Legislation that takes account of the needs of smaller businesses and the conditions in which they operate provides a guarantee of functioning markets.

4.1.4 The Commission's publication, this year, of 'operational guidance for assessing impacts on sectoral competitiveness within the Commission impact assessment system' was a positive step. This toolkit is to be welcomed, not least from a competition policy perspective.

4.1.5 The EESC notes how important it is for the Commission to cooperate actively with non-EU competition authorities. This is a basic precondition for effective implementation of competition policy and also ensures that competition conditions are as uniform as possible globally.

4.1.6 The EESC calls on the Commission to continue to improve rules for compensation of public service obligations, covering services which meet social needs, as is currently the case with health and long term care, childcare, access to/reintegration in the labour market, social housing, care and social inclusion of vulnerable groups.

4.1.7 The EESC calls for competition policy to include coordination with the other DGs whose work impacts hugely on the competition situation throughout the EU. This will contribute to bring about realistic modernisation of the WTO. Mechanisms are needed to counterbalance the different situations and ensure compliance with social, environmental, product safety etc. rules, with measures to effectively (rather than merely theoretically) combat abuse of their dominant position by large distribution chains that gradually destroy their smaller competitors and small-scale suppliers, to oversee negotiations which often do no more than impose conditions; to break down (and sanction) abuses of dominant position, whatever the sector, and to establish mechanisms to level the distorted playing field for operators located in major consumer hubs and those located on the periphery, whose additional costs cannot be ignored.

## 4.2 Specific comments

4.2.1 The EESC hopes that the single *European patent* will be put into effect, and trusts that the Commission's initiatives will slash transaction costs, particularly for patents<sup>(1)</sup>. The European patent would replace the current system in which patents have to be filed separately in each EU country. Patent costs can easily reach EUR 32 000, according to Commission estimates, whereas in the US they are just EUR 1 850.

4.2.2 The EESC believes that the European standardisation process should be accelerated, simplified, modernised and made more inclusive<sup>(2)</sup>. It will be necessary to assess on a more regular basis if the European *standardisation system* is sufficiently able to adapt to the quickly evolving environment and to contribute to Europe's strategic internal and external objectives, in particular in the field of industrial policy, innovation and technological development.

4.2.3 Food is one of the most tangible expenses faced by consumers on a daily basis, and it is therefore very important for there to be real competition within the food sector. However, it is worth remembering that many factors, most of which fall outside the scope of competition policy, can affect food prices, the main one being rising commodities prices.

4.2.4 The imbalance in negotiating strength along the food supply chain, with primary producers and small operators being in the weakest position, should also be noted. The EESC therefore awaits with interest the results of the high-level forum for a better functioning food supply chain set up in 2010.

4.2.4.1 It would also be helpful if in view of the single market a more harmonised approach could be introduced at EU level in the implementation of competition law and definition of relevant markets.

4.2.5 European producers are obliged to follow fairly strict specifications, but other competitors from other continents selling with free access to the EU market fall under a much less rigorous legislative framework. The result is essentially a distortion of competition because the cost of production in third countries is lower. This is also the case for European energy-intensive industries, which have to comply with strict environmental regulations and energy efficiency targets requiring massive investment, while their competitors, still operating in the same global market, do not have to bear the same cost burden. The state aid system should therefore be modernised with a view to establishing a global level playing field. This reform should be coordinated with the action that the Commission is taking using trade policy instruments<sup>(3)</sup>.

4.2.6 Competitive markets are best placed to deliver firms that are equipped for long-term success. A strong competition policy is a key element of a coherent and integrated policy to foster the competitiveness of Europe's industries. One of the challenges of global competition is having to compete against countries where the legislative framework is much less rigorous and costs, working conditions and social security laws are different. In opinion CESE 1176/2011<sup>(4)</sup>, the EESC noted that certain forms of state aid to shipbuilding were justified and that, for example, green technologies should be incorporated into the framework. The EESC considers the current state aid initiative as an important step towards a new dynamism in industrial policy, in line with the Europe 2020 strategy. Regarding the reduction of greenhouse gases, which is one of the five key objectives of

<sup>(1)</sup> OJ C 68, 6.3.2012, p. 28.

<sup>(2)</sup> OJ C 68, 6.3.2012, p. 35.

<sup>(3)</sup> EU State Aid Modernisation, OJ C 11, 15.1.2013, p. 49.

<sup>(4)</sup> OJ C 318, 29.10.2011, p. 62.

this strategy, the EESC supports the guidelines the European Commission has adopted on national aid for energy-intensive industries such as steel, aluminium, chemicals and paper manufacturing<sup>(5)</sup>. Designed to avoid 'carbon leakage', this state aid is intended to offset the rise in electricity prices resulting from the change in the rules of the European Union Emissions Trading System (EU ETS) in 2013 and to promote investment in high-efficiency power plants.

4.2.7 The book publishing sector is undergoing a process of modernisation, due in particular to digitalisation. This sector is critical not only for the flourishing of European culture but also for innovation. It is currently transitioning to digital media, a process with significant consequences. The range of *e-books* available is increasing, and it is therefore quite right for the Commission to respond to attempts to restrict competition and development.

4.2.8 There is growing demand for meeting energy requirements from sustainable sources. The EESC supports the Commission's proposals aiming to modernise and develop European *energy infrastructure* as a prerequisite for a secure, stable and sustainable energy supply for the EU.

4.2.9 Energy will in future have to be transported across great distances more frequently and in greater quantities than today. Only if there is a trans-European energy infrastructure can all the EU Member States make use of locational advantages in terms of national sources of energy. This applies to *renewable energy sources* such as hydro-electric, wind and solar power. Such an infrastructure would also optimise the use of fossil energy sources like oil, gas and coal<sup>(6)</sup>.

4.2.10 The EESC advocates a standardised EU legal framework for the entire *aviation sector*, which prevents uncontrolled subsidy practices and ensures a level playing field for all market participants, including at local level<sup>(7)</sup>. The EESC

recommends that state aid for investment in airport infrastructure and start-up aid for airlines should only be possible in strictly defined cases, and be limited according to the period of time and intensity. It also calls for a long-term policy regarding the development of regional airports, and believes that aviation guidelines can be enforced successfully only if clear policy priorities for regional airport development are agreed. The maintenance of regional airports is a major enterprise policy issue. The Committee points to the opinion on the Better Airports Package, which was about the allocation of slots and groundhandling services at airports in the EU.

4.2.11 The Committee has repeatedly drawn attention to the need to credibly improve systems for protecting consumer rights in this connection. It therefore regrets that the legislative proposal on anti-trust damages actions was not adopted in 2011, and is unlikely even to be adopted by the end of 2012.

4.2.12 The EESC welcomes the consolidation of the institutional framework for the enforcement of competition law, by which an administrative organ such as the Commission takes decisions which are subject to full judicial review, ensuring an adequate protection of the fundamental rights of the persons concerned by those decisions.

## 5. Dialogue with other bodies on competition matters

5.1 While the Commission has full competence for the enforcement of EU competition law, subject to the control of the European Courts, the Commissioner for Competition and his services take part in a continuous structured dialogue on competition issues with the European Parliament. The Commission keeps the European Economic and Social Committee informed about major policy initiatives, and participates in study group and section meetings. The EESC welcomes the explicit mention in the report of cooperation with the Committee.

Brussels, 12 December 2012.

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

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<sup>(5)</sup> Communication from the Commission – Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (2012/C 158/04), OJ C 158, 5.6.2012.

<sup>(6)</sup> OJ C 143, 22.5.2012, p. 125.

<sup>(7)</sup> OJ C 299, 4.10.2012, p. 49.

**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 strategy for Key Enabling Technologies — A bridge to growth and jobs’**

COM(2012) 341 final

(2013/C 44/15)

Rapporteur: **Mr Peter MORGAN**

On 26 June 2012 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 — European strategy for Key Enabling Technologies — A bridge to growth and jobs*

COM(2012) 341 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 4 December 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 102 votes to two with seven abstentions.

## 1. Conclusions and Recommendations

1.1 This is the second Communication from the Commission on the subject of KETs. The EESC produced an opinion<sup>(1)</sup> on the earlier Communication<sup>(2)</sup> in September 2010. In it the EESC welcomed the EU focus on KETs but expressed grave reservations about the effectiveness of the proposals because of the perceived weaknesses in EU hi-tech manufacturing.

1.2 Paragraph 1.10 of that opinion contained the EESC recommendations:

- face up to the failure of the internal market to encourage enterprise and develop an industrial strategy to address Europe’s considerable deficit in hi-tech companies;
- bring back manufacturing to Europe and scale up new companies in Europe;
- make it easier for companies to obtain funding for innovative technologies;
- create financial incentives to make the EU a profitable location for KET innovation and enterprise;
- initiate radical reform of schools and universities to provide the necessary skills;
- encourage university and research centre based clusters of hi-tech innovative companies;

— recognize that the world has changed and adopt aggressive international trade policies;

— ensure that this initiative is all embracing, pulling in all related initiatives from all DGs.

The EESC reiterates these recommendations.

1.3 In its latest Communication the Commission proposes that the EU’s R&D efforts be transformed into a strategy based on three pillars with support not only for R&D but also for pilot lines to develop prototypes and advanced manufacturing schemes to convert the technologies into products. In this context, the EESC has two recommendations. The first is that the focus on the two new pillars of the strategy should not detract from or reduce the scale of EU R&D, since research, in particular basic research, is the necessary seed from which future KETs emerge. The second is that this scheme, which seems to rely on pushing new technologies towards the market, should be complemented by market pull from established manufacturers. Accordingly, the EESC would like to see more emphasis on building up the capacity of EU manufacturing companies.

1.4 The EESC is generally supportive of the Action Plan, outlined in Section 3 below. Even so, given the disparities between Member States, the EESC would like to see action programmes constructed according to the skills and capabilities of each region.

1.5 Certain components of the Action plan are likely to require more impetus, especially state aid modernisation, venture capital, IPR negotiations in the global context, trade negotiations in hi-tech industries and improvements to education and training at all levels, with a special emphasis on engineers and scientists.

<sup>(1)</sup> OJ C 48 of 15.2.2011, p. 112.

<sup>(2)</sup> COM(2009) 512 final.

1.6 Although Governance of the KET project is addressed in the Action Plan, the modalities are not clear so that the programme may lack impetus.

## 2. Introduction

2.1 The Commission engaged a 'High Level Group' (HLG) to study the responses to its first Communication and produce a report <sup>(3)</sup>, which was published in June 2011. Subsequently, this second Communication lays out 'A European Strategy for KETs'.

2.2 In its report the HLG has identified the major difficulties Europe has in translating its ideas into marketable products – in crossing the internationally recognised 'valley of death'. To cross this valley, it recommends a strategy comprising three pillars:

- the technological research pillar based on technological facilities supported by research technology organisation;
- the product development pillar based on pilot lines and demonstrator supported by industrial consortia;
- the competitive manufacturing pillar based on globally competitive manufacturing facilities supported by anchor companies.

2.3 The proposal is to develop an industry for advanced manufacturing generating a source of export revenues, and support the downstream producers of machinery capable to produce the most advanced manufacturing technologies in Europe (machinery, software, services, etc.), as well as the development and improvement of manufacturing systems (technology and processes) in order to build efficient, modern and high technology manufacturing facilities in Europe.

2.4 The eleven recommendations are as follows:

- Make KETs a technological priority for Europe
- The EU should apply the TRL scale R&D definition
- Fully exploit the scope of relevant R&D definitions
- Rebalancing of EU R&D funding programmes
- A strategic approach to KETs programmes
- Establish an appropriate set of rules to implement KETs programmes

<sup>(3)</sup> [http://ec.europa.eu/enterprise/sectors/ict/files/kets/hlg\\_report\\_final\\_en.pdf](http://ec.europa.eu/enterprise/sectors/ict/files/kets/hlg_report_final_en.pdf)

- Combined funding mechanisms
- KETs state aid provisions
- Globally competitive IP policy in Europe
- Build, strengthen and retain KETs skills
- A European KETs observatory and consultative body.

## 3. Gist of the Communication

3.1 'Based on current research, economic analyses of market trends and their contribution to solving societal challenges, micro-/nanoelectronics, nanotechnology, photonics, advanced materials, industrial biotechnology and advanced manufacturing technologies have been identified as the EU's KETs'.

3.2 In its situation analysis, the Communication makes the following points:

- The EU is a global leader in the development of KETs.
- The EU is not capitalising on its knowledge base.
- The EU's major weakness lies in the failure to translate its knowledge base into goods and services.
- The lack of KETs manufacturing is detrimental for two reasons: near term opportunities for growth and employment are missed while the long-term knowledge base is reduced.

3.3 The Communication advances the following reasons for these failures:

- no common definition and understanding of KETs;
- policy failures in respect of exploiting the synergistic potential of KETs and accelerating their 'time to market';
- lack of product demonstration and 'proof of concept' projects;
- ineffective use and coordination of public resources;
- insufficient access to appropriate sources of risk capital;

- fragmentation of EU Internal Market and regulatory differences across various regions and Member States;
- shortage of sufficient skilled labour and entrepreneurs.

#### 3.4 The strategy in this Communication aims to:

- focus EU policies in the next multi-annual financial framework on research and innovation, cohesion policy, and prioritise EIB lending activities in favour of KETs deployment;
- ensure coordination of EU and national activities so as to achieve synergies and complementarities between those activities and the pooling of resources where necessary;
- establish an external KETs Issues Group that will advise the Commission on KETs-related policy issues;
- mobilise existing trade instruments to ensure fair competition and an international level playing field.

#### 3.5 The following is a summary of the Commission's action plan:

##### 3.5.1 Adaptation of EU instruments

- Horizon 2020
  - Allocation of EUR 6.7 billion
  - Rebalancing towards pilot-lines/demonstrator projects
  - Crosscutting projects
  - Selection Criteria
- European Regional Development Funds
  - Smart specialisation
  - Cluster-specific actions
- Modernise State aid rules
- An agreement with the European Investment Bank
- Promotion of required multidisciplinary skills

##### 3.5.2 Coordination

- Synergies with national industrial innovation policies
- Memorandum of Understanding by industrial stakeholders

##### 3.5.3 Governance

- Coordination Group on KETs within Horizon 2020
- An external KETs Issues Group

##### 3.5.4 Skills – the Commission will:

- under Horizon 2020 continue and reinforce actions to attract youngsters to KETs;
- encourage the establishment by the EIT of a KIC on added-value manufacturing that would integrate business, research and higher education in this field;
- publish a Communication which will address the changing and rapidly evolving challenges for skills supply in the EU by the end of 2012;
- develop partnerships between education and business such as Knowledge Alliances for Higher Education (HE); and
- look at ways to increase the supply of skilled labour in KETs-related areas, including through highly skilled talent from outside the EU.

##### 3.5.5 Trade

- The Commission will strive to ensure a favourable trade environment and a global level playing field. This includes the facilitation of market access and investment opportunities, avoiding international market distortion, improving IPR protection, promoting reciprocity notably in public procurement, reducing the use of subsidies and tariff and non-tariff barriers at global level and verifying compliance with applicable EU and WTO rules.

#### 4. European Hi-Tech Manufacturing Companies

4.1 The KET strategy is designed to promote EU based manufacturing of hi-tech products essential for the everyday life of European citizens and European businesses in the 2020 time frame and beyond. Europe based manufacturing of hi-tech products is not at present sufficiently competitive in global markets even though European R&D is considered to be world class. The problem is not seen as a deficiency in European hi-tech manufacturing capacity and capability; it is seen as a transmission failure between R&D and manufacturing. In effect, the Commission strategy is to push technology at the manufacturers. In reality, the EESC believes that successful transmission requires manufacturers capable of pulling through the technology and, in the opinion of the EESC, Europe does not have enough companies competing in the global hi-tech manufacturing sectors.

4.2 The tables below have been extracted from the 2012 edition of the Financial Times analysis of the top 500 global companies and the top 500 companies in each major region. Only the hi-tech manufacturing sectors have been analysed.

4.3 Listed companies do not tell the whole story, but the EESC is satisfied that listed companies are an accurate indicator of the relative manufacturing strength of the regions of the world.

The Global 500 table below shows the number of companies in each of the hi-tech manufacturing sectors. Emerging Markets (EM) includes, inter alia, the four BRIC countries. At this level, Europe only leads in industrial engineering, but the regional table gives a fuller picture.

FT Global 500						
Sector	Number of companies					
	Global	USA	JAP	EM	EUR	
Pharmaceutical & Biotechnology	22	<b>11</b>	2	0	6	Novartis (*), Roche (*), GSK, Sanofi- Aventis, AstraZeneca, Novo Nordisk Shire
Technology Hardware	16	<b>10</b>	1	2	3	ASML, Ericsson, Nokia
Software & Comp. Services	13	7	1	4	1	SAP
Automotive & Parts	17	3	<b>5</b>	<b>5</b>	4	Daimler, VW, BMW, Continental
Chemical	18	7	1	4	5	Bayer, BASF, Air Liquide, Syngenta (*), Linde
Health Care Equipment	13	<b>10</b>	0	0	3	Fresenius, Synthes (*), Essilor
General Industrials	12	<b>5</b>	1	<b>5</b>	1	Siemens
Industrial Engineering	13	4	3	1	<b>5</b>	ABB (*), Volvo, Atlas Copco, MAN, Sandvik
Aerospace & Defence	7	<b>5</b>	0	0	2	Rolls Royce, EADS
Oil Equipment & Services	11	7	0	0	2	Sarpem, Transocean (*)
Leisure Goods	4	0	<b>3</b>	0	1	Philips Electrical
Electronic & Electrical	4	1	1	1	1	Schneider Electric

(\*) Companies market with an asterisk (\*) are Swiss, not EU

4.4 In the regional table, the number of companies is shown, together with their aggregate market capitalisation. This gives an indication of the strength in depth possessed by each region while the market cap measures the size and relative success of each regional sector.

4.5 Europe has a world leading position in chemicals and industrial engineering. It has a strong position in pharmaceuticals and biotechnology as well as the automotive sector. The USA dominates health care equipment, as well as technology hardware and software while both Japan and Emerging Markets are stronger than the EU in hardware.

4.6 From this analysis it is clear that the KET programme should have a strategy of reinforcing the sectors where Europe is weak and exploiting those sectors in which Europe enjoys relative strength. A specific effort should be made in medical technology and health care equipment.

FT Regional 500 Technology Manufacturing Sectors								
Sector	Number of Companies (#) and Market Value (\$ billions)							
	USA		Japan		EM		Europe	
	#	\$	#	\$	#	\$	#	\$
Pharmaceutical & Biotechnology	21	<b>948</b>	27	176	8	48	15	708
Technology Hardware	<b>33</b>	<b>1,391</b>	18	146	9	146	7	111
Software & Comp Services	<b>25</b>	<b>1,083</b>	12	58	5	109	7	126
Automotive & Parts	9	161	<b>38</b>	<b>446</b>	10	115	13	290
Chemical	16	286	<b>32</b>	133	16	262	22	<b>384</b>
Health Care Equipment	<b>29</b>	<b>495</b>	5	20	1	4	10	114
General Industrials	7	<b>409</b>	8	36	9	87	5	125
Industrial Engineering	13	247	<b>34</b>	217	15	143	21	<b>275</b>
Aerospace & Defence	<b>12</b>	<b>269</b>	0	0	1	5	9	115
Oil Equipment & Services	<b>16</b>	<b>324</b>	0	0	1	10	2	119
Leisure Goods	2	25	<b>14</b>	<b>118</b>	0	0	1	20
Electronic & Electrical	10	125	27	<b>153</b>	7	77	6	61
Alternative Energy	0	0	0	0	<b>1</b>	<b>4</b>	0	0

## 5. EESC perspective

5.1 Since 1957, the EU has only given birth to three global hi-tech companies: ASML, Nokia and SAP. It has been continually running behind. This would appear to represent a compound failure of capitalism and entrepreneurialism as compared with the achievements of US companies through the period and the successive Asian advances from Japan, Taiwan, Korea and now China.

5.2 While America practices free market capitalism in many fields, its military/industrial complex linked to its world-leading universities has created a hugely fertile field for invention and a plethora of ideas to be exploited in the prevailing enterprise culture and a large market.

5.3 Asian countries provide active state support to and protection of fledgling industries until they are established. They have been both open to and attractive to inward hi-tech investment. They have absorbed the technologies transferred by inward investment and are exploiting them.

5.4 The situation in Europe is very different and the lack of homogeneity is a major factor. In almost every dimension, whether GDP per capita, unemployment rates, corporate infrastructure, university infrastructure, schooling performance, capital markets, labour market flexibility, internet penetration, etc., there tend to be quite profound differences between the six sub regions of the EU as identified by the World Bank. These are EU 15 North (British Isles, Nordics), EU 15 Central (original six minus Italy plus Austria), EU 15 South (4 Mediterranean States), EU 12 North (Baltics), EU 12 Central (PL, CZ, HU, SI, SK), EU 12 South (RO and BG).

5.5 In an effort to establish a world class KET capability it would be logical to tailor policies and programmes for each of these six groupings in a way which takes account of the standing of their universities and research establishments, the scientific and technological skills of the workforce, the abilities and existing markets of their manufacturing companies, etc. If this were done, efforts could be prioritised by region with the best-placed regions in the vanguard. The Cohesion policies proposed in the Communication should be considered in this context.

5.6 The Commission governs the EU through legislation and financial disbursements supported by observatories and agencies. It can be effective in domains where one Commissioner can take full responsibility for an initiative. There are at least six Commissioners involved in the KET project and the EESC does not believe that it can succeed without a concentration of authority and a more direct mode of governance.

5.7 Much conventional wisdom needs to be challenged. A regional approach is one example. Both the HLG and the Communication have recognised that State Aid mechanisms need to be re-thought for KET projects. The Communication does not deal with the IPR proposals with the vigour described in the HLG report<sup>(4)</sup>. The EESC welcomes what the Communication says about trade, but does not feel that existing trade policies have sufficiently protected the EU's interests. This is another domain that would benefit from new governance and a remorseless pursuit of EU interests.

5.8 The EESC welcomes the change in focus brought about by the HLG, turning attention from R&D support to a balanced three-pillar approach. In this respect, FP7 now seems quite deficient. Even so, the EESC is concerned that there may not be enough companies in the EU with the capabilities, the products and the global reach to pull through and commercialise the output of the R&D pillar. The whole proposal is built on the assumption that pillars two and three can push KETs through to the market. In reality, KETs are more usually pulled through by high-tech manufacturers like Apple, BMW, Bayer, Rolls Royce or Airbus. The EU must develop, with Member States, a strategy to support and develop more world-class end product companies. Existing companies should be incentivised to expand their product lines with new products with high KET intensity aimed at global markets. The Communication states many times that KETs can create growth and jobs. The EESC has a different perspective; it is *companies* using KETs which can create growth and jobs. The EU needs more companies with products and markets which can exploit KETs.

5.9 When KETs are not pulled through into the markets by established end product companies, they are pulled through by entrepreneurs. Most entrepreneurs are, in their turn, either pulled through by venture capitalists or by established companies attracted to the entrepreneurs. IBM sponsored Microsoft and rescued Intel, Apple has sponsored ARM Holdings which now rivals Intel, both Google and Facebook received investments from rich tech industry investors; VCs then supported Google and Microsoft supported Facebook. In Europe, the Nordic entrepreneurs behind Skype and Angry Birds received VC support from London and California.

<sup>(4)</sup> The HLG recommends that the EU adapts state aid provisions to facilitate RDI activities and large-scale investment in KETs, in particular through the introduction of a matching clause in the EU state aid framework across the board, review of the scaling-down mechanism for larger investments increased thresholds for notifications, faster procedures and the use of projects of common European interest.

5.10 The KET project is a microcosm of the greater challenge of EU wealth creation. The USA has a market driven formula and Asia has state driven policies. EU Member States such as Germany and the Nordics have successful policies, but many others do not. At the overall EU level, the Communication puts the limited resources of the Union behind the KET programme, but the EESC fears that this wealth creation model will not prove sufficiently effective in the face of global competition.

## 6. Specific Comments

6.1 The EESC is concerned that 'rebalancing' towards the second and third 'pillars' could imply a reduction in the scale of EU R&D. The EESC would not support this. Powerful basic research is needed to provide for the next generation of innovation. Modern technology is mostly based on the unexpected results of basic research.

6.2 Since the EU does not have a military/industrial complex on the scale of the USA (or China), its science needs to be stimulated and challenged in other ways. This is the value of projects such as Galileo and ITER.

6.3 The EESC welcomes the focus on education and skills. However, it notes that the Communication highlights the decline in EU science and engineering graduates. The EU deficit in science and engineering at all levels of education is the Achilles heel of both EU competitiveness in general and of the KET project in particular. The plans outlined in the Communication are less than adequate, given the magnitude and the urgency of the problem.

6.4 The EESC has recently given its opinion in response to the Communication on State Aid Modernisation<sup>(5)</sup>. In the KET context, the concerns expressed in paragraphs 1.5.1 (definition of market failure), 1.6.3 and 1.6.4 (level playing field) are relevant. In its drive to preserve competition within the internal market, EU external competitiveness has been jeopardised.

6.5 The Communication notes that venture capital (VC) activity has declined in the EU in the past decade and, in effect, sets out to replace VC money with EU funds. While this is welcome, it is not sufficient. The EESC recommends that the EU works with Member States to create the pre-conditions for VC in Europe.

6.6 The Commission has informed the EESC about its intentions for the KET Issues Group, the successor body to the HLG. *Besides technology representatives for each of the six KETs (nanotechnologies, microelectronics, biotechnology, photonics, advanced materials, advanced manufacturing systems), it is proposed to have multi-KETs representatives (most innovative products are a combination of different KETs) and to have more down-stream industry users (e.g. aeronautics, automotive, aerospace, construction, energy, food, medical devices, equipment, design...) than in the first High Level Group (as the aim of the KETs Strategy is to boost the industrial production of KETs-based products)*.

6.7 Much will depend on the companies represented, their influence on the larger (very much larger) Issues Group, the success of the Group in helping more of the 118 regional companies in the hi-tech manufacturing sector reach global status and, most importantly, its success in promoting the emergence of the next 118 at the regional level.

Brussels, 12 December 2012.

The President  
of the European Economic and Social Committee  
Staffan NILSSON

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<sup>(5)</sup> State aid modernisation (OJ C 11, 15.1.2013).

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on insurance mediation (recast)’**

COM(2012) 360 *final* — 2012/0175 (COD)

(2013/C 44/16)

Rapporteur: **Ellen NYGREN**

On 11 September 2012 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 Directive of the European Parliament and of the Council on insurance mediation (recast)*

COM(2012) 360 — 2012/0175 (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 4 December 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee unanimously adopted the following opinion.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the Commission’s initiative to revise the insurance mediation directive, and is broadly positive about the proposals. The reasons for the review are sound and most of the proposals are sensible.

1.2 However, some of the proposals have not been adequately assessed and require further consideration before they can be implemented. In some cases, more precise definitions of concepts are needed for rules to have the intended effect.

1.3 The information obligations set out in the proposal are broadly reasonable and beneficial for consumers.

1.4 The proposal requires that insurance intermediaries and insurance undertakings take measures to identify conflicts of interest that might arise when mediating insurance products, and that they inform customers of such conflicts. The EESC regards this as important and agrees with the intention of the proposal, but it believes that it could be improved in certain respects, as set out below.

1.5 The EESC welcomes the more specific requirements set in relation to protection of consumers when purchasing insurance investment products. The latter often represent retirement savings, which have considerable financial value for the consumer and which are long-term investments. The design of such products is in most cases complex, and it can be difficult to get a clear view beforehand of differences in content and conditions and to evaluate these. Consumer

protection is therefore a much more important issue with this category of insurance products than with more straightforward products with less far-reaching financial implications.

## 2. Gist of the Commission document

2.1 The insurance mediation directive is the only EU legislation that regulates point-of-sale insurance products so as to protect consumers’ rights. The directive was adopted in 2002 and Member States were to transpose it by January 2005 at the latest. The directive is an instrument designed to achieve a minimum level of harmonisation through certain overarching principles, but it has been implemented in the Member States in very different ways. It was already apparent from the Commission’s implementation check in 2005-2008 that there was a need to review the directive.

2.2 Financial market turbulence has also demonstrated the importance of putting in place effective consumer protection across all financial sectors. In 2010 the G20 asked the OECD, together with other international organisations concerned, to develop common principles to strengthen consumer protection when financial services are purchased. The current proposal to revise the insurance mediation directive should also be seen in this context.

2.3 The proposal for a revised insurance mediation directive (IMD2) is intended to improve regulation of the insurance market by creating a level playing-field for all parties involved in selling insurance products, and also to reinforce protection for insurance policy holders.

2.3.1 The overarching objectives are fair competition, consumer protection and market integration. Conflicts of interest are to be identified, managed and mitigated, sellers' professional qualifications are to match the complexity of products sold, and procedures for cross-border business are to be simplified.

2.3.2 The proposal would widen the scope of application of the directive to include not just distribution by insurance intermediaries but also more or less all distribution of insurance products.

2.3.3 The Commission regards the proposal generally as a minimum harmonisation instrument that leaves the Member States latitude to set more rigorous consumer protection requirements.

### 3. EESC comments on the proposal for a directive

3.1 The EESC welcomes the Commission's initiative to revise the insurance mediation directive, and is broadly positive about the proposals. The reasons for the review are sound and most of the proposals are sensible. The Committee also welcomes the inclusion of a provision to review the directive again five years after its entry into effect. However, some of the proposals have not been adequately assessed and require further consideration before they can be implemented.

#### 3.2 *Scope of application and definitions*

3.2.1 Article 1 proposes to considerably extend the scope of application of the directive compared with the current legislation. The concept of insurance mediation is expanded in the proposal to include not just independent intermediaries but also staff of insurance undertakings. This could be a positive change, as it would mean that the entire insurance market is covered by the same rules. Banks will be included, in so far as their range of products also includes insurance.

3.2.2 The EESC believes it is essential to regulate the situation with sale of insurance products, regardless of what professional category in the insurance sector makes the sale. It therefore seems strange that the proposal explicitly mentions professional management of claims and loss adjustment.

#### 3.3 *Professional and organisational requirements*

3.3.1 The EESC strongly commends the proposal to make Member States responsible for ensuring that insurance intermediaries and staff of insurance undertakings carrying out insurance mediation activities continually update their

knowledge and skills. It is important here to emphasise the employer's responsibility for ensuring that their staff have access to the further training needed to enable them to carry out their duties in a way that is satisfactory and effective.

3.3.2 The Committee feels that there should be some kind of provision requiring all insurance intermediaries, both employed and self-employed, to be able to present documentation showing what professional training they have received.

3.3.3 Article 8(2) provides that anybody carrying out direct insurance mediation should have a clean police record in relation to crimes against property or other crimes related to financial activities. The Committee believes that it should be possible for designated national authorities to carry out this check so as to protect individual privacy and avoid complicated and costly procedures. One problem here could be that countries have different criteria for what is entered in a police record, which means that the rule could have different implications in different countries.

#### 3.4 *Information obligations*

3.4.1 The proposal requires that all information, including marketing, should be clear and not misleading. It should be clear from the material provided whether this is promotional or another type of information. Insurance intermediaries must tell customers to what extent the information represents advice about insurance products they are providing. It must be clear whether the intermediary is working on behalf of an insurance company or acting independently, and who is paying the intermediary's remuneration. In the EESC's view the proposals can be regarded as broadly reasonable and beneficial for consumers.

3.4.2 There may be a risk of intermediaries trying to shirk their responsibility to provide advice by informing the customer that no advice is being given. The proposed clause might therefore give rise to problems of interpretation. If this rule must be retained, it should be supplemented by another rule stipulating that if it later transpires that the intermediary has effectively given advice on the products mediated, this must not affect the customer's right to receive compensation for misadvice.

3.4.3 Some more straightforward products are sold without advice, for example through the internet. Article 18 deals with sales where no advice is given. Article 18(1)(b) stipulates that the intermediary shall tell the customer the reasons for any advice given, even though the article concerns situations in which advice is not given. The wording is contradictory and this part of the proposal should be clarified.

3.4.4 Article 20 establishes a formal requirement that information for customers is to be provided on paper. The number of derogations shows that this is hardly standard practice any more. It would be better instead to provide the fundamental elements of information of the product on paper with references to sources of further information.

### 3.5 *Conflicts of interest and transparency*

3.5.1 The proposal requires that insurance intermediaries and insurance undertakings take measures to identify conflicts of interest that might arise when mediating insurance products, and that they inform customers of such conflicts. The EESC regards this as important and agrees with the intention of the proposal, but it believes that it could be improved in the following ways.

3.5.2 Article 17(1)(d)-(g) puts forward rules on information to be provided on the remuneration received by the intermediary in relation to the contract. The EESC agrees that information should be provided on how remuneration is determined, but is concerned that too detailed information about amounts received, as required under point (f), could be misleading for customers trying to take a decision. It is important that the customer should have a clear understanding of the total price of the product, and that they be aware how much they are paying the intermediary, and what remuneration, if any, the intermediary is receiving from the insurance company.

3.5.3 Under Article 17(4) information is required about the intermediary's remuneration each time the customer makes payments under the insurance contract after its conclusion. This could be a case of over-regulation, given that automated payment forms such as direct debit are now routinely used for long-term insurance contracts. An annual statement for the customer of the intermediary's remuneration would be quite adequate.

3.5.4 The EESC endorses the proposal in Article 21 on cross-selling, under which the insurance intermediary must inform the customer that they can buy the components of the package separately.

3.5.5 The introduction of the general principle of a level playing field between distribution channels is very important for well balanced information and transparency with no risk of distorting competition.

### 3.6 *Additional customer protection requirements in relation to investment products*

3.6.1 The EESC welcomes the more specific requirements set in relation to protection of consumers when purchasing insurance investment products. There are crucial differences between simpler types of insurance and insurance investment products. The latter often represent retirement savings, which have considerable financial value for the consumer and which

are long-term investments, with both the accumulation and the payout phase spanning several decades. The design of such products is often complex, and it can be difficult to get a clear view beforehand of differences in content and conditions and to evaluate these. Consumer protection is therefore a much more important issue with this category of insurance products than with more straightforward products with less far-reaching financial implications.

3.6.2 However, the Committee would like there to be more clarity about which products are meant. Article 2(4) of the proposal refers to the regulation on key information documents for investment products. The Committee finds this definition too vague given that the proposal contains more precise consumer protection requirements for these types of mediation; it is therefore important that the scope of application of these rules should be clear and appropriate so that the intended consumer protection is ensured in practice<sup>(1)</sup>.

3.6.3 Article 24(5)(b) proposes that when an intermediary informs the customer that advice on insurance is being given on an independent basis, the intermediary should not receive fees, commissions or other remuneration from third parties. The EESC endorses this proposal in view of the particular need for consumer protection that arises in this particular situation.

### 3.7 *Out-of-court dispute resolution*

3.7.1 Article 13 stipulates that the Member States shall ensure that there are appropriate, effective, impartial and independent procedures for customers to resolve disputes. The EESC would like to stress the importance here of dispute settlement bodies being given real authority, and of there being the opportunity to establish matters of fact in an oral procedure so as to meet the requirements of the directive. The EESC also notes the importance of guaranteeing the possibility of resolving disputes in court, so that the consumer is not simply referred to out-of-court dispute resolution.

### 3.8 *Penalties*

3.8.1 Article 26 of the proposal stipulates that the Member States must ensure that administrative sanctions and measures for breaches of provisions are effective, proportionate and dissuasive. The EESC agrees with these objectives.

3.8.2 However, Article 28(2)(f) proposes that natural persons should be subject to administrative pecuniary sanctions of up to EUR 5 million. The Committee regards this amount as unreasonably high, even if it is an upper limit for administrative

<sup>(1)</sup> EESC opinion CESE 1841/2012 of 14 November 2012 on the Proposal for a Regulation of the European Parliament and of the Council on key information documents for investment products (not yet published in the OJ).

sanctions. The rule is questionable in particular on the grounds that it concerns administrative sanctions rather than damages to an injured party further to a judicial decision.

### 3.9 Reporting of breaches

3.9.1 Article 30 stipulates that effective mechanisms for reporting breaches must be established. The EESC stresses that staff must be able to report any breaches of the rules to the relevant supervisory authority without this having any repercussions under labour law or otherwise. This is important for legal certainty, fair competition and of course consumer protection. It should also be possible to report suspected breaches of the legislation in effect. It is not enough for staff of insurance undertakings and intermediaries to be referred to internal company reporting procedures in the case of breaches.

## 4. Specific comments

4.1 The definition of what constitutes an insurance investment product is crucially important because such products are covered by stricter rules than other insurance products. It is therefore regrettable that the definition given in the relevant article is worded 'a contract of insurance which could be classified as'. This leaves room for interpretation as to what could be an insurance investment product.

4.2 The Committee also finds the definition of advice unclear. There are several attempts to define advice in the proposal. Article 2(9) indicates that advice is the provision of a recommendation to a customer, but this is a very broad definition of advice and raises the question of whether it is even possible to mediate insurance products without giving advice.

4.2.1 Other attempts to define advice can be found elsewhere in the proposal. In Chapter VI, Article 17(1)(c) stipulates that the customer should be informed whether advice is being given 'on the basis of a fair analysis'. Article 18(3) sets out what exactly advice based on a fair analysis entails, namely that it should be based on 'an analysis of a sufficiently large number of insurance contracts available on the market, to enable it [the insurance intermediary or the insurance undertaking] to make a recommendation, in accordance with professional criteria, regarding which insurance contract would be adequate to meet the customer's needs'.

4.2.2 This is expressed differently in Article 24(3) and (5), where the proposal mentions giving advice 'on an independent basis'. Such advice on an independent basis may also draw on a 'broad' or 'more restricted' analysis of the market.

4.2.3 To sum up, a number of different mediation scenarios can be identified in the proposal:

- mediation without advice, e.g. when a product is sold through the internet;
- mediation with advice that consists in making a recommendation;
- mediation with advice that must be based on a fair analysis, with consequent requirements for what that should entail;
- mediation with advice on an independent basis, in turn based on:
  - a broad analysis of the market
  - a more restricted analysis of the market.

4.2.4 As indicated, where advice is given on an independent basis, its form must also be established. However, it is unclear whether these requirements are met through a broad analysis or a more restricted analysis of the market.

### 4.3 Article 17

4.3.1 The Committee agrees that it is important for the consumer that conflicts of interest be revealed and that there should be a certain transparency with regard to types of remuneration. The focus should not just be on transparency in remuneration but also on the 'performance management' systems on which both variable remuneration and fixed salaries are based. Conflicts of interest can arise without any form of variable remuneration being paid in cases where the intermediary has to meet business objectives. These may often be sales targets for a given product, but they can also be of a more indirect nature. Such objectives may entail a manifest risk of conflicts of interest between the goals set by the insurance undertaking and the customer's need for an appropriate insurance product.

Brussels, 13 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC’**

COM(2012) 369 final — 2012/0192 (COD)

(2013/C 44/17)

Rapporteur: **Ms KÖSSLER**

The Council and the European Parliament decided, on 7 September and 11 September 2012 respectively, to consult the European Economic and Social Committee, under Articles 114 and 168(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 clinical trials on medicinal products for human use, and repealing Directive 2001/20/EC*

COM(2012) 369 final — 2012/192 (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 4 December 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 105 votes to one with five abstentions.

## 1. Conclusions and recommendations

1.1 The EESC recognises that clinical research is an essential and continually developing area of scientific endeavour with the goal to understand diseases and develop medicines for patients.

1.2 In the context of scientific progress in clinical research and the development of innovative therapies, the protection of subjects from unreasonable risks and burdens has to be fully taken into account and the welfare of the individual subjects must take precedence over all other interests.

1.3 During its life-time, the regulation will be the system by which developing and novel trial designs will be appraised. Given how science and technology are developing and their impact on the way trials will be conducted and the products tested in clinical trials in the future, it makes sense that strong provision is made to periodically assess and if necessary amend the regulation.

1.4 The EESC calls for the establishment of a single EU governance area for clinical trials, where patients can enter into different clinical trials in different Member States independent of their country of origin/residence, and which respects the universal ethical, scientific and technical principles by which clinical trials are assessed.

1.5 The EESC welcomes and strongly defends the implementation and use of a single portal for both multinational and single country clinical trials without the need to further code data into any of the national systems. This will alleviate the administrative burden created by the current directive and

ensure harmonisation of the submission requirements by national authorities. In addition, the single portal will ensure a streamlined process for the clinical trial life cycle as it will facilitate the possibility of including additional Member States in a clinical trial.

1.6 The EESC supports the coordinated assessment procedure being subdivided into two parts as proposed by the regulation. It will create a clear and understandable system under which there will be no duplication of assessments by the bodies concerned, giving patients the earliest possible access to a clinical trial at approximately the same point in time in all concerned Member States.

1.7 The EESC calls for explicit inclusion in the regulation of assessments by the independent ethics committee (in line with the requirements of the Paragraph 15 of the Declaration of Helsinki, Chapter II of the Proposal and Directive 2001/20/EC). The ethical assessment is a critical part in the authorisation process of clinical trials to ensure patients' rights are respected. An approval of a clinical trial should not be granted until an independent ethics committee has issued a favourable opinion.

1.8 The EESC calls for the EU to support and facilitate cooperation and the exchange of scientific information among Member States within a network connecting ethics committees designated by the Member States. The EESC recognises that EuresNet exists but calls for a formal, patient centred body to be established to replace EuresNet. Provisions concerning the Ethics Committees' Network should be included in the regulation.

1.9 The EESC strongly supports the distinction introduced by the regulation for low-intervention clinical trials.

1.10 The EESC welcomes the intention to strengthen the safeguards for the processing of personal data as long as there is an appropriate balance between the rights of individuals and the safe and secure use of patients data for health research.

1.11 The EESC supports the creation of a Clinical Trials Coordination and Advisory Group (CTAG) as set out in Article 81.

1.12 While clinical trials are most frequently conducted for medicinal products, it is also worth noting that in some cases, clinical trials - or clinical performance studies - may also be done in the area of medical devices and in vitro diagnostics, and the Commission's recent proposals on a Medical Devices Regulation<sup>(1)</sup> and an In vitro Diagnostic Medical Devices Regulation<sup>(2)</sup> include requirements for clinical performance studies. Especially in the context of personalised medicine, joint trials with a pharmaceutical and a diagnostic medical device are likely to increase. It should thus be ensured that the requirements and application processes for medicinal products and medical devices are compatible and reduce duplication as far as possible.

1.12.1 The EESC recognises that clinical trial data submitted in an application dossier for a marketing authorisation shall be based on clinical trials which have been registered prior to their start in a public register which is a primary registry of the international clinical trials registry platform of the World Health Organization, or an International Committee of Medical Journal Editors (ICMJE) approved registry.

## 2. Gist of the Commission proposal

2.1 In the recent years the number of applications for clinical trials in the EU fell significantly (by 25 % from 2007 to 2011), the costs for conducting clinical trials and the average delay for launching a clinical trial have increased. According to the European Commission, Directive 2001/20/EC has had many effects on the cost and feasibility of conducting clinical trials, which have led to a decline in clinical trial activity in the EU.

2.2 The aim of the current proposal is to make the conduct of clinical trials faster, easier and cheaper by laying down harmonised rules on the authorisation and conduct of clinical trials, in order to increase the attractiveness of the EU as a location for clinical trials, reduce costs of clinical testing and promote public health.

2.3 The proposal takes the form of a regulation replacing Directive 2001/20/EC. This legal form ensures that Member States base their assessment of an application for authorisation of a clinical trial on an identical text, rather than on diverging national transposition measures. It also allows actors to plan and conduct clinical trials, including multi-national clinical trials, on the basis of one regulatory framework.

2.4 The proposal covers the following main points: authorisation procedure for clinical trials, safety reporting, informed consent, manufacturing and labelling of the tested product, conduct of the trial, compensation for damage, responsibilities (investigator, sponsors, co-sponsor), EU contact person and inspections.

## 3. General observations

3.1 The EESC welcomes the revision of the European clinical trials legislation as an opportunity for Europe to demonstrate that it acts as a single coherent region in regulating and managing the conduct of clinical trials and is an attractive place for sponsors to conduct their clinical research and to provide access for patients to enter into clinical trials.

3.2 The EESC recognises that clinical trials in the EU are in decline (specifically academic research has significantly declined in the EU); this decline is not solely the fault of EU legislation but a number of confounding factors. The number of clinical trials has also fallen in the USA, and in later years the economic crisis may have contributed to the decline. However, EU legislation can help address the situation.

3.3 The EESC notes that the current proposal may slow the rate of that decline, but in its current state it will not fully arrest nor reverse it. It is, however, an opportunity to create a better environment for clinical research in the EU which could facilitate a more competitive framework for clinical research globally.

3.4 The EESC highlights that scientific research advances as our scientific and technical knowledge advances. To ensure the regulation continues to support European clinical research, a periodic review - fully empowered to result in any necessary amendment - of the regulation needs to be conducted. This is supported by the Commission's communication on 'An Integrated Industrial Policy for the Globalisation Era Putting Competitiveness and Sustainability at Centre Stage'<sup>(3)</sup>, which states that 'systematic evaluations of legislation must become an integral part of smart regulation'.

<sup>(1)</sup> COM(2012) 542 final.

<sup>(2)</sup> COM(2012) 541 final.

<sup>(3)</sup> COM(2010) 614 final.

3.4.1 The EESC requests that provisions should be laid down to assess and report on the implementation of this regulation after experience has been gained, with particular attention to the different types of clinical trials authorised and to scientific and technological progress.

3.4.2 The EESC calls for the introduction of the following Review Clause amendment: 'Five years after the entry into force of this regulation, and every five years thereafter, the Commission shall present a report to the European Parliament and the Council, on the operation of this regulation which shall include comprehensive information on the different types of clinical trials authorised pursuant to this regulation including defining plans for any appropriate amendments.'

3.4.3 In this report, the EESC requests the Commission to assess the impact of scientific and technological progress on the application of this regulation.

3.5 The EESC notes that as a result of the current disproportionate administrative requirements for the low intervention clinical trials, clinical research conducted by academia has declined in Europe. Low-intervention clinical trials are mainly conducted by academia, and are essential for the advancement and progression of medical practice.

3.5.1 The EESC supports the classification of low-intervention clinical trials in Article 5(2)(d) as it would reduce the heavy administrative obligations on sponsors, thus re-establishing patients' access to these low-intervention clinical trials.

3.6 The EESC calls for a regulation that will ensure the formation of a single EU governance area for clinical trials, which allows access for patients to information on clinical trials and to enter into different clinical trials consecutively in different Member States independent of their country of origin/residence, and which respects that the ethical, scientific and technical principles, by which clinical trials are assessed, are universal. Such principles were agreed by the International Conference on Harmonisation Guideline for Good Clinical Practice and they are consistent with principles that have their origin in the World Medical Association's Declaration of Helsinki - Ethical Principles for Medical Research Involving Human Subjects. The EESC believes that the regulation should make reference to the Helsinki Declaration not only in the recitals but also in Article 9.

3.7 The EESC proposes that a step-change that will make a radical difference in the attractiveness of Europe as a clinical trials destination and grant European patients access to the most innovative treatments would be the introduction of a single, borderless EU area for the conduct of trials.

3.8 The EESC emphasises the need that, to assist with the implementation of the timelines under the tacit approval mechanism, clarification is required in the text that the trial may start

on the notification date unless the Member State has provided grounds for not accepting the clinical trial. However, the timelines under the tacit approval mechanism mentioned in the proposed regulation are clearly to be regarded as too short and therefore they should be extended.

3.9 The EESC recognises that a mechanism is needed to help ethics committees to share expertise and knowledge and to learn from each other. The platform for such a network needs to be coordinated and funded at the EU level. The EESC recommends that patient involvement should be mandatory as adequate patient representation will ensure that decisions reflect patients' interests and realities, reflecting as well the involvement of patients in the assessment process as enshrined in Article 9.

3.10 The EESC recommends that cooperation amongst ethics committees should be increased to support Member States achieving greater efficiencies, economies of scale and the avoidance of duplication of effort. This regulation should facilitate the creation of sustained structures involving all the relevant authorities of the Member States, building on existing pilot projects and consultation of a wide range of stakeholders. This regulation should therefore provide a basis for continued Union support for such cooperation. It will provide the basis to improve efficiency in the assessment of the aspects listed in Article 6(1) and Article 7(1).

3.10.1 The EESC recognises that clinical trial insurance represents huge costs for sponsors, and in a few years' time can lead to further increases in the cost of drugs. However, the European Commission's attempt to reduce costs of liability insurance for sponsors should not lead to a deterioration of the security of the participants in the event of a claim, which might happen in case of the elimination of compulsory insurance. The EESC opposes a general elimination of a compulsory insurance, yet it agrees that in clearly defined cases exceptions should be allowed.

3.10.2 The establishment of a compensation mechanism requires a more detailed specification, in particular with regard to how and by whom this mechanism would be financed. Setting up national compensation mechanisms poses a risk of different financial coverage in individual Member States. Also different systems of medical and product liability insurance, as well as different liability rules in the Member States may lead to a possible deterioration in the event of damage to the subjects.

3.11 Simplification of **safety reporting**, and more particularly its **centralisation** at European Medicines Agency, will be a major achievement and should decrease unnecessary administrative workload related to pharmacovigilance while maximising EU capacity to detect pertinent events in time.

3.11.1 The EESC recommends not introducing specific disease categories or types of medicinal products in the regulation. The regulation should focus on ensuring the safety of participants and the reliability of the data generated. If specific diseases have their own classification within the regulation, there is a major concern that there would be an overload of new classifications introduced which would create confusion for sponsors and National Competent Authorities. There is a serious risk that an extensive classification system would in fact be contrary to the objective of the regulation, namely; simplification and harmonisation.

3.12 The EESC supports the creation of a Clinical Trials Coordination and Advisory Group (CTAG) as a key step to ensure true harmonisation of clinical research throughout Europe. To maximise the functioning of this group the meetings should be limited only to the parties named in Article 81. However, it should be ensured that there is a possibility for stakeholders, relevant to this regulation, to submit questions or topics for discussion by this advisory group. This would allow for increased transparency and an enhanced balance between all stakeholders involved in a clinical trial, including patients.

3.12.1 Therefore the EESC calls for the inclusion of the following text in Article 81(5): 'Upon request of a relevant stakeholder group, the Commission shall submit one or more questions which are relevant under Article 81(2) to the CTAG for discussion at the earliest possible meeting and, if necessary, convene the CTAG for that purpose. If the Commission refuses to submit a question to the CTAG or to convene the CTAG as requested by a stakeholder group the Commission shall inform the requester in writing about its refusal and specify the reasons thereof. Where the CTAG discusses a question under this provision, the Commission shall ensure that the requester concerned is informed about the outcome of the discussion.'

3.13 While supporting the Commission's intention to strengthen the safeguards for the processing of personal data, the EESC stresses that an appropriate balance between the rights of individuals and the safe and secure use of patients' data for health research is necessary. In particular, when patients participating in clinical trials have given broad informed consent which allows the use of samples and data for future research, it is necessary that good clinical practice and ethical principles for the use of this data is abided by.

#### 4. Specific observations

4.1 The EESC strongly supports a single **EU governance structure for clinical trials** that must significantly facilitate the conduct of clinical research in the EU, and should be the benchmark and objective for amendment to and review of this regulation.

4.2 The EESC calls for inclusion in the regulation of the provisions concerning the **Ethics Committees' Network**.

4.2.1 The members of such network shall be designated by the Member States who shall communicate their names and contact details to the Commission. Those members shall participate in, and contribute to, the network's activities. The network shall be based on the principle of good governance including transparency, objectivity, independence of expertise, fairness of procedure and appropriate stakeholder consultations with meaningful patient involvement at all stages.

4.2.2 The objectives of the Ethics Committees' Network shall be to:

- a) support cooperation between national and local ethic committees or bodies in the view of streamlining and harmonising processes conducting to issuance of ethics committee approvals;
- b) support the analysis of the nature and type of information that can be exchanged;
- c) avoid duplication of assessments;
- d) safeguard that patients participating in clinical trials in the EU are protected according to the same universal ethical principles;
- e) support pan-European harmonisation of qualifications and training of ethics committees' members.

4.2.3 The EESC supports the funding by the EU Research Programme for this Committee. Only those authorities and bodies in the network designated as beneficiaries by the participating Member States shall be eligible for Union aid.

4.3 The EESC recognises that **timelines** for adding a new Member State are not competitive and not in line with timelines of Part II assessment by Member States concerned defined in Article 7. As an additional Member State concerned may disagree with the conclusion of the reporting Member State for Part I only on the following grounds:

- a) significant differences in normal clinical practice between the Member States concerned and the reporting Member State which would lead to a subject receiving an inferior treatment than in normal practice;
- b) infringement of the national legislation referred to in Article 86, this assessment should also be possible in less than 10/20 days suggested, i.e. in ten days and the possibility to suspend the relevant time for obtaining those additional explanations should be in line with timelines of Part II assessment by Member States concerned defined in Articles 7 and 14(8).

4.4 With regard to the evaluation process, the EESC recommends that each Member State shall, in addition to the conditions laid down in Article 7(1), assess the application with respect to the fulfilment of the requirements for the protection of subjects. To avoid lengthy clinical trial authorisation procedures that would delay patients' access to clinical trials the EESC proposes the following amendment in **Article 7(2)** first sentence: 'Each Member State shall complete its assessment, **including the opinion of the national ethics committee**, within 10 days from the validation date **pursuant to Article 6(4)**.'

4.5 At the end of **Article 8(6)** the following sentence should be added: 'The sponsor may start the clinical trial forthwith on the notification date, unless the Member State concerned has communicated its disagreement in accordance with paragraph 2.'

4.6 In order to ensure patients' safety, the Committee asks urgently for an extension of the time limits provided for in the

proposed regulation. In particular, the following periods should be extended: in Article 5(2) from 6 to 14 days, in Article 5(4) third paragraph from 3 to 7 days, in Article 6(4) from 10 to 25, from 25 to 35 and from 30 to 40 days, as well as in Article 17(2) from 4 to 10 days.

4.7 The protection standards in Articles 31 and 32 of the proposed regulation should be based on the provisions of Directive 2001/20/EC or at least foresee an opt-out option for the Member States with respect to the protection of vulnerable groups.

4.8 For documentation relating to **compliance with Good Manufacturing Practice (GMP)** for the Investigational Medicinal Product (Annex I, point 6), the EESC emphasises that the application shall contain a statement to confirm that all documentation relating to compliance with GMP for the investigational medicinal product(s) is on file and available for inspection to ensure maintenance of patient safety.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market’**

COM(2012) 372 final — 2012/0180 (COD)

(2013/C 44/18)

Rapporteur: **Jacques LEMERCIER**

On 10 and 11 September 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 50 and 304 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Directive of the European Parliament and of the Council on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market*

COM(2012) 372 final — 2012/0180 (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 4 December 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 116 votes with 1 abstention.

## 1. Conclusions and recommendations

1.1 The EESC endorses and supports the Commission’s proposal for a directive on the governance of collecting societies for digital rights and the granting of multi-territorial licences for musical works in the Single Market.

1.2 It considers the scope of application to be well chosen, given the importance of music in the market for online cultural content, and that it could improve understanding of the cross-border management of rights, which could then serve as a model or, at least, as inspiration for the online sale of multimedia content and books.

1.3 The EESC has taken into consideration the impact assessment <sup>(1)</sup> and the reactions of professionals and consumers. It shares the view that it is necessary to establish a uniform legal framework for collecting societies and to create some form of European licensing passport for online music services.

1.4 It draws attention to the need to support collecting societies for a transitional period in order to allow them to adapt to this form of cross-border distribution, which presents technical and material problems that the EESC is aware of.

1.5 It approves the proposed legal basis (Articles 50 to 54 TFEU), which concerns the freedom of establishment and the freedom to provide services within the single market. As regards application of the Services Directive, it should be borne in mind

that collecting societies are non-profit-making entities and have particular characteristics that make them unlike businesses.

1.6 Artists often find themselves in a very precarious situation, since they are uncertain of success and their income is irregular. Collecting societies can help artists to develop their cultural work by providing support for weaker repertoires and artists who are at the beginning of their careers. Because they operate on the principle of solidarity, collecting societies provide support to authors facing difficulties and help to promote new talent. Collecting societies effectively make a significant contribution to the development of culture in Europe and growth of the cultural economy.

## 2. The Commission’s proposal

2.1 According to the Commission, the *acquis communautaire* in force on copyright is confined to the definition of copyright and related rights, to the limitations and exceptions and to related provisions.

2.2 Very few provisions of the ‘copyright directive’ and related acts <sup>(2)</sup> deal with collective rights management and none of them establish a framework for the functioning of collecting societies. If binding rules regarding their governance and transparency have now been established and continue to be developed, this is due to the case-law of the Court of Justice and the Commission’s decisions.

<sup>(1)</sup> SWD(2012) 204 final (only available in English) and SWD(2012) 205 final.

<sup>(2)</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society; various related acts – directives and recommendations – including Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).

2.3 However, the law varies in practice from one Member State to another; rules concerning collecting societies are equally diverse, but above all it is the arrangements and practices for monitoring the use of the revenues collected and distributed on behalf of the rightholders that vary significantly in practice and often lack transparency. In some countries, practices bordering on misuse of company assets have even been noted.

2.4 The purpose of the proposal is to 'put in place an appropriate legal framework for the collective management of rights that are administered by collecting societies on behalf of rightholders by providing for:

- rules ensuring the better governance and greater transparency of all collecting societies and also
- by encouraging and facilitating the multi-territorial licensing of the rights of authors in their musical works by collecting societies representing authors.'

2.5 An appropriate legal act (in this case, a directive) at EU level is the only way to achieve these goals, in compliance with the principles of subsidiarity and proportionality.

2.6 The EESC endorses the proposal's objectives and the other legal provisions foreseen for achieving them. It also approves the legal basis chosen for the directive, i.e. Articles 50 and 51 to 54 TFEU, and the fact that the proposal has no impact on the budget.

### 3. General comments

3.1 The EESC has already given its views<sup>(3)</sup> on the essential rules which should be binding in the area of collective rights management and the functioning of collecting societies in order to ensure the fair distribution of payments collected on behalf of authors and other rightholders, and transparent management, which should be monitored by the members of the collecting societies and by an independent administrative or judicial auditing authority, which would have to publish a periodical activity report for each collecting society, as is already the case in several Member States.

3.2 The spirit of the draft directive should be in line with that of the 'copyright directive', according to which the harmonisation of copyright and related rights must be based on a high level of protection. Indeed, their protection contributes to maintaining and developing creativity in the interests of authors, performers, producers, businesses and the general public.

3.3 The choice of market, i.e. music, for a legislative proposal can be explained by the relative importance of music in the European market vis-à-vis other cultural services and on technical grounds, since music does not require linguistic adaptation.

3.4 It might have been preferable to present two draft directives, a general one on collecting societies and another on the multi-territorial licences for the online distribution of music.

3.5 Nevertheless, the EESC can accept a single directive due to the fundamental importance of collecting societies in the distribution of music. They are in the best position to manage licences and collect and distribute royalties on behalf of the rightholders. However, once rightholders have freely chosen to entrust the management of their rights to a collecting society, they must retain the right to control their use and verify that the financial management is transparent and fair.

3.6 The EESC believes that the voluntary standards desired by collecting societies would not be enough to guarantee the open, clear and uniform rules that authors and rightholders want. Soft law measures would contribute in practice to perpetuating the excessive diversity of and role played by territorial rules, which dominate and fragment the European distribution market for online cultural content.

3.7 The EESC believes that a directive is the right choice of instrument since it consolidates the law but allows Member States to adapt its application according to their national circumstances and specificities.

3.8 With regard to collecting societies, the EESC agrees wholeheartedly with the statement that 'collective rights' management in all sectors needs to adapt in terms of the service provided to members and users as regards efficiency, accuracy, transparency and accountability'. These needs fall very naturally within the scope of the Digital Agenda for Europe and the Europe 2020 Strategy 'for smart, sustainable and inclusive growth' as well as the Commission's communications on *A Single Market for Intellectual Property Rights* and on *A coherent framework for building trust in the Digital Single Market for e-commerce and online services*, as well as the follow-up to the *Green Paper on the online distribution of audiovisual works in the European Union*.

<sup>(3)</sup> OJ C 68, 6.3.2012, p. 28 and OJ C 318, 29.10.2011, p. 32.

3.9 ‘Commission Recommendation 2005/737/EC on the collective cross-border management of copyright and related rights for legitimate online music services invited Member States to promote a regulatory environment suited to the management of copyright and related rights for the provision of legitimate online music services and to improve the governance and transparency standards of collecting societies.’

3.10 But recommendations are not binding; the proposal for a directive fills this gap.

3.11 Furthermore, this proposal ‘complements Directive 2006/123/EC of 12 December 2006 on services in the internal market which aims to create a legal framework to ensure the freedom of establishment and the free movement of services between the Member States. Collecting societies are subject to Directive 2006/123/EC as providers of collective management services.’ The EESC wonders whether the Services Directive should apply in full, *mutatis mutandis*, to collecting societies. More careful consideration should be given to the particular nature of collecting societies, which are non-profit-making entities.

3.12 Thus, the conception of the draft directive is entirely consistent with current law and the prospects outlined in the programmes for developing the internal market, and it complies with the international agreements to which the Member States are party. The EESC approves the proposed provisions.

3.13 Like the Commission, the EESC, in line with its earlier opinions, prefers a governance and transparency framework which would codify the existing principles and provide a more elaborate framework of rules on governance and transparency, increasing the possibilities for control over collecting societies. Only annual scrutiny of their management by all their members as well as an independent authority or institution will ensure respect for good governance.

3.14 Nevertheless, the EESC questions the technical capability of many collecting societies currently operating in the EU to take on the management of multi-territorial licensing without difficulty.

3.15 Another significant problem is repertoire aggregation. The Commission advocates a ‘European passport’, which should significantly facilitate aggregation and, as a consequence, the granting of licences. This would make it possible to ‘lay down common rules (...) and would create competitive pressure on societies to develop more efficient licensing practices’. The EESC agrees with this approach.

3.16 It also endorses the legal basis of Article 50 TFEU (ex Article 44 TEC) on the freedom of establishment, and Articles

53 (ex Article 47) and 62 (ex Article 55) TFEU, the last of which refers back to Articles 51 to 54 of the TFEU on freedom to provide services.

#### 4. Specific comments

4.1 Copyright and related rights must promote artistic creativity through the fair and proportionate remuneration of holders of these rights and their heirs for a period of 50 to 95 years, depending on the protected rights and the laws of WIPO’s Member States. This remuneration should provide them with sufficient material security to enable them to continue their creative work. In practice, very few artists in the music sector, as in others, can make a living from their copyright, mainly due to the functioning of collecting societies, which they describe as opaque, and the fact that production and distribution is controlled by transnational oligopolies.

4.2 In practice, most of the sums owed by licence users are recovered by national or international collecting societies, which redistribute them to their member rightholders:

- either on the basis of distribution criteria which are specific to each collecting society for the collection of lump sum payments for performing rights, one reason why their activities are opaque;
- or on the basis of individual accounts, when the rightholders and licensed works are identified individually (this applies to online distribution, where all the information required is more readily available).

4.3 Nevertheless, the share which actually reaches rightholders in France, for instance, is usually between 9 and 10 % of the music industry’s revenues, whether from CD sales or online distribution, even though online distribution costs are far lower than for offline distribution. Production companies, especially the ‘major’ ones, receive about 50 % of offline revenues, and over 60 % of online revenues; the operating costs charged by collecting societies are often very high, and in order to join them, rightholders often have to give them exclusive rights over their entire works. Furthermore, producers often invoice rightholders for publicity and other costs, further reducing their share.

4.4 The EESC notes that the draft directive answers the need for harmonisation, in accordance with the legal basis chosen, as well as the need for transparency, equity and the monitoring of management, as expressed by rightholders, as well as fair remuneration for the members of collecting societies. Too many members have the impression that they never get anything, whereas a few members get the lion’s share<sup>(4)</sup>; nevertheless, the EESC also notes that the unequal contracts imposed

<sup>(4)</sup> [senat.fr/lc/lc30\\_mono.html](http://senat.fr/lc/lc30_mono.html) – comparative study of European collecting societies.

by most music publishers and distributors will continue to apply and to prevent most copyright holders and other right-holders from receiving fair remuneration for their work. The EESC therefore views the draft law as incomplete for the purposes of genuinely promoting culture and literary and artistic works by remunerating authors and creators appropriately.

4.5 Finally, it sets out 'minimum' provisions, which leave Member States significant leeway for transposition, to allow them to respond to the expectations of authors and creators and to promote culture and its dissemination to the best of their ability. As a result, the EESC cannot share the views of certain legislative assemblies that the draft directive does not respect subsidiarity because it is overly prescriptive and detailed. Furthermore, it calls on the Commission to look into ways to ensure that rightholders genuinely profit from the lower costs of online music distribution since the additional revenues are being pocketed by a single market participant, who thus hopes to offset lower revenues from offline distribution. The major players are in effect using unequal contracts and intense lobbying for very repressive legislation against online commerce in an effort to bolster an economy of rarity against the internet, which allows unlimited mass distribution at a very low cost.

4.6 Artists should have better control of the promotion of their online works and the income they generate. They should be able to distribute certain works directly, for free or at a very low cost, in order to promote them. New financing sources for the work of authors are now possible via the internet, such as calls for financing by the listeners of future productions. The directive should therefore provide authors with more control and options.

4.7 The EESC welcomes Article 38, which invites Member States to provide sanctions and measures to ensure compliance with their national implementing provisions for the directive.

4.8 Title II concerns the first dimension of the directive, the organisation and functioning of all types of collecting societies. Chapter 5 of Title II (Articles 17 to 20) deals satisfactorily with transparency and reporting requirements, areas where the EESC places special emphasis.

4.9 Complementary provisions further strengthen transparency obligations. Article 8 deals with supervisory functions, offering members guarantees regarding good management, and the EESC supports the provisions designed to ensure this. Title IV, concerning disputes (Articles 34 to 40), including complaints procedures (Article 37), effectively complements the provisions on the functioning of collecting societies by allowing members to challenge any management of their rights which they deem to be improper.

4.10 With regard to some of the proposed criteria for exempting small collecting societies from multi-territorial licensing, the EESC notes a risk of market concentration which could distort competition to the detriment of smaller operators, for instance those in countries with small populations, or those belonging to certain national minorities, whose contribution to Europe's cultures might call for specific support measures so that they can participate in the European licence market. The EESC believes that, due to these considerations of cultural diversity, in compliance with Article 107 TFEU, small collecting societies in these countries should have access to public support, in order to be able to promote their catalogues directly throughout the EU and grant multi-territorial licences themselves.

4.11 The provisions set out for the purpose of avoiding conflicts of interest and ensuring transparent and efficient management, as well as reporting to the members of collecting societies are appropriate, especially Article 9 on the obligations of the persons who effectively manage the business of the collecting society.

4.12 Title III (Articles 21 to 33) covers European licences for online music. Article 21 (Multi-territorial licensing in the internal market) sets the principle that compliance with the requirements in Title III is to be effectively reviewed by the competent authorities (see Article 39 for their definition).

4.13 Article 22 (Capacity to process multi-territorial licences) concerns the second dimension's central provisions. Collecting societies that grant multi-territorial licences must have the capacity to process electronically, in an efficient and transparent manner, the data needed for the administration of such licences, invoicing users, collecting rights revenue and distributing amounts due to rightholders. The EESC endorses the detailed requirements (paragraph 2) and the fact that they are minimum conditions, but stresses the practical difficulties that will be encountered in evaluating whether or not they have a nullifying effect.

4.14 Requirements for collecting societies are necessary. Article 23 (Transparency of multi-territorial repertoire information) calls for this information to 'include the musical works represented, the rights represented, in whole or in part, and the Member States represented' and Article 24 (Accuracy of multi-territorial repertoire information) requires collecting societies to 'have procedures in place to enable rightholders and other collecting societies to object to the contents of the data referred to in Article 22(2) or to information provided under Article 23'. The EESC believes that the collecting society must accept all forms of legal proof and should then make the necessary corrections with due diligence.

4.15 The need for collecting societies to monitor the use of rights by the service providers to whom they have granted multi-territorial licences forces them to provide an online method for reporting the use of rights that is recognised by voluntary industry standards or practices in force. The EESC agrees that it should be possible to refuse to accept reporting by the user in a proprietary format if the society allows for reporting using a recognised method of electronic data exchange.

4.16 The EESC emphasises that the use of open and free standards, including for online invoicing (Article 25), would be an appropriate and acceptable solution in all circumstances, and that this should be specified here.

4.17 The EESC endorses the requirements set out in Article 25 on accurate and timely invoicing immediately after the use of the multi-territorial licence and the obligation to have procedures in place for service providers to challenge the accuracy of invoices. Accurate and timely payment to rightholders is required (Article 26). The EESC supports the detailed requirements concerning the provision of information to rightholders alongside payment and supporting information for the fees charged.

4.18 The EESC also supports the provisions of Articles 27, 28 and 29 (Obligation to represent another collecting society for multi-territorial licensing) allowing a collecting society which does not grant or offer to grant multi-territorial licences for the online rights in works in its own repertoire to request another collecting society that meets the requirements of this directive to enter into a representation agreement to represent those rights.

4.19 The EESC calls for the wording to be clarified: is there or is there not a requirement to accept the representation in the circumstances foreseen in Article 29(1)?

4.20 The EESC also supports the provisions on multi-territorial licensing set out in Article 30 (Access to multi-territorial licensing), Article 31 (Multi-territorial licensing by subsidiaries of collecting societies), and Article 32 (Licensing terms in online services).

4.21 The EESC endorses the derogation (Article 33) whereby the requirements under Title III do not apply to collecting societies which grant, on the basis of the voluntary aggregation of the required rights, a multi-territorial licence for the online rights required by a broadcaster for its radio or television programmes.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new passenger cars’**

COM(2012) 393 final — 2012/0190 (COD)

and the

**‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new light commercial vehicles’**

COM(2012) 394 final — 2012/0191 (COD)

(2013/C 44/19)

Rapporteur: **Mr IOZIA**

On 11 September 2012, both the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 192(1) 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 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new passenger cars*

COM(2012) 393 final — 2012/0190 (COD)

and the

*Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new light commercial vehicles*

COM(2012) 394 final — 2012/0191 (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 4 December 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 116 votes to 1 with 4 abstentions.

## 1. Conclusions and recommendations

1.1 In its opinions, the European Economic and Social Committee has always supported all Commission initiatives related to cutting CO<sub>2</sub> emissions, in pursuit of the goal of a carbon-free Europe by 2050, whereby the transport sector is to reduce its emissions by 60 %.

1.2 The Committee points out that, in February 2011, the European Council confirmed the EU target of an 80-95 % reduction in greenhouse gas emissions by 2050 compared to 1990 levels<sup>(1)</sup>. According to the Intergovernmental Panel on Climate Change, the developed countries must achieve the reduction targets collectively, taking account of the efforts that need to be made by developing countries. This should enable emissions to be cut by 50 % globally by 2050 by working towards a post-Kyoto reduction target within a global legal framework to be adopted by 2015 and to be implemented from 2020.

1.3 The Committee supports the setting of increasingly stringent targets to combat climate change, primarily for the road transport sector, which contributes 24 % of the EU's total carbon dioxide (CO<sub>2</sub>) emissions, the main greenhouse gas (GHG). Between 1990 and 2010, these emissions rose by almost 23 %, a trend that is not sustainable in the light of the climate policy pursued by the EU.

1.4 The Committee endorses the proposed amendments, while pointing out that it is necessary to act in a harmonised, efficient way to ensure a secure and competitive use of resources, in such a way as to remove all obstacles to the internal market for transport, promote clean technologies and modernise transport networks. The Committee calls for the quick adoption of the regulations taking into account its suggestions.

1.5 The Committee attaches particular importance to setting long-term targets going beyond 2020, so that the internal market maintains its competitiveness. The proposal to set new

<sup>(1)</sup> COM(2011) 885 final.

post-2020 targets by 2014 is supported by the Committee, provided a rigorous and thorough impact assessment is carried out. The Committee recommends reviewing the targets by 2017, in the light of developments in technology, projected market trends and the need to combat GHG emissions. The companies concerned are rightly calling for a stable and timely regulatory framework, which needs to be combined with a real prospect of achieving very ambitious targets.

1.6 In line with previous opinions, the Committee recommends devising a model for calculating CO<sub>2</sub> that factors in all emissions deriving from car manufacturing. The carbon footprint should be taken into account with regard to the entire lifecycle of vehicles.

1.7 The Committee welcomes the Commission's proposal to assess by 2014 the utility parameter to be adopted. Indeed, for some time it has advocated opting for footprint over mass, so as to support the development of lighter, lower-consumption vehicles with a lower environmental impact.

1.8 The Committee calls on the Commission to give further consideration to the proposed linear function (i.e. the % slope), bearing in mind that opting for a 60 % slope entails a 4,6 g surplus of CO<sub>2</sub> for passenger cars. The nearer the percentage is to 100, the more this favours heavy vehicles.

1.9 For light commercial vehicles, the Commission has proposed setting the slope at 100 %, which lightens the burden to be borne by heavier-LCV manufacturers.

1.10 The Committee supports the policy put in place for the premium post-2020 – harmonisation at EUR 95 per gram of CO<sub>2</sub> for cars and LCV – and believes that these funds should be earmarked for activities to bolster the automotive industry.

1.11 The Committee deems it essential to maintain Europe's global leadership in the area of sustainable mobility; delayed action and timid introduction of new technologies could condemn the EU transport industry to irreversible decline within the rapidly developing global market.

1.12 The Committee recommends adopting a labelling system for the technical characteristics of the emissions of each individual vehicle model; this labelling should be comparable, clear and fully inclusive of all harmful emissions. The current system, which leaves labelling options to Member States' discretion, should be changed. A single Europe-wide labelling system is needed, possibly to be agreed with the other international partners. Currently, the same car can be labelled differently in terms of emissions depending on whether the Member State concerned adopts the 'relative

label' system, for example, rather than opting for the 'absolute label' system, which any sensible person would adopt, based on the absolute value of the emissions produced, rather than on a comparison with competitors in its segment.

1.13 For LCV, the Committee recommends for the future targets bringing phasing-in into line with the lead time for the sector (7-10 years as opposed to 5-7 for cars). The production characteristics of LCV are not conducive to such a rapid redesign, particularly with the market in acute crisis in certain countries.

## 2. The Commission's proposals

2.1 On 11 July 2012, the European Commission adopted two proposals amending Regulations (EC) No 443/2011 and (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from passenger cars and light commercial vehicles.

2.2 The Commission intends to meet the following targets by 2020:

- 147 g of CO<sub>2</sub>/km on average for new light commercial vehicles; and
- 95 g of CO<sub>2</sub>/km for new passenger cars.

2.3 To meet the target for new passenger cars by 2020, the Commission sets out the following modalities:

- the proposal retains as the utility parameter the vehicle's mass in running order;
- the limit value curve remains linear with a slope of 60 % compared to the baseline fleet which is kept as the 2006 fleet in line with the 2015 limit value curve;
- super-credits for cars emitting below 35 g CO<sub>2</sub>/km are introduced between 2020 and 2023 with a multiplier of 1,3 and limited to a cumulative figure of 20 000 vehicles per manufacturer over the duration of the scheme;
- the 'niche' derogation target is updated for 2020;
- manufacturers responsible for fewer than 500 registrations of new passenger cars per year are excluded from the obligation of having a CO<sub>2</sub> target;
- more flexibility is allowed in the timing of decisions granting small-volume derogations;

— eco-innovations are retained when a revised test procedure is implemented; and

— the Excess Emissions Premium is maintained at EUR 95 per g/km per vehicle.

2.4 To meet the target on light commercial vehicles by 2020, the Commission sets out the following modalities:

— the utility parameter continues to be vehicle's mass in running order;

— the limit value curve remains linear with a slope of 100 % compared to the baseline fleet;

— manufacturers responsible for fewer than 500 registrations of new light commercial vehicles per year are excluded from the obligation to meet their specific emissions target;

— more flexibility is allowed in the timing of decisions granting small-volume derogations;

— eco-innovations are retained when a revised test procedure is implemented; and

— the Excess Emissions Premium is maintained at EUR 95 per g/km per vehicle.

2.5 The targets set will cut average emissions from new cars to 95 grams of CO<sub>2</sub> per km in 2020 from 135,7 g in 2011 with a mandatory target of 130 g in 2015. Emissions from vans will be reduced to 147 g CO<sub>2</sub>/km in 2020 from 181,4 g in 2010 (the latest year for which figures are available) with a mandatory target of 175 g in 2017.

### 3. Introduction

3.1 Consistent with its previous opinions regarding legislative proposals on human activities that cause a rise in CO<sub>2</sub> emissions, the Committee endorses the goal of achieving increasingly stringent GHG emission reduction targets and believes that changing the behaviour of producers and consumers is fundamental to mitigating climate change. Accordingly, consideration should be given to every reasonable action that might bring about a tangible reduction in emissions from

cars and light commercial vehicles, which together account for around 15 % of the EU's total CO<sub>2</sub> emissions, including emissions from fuel supply.

3.1.1 The Committee believes that bolstering post-2020 EU legislation is essential to maintaining Europe's position as a global technology leader, largely due to its substantial investments in innovation, in combination with a demanding home market.

3.1.2 The Committee strongly supports the proposed changes to the legislative framework on reducing carbon dioxide emissions for new cars and light commercial vehicles post-2020, which set out clear targets in efficient legislation, offering a clear and stable direction for the investment that will further stimulate innovation by vehicle manufacturers and parts suppliers, further strengthening the competitive edge of this European industry.

3.1.3 The Committee believes that the introduction of modern and unified rules will improve market surveillance with a view to establishing healthy competition among EU manufacturers of more consumption- and emissions-efficient technologies.

3.1.4 The Committee notes that net savings for consumers are envisaged; the Commission's analysis shows that the 2020 targets are achievable and economically sound. The targets are cost-effective, the technology is readily available on the market, and its implementation should boost employment, benefiting consumers and industry.

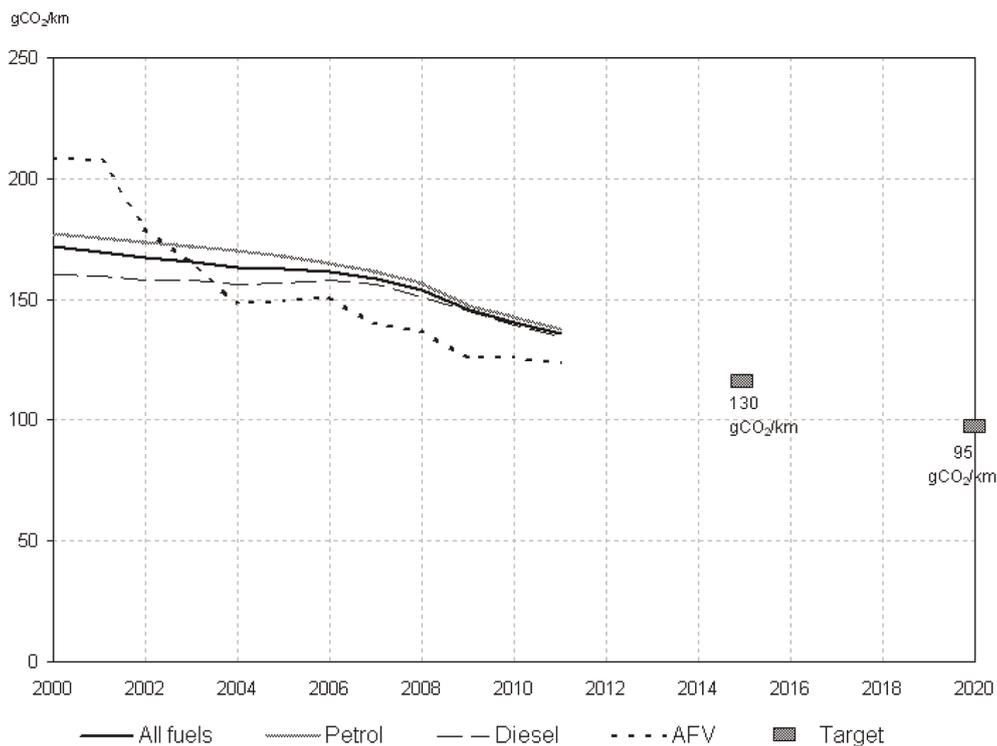
## 4. Comments

### 4.1 Passenger cars – COM(2012) 393 final

4.1.1 The Committee points out that passenger cars are responsible for around 12,5 % of the EU's total CO<sub>2</sub> emissions. As the quantity of CO<sub>2</sub> produced is directly proportional to the quantity of fuel consumed, low-carbon vehicles are more fuel-efficient and more economical to run over their lifetime.

4.1.2 The car market has been hard hit by the economic crisis over the past five years. New registrations in the first nine months of 2012 fell by 7,6 % and by 10,8 % in September, compared to the same period of 2011.

4.1.3 The Committee notes with satisfaction the progress of the policies implemented and the increase in consumer awareness revealed in recent studies by the European Environment Agency. New registered vehicles are tending to become increasingly emissions-efficient and, in 2012, have almost reached the interim target for 2015.

Evolution of CO<sub>2</sub> emissions from new passenger cars by fuel (EU-27) <sup>(2)</sup>

4.1.4 The Committee believes it is vital to look at the cost-benefit analysis for the net savings for consumers. Each new car will on average save its owner around EUR 340 in fuel costs in the first year, and an estimated total of EUR 2 904 – 3 836 over the car's lifetime (13 years), as compared with the 2015 target.

4.2 The Committee reiterates its proposal that footprint be adopted as the utility parameter instead of mass. This would have the following advantages:

- further reduction of emissions;
- reduction in the mass of vehicles;
- significant fuel savings;
- development of materials and research; and
- incentivising more modest purchases, giving priority to functionality and efficiency.

4.3 The Committee believes that the decision to keep the linear function at 60 % runs counter to the stated intention of further improving the vehicles' emissions profile. While this political compromise may safeguard a few European companies, it is detrimental to the public as a whole.

#### 4.4 Light commercial vehicles – COM(2012) 394 final

4.4.1 The Committee points out that light commercial vehicles (LCV) are responsible for around 1,5 % of the EU's total CO<sub>2</sub> emissions. As the quantity of CO<sub>2</sub> produced is directly proportional to the quantity of fuel consumed, low-carbon vehicles are more fuel-efficient and more economical to run over their lifetime.

<sup>(2)</sup> <http://www.eea.europa.eu/publications/monitoring-co2-emissions-from-new>

4.4.1.1 Diesel fuel for LCV represents about one third of the total cost of ownership, estimated at about EUR 2 400 euro per year.

4.4.1.2 LCV emissions increased by 26 % between 1990 and 2010.

4.4.2 The LCV market has been severely affected by the economic crisis of recent years, with new registrations suffering their worst fall in 2009 (-29,5 %); however, in contrast to the car sector, it has since seen an upward trend (+8,7 % in 2010 and 7,5 % in 2011). The first ten months of 2012 saw sales decline again by 10,6 %.

4.4.3 The Committee thinks that the proposal in question, which is modelled on the impact of the regulation for passenger cars, underestimates the differences between cars and LCV, such as:

- the longer development and production cycle than for passenger cars;
- the function of these vehicles, which are used for business activities in which engine efficiency and fuel consumption are often the most significant operating costs; it is no coincidence that 97 % of the LCV fleet run on diesel;
- the profile of buyers, over 90 % of which are SME craft businesses which are highly sensitive to any variation in cost.

4.4.4 The Committee believes it is vital to carry out cost-benefit analyses that take into account both the increase in costs resulting from bringing new cars and LCV into line with the new legislation and the net savings for consumers. Each new LCV will on average save its owner around EUR 400 in fuel costs in the first year, and an estimated total of EUR 3 363 – 4 564 over the LCV's lifetime (13 years), as compared with the 2017 interim target.

4.4.5 In the light of the foregoing, and while confirming the need to cut CO<sub>2</sub> emissions, the Committee is in favour of a new phasing-in for future targets in line with the lead time for the sector (7-10 years as opposed to 5-7 for cars).

#### 4.5 Information and standardisation

4.5.1 The Committee agrees with the Commission that end-users should receive reliable, clear and comparable information on the economic and environmental savings offered by vehicles on the market.

4.5.2 One instrument that has proven very effective is labelling. The Committee recommends that the Commission

explore the possibility of extending the obligation regarding labelling of emissions, calculated according to the life-cycle (LCA) principle. Information that is clear, exhaustive, accessible and, above all, readily understandable, would help consumers make more informed and conscious choices, triggering a virtuous circle of good practice.

4.5.3 The current Directive 1999/94/EC does not lay down precise requirements, but rather a 'minimum' of information in this regard, which is open to wide interpretation by the individual Member States. Indeed, some Member States have been using the "relative label", which provides ambiguous information benchmarked to the segment in which the particular car belongs, without giving precise details on the emissions of that particular vehicle. This system misleads the consumer, who, seeing a category 1 label, is led to believe that the car produces few emissions in absolute terms, whereas the data is relative only to its particular vehicle class. Thus a luxury car in segment F may emit 5 times as much as a small car and be labelled class A, while a small car can be, relative to its segment, class D. Along the lines of what was done, for example, with domestic appliances, the Commission should propose what any sensible person would want: an "absolute" label, e.g. class A for vehicles emitting less than 100 g/km, B for between 101 and 120, with precise details of the emissions from each and using the same colours throughout Europe.

4.5.4 The Committee approves the measures adopted to disseminate this consumer information.

4.5.5 The Committee supports all initiatives related to consumer education to be undertaken over time that will lead to prudent choices in relation to 'carbon-free' vehicles and the economic benefits deriving from the savings that will ultimately be achieved.

4.5.6 The Committee is pleased to note that operators are being called on to press ahead with their efforts in research and development, to ensure investment in new technologies for green vehicles, and points out that it will be essential to maintain the Commission's proposal to invest the EUR 80 billion provided for in the Horizon 2020 budget for the period 2014-2020.

#### 4.5.7 Energy

4.5.7.1 The Committee highlights the idea of developing a strategy that promotes green means of transport (cars and LCV), to combat carbon emissions.

4.5.7.2 The Committee favours the option of a gradual shift of the EU car fleet to zero emissions, leading to a change in energy vector, in order to achieve the long-term targets.

#### 4.5.8 Sustainable products

The Committee has repeatedly underlined the vital importance of sustainable development for the future of Europe. It thus endorses the Commission's guidelines on making products more sustainable and encouraging the widespread dissemination of eco-design for all products, and primarily those that use fossil resources.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-16’**

COM(2012) 286 final

(2013/C 44/20)

Rapporteur: **Béatrice OUI**N

On 19 June 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the TFEU, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*

COM(2012) 286 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 23 November 2012.

At its 485th. plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 104 votes, with none against and 1 abstention.

## 1. Conclusions and recommendations

1.1 The Committee welcomes the strategy towards the eradication of trafficking in human beings, to which it would like to contribute. Nevertheless, it emphasises that the term eradication seems unrealistic in view of the current scale of the phenomenon, the climate of relative tolerance surrounding it and the inadequate resources devoted to tackling it.

1.2 The Committee stresses that this strategy cannot be applied without active support from civil society, which has direct contact with the victims. Victim support associations need financial resources in order to carry out their work effectively.

1.3 The Committee proposes that a distinction be drawn between trafficking for sexual exploitation and the other forms of trafficking (forced labour and begging, fictive marriages, and organ trafficking), so that it is clear to all what needs to be addressed. It also proposes the introduction of a label for cities hostile to sexual exploitation of women and children.

1.4 Likewise, the Committee would like to see a differentiated approach adopted for children (United Nations Convention on the Rights of the Child).

1.5 The EU Member States should work quickly to ratify the ILO Convention concerning decent work for domestic workers and all the international conventions which address this issue.

1.6 The Committee urges that victims be given sufficient protection to enable them to reintegrate into the legal sphere of the society from which they were excluded (i.e. that they be afforded protection when they report an offence, together with access to housing, healthcare and other services, etc.). In order

to be sustainable, this integration should give victims the chance to find work in an inclusive labour market supported by public funding.

1.7 The fight against trafficking must be a cross-cutting policy, including a genuine social policy strand as well as anti-trafficking measures. Synergies must be created with other strategies, particularly on Roma integration and combating poverty, drug addiction and the sexual abuse of children, etc.

## 2. Introduction

2.1 Far from being confined to the history books, slavery still exists today, even in the most developed countries. The persistence - even expansion - of trafficking in human beings within the territory of the European Union is a cancer that undermines its democratic foundations. When individuals are sold by other individuals in states governed by the rule of law, whether it be for sexual or labour exploitation, forced begging or, more recently, for organ trafficking, fictive marriages and when the traffickers are able to make substantial profits from their activity, the very credibility of the principles of respect for human rights, which the European Union strives so hard to spread across the world, is affected.

2.2 Trafficking in human beings is prohibited in Article 5 of the EU Charter of Fundamental Rights. Once fully transposed by the Member States by 6 April 2013, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, which adopts a comprehensive, integrated approach that focuses on human rights and on the victims and is gender-specific, should lay the ground for a more effective response. Other legal instruments on the rights of victims, gender equality and sexual exploitation of children or providing for sanctions against employers who knowingly employ illegally resident third-country nationals, can allow for the pursuit of human traffickers.

2.3 However, a disparate collection of possibly overlapping legal instruments does not constitute a policy. Hence the need to adopt a strategy to establish priorities, bridge the gaps and ensure that the various texts are consistent. This is the objective of the strategy under consideration.

2.4 At the moment, there is a huge gulf between the principles that have been affirmed and the reality on the ground. In terms of principles, the European Union, the Member States and the public are strongly against trafficking in human beings, which is seen as a form of modern slavery. However, on the ground, all of us, whether ordinary members of the public, social workers, doctors, police officers or elected representatives, may come across the victims – young women from abroad soliciting on the streets of Europe's cities, children begging – or become involved, indirectly, in the exploitation of others by buying products that are so cheap that we know that forced labour is likely to have been involved at some stage of their production. The reality is that there is a vast collective tolerance and silence around human trafficking. Most people close their eyes, do not wish to see, do not feel that it is their concern, although everyone has a role to play.

2.5 In the text under consideration, the Commission is proposing an action strategy in order to be more effective. The Committee called for an approach of this kind in its opinion on the proposal for a Directive<sup>(1)</sup> and therefore supports the Commission's proposal.

2.6 If it is to succeed, this strategy needs to involve civil society as a key partner. In this field, civil society organisations have the best grasp of the issue, being well placed to help identify victims and work actively on prevention. The police, the justice system and the labour inspectorate all have a vital role to play, but if state services alone could eradicate trafficking in human beings, it would already have disappeared. The strategy will only be effective if civil society organisations are involved in its implementation. Organisations that provide assistance to victims need financial support.

2.7 The text sets out five priorities: identifying, protecting and assisting victims; stepping up the prevention of trafficking in human beings; increased prosecution of traffickers; enhanced coordination and cooperation among key actors and policy coherence; increased knowledge of and effective response to changing trends in trafficking in human beings, in particular the use of the internet by criminal networks.

### 3. The Committee's comments

3.1 The Committee has already expressed its views on issues related to trafficking in human beings in several of its opinions, including the opinions on the sexual exploitation of children<sup>(2)</sup>, the rights of victims<sup>(3)</sup> and the global approach to the issue of migration and mobility<sup>(4)</sup>.

#### *Identifying the victims*

3.2 In its Opinion of October 2010, the Committee called for protection for victims and recognition of their status as

victims. Recognition and the fact that the burden of proof falls on vulnerable people who do not speak the language, are closely watched by their exploiters, are afraid, unaware of their rights and do not know who to turn to, are the crux of the problem. The area where progress needs to be made is identifying victims, so that they can be listened to more carefully. A number of trade union organisations have conducted pilot training initiatives with a view to enabling workers who might come into contact with victims of forced labour to identify them and learn how to contact, support and protect them. Public authorities and associations should conduct the same kind of work with people likely to come into contact with the victims of trafficking for sexual exploitation (who represent around 80 % of the victims). The existing tools, training courses, guidelines and procedures manuals must be disseminated much more widely so that information can be provided about who to contact in cases where human trafficking is suspected and how to do so.

3.3 As things currently stand, victims who contact one support organisation are very often referred on to another that is considered more appropriate. This approach, which means that some victims are obliged to tell their stories to dozens of people before they receive proper support, needs to be turned on its head. We need to move towards a situation where every organisation feels that it has the capacity to listen to and help victims, which means giving them the information, training and tools to know what to say and what to do and ensuring that associations and social services work as a network.

3.4 Different victims also require specific approaches. This is particularly important in the case of children, where the overriding principle must be the interest of the child. The fight against forced begging by children must be incorporated into the European Roma integration strategy.

#### *Stepping up prevention*

3.5 The Committee welcomes the focus on the gender dimension. As things stand, 80 % of the victims of trafficking are women, most forced into prostitution against their will, and sexual exploitation represents 76 % of all trafficking in human beings. The persistence of this form of trafficking for sexual exploitation highlights the inequality between women and men. The fact that women, often very young women, are brought into the wealthiest cities in the European Union for prostitution, raises the question of what image their clients have both of these women and women in general, and undermines the steps being taken in other areas to establish equality between women and men.

3.6 Consequently, the Committee recommends that clear distinctions be drawn between the various types of trafficking in human beings - for sexual exploitation, forced labour and begging, and organ trafficking and that sexual exploitation of children also be addressed as a distinct issue. Sexual exploitation makes up the bulk of trafficking in human beings (80 %) and it is therefore important to name it. It is important to be clear about what needs to be combated. The traffickers may appear to belong to a nebulous, far away and unreachable group, but both clients and victims are people any of us might come across on the streets of Europe's cities.

<sup>(1)</sup> OJ C 51, 17.2.2011, pp. 50-54

<sup>(2)</sup> OJ C 48, 15.2.2011, pp. 138-144

<sup>(3)</sup> OJ C 43, 15.2.2012, pp. 39-46

<sup>(4)</sup> OJ C 191, 29.6.2012, pp. 134-141

3.7 First and foremost, stepping up prevention entails tackling demand. As long as there are clients, there will be traffickers. Reducing demand will involve educating people from all backgrounds about gender equality from a very young age, as well as increasing workplace gender balance. When workplaces are mixed, and men and women do the same jobs and are promoted to the same levels of responsibility, it becomes more difficult to maintain unreal fantasy images of women and to perceive them as sexual objects which can be bought. Sex education encompassing both the emotional aspects and human dignity is vital. If parents are silent on sexual matters, young people go looking for information on the internet and risk being exposed to negative images which may affect their future understanding of relationships between women and men.

3.8 The gender dimension is an important one, but it is also important to adopt differentiated approaches for children and adults. It must be emphasised that engaging in sexual relations with children is a serious crime. With the proliferation of pornographic websites showing explicit images of children, some adults appear to be forgetting or failing to comply with the law and, in the face of this, it is increasingly urgent to make more resources available to address this aspect. Children must also be educated about sexuality and taught about the respect that is due to them<sup>(5)</sup>.

3.9 Prevention also means countering the poverty that drives people to leave their homes and the people smugglers who take advantage of their situation. Attracted by the dream of obtaining access to western prosperity, illegal immigrants in vulnerable circumstances, with no papers, no money and no ability to communicate, and scared of being caught by the police, find themselves at the mercy of traffickers who reduce them to slavery, even though they came originally of their own accord and were not abducted by force.

3.10 The increase in forced labour is worrying. Attention also needs to be paid to abuses, with a clarification of the status of 'au pair' work and work conducted by pilgrims for some religious institutions, since the boundary between voluntary work and forced labour is sometimes blurred in this area.

#### *Prosecution of traffickers*

3.11 In its previous opinion, the Committee stressed the financial aspect of prosecutions and this is still relevant. The fact is that this is one of the most lucrative forms of crime. The estimated global annual profits made from the exploitation of all trafficked forced labour are USD 31,6 billion. Of this, USD 15,5 billion, or 49 %, are made from people trafficked and forced to work in industrialised countries<sup>(6)</sup>. Financial investigations at European level are a key part of the pursuit of

traffickers. The Committee calls for the profits generated through human trafficking to be confiscated and used to compensate the victims and combat trafficking.

3.12 Protecting victims and taking account of the gender dimension are other challenges that need to be taken up. Victims play a key role in enabling traffickers to be prosecuted successfully but in order for them to do so, they need to feel safe. Protection should also include access to housing, healthcare and personal safety. In order to be sustainable, this integration should give victims the chance to find work in an inclusive labour market supported by public funding so that they can acquire work experience and habits as a prerequisite for their rehabilitation and a successful transition into the open labour market. After having been forced to live on the margins, victims need to be helped to reintegrate legally into society.

3.13 Agreements need to be concluded with illegal immigrants' countries of origin to help them fight more effectively against people smugglers, who are not prosecuted for human trafficking despite the fact that they are responsible for providing criminal networks with potential victims.

#### *Enhanced coordination and cooperation among key actors and policy coherence*

3.14 The Committee welcomes the establishment of a European Business Coalition against trafficking in human beings. Commitment from businesses is vital to combat forced labour, not only in third countries but also within the European Union. This coalition should be extended to small enterprises sub-contracting for the major conglomerates in branches such as catering, construction and agriculture, where the black economy plays a large role. Combating human trafficking – including illegal or forced labour in third countries and in all subcontractors at all stages of the production chain – is a crucial aspect of corporate social responsibility. Given that processes are now globalised, multi-national companies have a key role to play in verifying how all the products they use are manufactured.

3.15 Similarly, trade agreements must include explicit clauses prohibiting the circulation of goods and services produced using forced labour.

3.16 We know that slavery is still happening in the service sector, particularly in the area of domestic service. The ILO adopted an instrument for combating these abuses in June 2011 in the form of Convention 189 concerning decent work for domestic workers<sup>(7)</sup>. The EESC recommends that

<sup>(5)</sup> OJ C 24, 28.1.2012, pp. 154–158.

<sup>(6)</sup> Patrick Belser, 'Forced Labour and Human Trafficking: Estimating the Profits', working document, Geneva, International Labour Office, 2005).

<sup>(7)</sup> As yet, no European State has ratified this ILO convention (which has been ratified by two countries, Uruguay and the Philippines).

this convention be ratified rapidly by the 27 Member States, together with all the international instruments that address trafficking in human beings <sup>(8)</sup>.

3.17 The Committee supports the establishment of a Civil Society Platform, allowing information and training on the human trafficking dimension to be provided in all the associations potentially concerned by this issue and possessing the necessary expertise.

3.18 National rapporteurs and better data collection are essential. Data collection must be unified to ensure that all Member States proceed in the same way. National rapporteurs will have primary responsibility for the fight against human trafficking and will therefore be able to coordinate the action of the various departments and associations, including immigration, child protection and youth services, and associations combating violence against women, which are involved in this issue but do not always work together. With traffickers operating across borders, Europol has an important role to play.

3.19 Coordinating the EU's external action and speaking explicitly about the trafficking of human beings in free trade agreements will draw attention to this all too often hidden or underestimated phenomenon.

3.20 In view of their close connection with what is happening on the ground, local authorities, especially those in the major cities, are particularly well placed to combat illegal sexual exploitation of the victims of trafficking. The Committee recommends the creation, by an independent authority, of a label identifying the cities most hostile to human trafficking and most actively opposed to prostitution or forced begging. There are labels for air and water quality, is the human environment not equally important?

3.21 Other measures that need to be taken are assessing the efficacy of EU funding, developing effective procedures and producing, disseminating and translating good practice guides tailored to the various players, including the police, the justice system, local authorities and associations.

#### *Responding to changing trends*

3.22 The recruitment of victims and clients via the internet is a new risk, which needs to be analysed and countered by using the internet and social networks to disseminate a discourse stressing responsibility and respect for human dignity. It would be a shame to focus only on the, albeit real, dangers of the internet when this new tool can also be used to disseminate positive messages and serve as a means of prevention.

Brussels, 13 December 2012.

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

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<sup>(8)</sup> Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime, United Nations Treaty Series, Vol. 2237, p. 319; Council of Europe Convention on Action against Trafficking in Human Beings (CETS No 197), Warsaw, 16.5.2005; United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), New York, 18 December 1979, United Nations Treaty Series, Vol. 1249, p. 13; United Nations Convention on the Rights of the Child, 20 November 1989, United Nations Treaty Series, Vol. 1577, p. 3; ILO Forced Labour Convention, 1930 (No 29); ILO Abolition of Forced Labour Convention, 1957 (No 105); ILO Worst Forms of Child Labour Convention, 1999 (No 182).

**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council on the European Innovation Partnership “Agricultural Productivity and Sustainability”’**

COM(2012) 79 final

(2013/C 44/21)

Rapporteur: **Mr Franco CHIRIACO**

On 29 February 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament and the Council on the European Innovation Partnership ‘Agricultural Productivity and Sustainability’*

COM(2012) 79 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 22 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 125 votes, with 2 abstentions.

## 1. Conclusions and Recommendations

1.1 The EESC believes that the European Union must continue to ensure an adequate level of public action to promote innovation in agriculture. In this regard, the EESC considers that better coordination needs to be ensured between strictly research policies and agricultural policies to promote innovation, with particular reference to those funded by the CAP. Furthermore, the EESC believes that the discussion on the EIP ‘Agricultural productivity and sustainability’ could be an opportunity to contribute to the process of reforming the common agricultural policy after 2013 as well.

1.2 The EESC calls for the strategy of the EIP ‘Agricultural productivity and sustainability’ to pay sufficient attention to the objective of strengthening and consolidating the European industrial processing sector. Only through adequate integration of the various links in the agri-food chain will it be possible to ensure that an increase in European agricultural supply goes hand in hand with adequate promotion and secure access to the market for European primary products.

1.3 The EESC believes that reflection is needed on the indicator proposed by the Commission for evaluating the results of EIP actions in terms of sustainability. While recognising the decisive contribution that satisfactory soil functionality can make to sustainability, the EESC believes that other results indicators should not be overlooked which make it possible to assess the potential contribution of certain agricultural practices, in particular to the conservation of natural resources.

1.4 The EESC believes that the EIP ‘Agricultural productivity and sustainability’ should not neglect to support the implementation of organisational innovations able to optimise relations

between links in national and European agri-food chains. Adequate profitability for agricultural operators, improving the operation of agri-food supply chains, restoring the market power of agricultural operators and bringing about a fairer distribution of value amongst the links in agri-food chains are crucial objectives, including for preventing the loss of agricultural activities in many European rural areas.

1.5 The EESC calls on the Commission to guarantee sufficient participation and involvement of representatives of agricultural economic, social and institutional partners in the governance of the EIP, with a view to ensuring that the activities carried out are as effective and efficient as possible.

1.6 The EESC believes that the EIP approach will only have positive effects if operational groups are genuinely capable of launching development processes with measurable objectives, rather than new partnerships simply aimed at seeking public funding. The EESC also agrees with the Commission’s proposal to ensure proper coordination of the various operational groups of the EIP ‘Agricultural productivity and sustainability’ through the creation of a network of EIPs under the umbrella of the European rural development network.

1.7 The EESC believes that the EIP ‘Agricultural productivity and sustainability’ makes an important contribution to innovation in agriculture by creating a network of operators and connecting the places where innovation is created with the places where it is used. This approach should allow for intermediaries to connect the various stakeholders involved in innovation processes. The EESC believes that the impact of the EIP

'Agricultural productivity and sustainability' depends on the active involvement of innovation brokers capable of creating and consolidating innovation cooperation links between the many diverse actors.

1.8 The EESC considers it a priority to integrate initiatives of the operational groups of EIPs with actions in the field of demographic renewal, technical assistance, training, particularly for young farmers, support for structural investments, the promotion and development of agricultural products, the creation of new market outlets (such as short supply chains) and the diversification of company income through priority access to the resources of rural development programmes.

1.9 The EESC calls for the implementation of specific measures to ensure coordination and synergy between the EIP 'Agricultural productivity and sustainability' and the other EIPs for 'raw materials' and 'water'.

## 2. European Innovation Partnerships (EIP)

2.1 In its communication on *Europe 2020 Flagship Initiative Innovation Union*, the European Commission introduces European innovation partnerships (EIP) <sup>(1)</sup>. The Commission believes that EIPs should help to resolve various problems of great importance to society, including the provision of healthy and high-quality foods through sustainable production methods.

2.2 The European Commission has so far promoted an initial pilot partnership on active and healthy ageing <sup>(2)</sup>. In parallel, the following three partnerships have been proposed:

— Raw materials <sup>(3)</sup>;

— Agricultural productivity and sustainability <sup>(4)</sup>;

— Water <sup>(5)</sup>.

2.1 The EESC has already expressed its interest in the European partnership. However, it has pointed out the many general procedures and measures already implemented in this area. The EESC has pointed to the need to take account of these initiatives and build on them. The EESC believes that the work already carried out by the Commission and other stakeholders should be acknowledged, consolidated and used in the development of new initiatives. The EESC has recommended that the

<sup>(1)</sup> COM(2010) 546 final *Europe 2020 Flagship Initiative Innovation Union*.

<sup>(2)</sup> COM(2012) 83 final *Taking forward the Strategic Implementation Plan of the European Innovation Partnership on Active and Healthy Ageing*.

<sup>(3)</sup> COM(2012) 82 final *Making raw materials available for Europe's future well-being - proposal for a European innovation partnership on raw materials*.

<sup>(4)</sup> COM(2012) 79 *European innovation partnership 'Agricultural productivity and sustainability'*.

<sup>(5)</sup> COM(2012) 216 final *European innovation partnership on water*.

proposed new measures and instruments be harmonised to make them compatible with processes already in place, that additional complications and duplications should be avoided, and that the necessary continuity, legal certainty and stability should be ensured <sup>(6)</sup>. The EESC has also called for respect for the voluntary principle, variable geometry, transparency and a clear form of governance which is easy to administer to be ensured in the implementation of European innovation partnerships <sup>(7)</sup>.

## 3. Gist of the communication

3.1 Under the 'Innovation Union' initiative, the European Commission has presented a communication to promote a new European innovation partnership on 'Agricultural productivity and sustainability'.

3.2 The European Commission sets two objectives for the EIP 'Agricultural productivity and sustainability':

— **promoting the productivity and efficiency** of the agricultural sector, reversing the recent trend of diminishing productivity gains by 2020;

— **ensuring the sustainability of agriculture**, securing a satisfactory level of soil functionality by 2020.

To this end, the EIP is intended to help build effective links between cutting-edge research and technology and stakeholders, including farmers, businesses, industry, advisory services and NGOs.

## 4. General comments

4.1 The EESC supports the Commission's initiative to introduce European innovation partnerships (EIP). In particular, the EESC agrees with the Commission that a specific EIP initiative should be reserved for agricultural productivity and sustainability. The EESC believes that this initiative could also be a useful opportunity to encourage reflection amongst agri-food stakeholders with a view to identifying priority strategic objectives for the development of European agriculture between now and 2050. In this regard, the EESC urges the Commission to take account of some of the proposals contained in certain of its previous opinions <sup>(8)</sup>.

<sup>(6)</sup> EESC Opinion on the *Innovation Union* (OJ C 132, 3.5.2011, p. 39, point 3.5).

<sup>(7)</sup> EESC Opinion on the *Innovation Union* (OJ C 132, 3.5.2011, p. 39, point 4.4).

<sup>(8)</sup> EESC Opinion on *The future of Europe's young farmers* (OJ C 376, 22.12.2011 p. 19-24, point 3.5), EESC Opinion on *The role of women in agriculture and rural areas* (OJ C 299, 4.10.2012, p. 29-33).

4.2 The EESC considers that one of the main challenges for the future of agriculture is finding a production model which can reconcile agricultural production with respect for the environment and sustainability. Achieving this objective is complicated by several factors which have contributed to the recent world agri-food situation. Fluctuations in prices of agricultural commodities, the financialisation of the agricultural sector, the increasing use of agricultural products for energy and the impact of the global economic crisis are serious obstacles to the development of new, more productive and sustainable agricultural practices. Given the importance of research and innovation, the EESC believes that the EIP 'Agricultural productivity and sustainability' can contribute significantly to tackling this challenge, which is critical for the future of European agriculture.

4.3 The EESC points out that the competitiveness of the entire European agri-food system depends on the contribution of the industrial processing and food marketing sectors. In this respect, the EESC calls on the Commission not to underestimate the contribution made by imports of agricultural raw materials to the economic results of European agri-food chains. The strategy of the EIP 'Agricultural productivity and sustainability' must therefore pay sufficient attention to the objective of strengthening and consolidating the European industrial processing sector. Only through adequate integration of the various links in the agri-food chain will it be possible to ensure that an increase in European agricultural supply goes hand in hand with adequate promotion and secure access to the market for European primary products.

4.4 The EESC notes that the Commission's communication does not give a definition of agricultural productivity. Reflection on the concept of agricultural productivity should be based on an agreed definition of agricultural output. In various opinions<sup>(9)</sup>, the EESC has stressed the importance of preserving the European agricultural model (EAM), pointing out that the population of the EU is concerned about the various roles of agriculture (food and fibre production, protection of the environment and rural development, its contribution to quality of life in rural areas, balanced territorial development, food quality and animal welfare). The EESC believes that any effort to promote or improve agricultural productivity should focus on the aim of fostering the multifunctional nature of agriculture, promoting the sector's balanced development without neglecting any of the EAM's outputs.

4.5 The EESC considers that the concept of agricultural productivity should take account of various factors' contribution to production. Many analyses of agricultural productivity tend

only to measure the contribution of technical factors (soil, water, fertilisers, plant protection products, seeds), failing to stress the fundamental contribution of the human factor to high-quality production. The EESC believes, therefore, that a strategy to promote and evaluate agricultural productivity cannot be drawn up unless appropriate measures (training, safety) are taken to improve the quality of agricultural employment.

4.6 In the implementation of the EIP 'Agricultural productivity and sustainability', the EESC believes that reflection is needed on the concept of sustainability in order to factor in the special characteristics of the EMA and the trends and challenges of the global situation. With regard to the relationship between agriculture and sustainability, the EESC would like first of all to stress the contribution of multifunctionality to achieving this objective. The EESC would point out that multifunctionality is a specific inherent characteristic of agriculture and that it should therefore be protected and fostered also within the context of promoting sustainable development.

4.7 The EESC notes the considerable progress made in the European agriculture sector in terms of the three aspects of sustainable development (economic, social and environmental). The Committee points out, however, that sustainable development cannot be guaranteed unless sufficient attention is paid to the institutional dimension of sustainability. The Committee therefore stresses the need for EIP 'Agricultural productivity and sustainability' actions to ensure a sufficient degree of participation and involvement of all stakeholders in the agriculture sector in order to maximise the EMA's contribution to achieving the objective of sustainable development.

4.8 The EESC welcomes the fact that the Commission identifies agricultural sustainability as one of the priority objectives of the EIP. However, the EESC believes that reflection is needed on the indicator proposed by the Commission for evaluating the results of EIP actions in terms of sustainability. While recognising the decisive contribution that satisfactory soil functionality can make to sustainability, the EESC believes that other results indicators should not be overlooked which make it possible to assess the potential contribution of certain agricultural practices, in particular to the conservation of natural resources.

4.9 The EESC also believes that further consideration should be given to the concept of innovation in agriculture, taking account of the specific characteristics of the EMA. From the 1960s to the 1980s, and due to innovations introduced as a result of the green revolution, there was a considerable increase in agricultural production. However, this improvement in productivity took place at the expense of agriculture's environmental sustainability, with the increasingly widespread use of chemical products (fertilisers, herbicides and pesticides) and of fuel for mechanised farming. Although the EESC believes

<sup>(9)</sup> EESC Opinion on the Reform of the CAP in 2013 (OJ C 354, 28.12.2010, p. 35-42),  
EESC Opinion on The CAP towards 2020 (OJ C 191, 29.6.2012, p. 116-129),  
EESC Opinion on the Future of the CAP (OJ C 132, 3.5.2011, p. 63-70).

strongly that food security is a fundamental human right, it does not consider the green revolution to be the right model for tackling this vital global challenge in the future. To this end, innovative processes in agriculture should be geared towards an organic development strategy for the sector which promotes the multifunctional nature of agriculture, focusing on the efficient use of all production factors (soil, water, manpower, energy) and fostering quality products.

4.10 The EESC is a strong believer in the importance of promoting and defending the EMA. The multifunctional nature of agriculture should be acknowledged, stressing the contribution it can make to ensuring sustainable development. Given this extension of agriculture's roles and tasks, the innovative strategies aimed at the sector need to be reconsidered. The EESC believes that the scope and areas of action should be redefined, in view of the increasing interaction between agriculture and other production sectors. To this end, innovative intervention strategies must be less and less sectoral and more and more geared towards activities which fall within what is known as the bio-economy.

4.11 The EESC calls upon the Commission to include all forms of innovation with the potential to be implemented within the agriculture sector. In this respect, while not underestimating the importance of ensuring adequate support for the creation and dissemination of process innovation in agriculture, the EESC believes that greater attention should be paid to innovations applicable during marketing stages, to those relating to piloting new forms of business organisation and to those aimed at optimising relations between links in national and European agri-food chains.

4.12 With regard to product innovations, the EESC notes the increasing interest shown by private individuals in the development, dissemination and marketing of 'functional foods'. The EESC, while acknowledging the economic and health importance of these new types of product, points to the need to support production innovation processes which, as well as including private initiatives, take greater account of the need to offer the entire community substantial benefits.

4.13 The EESC believes that the Commission has set very ambitious objectives for the EIP 'Agricultural productivity and sustainability'. In order for the initiative to be the greatest possible success, the EESC considers that maximum synergy must be ensured between the EIP 'Agricultural productivity and sustainability' and the different EU policies (business; climate action; intersectoral policies; economy, finance and tax; employment and social rights; energy and natural resources; environment, consumers and health; external relations and

foreign affairs; regional policy and local development; science and technology). In this regard, particular attention should be paid to ensuring consistency between the EIP initiative and the content and instruments of the common agricultural policy.

4.14 The EESC considers it important to stress the implications of the EU's commercial policies in terms of the productivity of the agricultural sectors. In the case of protein crops, for example, the EU's decision to reduce support has led to a loss of competitiveness amongst European operators in this sector. This case demonstrates that improving the productivity of certain agricultural sectors does not depend exclusively on increasing the resources transferred to the sector but can also be achieved through effective commercial measures. In this regard, it should be noted that, with a view to guaranteeing the profitability of farms, for every policy aimed at increasing agricultural productivity there should be corresponding actions to ensure the necessary access to the market for the increased quantities of agricultural products.

4.15 The EESC would note that the world as a whole and individual countries have benefited enormously from the growth in agricultural productivity. Much of this benefit can be attributed to technological progress resulting from public investments in research and development in the agricultural sector. The empirical evidence available suggests, however, that the benefits have been much greater than the costs. The EESC believes that the European Union must continue to ensure an adequate level of public action to promote innovation in agriculture. In this regard, the EESC considers that better coordination needs to be ensured between strictly research policies and agricultural policies to promote innovation, with particular reference to those funded by the CAP. The contribution that both decoupled direct payments under the first pillar and structural rural development measures can make to the dissemination of technical progress should be improved.

4.16 The EESC points out that the discussion on the EIP 'Agricultural productivity and sustainability' is taking place in parallel with the discussion on the European Union's new Multi-annual Financial Framework. The amount of resources the EU intends to allocate to its different policies is not yet certain. The EESC considers it important for the EU to provide sufficient support for European-level research and innovation programmes, in line with the objectives of the Europe 2020 strategy. With regard to the agriculture sector, the EESC calls at least for the EUR 5.1 billion expressly set aside for research and innovation in agriculture under the proposed MFF 2014-2020 to be guaranteed.

## 5. Specific comments

5.1 The EESC welcomes the European Commission's efforts to introduce a new form of governance for the implementation of innovation processes, but would like clarifications regarding the criteria to be used to select the members of the steering board which will oversee the drawing up of the EIP's multi-annual strategic work plan.

5.2 The EESC considers it important to ensure the greatest possible synergy between the EIP 'Agricultural productivity and sustainability' and other previous Commission initiatives to promote innovation in the sector (standing committee on agricultural research, ERA-NET and European technology platforms). The EESC has previously<sup>(10)</sup> pointed out the added value and benefits of joint programming in the agricultural research sector in terms of impact on European competitiveness. The EESC would also like clarifications regarding the measures to be taken to ensure coordination and synergy between the EIP 'Agricultural productivity and sustainability' and the other EIPs for 'raw materials' and 'water'.

5.3 The EESC considers the framework presented by the Commission for the EIP 'Agricultural productivity and sustainability' to be very ambitious. The EESC sees the bottom-up approach proposed for the functioning of the operational groups as a positive innovation. In parallel, the EESC proposes a reflection on the potential governance problems which could arise in the implementation of the new EIP strategy. The EESC believes that the EIP approach will only have positive effects if operational groups are genuinely capable of launching development processes with measurable objectives, rather than new partnerships simply aimed at seeking public funding.

5.4 The EESC considers that the implementation of the EIP approach must not create further difficulties and complications for bodies potentially involved in operational groups. The EESC would stress in particular that the implementation of the EIP initiative could create administrative costs for managing authorities and paying agencies involved in selection, payment, monitoring and control activities relating to the implementation of the EIP approach. The EESC believes that this situation risks undermining the added value of the EIP initiative, including in terms of the relationship between cost and benefit.

5.5 The EESC welcomes the fact that, in the implementation of the EIP 'Agricultural productivity and sustainability', the Commission is adopting the systemic approach proposed by the World Bank through the Agricultural Innovation System – AIS, aimed at creating a network of organisations, companies

and individuals to bring onto the market new products, new processes and new forms of organisation, in collaboration with the institutions and in line with policies which have an impact on the way in which different agents interact, share, access, exchange and use knowledge. This approach highlights the importance of intermediaries to connect the various stakeholders involved in innovation processes. The EESC believes that the impact of the EIP 'Agricultural productivity and sustainability' therefore depends on the active involvement of innovation brokers capable of creating and consolidating innovation cooperation links between the many diverse actors.

5.6 The EESC agrees with the Commission's proposal to ensure adequate coordination of the various operational groups of the EIP 'Agricultural productivity and sustainability' through the creation of a network of EIPs under the umbrella of the European rural development network. The EESC would like further clarification regarding the operational provisions the Commission intends to implement in order to enable the European rural development network to carry out this new task, particularly in relation to actions aimed at the training of staff with suitable skills and qualifications.

5.7 Given the new global challenges (the liberalisation of markets, the growing population and the scarcity of natural resources), more attention needs to be paid to the issue of innovation in agriculture. The evidence available suggests that there are problems relating to the speed of innovation, which is slower than hoped, and to the prevalence of traditional types of innovation, such as mechanical and varietal innovations, over those concerning new markets, direct processing, new techniques for cultivation and certifications. The EESC believes that the EIP 'Agricultural productivity and sustainability' makes an important contribution to innovation in agriculture by creating a network of operators and connecting the places where innovation is created with the places where it is used.

5.8 The EESC notes that propensity for innovation in agriculture also depends upon the individual characteristics of entrepreneurs and their families, the structural nature of the enterprise and the market conditions and general cultural and institutional situation in which the enterprise operates. The EESC therefore considers it a priority to integrate initiatives of the operational groups of EIPs with actions in the field of demographic renewal, technical assistance, training, particularly for young people, support for structural investments, the promotion and development of agricultural products, the creation of new market outlets (such as short supply chains) and the diversification of company income through priority access to the resources of rural development programmes.

<sup>(10)</sup> EESC Opinion on *the Agricultural research* (OJ C 128, 18.5.2010, p. 107, point 1.3).

5.9 The EESC points out that, under 2007-2013 rural development programming, a new measure was introduced to promote initiatives on 'cooperation for development of new products, processes and technologies in the agriculture and food sector and in the forestry sector' <sup>(1)</sup>. The EESC believes that coordination and synergy should be ensured between the measures of the EIP 'Agricultural productivity and sustainability'

and initiatives already taken in relation to rural development. To this end, the results of mid-term evaluations of RDPs should be used to analyse the weaknesses and strengths found thus far in the implementation of cooperation projects, so that they can be taken into account in the operational planning of measures under the EIP 'Agricultural productivity and sustainability'.

Brussels, 12 December 2012.

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

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<sup>(1)</sup> Article 29, Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

**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 these stocks’**

COM(2012) 498 final

(2013/C 44/22)

Rapporteur working without a study group: **Mr Brendan BURNS**

On 1 October 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 these stocks*

COM(2012) 498 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 22 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 131 votes to 1 with 2 abstentions.

## 1. Conclusion

1.1 The EESC welcomes this proposal. A small number of, nevertheless important, concerns remain outstanding. The immediate priority is to see the early adoption of the new regulation.

TAC (measured as landings) and, most importantly in the current plan, automatic year-on-year reductions in effort. Using again the example above, the effects across the Scottish fleet of the measures aimed at cod recovery have been profound. In particular, the auto-reduction of effort under the terms of the plan has been very damaging economically while not returning the predicted benefit to the stock.

## 2. Introduction

2.1 The review of the Long Term Plan for Cod <sup>(1)</sup> is a fundamentally important issue not just for the wellbeing of the subject stocks, but also because it is the source of effort control (days at sea) for several fleets. It includes annual automatic reductions, under certain biological conditions, of both effort and total allowable catch (TAC). These reductions occur whether or not the stock is improving, coming into play if the improvement is not strictly in accordance with the conditions laid down in the plan. The reductions in effort have been extremely severe: using the Scottish whitefish fleet as an example, available days at sea per vessel is set to fall by 2014 to 50 % of the level in 2011. Whereas effort reductions are aimed at commensurate reduction in cod mortality, the halving of time at sea means a halving of all fishing activity.

3.2 In accordance with its own Article 34, the current plan should have been reviewed ‘at the latest in the third year of application’. The review underway is therefore late. After some confusing messages from the Commissioner at the end of 2012, it is now the declared intention of the Commission to propose a multi-species, multi-annual plan to replace the Cod Plan. This will clearly take some time, especially since the underpinning science is not yet available. However, there is a solid consensus now in the fishing Member States that further auto-reductions of effort are not acceptable.

## 3. Background

3.1 An initial Cod Recovery Plan came into force in early 2004 <sup>(2)</sup>, followed at the start of 2009 by the current Long Term Plan for Cod. Aimed at reduced fishing mortality, the management instruments in the plans have been reductions in

3.3 Since there will be no full-scale plan revision in the near future, the Commission have made the subject proposal for a short-term change. A complication in this process is the necessity to align as quickly as possible the current plan to the TFEU, because the Council no longer has the legal power to alone enact processes within the plan. This will produce legal difficulties in the path of any immediate action by the Council by the end of 2012 to mitigate the effects of excessive effort reduction.

<sup>(1)</sup> Council Regulation (EC) No 1342/2008, OJ L 348, 24.12.2008, p. 20–33.

<sup>(2)</sup> Council Regulation (EC) No 423/2004, OJ L 70, 9.3.2004, p. 8–11.

#### 4. Scientific factors

4.1 The Cod Plan was considered formally by the ICES (International Council for the Exploration of the Sea) and the STECF (Scientific, Technical and Economic Committee for Fisheries) in 2011. Both the NS (North Sea) and NWW (North Western Waters) RACs contributed to that process and the following headlines are agreed by the scientific bodies and the RACs:

- The Cod Plan is not delivering its primary objective of reduced Fishing Mortality (F) on cod.
  
- The STECF agrees with the industry view that F should not be expected to follow trends in effort in a linear fashion.
  
- A full analytical assessment is available only for the North Sea. For the West of Scotland there is an assessment, but it is only indicative of trends. In the North Sea, F has indeed declined and the stock Spawning Biomass (B) increased, but not at the rate demanded in the plan. It should be noted that the 2004 Cod Recovery Plan has a target F that is now being achieved, and that it anticipated a 10 year recovery period.
  
- For the West of Scotland, despite a most significant decline in effort levels, total F remains high. It is concluded that other factors are involved including an underestimation of predation.
  
- Noting that all formal stock assessment has a time lag due to its own process, and that the judgement of fishermen involved generally precedes accurately the output, cod recovery is assessed in reality to be at a much more advanced stage than advice suggests.

#### 5. General comments

5.1 In general, the proposal is welcomed. The amendments to the current plan should, if properly implemented, open the way to achievement of the objectives and avoidance of further economic damage for no biological benefit.

#### 6. Specific comments

##### 6.1 Base lines and uptake

6.1.1 Changes to Article 4 are aimed at closing the unintended possibility for Member States to deploy higher levels of effort than the plan was meant to allow simply by changing the methods used for the calculation of effort when establishing the baselines and when calculating usage.

6.1.2 The EESC, without conceding its view that effort control has proven to be a blunt and largely ineffectual instrument, sees reasonable and logical to require Member States to calculate effort usage on a consistent basis to that used to establish effort baselines.

##### 6.2 Data deficient stocks

6.2.1 In Article 9 (a procedure for TAC setting in the absence of the necessary information to apply Article 7 or 8), instead of automatic reductions of 25 % it is proposed to take a case-by-case (and therefore a more flexible) approach though remaining firmly based on available scientific advice.

6.2.2 The scope for the Council to apply reductions in effort and TACs less than the automatic 25 % for stocks required under the current plan, in cases where analytical assessments are not available, is a wise and proportionate proposal, which will allow the Council to apply a case-by-case approach in light of the most comprehensive scientific advice available.

##### 6.3 Exemptions for vessels catching negligible amounts of cod

6.3.1 The former Article 11 is split into Article 11, Article 11a and 11b. Instead of exempting groups of vessels specified by each Member State, exemptions are now based on criteria that would be generally applicable for any vessels that meet them, regardless of the Member State to which they belong. The amended Article also avoids the need for constant adjustments of the baseline by the Council.

6.3.2 The administrative hurdles required to obtain exemptions for vessels catching negligible amounts of cod have been disproportionate and have undermined the intention of this provision. The EESC therefore welcomes this streamlining of the arrangements for granting exemptions.

6.3.3 Some clarification is required on how the new exemptions would work in relation to the potential overlap between gear selectivity, spatial distribution of catches and depth. For example, some gears operating in high cod-density areas catch very low amounts of cod; equally, some gears operating in relatively low cod-density areas can catch substantial amounts of cod.

6.3.4 The RACs should be involved in determining the criteria used to define cod dense areas and how the new approach would be applied in practice.

6.3.5 Transitional measures will ensure that vessels groups already excluded will be subject to the criteria in force at the time of exclusion.

6.3.6 It makes sense to maintain continuity where groups of vessels have already met existing exemption criteria.

#### 6.4 Fully Documented Fisheries (FDF) effort exemption

6.4.1 A new Article 11c is introduced. Vessels involved in the fully documented fishery trials, where all catches are counted against quota, are exempted from the fishing effort regime.

6.4.2 The exemption of those vessels which can provide fully documented catches from the effort regime is wholly logical, as their contribution to cod mortality is fully recorded and within the authorised quota. There is therefore no rationale behind their continued inclusion. However, the EESC fails to understand the reasoning behind the prohibition on transfers of quota to and from these vessels. The most salient point is that it can be demonstrated that, since the introduction of FDF, trial discards have been substantially reduced in the North Sea. At worst, the EESC considers that this poorly thought through measure would prevent vessels from joining catch quota trials and would therefore be entirely counterproductive. The EESC thinks that further information from the Member States and discussion is required to clarify the position but in general quota management is a Member State area of competence and should remain so.

#### 6.5 Flexibility in setting TACs and effort levels

6.5.1 In Article 12(4), the changes are made on the same grounds as for Article 9.

6.5.2 A new paragraph 6 is introduced in Article 12. This paragraph foresees the possibility for the Council to decide not to apply further fishing effort reductions, once the fishing-effort ceiling has been reduced for four consecutive years.

6.5.3 The permissive authority to allow the Council to freeze the effort reductions required under the plan is vital to avoid serious and irreversible socioeconomic damage to fishing businesses and fishing communities. Member States and the RACs

as well as the STECF have drawn attention to the blunt, disproportionate of this approach and the frequently counterproductive consequences that have resulted. The most salient consequence of this new flexibility will be an anticipated reduction in discards.

#### 6.6 Catch composition management period

6.6.1 In Article 13, a rewording is made in order to remove differences in interpretation between language versions. It is now made clear that the condition that cod catch are less than 5 % of the total refers to the catch composition over the management period, not per trip.

6.6.2 Against the background of the ongoing CFP reform and a possible obligation to land all catches, the proposed changes that would have the effect of reducing discards of mature cod are welcome. The flexibility to meet the 5 % catch composition requirements across the whole management period should help in this regard.

#### 6.7 Discard reduction

6.7.1 In Article 14, the Member State obligation to address the discard issue is strengthened since it is not the case under the current ruling, and the level of control and monitoring is specified according to risk based management.

6.7.2 The EESC is strongly of the view that the future of rebuilding cod stocks lies in various kinds of cod avoidance by fishing vessels and in aligning economic incentives in the industry with management objectives. To a large extent, cod avoidance initiatives overlap with discard reduction. Within the context of the imbalance between TACs for North Sea cod and the actual abundance of the grounds, cod avoidance through real time closures, catch quotas, selective gears, seasonal and temporal avoidance have been the main means through which catching pressure on cod has been reduced. Monitoring and a risk-based approach will doubtless reflect this pattern.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Roadworthiness Package containing the following three documents: Proposal for a Regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC’**

COM(2012) 380 *final* — 2012/0184 (COD),

**‘Proposal for a Directive of the European Parliament and of the Council amending Council Directive 1999/37/EC on the registration documents for vehicles’**

COM(2012) 381 *final* — 2012/0185 (COD)

**and the ‘Proposal for a Regulation of the European Parliament and of the Council on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC’**

COM(2012) 382 *final* — 2012/0186 (COD)

(2013/C 44/23)

Rapporteur: **Mr RANOCCHIARI**

On 7 and 10 September 2012 and 8 October, the Council, and on 11 September, the European Parliament, decided to consult the European Economic and Social Committee, under Articles 91 and 304 of the Treaty on the Functioning of the European Union (TFEU), on the

*Roadworthiness package containing the following three documents: Proposal for a Regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC*

COM(2012) 380 *final* — 2012/0184 (COD)

*Proposal for a Directive of the European Parliament and of the Council amending Council Directive 1999/37/EC on the registration documents for vehicles*

COM(2012) 381 *final* — 2012/0185 (COD)

*Proposal for a Regulation of the European Parliament and of the Council on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC*

COM(2012) 382 *final* — 2012/0186 (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 26 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 12 December), the European Economic and Social Committee adopted the following opinion by 130 votes to 2 with 2 abstentions.

## 1. Conclusions and recommendations

1.1 Subject to the points made further on in the opinion, the European Economic and Social Committee (EESC) supports and endorses the Commission’s proposals for at least the following three reasons:

- reducing accidents and their often tragic consequences is an issue that ought to assume more and more importance, not least in view of the further increase in road traffic projected in the coming years;
- pursuing the objective of reducing accidents requires a systematic and concerted effort above and beyond the remit of the individual Member States;

— greater uniformity of rules and testing is needed to prevent such a key aspect of society – road safety – being addressed using methods and timing systems that are uneven and in some cases very divergent.

1.2 However, the Committee notes that despite the underlying premise of seeking ultimate uniformity, the method adopted by the Commission in drawing up this package – a combination of regulatory requirements and soft law – leaves a significant degree of discretion to the Member States, thus complicating or at least slowing down the process of fully harmonising roadworthiness testing so that tests carried out and certificates of conformity issued in one Member State are automatically recognised in all the others.

1.3 Furthermore, in the Committee's view, the harmonisation process thus initiated should naturally culminate with the creation of a European certificate of conformity to replace the current national certificates thus enabling the periodic tests to be carried out in any Member State and removing the obligation to repatriate vehicles to the Member State where they are registered.

1.4 The Committee welcomes both the expansion of the range of technical equipment and technology subject to testing, and the listing of tests to be carried out. The testing of equipment which has thus far remained the sole responsibility of the manufacturers, such as ABS and ESC, is to be supported. It is furthermore the right decision to differentiate vehicles also on the basis of their age and mileage, as these are aspects of particular importance to the maintenance and safety of vehicles.

1.5 The Committee also welcomes the proposal to extend technical roadside inspections to so-called light goods vehicles (LCV, maximum permissible mass up to 3.5 tonnes). It would point out, however, that there is a huge number of such vehicles on the roads. The target of testing at least 5 % each year is frankly very ambitious.

1.6 In this regard, the Committee calls for a survey to be carried out at individual Member State level on the EU's mobile inspection unit stock, so that Member States can supplement their stock, as necessary, in good time.

1.7 Still on the subject of widening the scope of vehicles to be tested, the Committee fully agrees on the need to include motorcycles. It believes, however, that the proposed test frequency (4-2-1) is excessive for these vehicles, which have a very low annual mileage. The Committee therefore proposes a reduced frequency (4-2-2), at least initially.

## 2. Introduction

2.1 Roadworthiness testing of motor vehicles plays a vital role in road safety. Every day in Europe more than five people are killed in accidents caused by technical defects in vehicles. It is calculated that 6 % of car accidents and 8 % of motorcycle accidents can be attributed to such defects, at least as a contributory cause.

2.2 European legislation in this area dates back to 1977 and has undergone only minor updates over the last decade, in the face of road traffic volumes that have tripled and major changes in vehicle technology.

2.3 A comparative analysis by the European Commission of the systems in place in the Member States for periodic vehicle

roadworthiness testing has revealed a number of shortcomings which – according to recent British and German studies – allow about 10 % of cars to circulate on the roads with technical defects that would not pass more suitable and modern tests.

2.4 It has emerged from this and other studies that:

- testing does not cover all of the most important devices in vehicles, such as the anti-lock braking system (ABS) and the electronic stability control (ESC);
- the definition and evaluation of defects is not being updated and harmonised throughout the European Union;
- testing equipment is not always adequate, with a lack of precise requirements on the subject, binding throughout the EU. Similarly, inspectors performing roadworthiness tests should have a level of knowledge and skills that keeps pace with technological developments, in order to ensure that their work is of an even quality across the EU;
- some categories of vehicle are not subject to periodic roadworthiness tests (PTI). This is the case, for example, for motorcycles in no less than eleven Member States;
- the tests are not sufficiently frequent, especially for commercial vehicles, but more generally for older vehicles and those with a high mileage;
- there is inadequate oversight of test centres by the relevant authorities;
- the data and information necessary for testing on-board electronic equipment is not always available for inspectors, and neither are the results of tests always available to law enforcement authorities.

2.5 In the light of the foregoing, the Committee endorses and supports the Commission's initiative which, by extending and updating the scope of the roadworthiness tests, could contribute to the objective of halving road fatalities by 2020 while also reducing – by means of extended and more frequent emissions testing – the environmental impact of road traffic, particularly as regards CO<sub>2</sub>.

## 3. The Commission's package of proposals

The package contains the following three legislative proposals:

- a regulation (COM(2012) 380 final) on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC;

- a second regulation (COM(2012) 382 final) on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union and repealing Directive 2000/30/EC; and
- a directive (COM(2012) 381 final) amending Council Directive 1999/37/EC on the registration documents for vehicles.

### 3.1 The innovations in the proposal for a regulation on periodic roadworthiness tests (PTI, periodic technical inspections) COM(2012) 380 final

3.1.1 Scope. This will be extended to include two or more wheel motorcycles throughout the EU. Agricultural tractors with a design speed exceeding 40 km/h (category T5) and light trailers up to 3,5 tonnes (categories O1 and O2) will no longer be exempt.

3.1.2 Date and frequency of testing. For passenger cars (cat. M1)(Category M covers passenger vehicles with at least four wheels. They are divided into three classes based on the number of seats and their maximum mass: M1 9 seats; M2 > 9 seats and < 5 tonnes; M3 > 9 seats and > 5 tonnes. Category N vehicles are goods vehicles with at least four wheels. They are also divided into three classes on the basis of maximum mass: N1 < 3,5 tonnes; N2 < 12 tonnes; N3 > 12 tonnes. Category O refers to vehicles with trailers and T wheeled tractors.) The first PTI is to be conducted four years after registration, then after two years and thereafter annually. Cars and light commercial vehicles (N1) which at the date of first inspection have reached a mileage of more than 160 000 km are to be inspected annually thereafter (4-1-1 instead of the existing 4-2-1) and this will also apply to motorcycles. The possibility remains for Member States that already apply more frequent testing to continue to do so. It is left to Member States to decide on the frequency of tests for vehicles of historic interest, including motorcycles, all of which are not subject to the new regulation.

For the vehicle categories M2, M3, N2, N3, O3, O4 and T5, the first test is to be conducted one year after registration. The same applies to M1 vehicles registered as taxis or ambulances.

3.1.3 Contents of tests, assessment of deficiencies and related penalties. Components related to safety (ABS and ESC) and the environment (emission control equipment) are to be added to the list of checks to be carried out.

Defects found during testing are to be classified – on the basis of common parameters set out in Annex III of the proposal – as **minor** (no safety risk), **major** (may prejudice the safety of the vehicle or other road users), or **dangerous** (major and

immediate risk entailing taking the vehicle off the road). Minor deficiencies are to be rectified but do not require a follow-up test. In the case of major deficiencies, the competent authority is to decide on the conditions under which the vehicle may be used until the defect is repaired, and another roadworthiness test is to be carried out within six weeks of the initial test. In the case of dangerous deficiencies, the vehicle's registration is to be withdrawn until the deficiencies are rectified and a new roadworthiness certificate is issued.

3.1.4 Testing facilities and equipment. Testing centres are to have a period of five years from the date of application of the regulation to bring their testing facilities and equipment into line with the minimum requirements of this regulation.

3.1.5 Cooperation between Member States. No later than three years after the entry into force of this regulation, the testing centres are to communicate, by electronic means only, the results of their activities or certificates of compliance to the competent authority of their Member State, which shall designate a national contact point responsible for the exchange of information with the other Member States and the Commission with regard to the application of this regulation. Proof that a vehicle has passed a test in one Member State will be recognised also by the others.

### 3.2 The innovations in the proposal for a regulation on the technical roadside inspection of the roadworthiness of commercial vehicles – COM(2012) 382 final

3.2.1 This proposal intends to expand the scope of the existing directive, while targeting high-risk companies and reducing the inspection of operators that maintain their vehicles properly. Risk profiling (Annex I to the proposal) is to be based on the results of previous test-centre roadworthiness tests and roadside inspections, taking account of the deficiencies detected.

3.2.2 Currently, technical roadside inspections apply to commercial vehicles of more than 3.5 tonnes. The proposal extends these inspections to light commercial vehicles (N1) and their trailers (O1 e O2).

3.2.3 Each Member State is to carry out roadside inspections on at least 5 % of the vehicles registered in its territory, in every calendar year.

3.2.4 As indicated above, at national level, a risk profile (low, medium or high) based on previous tests is to be attributed to each operator. This profile will be communicated to the operator concerned, in the knowledge that high-risk companies will be prioritised in roadside inspections.

3.2.5 The tests will be carried out in stages. Initial inspections are to involve a visual assessment of the condition of the vehicle and its documentation, and following this more detailed inspections, where necessary, may be carried out using mobile inspection units or the nearest testing centre.

3.2.6 A further innovation is including the securing of cargo in inspections (Annex IV) which, according to the Commission, accounts for a quarter of incidents involving commercial vehicles.

3.2.7 The results of roadside inspections are to be passed on by the competent authority to the Member State in which the vehicle is registered.

### 3.3 The innovations in the proposal for a directive amending Council Directive 1999/37/EC on the registration documents for vehicles – COM(2012) 381 final

3.3.1 Information on registered vehicles is to be kept in national electronic registers, which will include the results of the periodic roadworthiness tests.

3.3.2 The technical data that enabled type-approval of the vehicle and that is not included on the registration documentation is to be made available to inspectors for the purposes of roadworthiness testing.

3.3.3 In the interests of road safety, the proposal contains more precise provisions on the withdrawal and cancellation of registrations and the re-registration and destruction of vehicles.

## 4. General comments

4.1 It often happens that goods transport operators are penalised following roadside inspections carried out abroad for defects that would not be subject to penalties in the country in which they are registered. It thus seems that the Commission has taken the right direction with this package of proposals, which is also intended to pave the way for harmonisation of testing at EU level. The process thus launched should be completed, in a second phase, with the mutual recognition by all Member States of the respective certificates of conformity, followed by the creation of a European certificate to replace the national ones.

4.2 Indeed, the obligation to repatriate vehicles – both cars and commercial vehicles – to the Member State where they are registered in order to obtain the certificate continues to be a major burden. Mutual recognition should make it possible for testing to be carried out in any Member State.

4.3 More generally, the Committee notes that the approach chosen by the Commission in drawing up this package – a combination of regulatory measures and soft law – risks leaving a significant degree of discretion to the Member States, thus complicating or at least slowing down the process of fully harmonising and standardising roadworthiness testing so that tests carried out and certificates of conformity issued in one Member State are automatically recognised in all the others.

4.4 An example of continuing and considerable divergences is the provision that the Member States can maintain a shorter interval between tests (point 3.1.2). It is understandable that the Commission does not want to impose downward revisions on countries that have had more frequent testing in place for some time. However, it is also true that the acceptance of very different situations is not conducive to the uniformity of rules that should be the objective of these proposals: a PTI that is the same throughout the EU.

4.5 In the light of the above, the Committee hopes that the Member States, while remaining free to opt for more frequent tests, will undertake to recognise the validity of the tests carried out in another Member State that adheres to the timing and minimum requirements set out in the regulation.

4.6 Again in terms of test frequency, the Committee wonders whether it is appropriate to provide for the same system of timing to apply to L-category vehicles (mopeds, motorcycles, three-wheel vehicles and quadricycles) as for automobiles.

4.6.1 It is right that L-category vehicles be subject to periodic tests, to overcome the anomaly in many Member States where there has been no provision for testing “L” vehicles.

4.6.2 However, for these vehicles, which are often inexpensive and mostly used in cities, the changes should be kept simple so as to limit the required investment in test equipment, and their test frequency should be set at 4-2-2 instead of 4-2-1, given their much lower average annual mileage. The mileage of “L” vehicles is between 2 800 and 5 300 km per year, as against 15 000 km for cars.

4.6.3 This frequency could be reassessed in the future taking account of the data (finally with European coverage) collected during the periodic tests, with due regard here too to Member States' freedom to continue to carry out additional and/or more frequent tests.

4.7 Finally, the EESC hopes that, in tandem with achieving standardised, more thorough testing, a plan could be launched, working on the basis of the existence of the new rules, designed to raise public awareness, especially among young people, of the need for more careful and responsible use of motor vehicles, warning in particular against making any technical modifications that may alter safety features, particularly on motor-cycles.

#### 5. Specific comments

5.1 While welcoming the Commission's decision to include tractors with a design speed exceeding 40 km/h (T5) in the PTI system, the Committee wonders why these tractors are not subject to possible roadside inspections.

5.2 The technical annexes of the proposal on testing set out the minimum requirements to be met by test centres, but it is

unclear to what extent these requirements also apply to mobile inspection units.

5.3 The target of 5 % of total vehicles on the roads to be subject to roadside inspection (point 3.2.3) seems ambitious given the high number of light commercial vehicles (LCV) in circulation that are to be added to the medium- and heavy-duty ones already subject to inspection. By way of illustration, in the years 2010-2011 alone more than three million LCV were registered as against around 450 000 medium- and heavy-duty vehicles, and LCV account for over 80 % of the commercial fleet in circulation.

In this regard, the Committee feels that a survey should be carried out of the EU's mobile inspection unit stock so that Member States can supplement their stock, as necessary, in good time.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Renewable Energy: a major player in the European energy market’**

COM(2012) 271 final

(2013/C 44/24)

Rapporteur: **Ulla SIRKEINEN**

On 6 June 2012 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 — Renewable Energy: a major player in the European energy market*

COM(2012) 271 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 26 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 163 votes to 30 with 26 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the communication, which opens a necessary discussion on resetting renewable energy sources (RES) and flanking policies.

1.2 The Committee is seriously concerned about rising prices to energy users, including the high costs of many national support schemes. This development meets with increasing opposition. The Committee calls on the Commission to prepare a study on current and anticipated future cost trends in the energy sector as a whole. The Committee supports the objective of driving down costs or keeping them as low as possible and of ensuring that RES technologies become competitive and ultimately market driven.

1.3 In the Committee’s view a system of EU-wide common support schemes, tailored for each technology, would best meet the requirements of efficiency and the internal market. The schemes should be limited in time, until technologies are competitive, not provide for overcompensation and ensure tailored support to local, small scale solutions. However, as long as the internal energy market does not function properly, support schemes should be tailored for each electricity price area or Member State.

1.4 Instead of concentrating main efforts on a centralised model, more emphasis should be put on stimulating the devel-

opment of decentralised, local solutions. These can and should be driven by local benefits. Regulations, support measures and access to networks must be clear, simple and reliable in order to facilitate participation of small (auto)producers.

1.5 RES technologies offer big opportunities as do other greenhouse gas emission reduction technologies: clean coal, electricity storage, demand response, carbon use, nuclear fission and fusion, or the reduction of other greenhouse gases (GHG) such as methane, etc. In many cases developments are clearly promising, and need to be adequately encouraged. Particularly demonstration and early deployment of new technologies should be supported.

1.6 The EESC recommends that the Commission concentrates its future work post 2020 on a policy of decarbonisation. This policy could finally disregard targets for renewable energy and instead be based on a clear GHG reduction target, in accordance with long term GHG reduction needs, and a carbon price high enough to drive better efficiency measures and contribute to R&D and investments by relevant actors, but not too high for consumers and industrial competitiveness. In addition targeted measures are needed to drive development of and investments in RES technologies, which in the end will bring real change. These measures should ideally be common for all EU and tailored for each technology.

1.7 The Committee welcomes the Commission's intentions on steps to be taken in the near future to enhance the present framework for renewable energy. Actions to integrate renewable energy into the energy markets, including issues on grid connection, balancing and grid charges, should be taken without undue delay.

## 2. Introduction

2.1 The increased use of renewable energy sources (RES) is central to current EU energy policy as it is expected to contribute to both reduction of greenhouse gases and security of energy supply as well as to creation of new jobs. Consistently, the EU RES goal of 20 % by 2020 is a headline target of the Europe 2020 strategy.

2.2 The EESC has for more than a decade in numerous opinions supported the goal of increasing the use of RES and given its comments and recommendations on proposed policies based on practical experience within civil society <sup>(1)</sup>.

2.3 The development of RES use has been positive, currently beyond the path to the 20 % target according to the Commission. In the light of the Energy 2050 Roadmap future positive development has to be ensured. Strong growth of RES use is one of the 'no regrets' options of this roadmap. The EESC presented its Opinion on the roadmap in July 2012, supporting this general conclusion on RES <sup>(2)</sup>.

2.4 The fast increase in RES is raising issues of costs, energy market influence and infrastructure needs. Therefore it is timely to consider future policy options. Investors are already looking beyond 2020, and they would also need clear signals of future policies in order to be able to deliver the high level of investments needed in this area.

## 3. The Commission proposal

3.1 The Commission aims at continuing to develop renewable energy and promote innovative solutions. According to the Commissioner for Energy, to do this cost-efficiently means, in short, producing wind and solar power where it makes economic sense and trading it within Europe.

3.2 The Commission is calling for a more coordinated European approach of support schemes and an increased use of renewable energy trading among Member States.

3.3 The communication discusses timely challenges in and possible policy options for:

- integrating RES into the internal market,
- electricity market opening and RES,
- transforming our infrastructure,
- empowering consumers,
- driving technology and innovation, and
- ensuring the sustainability of RES.

3.4 The Commission will launch proposals for a RES policy regime for the post 2020 period. In order to start the process of considering options, the Commission, in the accompanying impact assessment, explores three post 2020 policy options:

- 1) Decarbonisation without renewable energy targets, relying on greenhouse gases (GHG) reduction targets and the carbon market.
- 2) Continuing the current regime with national binding RES targets, as well as GHG emission reduction and energy efficiency targets.
- 3) An enhanced, more harmonised management of our whole energy sector with an overall EU RES target.

A comparison of the options shows, roughly, options 1) and 2) a bit better than option 3) in meeting the criteria set by the Commission. None of the options is problem-free in relation to set criteria.

3.5 The communication finally indicates four main areas where efforts should be stepped up until 2020: The energy market, support schemes, cooperation mechanisms and energy cooperation in the Mediterranean.

<sup>(1)</sup> OJ C 65, 17.3.2006, p. 105-113.

<sup>(2)</sup> OJ C 229, 31.7.2012, p. 126-132.

#### 4. The EESC's comments

4.1 The EESC welcomes the communication, which opens a necessary discussion on resetting RES and flanking policies. The Committee also mainly agrees with the Commission's analysis of the present situation, challenges and options. In addition, the Committee makes the following comments.

##### *Integrating renewable energy into the internal market*

4.2 The Committee is pleased that the Commission points to the rapidly increased expenditure and costs of RES – in spite of falling unit costs – as well as to the foreseen costs of investments in production, infrastructure/grids and balancing power. The Committee is seriously concerned about rising prices to energy users which can have a disproportionate impact on low-income consumers, including the high costs of many national support schemes. This development meets with increasing opposition. Even unit costs may not continue to fall at the present rate when most cost efficient options have been exploited. The Committee calls on the Commission to prepare a study on current and anticipated future cost trends in the energy sector as a whole. The Committee supports the objective of driving down costs or keeping them as low as possible and of ensuring that RES technologies become competitive and ultimately market driven.

4.3 On support schemes, the Committee agrees that changes of several national schemes during their running periods have created serious problems. Also short term policies, falling short of covering real extra costs for investors, are not satisfactory. Predictability, but also cost effectiveness of schemes needs to be ensured, and technology competitiveness encouraged. Therefore the emphasis on exposure to market prices is right. A push from the Commission on a support scheme reform is needed, avoiding also fragmentation of the internal market and ultimately aiming at phasing out subsidies.

4.4 One single European system covering all RES technologies would hardly be efficient. Rather flexible systems are needed, tailored to each technology's maturity and differing circumstances. In the Committee's view a system of EU-wide common schemes, tailored for each technology, would best meet the requirements of efficiency and the internal market. The schemes should be limited in time, until technologies are competitive, and not provide for over compensation. Suitable schemes are needed for local, small scale solutions (see 4.11.).

4.5 However, as long as the internal market does not function properly and price levels differ, due to failure to implement existing EU legislation and bottlenecks in the transmission infrastructure, support schemes should be tailored for each price area/Member State in order to best achieve efficiency and avoid overcompensation.

4.6 On boosting cooperation and trade, the Committee is strongly in favour of more cooperation in the energy field between Member States, indeed a real common EU energy policy, a European Energy Community (EEC). The Committee also supports the proposals in this chapter of the communication.

##### *Electricity market opening and renewables*

4.7 The Committee agrees with the Commission's comments on the need and challenges of integrating RES into the internal electricity market. Market price signals, including those of carbon within the ETS, need to be comprehensive in order to properly drive investments. The Committee supports the principle that all power producers, including RES producers, take on the same responsibilities, including as regards balancing.

4.8 'Capacity payments' based on government determination of required back-up capacity are problematic, as they are justified insofar as market signals do not guarantee the cost efficiency of these plants. If a capacity market is needed then it should be pan-European, in the first stage possibly regional, or at least coordinated with neighbouring countries, within the EU.

4.9 The problem of the wholesale electricity prices, being pressured too low by an increasing share of wind and solar electricity with almost zero marginal costs, has to be studied and quantified further. The opposite effect of the emissions trading should be taken into account. More RES electricity would probably bring about much amplified volatility of wholesale electricity prices, causing other problems. In any case, a low marginal cost of power does not necessarily mean a low price for the electricity user, because the user will in one way or another pay for all investments and production, including transmission, balancing and support.

*Transforming our infrastructure*

4.10 The EESC has welcomed and given its Opinion on the energy infrastructure package (COM(2011) 658)<sup>(3)</sup>, and emphasis now the need to adopt and implement it. However, if the set goal is 'to produce wind and solar power where it makes economic sense and trade it within Europe', the costs for the investments in necessary infrastructure may prove to be unacceptably high. Also problems of public acceptance may increase the cost and political risks.

4.11 More emphasis should be put on stimulating the development of decentralised, local solutions. These can and should be driven by local benefits and cover different technologies, like biomass (incl. residuals) and geothermal energy in addition to wind and solar, depending on local circumstances. Regulations, support measures and access to networks must be clear, simple and reliable in order to facilitate participation of small (auto)producers. The creation of local hybrid energy systems linked with intelligent grids and management would make it possible to move towards self-sufficiency at local level. This approach has, however, also its limitations, as mostly fossil fuel based balancing power is needed as long as no real and affordable solution to electricity storage is available (ref: Friedrich Wagner, Max-Planck-Institut für Plasmaphysik: Features of an electricity supply system based on variable input).

*Empowering consumers*

4.12 It goes without saying that the interests of consumers are central in the views on energy of the EESC, and this has been developed in many previous Opinions<sup>(4)</sup>. One question here is the trade-off between high energy prices as saving incentives and the risk of energy poverty. The Commission's approach of empowering the consumer is supported by the Committee – without active consumer participation one cannot reach good results. One aspect that deserves more attention is ensuring the consumer's freedom of choice in practice.

4.12.1 As stated many times by the Committee, awareness raising and education are key to empowering consumers. In this context consumers should be provided with clear and easily accessible information on their own share of support to RES, normally expressed as total national RES support expenditures per capita. This information could ideally be included in energy invoices.

<sup>(3)</sup> OJ C 143, 22.5.2012, p. 125-129.

<sup>(4)</sup> OJ C 44, 11.2.2011, p. 53-56; OJ C 48, 15.2.2011, p. 81-86; OJ C 68, 6.3.2012, p. 15-20.

*Driving technology and innovation*

4.13 RES technologies offer big opportunities as do other GHG emission reduction technologies: clean coal, electricity storage, demand response, carbon use, nuclear fission and fusion, or the reduction of other GHG gases like methane, etc. In many cases developments are clearly promising, and need to be adequately encouraged. As the EESC has pointed out many times before, it is important to design and target the financing instruments correctly in relation to maturity of technologies. Particularly demonstration and early deployment of new technologies should be supported. For this purpose the resources of the SET plan need to be ensured. Action is urgent - it seems that the corporate sector in the US has recently increased its overall investments in energy R&D, with possible consequences to European competitiveness.

4.14 It seems that the Commission sees sufficient common financing and binding targets as proper drivers of innovation and hence jobs. These alone do not, however, guarantee efficient results. In addition open markets and a functioning competition are needed, as competition drives enterprises to innovation and renewal.

*Ensuring the sustainability of renewable energy*

4.15 Sustainability of the whole energy system is a necessary goal. This applies to all parts, not only bioenergy. The environmental and spatial impacts associated with use of different RES differ. Sustainability criteria for RES are needed, and accordingly the provision of financial support from EU funds should be conditional on the acquisition of energy from RES meeting these criteria. The Committee supports the communication's messages on the sustainability on bioenergy, with the addition that any new proposals should not add to the administrative burden of producers and users. Requirements should build as far as possible on existing, related monitoring and reporting systems, such as those on sustainable forestry applied in many Member States.

*Renewable energy policies post 2020*

4.16 The EESC finds it necessary to start preparing for a renewable energy policy post 2020, as stated in 2.4.

4.17 In its Impact Assessment (which as such is not impeccable, missing tables etc.) the Commission first presents a business as usual option, which is rejected by the Committee. On the three other options for a future policy framework the Committee is currently concerned about the following points:

4.17.1 The option of decarbonisation without RES targets post 2020 does not seem to guarantee a certain growth of RES use. This option is however best suited for an open energy market and would give the most cost effective results. It could also strengthen the ETS. A positive development of RES use seems certain under this option, given the strong RES development so far, existing and growing future R&D and other investments, binding climate goals and future policies outlined by the Commission.

4.17.2 A continuation of the present system with national binding targets would be effective and beneficial for at least a part of the RES business sector. But it would not guarantee cost efficiency of decarbonisation. Set prices under this option would also seriously jeopardise the ETS. Member States would again have to design their own policies to ensure compliancy, which would hamper the functioning of the internal energy market in spite of all efforts to enhance cooperation and trade. The binding targets have successfully helped to kick-start RES technology developments in the EU, but this may not continue to be a strong argument.

4.17.3 An ambitious EU management and target option could have in the view of the EESC many strong advantages

in line with the concept of the EEC<sup>(5)</sup>. As long as GHG reduction targets in accordance with long term GHG reduction needs have not been established this option should have preference. However, the risks pointed out by the Commission, of higher costs and the difficulty of public acceptance, seem relevant. Also there would probably be a need to build up a big new administrative structure.

4.18 The EESC recommends that the Commission concentrates its future work on a policy line for post 2020 mainly based on the first option. This decarbonisation policy would not be based on any RES targets, but on a clear GHG reduction target and a carbon price high enough to drive better efficiency measures and contribute to R&D and investments actions by relevant actors, but not too high for consumers and industrial competitiveness. In addition targeted measures are needed to drive development of and investment in RES technologies, which in the end will bring real change. These measures should ideally be common for all EU and tailored for each technology.

#### *Next steps*

4.19 Already in the near future steps are needed to enhance the functioning of present framework for RES. The Committee welcomes the Commission's intentions. Actions to integrate renewable energy into the energy markets, including issues on grid connection, balancing and grid charges, should be taken without undue delay.

Brussels, 13 December 2012.

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

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<sup>(5)</sup> See point 4.5 and [www.eesc.europa.eu/eec](http://www.eesc.europa.eu/eec).

## ANNEX

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

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussions:

**Point 1.5**

Amend as follows:

~~RES technologies offer big opportunities for reducing climate gas emissions as do other greenhouse gas emission reduction technologies: clean coal, electricity storage, demand response, carbon use, nuclear fission and fusion, or the reduction of other GHG gases such as methane, etc. In many cases developments are clearly promising, and need to be adequately encouraged. Particularly demonstration and early deployment of new technologies should be supported.~~

**Result of the vote** (points 1.5 and 4.13 voted and rejected together)

Votes in favour: 68

Votes against: 113

Abstentions: 21

**New point 4.3**

Add new point after 4.2:

*In view of rising renewable energy prices the EESC notes that:*

- Whereas oil prices have continued to grow in recent years, renewable energy production costs have fallen steadily and rapidly. They will therefore soon be able to compete with fossil fuels, which are themselves partially subsidised.*
- Fossil fuels are likely to become even more expensive due to their expected scarcity and higher production costs.*
- At the Rio+20 conference this year the EU committed itself (see Point 225 of the Outcome Document) "to phase out harmful and inefficient fossil fuel subsidies that encourage wasteful consumption and undermine sustainable development". The World Bank estimates that these subsidies total USD 775 billion a year. If the EU met this commitment, current differences in the prices of fossil and renewable energies would be reduced, even if a second commitment to internalise external costs were not met. The EESC calls on the Commission to make and publish the relevant calculations.*
- As the Member State which has probably seen the most intensive development of renewable energies over the last few years, Germany has exempted the largest energy consumers from certain renewable electricity costs, thus ensuring that their international competitiveness is not undermined. The list of companies exempted from this renewable energy premium is constantly growing, so that the cost is being borne by fewer and fewer consumers. Even golf courses, producers of chipped potatoes and slaughterhouses are now eligible for exemption. Given that this has little to do with international competitiveness, the German government is currently planning to make savings by slashing the list.*
- In view of the high renewable electricity generating capacity built up in Germany (30 000 MW capacity from wind energy and around 29 000 MW from solar energy, compared to around 10 000 MW from nuclear power stations), prices on electricity exchanges are lower than ever, particularly in the middle of the day. However, although energy suppliers are able to buy electricity cheaply, they do not pass on these lower prices to end consumers!*
- And yet, despite higher electricity costs, German public opinion is very supportive of the "energy transition", not least because many individuals, recently launched energy cooperatives and municipal utility companies are producing their own electricity, thus earning money and creating jobs locally.*

**Result of the vote**

Votes in favour: 69

Votes against: 105

Abstentions: 21

**Point 4.13**

Amend as follows:

~~RES technologies offer big opportunities to reduce GHG emissions as do other GHG emission reduction technologies: clean coal, electricity storage, demand response, carbon use, nuclear fission and fusion, or the reduction of other GHG gases like methane, etc. In many cases developments are clearly promising, and need to be adequately encouraged. As the EESC has pointed out many times before, it is important to design and target the financing instruments correctly in relation to maturity of technologies. Particularly demonstration and early deployment of new technologies should be supported. For this purpose the resources of the SET plan need to be ensured. Action is urgent - it seems that the corporate sector in the US has recently increased its overall investments in energy R&D, with possible consequences to European competitiveness.~~

**Result of the vote** (points 1.5 and 4.13 voted and rejected together)

Votes in favour: 68

Votes against: 113

Abstentions: 20

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the Council and the European Parliament on the comprehensive risk and safety assessments (“stress tests”) of nuclear power plants in the European Union and related activities’**

COM(2012) 571 final

(2013/C 44/25)

Rapporteur-General: **Mr MORDANT**

On 12 October 2012, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the Council and the European Parliament on the comprehensive risk and safety assessments (‘stress tests’) of nuclear power plants in the European Union and related activities*

COM(2012) 571 final.

On 17 September 2012 the Committee Bureau instructed the Section for Transport, Energy, Infrastructure and the Information Society to prepare the Committee’s work on the subject.

Given the urgent nature of the work (Rule 59 of the Rules of Procedure), the European Economic and Social Committee appointed Mr MORDANT as rapporteur-general at its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December 2012), and adopted the following opinion by 98 votes with six abstentions.

## 1. Conclusions and recommendations

1.1 Although managing risk depends mainly on the robustness of nuclear power plants, the EESC believes that all of the risks relating to such power plants, including the external risks that they pose to people, the environment and the economy, must be considered.

1.2 The EESC considers it essential to provide for accident management in each location by training staff and informing and consulting local residents, allowing them to participate in drawing up safety instructions and taking advantage of their local knowledge, while also providing for post-accident management, an activity that continues over the long term.

1.3 The EESC supports the Commission’s intention to undertake an ambitious revision of the Nuclear Safety Directive, and calls on the Commission to take into account not only the technical aspects, but also all the human aspects that affect workers and the public, including health, stress, psychological issues and distress.

1.4 The EESC notes that not all Member States have independent safety authorities with regulatory responsibilities and that there is no common approach to nuclear safety regulation among the Member States. The EESC therefore recommends that the directive harmonise these aspects.

1.5 In the EESC’s view, public information and participation could be based on applying the Aarhus Convention – which provides for information, participation/consultation and access to justice – to nuclear matters, given that the convention has been signed by the EU and the Member States.

1.6 The EESC considers that the EU should follow up on the stress tests and the recommendations made by the Commission by putting in place monitoring and verification mechanisms, including the submission of periodic reports at European level by the Member States.

1.7 The EESC believes that close cooperation and information sharing, which the communication calls for between operators, vendors, regulators and European institutions, are important and should be extended to the public and to staff and their representatives, particularly in border areas where procedures need to be harmonised.

1.8 The EESC believes that it is essential that shutdown of all the reactors on a site in the event of simultaneous loss of cooling and electrical power be considered in accident scenarios. It also recommends that procedures which assume that the reactor which suffers an accident will receive power from another reactor on the same site should be reviewed, as should emergency equipment (such as external lighting allowing staff to move about and emergency diesel generators), and that the water supply to spent fuel assembly pools should be improved.

1.9 The EESC emphasises the fact that nuclear energy will have to remain an integral part of the EU's energy mix, since no adequate source of baseload electricity with low carbon emissions will be available in the foreseeable future, but that the supply of electricity must not be compromised by technological failures or accidents. The EESC therefore calls on the Commission to support a study on organisational and human factors, since these aspects are key elements of nuclear safety and security.

1.10 The EESC supports the Commission's intention to propose legislation on nuclear insurance and liability, which at present do not truly cover the risks. The EESC believes that the social, environmental and economic aspects must be covered by funds that should be set up by the producers of nuclear electricity in Europe. There is also a risk that victims will not be adequately protected or compensated.

1.11 The EESC is concerned about the use of sub-contracting (which sometimes involves up to 80 % of staff) without proper assessment of the effect of such practices on safety. Teams are weakened by the resulting loss of skills. The Committee considers that more attention needs to be paid to the training of people who work at the various sites.

1.12 The lifetime of power stations is not addressed, even though it raises concerns in terms of safety. The EESC considers this to be a critical issue when it comes to assessing the safety of installations, as well as in relation to the possibility of replacing them with new generation plants and immediate planning for such replacement. National regulators should only agree to extension of the lifetime of nuclear power plants on the basis of internationally accepted best practices.

1.13 The EESC recommends that the Commission introduce ingestion of stable iodine on a harmonised basis throughout the EU as a prophylaxis against thyroid damage in the event of a serious accident and that it learn the lessons of Fukushima by extending the evacuation zones around densely populated European sites to between 20 and 30 km.

## 2. Introduction

2.1 The Fukushima accident on 11 March 2011 led to a review of the safety of nuclear installations both in Europe and worldwide. The European Union has 145 reactors, of which 13 are shut down or being dismantled, leaving 132 reactors in service at 58 sites, some of them in border areas. Although no comparable accident has occurred in the EU, a review was required of all the mechanisms for ensuring the highest possible level of safety, security and radiation protection. Of the neighbouring countries, Switzerland and Ukraine participated in the stress tests.

2.2 In the EU, as early as March 2011, the European Council concluded that 'the safety of all EU nuclear plants should be

reviewed, on the basis of a comprehensive and transparent risk and safety assessment ('stress tests'). A three-stage review process has therefore taken place in all European countries, involving:

- self-assessments by nuclear operators;
- review of the self-assessments by national regulators;
- peer reviews of the national reports, conducted by national and European Commission experts in the period January – April 2012.

All the participating Member States submitted their progress reports and final reports to the Commission by the agreed deadline (COM(2011) 784 final).

2.3 In addition, the European Council asked the Commission to invite the EU's neighbouring countries to take part in the stress test process and for the EU to 'review the existing legal and regulatory framework for the safety of nuclear installations' and to 'propose by the end of 2011 any improvements that may be necessary'. It should be borne in mind that this safety review could not have taken place without a mandate from the European Council to the Commission.

## 3. Summary of the Commission communication

3.1 The final report noted that in general, safety standards for nuclear power plants in Europe are high, but recommended improvements to various safety aspects in almost all of them.

3.2 Nevertheless, the national safety authorities have come to the conclusion that no power station needs to be shut down.

3.3 The tests have shown that the safety standards recommended by the International Atomic Energy Agency (IAEA) and international best practices are not fully applied by all Member States.

3.4 The Commission will closely monitor the implementation of the recommendations and will at the same time propose legislative measures aimed at further improving nuclear safety in Europe.

3.5 Besides the many specific technical improvements recommended in power stations, the stress tests have shown that international standards and practices are not always applied. The lessons of Fukushima also need to be learned, particularly in relation to risks linked to earthquakes and floods, existence and use of on-site seismic instrumentation, installation of Containment Filtered Venting Systems, installation of dedicated emergency response equipment for accidents and establishment of an off-site Emergency Control Room.

3.6 The national safety authorities are to draw up national action plans, with timetables for implementation, and to make them available by the end of 2012. The Commission intends to report on the implementation of the recommendations arising from the stress tests in June 2014, in full partnership with the national safety authorities.

3.7 The Commission has reviewed the existing European legal framework on nuclear safety and will present a revision of the Nuclear Safety Directive in early 2013. The proposed changes will mainly relate to safety requirements, the role, independence and prerogatives of national safety authorities, transparency and monitoring.

3.8 Further proposals will follow on nuclear insurance and liability and on the maximum permitted levels of radioactive contamination of food and feedstuffs. The stress test process has also made clear the need for further work on nuclear security (that is to say, prevention of malicious acts), for which the Member States are primarily responsible.

#### 4. General comments

4.1 The scale of the effort and financial resources dedicated to these tests should be highlighted, as should the success with which they have been implemented. The 'stress test' process has involved the 14 EU Member States that operate reactors participating in the assessments 'on a voluntary basis', which is a major step towards the establishment of common safety and security rules. The assessments, however, are based on self-assessment by operators, followed by review by National Safety Authorities and peer review. The EU should follow up on the 'stress tests' and the Commission's recommendations by putting in place monitoring and verification mechanisms.

##### 4.2 Observations on the legal framework

4.2.1 Despite the existence of the Nuclear Safety Directive, the Member States' approach to nuclear safety and security regulation is not fully compliant. The revision of the directive should involve more thorough codification in relation to nuclear safety. The directive should be implemented strictly and the infringement procedure should be rigorously applied.

4.2.2 **Revision of the Nuclear Safety Directive.** Two countries, Poland and Portugal, have not yet fully transposed the Nuclear Safety Directive (Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations), the deadline for which was 22 July 2011. It is crucial to ensure that the lessons learned from the Fukushima accident and the conclusions of the stress tests are properly and consistently implemented in the EU and reflected in the legislative

framework' (COM(2012) 571 final). The EESC supports the revision process that is under way and, in particular, calls for a greater supervisory role for the EU. However, this must not be limited to the technical aspects covered by the 'stress tests'. Safety also depends on human beings: the public, workers and their representatives. It would be beneficial for the transparency and public participation clauses of the nuclear directive to be based on the Aarhus Convention, which has been signed by the EU and almost all the Member States, at least in relation to public participation.

4.2.3 It is important to emphasise the need to harmonise radiation protection and off-site emergency preparedness rules among the EU Member States: 'In the EU, 47 nuclear power plants with 111 reactors have more than 100 000 inhabitants living within a circle of 30 km. This demonstrates that off-site preventive measures are of primary importance. The responsibility for these measures is shared by several national, regional and local authorities.' (COM(2012) 571 final). The Committee therefore strongly supports the revision of EU legislation in this field and the necessary participation of local residents.

4.2.4 **Nuclear insurance and liability.** This matter is not dealt with at European level, but 'Euratom Treaty article 98 provides for Council Directives establishing binding measures on this issue. Therefore, based on an impact assessment, the Commission will analyse to what extent the situation of potential victims of a nuclear accident in Europe should be improved, within the limits of EU competence.' (COM(2012) 571 final). The Commission intends to propose legislation on this issue, an initiative which the EESC supports, since at present insurance does not sufficiently cover the risk. The legislation should cover, in particular, the social, environmental and economic aspects and 'last resort' compensation, which is currently a responsibility of the state.

4.2.5 **Revising the legislation on food and feedstuffs.** 'The experience gained from the events in Fukushima and Chernobyl demonstrated a need to differentiate between instruments regulating the import of food from third countries and those for the placing on the market of food in case of an accident within the EU.' (COM(2012) 571 final). This legislation should be revised.

4.3 The 'stress test' specifications described what was to be covered in the analysis, but not what was excluded. The ageing of nuclear power plants and the impact of extending their life, the culture of safety and independence, standards and consistency among national regulatory authorities were not included and therefore not assessed. At least some of those factors could be considered to have contributed to the extent and impact of the Fukushima disaster, which was the original reason for the 'stress tests'.

4.4 In that context, the EESC supports the proposal to involve the Joint Research Centre and to create a permanent European Nuclear Safety Laboratory, but that remains a question of technical analysis. The EESC notes once again that high-level training designed for nuclear activities needs to be developed. An administrative authority responsible for nuclear safety in Europe is also needed, alongside those for radiation protection and nuclear proliferation monitoring.

4.5 The EESC points out the need to give thought to the training of staff who work at the various sites. Use of sub-contracting has become rather common in certain countries, without a proper assessment of the effect of such practices on safety. Teams are weakened by the resulting loss of skills.

#### 4.6 **Stepping up international cooperation and improving the global legal framework for nuclear safety.**

'A majority of nations participating to this working group highlighted the need to take into account the IAEA safety standards, regulatory independence and effectiveness, extended use of peer reviews as well as improved openness and transparency.' (COM(2012) 571 final). It is significant that independence, transparency and openness are guiding principles of the ideas on sharing and strengthening rules, but is that enough if those rules are not applied?

## 5. Specific comments

### 5.1 *Transparency*

5.1.1 It is clear that, with the exception of a reference to transparency, informing the public is not an element of the 'stress test' process, even though such information is provided for by the Aarhus Convention, whose three pillars call for consultation, participation and access to justice. However, the public is an essential part of nuclear safety and security. The involvement of the people of the EU has not been sufficient in view of the magnitude of the issues, and it has not been easy for them to contribute. The time available to examine the various files has been very limited, interpretation has not always been available at public meetings and several associations have been unable to participate for financial reasons. Nevertheless, the degree of transparency that has been achieved has allowed certain civil society organisations to undertake a very detailed analysis of the reports.

5.1.2 'The occurrence of incidents in nuclear plants, even in Member States with otherwise good safety records, confirms the need for thorough safety reviews on a regular basis and for the assessment of operational experience, and highlights the need for close cooperation and information sharing between operators, vendors, regulators and European institutions, such as the European Clearinghouse of Operating Experience, maintained by the Commission Joint Research Centre (JRC).' Information-sharing should not be limited to 'operators, vendors, regulators

and the European institutions' (COM(2012) 571 final). The people of the EU must be involved in that process: such involvement is one of the pillars (information, consultation/participation and access to justice) of the Aarhus Convention.

For example, in France there are three bodies that exist to help citizens: the High Level Committee for Nuclear Security Transparency and Information (HCTISN), the Local Information Commissions (CLIs) and the National Association of Local Information Committees and Commissions (ANCCLI) (Law of June 2006). These bodies were involved in the French process of 'Supplementary Safety Assessments'. The HCTISN participated in drawing up the specifications for the assessments and tasked a working group with clarifying the working conditions of staff by way of hearings on the ground. The CLIs and the ANCCLI provided analyses of the operators' reports which fed in to the French National Safety Authority's report.

**As regards incidents, these bodies have access to inspection follow-up letters and can obtain the operators' responses. The possibilities that exist in France show how participation in incident analysis allows a more constructive dialogue to be established with the public.**

5.2 Significantly, the Commission observes that 'regulators concluded that there are no technical reasons requiring the shutdown of any NPP [nuclear power plant] in Europe, and identified a series of good practices.' (COM(2012) 571 final). However, alongside that statement, there are various recommendations and requests for improvement which must be complied with within a certain period: what will happen if those deadlines are not met? Some of the technical requirements – such as increasing the thickness of a reactor floor at Fessenheim in France and bunkering of buildings (fuel storage ponds) – may be impossible to implement: what will countries decide to do then? It is also important to bear in mind that some power plants have failed to implement the protection measures recommended following the Three Mile Island and Chernobyl accidents.

### 5.3 *Findings on safety procedures and frameworks*

**Following Fukushima, the key points relate to:**

#### 5.3.1 **Assessment and management of external risks**

The possibility of simultaneous loss of the cooling source and electrical power for all the reactors on a given site had never been anticipated. As a result, protection mechanisms such as emergency diesel generators and water tanks turned out to be ineffective, all the more so since it was the other reactors on the site that were supposed to take over the role of the failed reactor.

5.3.2 **Probabilistic Safety Assessments** differ 'significantly' between Member States (COM(2012) 571 final). They must be harmonised on the basis of the strictest approach. One must not take false comfort from the low probabilities, since accidents usually result from a combination of small breaches occurring one after another or, worse, at the same time. Furthermore, analysis of Fukushima has shown that the risks of earthquakes and tsunamis had been played down, even though specialists pointed out that such events were not only possible, but had occurred during the 1930s. The tendency has been to consider some accidents to be 'impossible'.

That is in spite of the fact that the Three Mile Island accident had already shown that a reactor core could melt down. Reviews that took place several years after the accident showed that the reactor vessel had cracked, but had not been breached. At Chernobyl, on the other hand, lava (corium) spread everywhere. And at Fukushima, the three cores (nos. 1, 2 and 3) partially melted and probably attacked the reactor floors.

### 5.3.3 Severe accident management

All situations must be anticipated, so as to try to put in place emergency measures to mitigate the accident as far as possible. **One of the most important such measures is staff training.** However, to make external management possible, preparations for accident management must be made with local residents, giving them the chance to participate in drawing up safety instructions that take advantage of their local knowledge.

Fukushima also showed us once again the importance of post-accident management. It is true that local, regional and national authorities will be responsible for such management. However, local residents must be consulted, must participate in exercises and must contribute their knowledge. Post-accident management is a matter for the long term.

## 5.4 Key recommendations from the stress tests on safety

### 5.4.1 Recommendations on safety measures in existing nuclear power plants:

#### — Follow-up by participating countries

Acquisition of mobile equipment should make it possible to prevent or mitigate serious accidents. Equipment should also be hardened (the so-called 'hardened core') and staff training should be improved.

#### — Action plan to ensure implementation of the recommendations

First of all, the relative importance of the various recommendations must be assessed 'to prioritise and allocate funding to those areas which bring the greatest safety benefits' (COM(2012) 571 final). New-generation reactors, meanwhile, are in principle designed to comply with all of the measures linked to the recommendations, but Europe's nuclear safety regulatory capacity needs to be improved.

#### — Responsibility for monitoring and verification:

This is the responsibility of the Member States. They must, however, provide periodic reports at European level.

### 5.4.2 Recommendations on procedures

— At European level, 'guidance should be developed on the assessment of natural hazards, including earthquake, flooding and extreme weather conditions, and safety margins, in order to increase consistency between Member States.' (COM(2012) 571 final). The Commission recommends that WENRA (Western European Nuclear Regulators' Association) be entrusted with this task. **It would be worthwhile to use a consultation process of the Aarhus Convention type, to involve at least residents near these sites in developing such guidance.**

— Inspections and assessments once a decade should become standard, while at the same time keeping in place maintenance programmes suited to the importance of the equipment.

— Reactor safety reports should be upgraded at least every ten years.

— Emergency equipment should be provided, protected emergency response centres established and rescue teams with mobile equipment put in place.

5.5 It is essential that the assumption of responsibility for shutting down all of the reactors on a site in the event of simultaneous loss of cooling and electrical power be considered in accident scenarios. All procedures which assume that the reactor which suffers an accident will receive power from another reactor on the same site should be reviewed, as should emergency equipment such as external lighting allowing staff to move about and emergency diesel generators. Storage of spent assemblies in pools should of course be reviewed, and the water supply to such pools should be improved.

5.6 The Commission considers that extending the safety assessment to off-site emergency preparedness and response arrangements is an important additional activity to improve citizens' safety.' (COM(2012) 571 final). The EESC considers that procedures should also be harmonised between neighbouring countries. In relation to CLIs, Swiss and Germans are members of the Fessenheim Local Information and Monitoring Commission (CLIS), and Germans and Luxembourgish of the Cattenom CLI. Belgians take part in meetings of the Chooz CLI and can take part in those of Gravelines. It would be highly beneficial to prepare with local residents for the assumption of responsibility for incidents. When an accident takes place, the post-accident period can last for a long time and of course it is local residents who will suffer the bulk of the damage, with serious social, economic and environmental consequences. Operators' insurance is a long way from covering the costs of an accident – it is in fact states (and therefore the public) who will have to do so.

#### 5.7 Key findings and recommendations from the security assessments

5.7.1 The AHGNS (Council Ad Hoc Group on Nuclear Security) (Final report: <http://register.consilium.europa.eu/pdf/en/12/st10/st10616.en12.pdf>) presented its findings under five themes: physical protection, malicious aircraft crashes, cyber-attacks, nuclear emergencies and exercises and training. However, national security remains the responsibility of the Member States. It is necessary to:

- ratify the convention on the protection of nuclear materials (proliferation);
- continue work on nuclear security; and
- establish links between nuclear safety, radiation protection and security.

A gap is created by the lack of studies on organisational and human factors. **It is essential to focus on this component, which is one of the key elements of safety.**

5.7.2 Questions were raised as to whether malicious acts such as possible aircraft crashes needed to be dealt with when looking at accidents. This point was addressed at a European-level seminar. This issue of a large aircraft crash highlighted how different the approaches of the EU countries are. Nevertheless, this point needs to be considered, given the great concern about it in society. The containment of the reactors that are currently in operation would not withstand the impact of a large aircraft, but new EPR-type reactors will have to comply with new construction requirements: will those be sufficient?

#### 5.7.3 Measures to improve nuclear security:

- reduction of the threat of Chemical, Biological, Radiological, Nuclear (CBRN) incidents of intentional origin, including acts of terrorism, and detection of radioactive and nuclear materials;
- revision of Directive 2008/114/EC on the identification and designation of European critical infrastructures, anticipated in 2013;
- the Commission will table a legislative proposal on network and information security by the end of the year;
- adoption of the proposal for the revision of the EU Civil Protection Mechanism, which facilitates cooperation between Member States in civil protection assistance interventions in the event of major emergencies, including radiological and nuclear accidents.

#### 5.8 Next steps

5.8.1 It should be borne in mind that the organisation of 'stress tests' following the Fukushima disaster was an exercise on an unprecedented scale. It is also true that a large amount of documentation has been made available to the public. However, strict monitoring remains necessary. Indeed, improvements are needed in every country, and the weaknesses in regulation must be eliminated.

5.8.2 **It also remains the case that not enough assessment has been done of the human and organisational factors** and that their importance in relation to safety has not been taken into account. As regards organisation in the event of a crisis, and dealing with such crises in the long term, consultation must genuinely be opened up to all stakeholders and involve the public at grass roots level.

#### 5.8.3 The Commission recommends:

- **that the requests made should be implemented as soon as possible.** The Commission will monitor the implementation of those requests and will, together with the European Nuclear Safety Regulators Group (ENSREG), publish a report in 2014. It adds that the objective of the plan of action should be to implement the majority of the necessary safety improvements by 2015;
- proposing to the Council a mandate to participate actively in a **working group on transparency** (which has also been proposed by the IAEA and has been modelled by the RISCUM European research project). The EESC suggests basing this on the Aarhus Convention;

- **to contribute to the reinforcement of nuclear security** with the support of the EU Member States and institutions;

The EESC recommends participation and consultation of the public in this respect.

5.8.4 The EESC considers that the stress test process should result in the adoption of the highest possible safety standards for nuclear energy, which accounts for 30 % of EU electricity production. That is essential if this important source of low-carbon electricity is to continue to contribute to the European energy mix and to achieving the objective of reducing greenhouse gases.

Brussels, 13 December 2012.

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

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**Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Innovation Partnership on Water'**

COM(2012) 216 final

(2013/C 44/26)

Rapporteur: **Ms LE NOUAIL MARLIÈRE**

On 10 May 2012 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the EU, 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 European Innovation Partnership on Water*

COM(2012) 216 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 22 November 2012.

At its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion by 126 votes to 5 with 11 abstentions.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the communication of the European Commission on a European Innovation Partnership (EIP) on Water, but would suggest clarifications and improvements to help eliminate obstacles to the proper development of innovation in the water sector.

1.2 Innovation for water in Europe should be based on an integral approach that takes account of the entire water cycle, the priority being to achieve 'good status of surface water and groundwater' throughout Europe as set out in the European Water Framework Directive<sup>(1)</sup>, and should also focus on improving the protection of this resource by applying the 'polluter pays' principle, which should be dissuasive enough not to encourage pollution or offer immunity to those obliged to pay.

1.3 The Strategic Implementation Plan (SIP) of EIP priorities needs to address the fact that over one million people in Europe have no access to safe, clean and affordable water, and that several million have no sanitation. The needs of these people are a priority, in terms of inclusion and combating poverty.

1.4 Public water service providers, users and consumers must be given a strong voice in the decision-making process on the EIP on water. The EIP on water must also bring about an improvement in coordination between all operators, ensure that the benefits of innovation reach the local level and facilitate the involvement of civil society organisations in any new networks and groups that are created.

1.5 The EESC believes that the results of research financed for the water innovation partnerships by the 7th European Framework Programme for research and technological development must be made available in a transparent form, given how vital water is for people.

1.6 The EESC advises against dealing with innovations in this sensitive area exclusively from the trade protection viewpoint and recommends making them easily accessible to authorities, public bodies, local and regional authorities and companies in the social economy.

1.7 The EESC urges the Commission to step up its efforts to ensure transparency of and coordination between certain ongoing key initiatives to address the complex issue of water. For example, the Commission needs to be more specific on the synergies and joint functioning of the recent EIPs on water, agriculture and raw materials.

1.8 There can be no real research and innovation policy for water without transparency or an inclusive employment policy that contains guarantees of adequate staff levels, training, recognition of qualifications, and technologies that can improve health and safety in water purification, treatment and sanitation procedures, to ensure that the whole range of different tasks can be carried out to best effect at every level.

1.9 The EESC underlines the role of CSO networks, which should be recognised and enhanced and should also be the subject of research with respect to the innovation potential they offer based on their experience and knowledge capital.

<sup>(1)</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

## 2. Introduction

2.1 The EU's Europe 2020 strategy is intended to get the European economy back in gear so that it can go back to creating jobs and improving competitiveness and social cohesion.

2.2 The Europe 2020 strategy for a smart, sustainable and inclusive economy underlines the key contribution that knowledge and innovation make to growth. In its proposal for an EU framework programme for research and innovation (2014-2020) <sup>(2)</sup>, which forms part of Horizon 2020, the Commission has suggested increasing the R&D budget to EUR 80 billion; the Member States have also supported the EU's goal of investing an average of 3 % of its GDP in research by 2020 (see also EESC opinion INT/571 on *Research and Innovation Funding* <sup>(3)</sup>).

2.3 This is why the **European Research Area** (ERA) forms the core of the Europe 2020 strategy and its 'Innovation Union' flagship initiative <sup>(4)</sup> and why the European Council has called for it to be completed by 2014 <sup>(5)</sup>. The 'Innovation Union' initiative is intended on the one hand to ensure that products and services with a high knowledge input make a major contribution to employment and growth and on the other to curb the brain drain. Achieving this goal requires a truly world-level scientific base.

2.4 According to the proposal currently under discussion <sup>(6)</sup>, the European Innovation Partnerships (EIPs) proposed in the Europe 2020 'Innovation Union' flagship initiative <sup>(7)</sup> provide for a strategic approach and framework to address the systemic and methodological weaknesses in the European research and innovation system, in order to speed up innovations that make a significant contribution to solving societal challenges. EIPs could be a route for focusing expertise and resources on vital political priorities by mobilising and bringing together all the relevant stakeholders across policy areas, sectors and borders so that society reaps the benefits of progress and innovation more quickly (as the EESC advocated in its opinions CESE INT/599 on *Partnering in research and innovation* <sup>(8)</sup> and NAT/546 on the *Eco-Innovation Action Plan* <sup>(9)</sup>). It is important to note that apart from the EUR 40 million recom-

mended under the 7th research and development framework programme, the EIP on water does not provide for any form of funding in addition to the current resources and that its objective is limited to seeking synergies and coordinating existing instruments.

2.5 The EU Member States recognise the importance of innovation in water management. On 21 June 2011, the Council of the European Union called on the Commission to 'investigate an innovation partnership on water in close cooperation with the Member States, with a view to achieving sustainable and efficient use of water' <sup>(10)</sup>.

2.6 The Europe 2020 'Resource-efficient Europe' flagship initiative <sup>(11)</sup> underlines how important it is for Europe to engage in the sustainable management of water as a key resource. The *Roadmap to a Resource Efficient Europe* <sup>(12)</sup> highlights the efficiency gains that can be made. The strategic objectives of the EIP for 2020 are:

- (i) to provide safe, available and affordable water for all, while ensuring sufficient water for the environment;
- (ii) to achieve the relative decoupling of the depletion of water resources from the level of economic activity in key EU sectors;
- (iii) to maintain and enhance the good status of waters in all EU river basins.

2.7 A *Blueprint to safeguard Europe's water resources*, the water milestone in the *Resource Efficiency Roadmap*, has been developed by the Commission. By the end of 2012 the *Blueprint* should present the policy response to the challenges raised by implementation issues and shortcomings related to the current framework of EU water resource management policy. The *Blueprint* and the EIP will be implemented in close coordination. The EIP will also build on the *Eco-Innovation Action Plan* <sup>(13)</sup>.

2.8 It should also be possible for water resource protection policy to include compensation for the limitations placed on economic activity in some areas affected by serious pollution. In these particular instances, updated state aid could be adapted to take account of the European water protection plan.

<sup>(2)</sup> COM(2012) 392 final, *A reinforced European Research Area partnership for excellence and growth*.

<sup>(3)</sup> OJ C 318, 29.10.2011, p. 121 and OJ C 218, 23.7.2011, p. 87.

<sup>(4)</sup> COM(2010) 546 final, *Europe 2020 Flagship Initiative Innovation Union*.

<sup>(5)</sup> 'Europe needs a unified research area to attract talent and investment. Remaining gaps must therefore be addressed rapidly and the European Research Area completed by 2014 to create a genuine single market for knowledge, research and innovation'. Conclusions of the February 2011 European Council; conclusions of the March 2012 European Council.

<sup>(6)</sup> COM(2012) 216 final, *European Innovation Partnership on Water*.

<sup>(7)</sup> COM(2010) 546 final.

<sup>(8)</sup> OJ C 229, 31.7.2012, p. 39.

<sup>(9)</sup> OJ C 351, 15.11.2012, p. 65.

<sup>(10)</sup> Conclusions of the European Council of 21 June 2011 (11308/11).

<sup>(11)</sup> COM(2011) 21 final, *A resource-efficient Europe*.

<sup>(12)</sup> COM(2011) 571 final, *Roadmap to a Resource Efficient Europe*.

<sup>(13)</sup> COM(2011) 899 final, *Innovation for a sustainable future. The Eco-Innovation Action plan (Eco-AP)*.

### 3. General observations

3.1 At its first meeting, on 25 September, the Task Force of the EIP on water identified eight priority areas:

- the water-energy nexus: energy production is a water-intensive industry with significant impacts on the water environment;
- water governance: good governance is a key aspect of sustainable water management;
- financing for innovation: financing should support cooperation among players within the public sector (public/public partnerships) as well as between public and private actors; public spending must serve public interests, not boost private profits;
- water re-use and recycling: innovation must be based on an integral approach taking account of the entire water cycle; water is a renewable resource: making sure that its cycle is not disrupted is essential to its sustainable use;
- water and wastewater treatment, which have seen too little innovation in the past decades, especially in the field of municipal wastewater treatment; one important factor in regaining resources from waste water is the recovery of nutrients;
- risk management of water-related extreme events (floods and droughts);
- management models and monitoring;
- ecosystem services.

3.2 According to the report of the WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation, the proportion of the global population with access to improved drinking water (piped running water or protected wells) should increase from 89 % (or 6,1 billion people) in 2010 to around 92 % by 2015.

3.3 Although the United Nations has recognised the universal right to water and sanitation, at least 11 percent of the world's population – roughly 783 million people – are still without access to safe drinking water, and 2,5 billion are without a sanitation system.

3.4 Water plays a vital role in almost all human activities, economic and social: industrial and energy production, agriculture, transport, leisure, and the conservation of biodiversity and cultural and natural heritage. Food and energy security at European or international level cannot be ensured without addressing the issue of water as the primary resource; water is

becoming one of the main challenges of the 21st century, along with land. Unfortunately, the second half of the 20th century has left us with natural aquatic environments that are damaged, vulnerable, dried up and polluted.

3.5 The future of this global resource is seriously threatened by a form of economic development that is destroying the environment, in which water is held to be an asset to be used like any other. This is leading to overexploitation of groundwater, pollution of soil, water courses and seas, disruption of the water cycle, and damage to water ecology, with effects on biodiversity, at European and global level. For a water policy to be fair, effective and sustainable, it has to be accepted that water is not a commodity, but a global asset to be protected and defended <sup>(14)</sup>.

3.6 Water management should meet people's needs whilst ensuring that the resource is preserved for future generations. It is time for this fact to be fully recognised and innovation-driven research should be pursued with this in mind. The situation underlines the importance of the EIP on water as a tool for improving the material and financial efficiency of integrated water management.

3.7 But this objective cannot be achieved either by leaving resource monitoring and management solely to large international private groups and companies, or by accelerating the pace of privatisation and innovation-driven research in this vital sector. On the contrary, high-quality public services offer the best means of building equitable, sustainable, peaceful and democratic societies; investment in high-quality public services, supported by fair fiscal policies to encourage innovation and research, will be part of the key solution to the economic crisis, promoting universal access to essential services and to economic growth. This calls for partnerships founded on public management of water resources and publicly funded research under the 7th Framework Programme.

3.8 At European level, the Member States should push for the liberalisation of water and sanitation services to be rejected and for them to be designated public services of general interest, and should urge that Europe commit more wholeheartedly at international level to effective implementation of the right to water. The EESC advises against dealing with innovations in this sensitive area exclusively from the trade protection viewpoint and recommends making them as readily accessible as possible to authorities, public bodies, local and regional authorities and companies in the social economy.

3.9 The processes and solutions adopted as part of the EIP on water should feed into measures for adapting to the predicted effects of climate change.

<sup>(14)</sup> '[...] water is a shared resource of humankind and a public good [...] access to water should constitute a fundamental and universal human right'. Resolution P7\_TA(2012)0273, rapporteur Richard Seeber (EPP/AT), adopted by a show of hands on 3.7.2012.

#### 4. Specific observations

4.1 The Committee notes that a high-level group of experts and a task force have been set up to establish an innovation partnership strategy on water. Establishing this partnership should provide an opportunity to set out guidelines for innovation in water policy and to reaffirm the right to a secure supply of sufficient clean water, with a view to encouraging sustainable management of resources.

4.2 This can be achieved through innovation procedures that apply novel, state-of-the-art technologies, taking into account the situation with integrated management of water catchment areas at regional level and subject to pollution control. Sustainable resource management must be achieved by sharing water between various uses in such a way as to achieve sustainable human, economic and environmental development through planned resource use as part of integrated management of water resources, restore the quality of aquatic environments, promote procedures for managing consumption and preventing pollution along the whole water usage chain, from consumption to treatment, and – finally – outlaw polluting practices and penalise polluters.

4.3 These goals should be achieved through appropriate funding and fair and proportionate contributions from all industrial, agricultural and domestic users, managed by government in a drive for 'better governance', as already advocated by the EESC in its exploratory opinion NAT/495 on *Integration of water policy* <sup>(15)</sup>.

4.4 A fair and effective water policy and implementation of the innovation partnership on water also call for an innovative employment policy in which trained and qualified staff for new or modified positions are covered by employment rules that allow them to carry out their task of managing a public asset and also enjoy the right to take action on economic, social and environmental matters. Innovative measures should be sought to make work in the sanitation sector less onerous and reduce its impact on health.

4.5 Social and technical research in the following areas should be considered when the strategic implementation plan of the EIP priorities is drawn up by the task force: sanitation system workers (epidemiological studies); strengthening of health, safety and working conditions committees; improving medical follow-up; protective measures and gas and pollutant detection equipment.

4.6 Guaranteeing universal access, preserving the resource and ensuring compatibility with the general interest are matters that the task force will need to consider when

drawing up the strategic implementation plan of EIP priorities that it must put forward for adoption on 18 December 2012.

4.7 The EIP on water, operating on the basis of the strategic plan that has been proposed and adopted, should incorporate the relevant European Technology Platforms, which are not only a source of information about the actual state of affairs in a given location or industry, but are also bodies involved in the research, development and application of new technologies <sup>(16)</sup>.

4.8 The EESC recommends that individual innovation projects also address the interaction of water and soil, particularly in issues of surface-water management, in addition to the horizontal issues and priorities set.

4.9 Droughts, fires and floods will become more serious in duration and scope. It is vital to maintain public water, emergency and disaster management services that will be able to meet the challenges of this new, unpredictable environment. The search for innovation must also study water's role in preserving ecosystems and biodiversity.

4.10 Public authorities and water management bodies must take steps to prevent water pollution, not only so as to maintain water quality in a sustainable way, but also so as to prevent potentially irreversible damage resulting from risk factors that are known (e.g. persistent organic pollutants, endocrine disruptors) or even unknown, caused by the build-up of chemical substances, including nanoparticles, which can be reliably considered to be additional risk factors. It is essential that these new risks be assessed, as they could pose a serious threat to public health.

4.11 A water pricing system is aimed at helping to preserve the resource in quantitative terms. The EESC favours a price structure that factors in universal access, because of the essential and non-commercial nature of water. However, water pricing does not solve the problem because it is a question not just of water quantity but also of quality. Public measures should therefore be implemented to make individuals and industrial and agricultural users more aware of the deterioration in water quality and how this can be addressed in the most cost-effective way possible, i.e. preventively.

4.12 Climate change and human activity are making water scarcer, pollution levels are increasing and the consequences are multiplying. It is a problem that Europe must tackle and where it must undertake the necessary research. Europe must help move the international community forward on this issue and make funding available as part of its cooperation and development policy to widen access to water and encourage measures for reversing the decline in water quality <sup>(17)</sup>.

<sup>(15)</sup> OJ C 248, 25.8.2011, p. 1.

<sup>(16)</sup> OJ C 299, 4.10.2012, p. 12–16.

<sup>(17)</sup> OJ C 229, 31.7.2012, p. 133–139.

4.13 The EESC notes that the effects of regional disparities across the whole of Europe are particularly pronounced in this area (droughts and floods) and should be a subject that the drafting teams consider in their work: the question has been raised of whether there are ways of offsetting between areas where there is too much water and areas where there is not enough.

4.14 There can be no real research and innovation policy for water without transparency and an inclusive employment policy that contains guarantees with respect to adequate staff levels, training, recognition of qualifications, and technologies for improving health and safety in water purification, treatment and sanitation procedures and ensuring that the whole range of different tasks can be carried out to best effect at every level.

4.15 According to the UN-Water Decade Programme on Capacity Development and a recently published (2012) book entitled 'Water and the Green Economy: Capacity Development Aspects' <sup>(18)</sup>, a change of scale is needed to meet the challenges posed everywhere by water becoming scarcer and deteriorating in quality as a result of aggressive development methods throughout the world. In other words, we cannot indefinitely contain pollution, because water is also a vector. Furthermore, many new technologies already exist, but there is a real risk that they may become obsolete as quickly as they are developed if we fail to consider every aspect of the problem: for example, energy is needed for water desalination, and, when recycling water for secondary uses (e.g. agriculture), the water must not have been subject to multiple pollution effects.

4.16 The European Environment Agency voiced the same concerns in its most recent annual report (2011). It is thus clear that, even when renewed and treated, water is not inexhaustible in either qualitative or quantitative terms, and that research and innovation for water must be broadened to make its use lasting and sustainable in all areas and to control pollution, particularly diffuse sources of pollution <sup>(19)</sup>.

4.17 The EESC underlines the role of CSO networks, which should be recognised and enhanced and should also be the subject of research with respect to the innovation potential they offer based on their experience and knowledge capital.

4.18 The EESC points out that water quality standards and assessment criteria should be the same right across Europe.

4.19 Water, its use, management and future trigger a range of strong feelings, interests and concerns among different people. In this respect, the EESC reiterates the need to take seriously the notion of compulsory consultation as part of the integrated management of water catchment areas, and compulsory consultation of CSOs to ensure citizen involvement in the decisions affecting them with respect to environmental issues and access to justice, as provided for under the Aarhus Convention, and it calls on the Commission to assess these two points in a report so that the EU can use the relevant data as required in its research on innovation and with a view to the contribution that civil society can make to the partnerships.

4.20 The EESC advises against dealing with innovations in this sensitive area exclusively from the trade protection viewpoint and recommends making them easily accessible to authorities, public bodies, local and regional authorities and companies in the social economy. The EESC questions the inclusion of departments of the Chinese Ministry of Science and Technology in the High-Level Steering Group of the European Innovation Partnership on Water <sup>(20)</sup>. The EESC could accept the idea of this ministry participating directly in drawing up a European strategy in the context of external development cooperation, but it needs to be asked why the emerging countries are represented by only one of their number. And why are other countries affected by the necessary technology transfers not taking part in this European task force <sup>(21)</sup>?

Brussels, 13 December 2012.

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

<sup>(18)</sup> *Water and the Green Economy: Capacity Development Aspects* (2012).  
Editors: Dr Reza Ardakanian, Dr Dirk Jaeger, UNW-DPC, Bonn, Germany.

<sup>(19)</sup> OJ C 229, 31.7.2012, pp. 116-118.

<sup>(20)</sup> European Commission: European Innovation Partnership on Water – High Level Steering Group.

<sup>(21)</sup> OJ C 68, 6.3.2012, p. 28.

## ANNEX I

**to the Committee opinion**

The following amendment, which received at least a quarter of the votes cast, was rejected during the discussion:

**Point 2.8**

Amend as follows:

*It should also be possible for water resource protection policy to include compensation for the limitations placed on economic activity ~~in some areas affected by serious pollution~~ to ensure the conservation of water resources. In these particular instances, updated state aid could be adapted to take account of the European water protection plan.*

**Result of the vote**

For	46
Against	63
Abstentions	27

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank Action for stability, growth and jobs’**

COM(2012) 299 *final*

(2013/C 44/27)

Rapporteur-General: **Mr VERBOVEN**

On 14 August 2012 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 European Council, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank Action for stability, growth and jobs*

COM(2012) 299 *final*.

On 10 July 2012 the Committee Bureau instructed the Europe 2020 Steering Committee to prepare the Committee’s work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Verboven as rapporteur-general at its 485th plenary session, held on 12 and 13 December 2012 (meeting of 13 December 2012), and adopted the following opinion by 114 votes to 40 with 9 abstentions.

## 1. Recommendations

At the request of the Commission, the European Economic and Social Committee agreed to produce an opinion on the Communication on Action for stability, growth and jobs. The EESC underlines the close interconnection between these three aspects each of which requires specific responsibilities for the parties concerned. This opinion focuses in particular on the common responsibility of social partners and organised civil society, and on the contribution that they, and in particular employers and workers, can provide. It highlights the role they can play in formulating and applying policies to relaunch economic growth, create more and better jobs and restore financial stability.

1.1 The Committee highlights the fact that participation and involvement are essential in order to develop, shape and implement policy changes and structural reforms properly.

The Committee emphasises that:

— Structural changes to social and economic policy may change existing and future job opportunities between various groups and very often have an important impact on the distribution of incomes.

— Social and civil dialogue improve the credibility and social acceptability of intended social and economic measures.

— Participation is also important in order to keep a close eye on the policy that is actually implemented and its results, allowing civil society organisations and social partners to make evaluations and give timely warnings wherever appropriate.

— In many cases, it is also social organisations, particularly the social partners, which have to translate policy proposals into practice.

1.2 The Committee emphasises the importance of stronger European economic governance, to make monetary union work better and in the interests of all. However, there is a pressing need to draw lessons from reality. Social and civil dialogue are essential in this respect, covering economic issues and the public finances as well as social cohesion.

1.3 The Committee welcomes the Commission’s proposal for a scoreboard and benchmarking in relation to employment, as well as the monitoring of national job plans in a structured way. The European social partners should be closely involved in establishing the scoreboard and benchmarks, as well as the criteria for evaluating the national job plans.

1.4 In relation to wage-setting, the Committee points out to the Commission that wages and wage bargaining come within the remit of the social partners, as is indeed laid down in the EU Treaty.

1.5 The Committee therefore calls on European policy makers to embed social dialogue and participation in the structure of the various policy processes that form part of the Europe 2020 process. Experience on the ground shows that the focus has shifted from the national to the European level, weakening the role and quality of social consultation and participation at national level.

1.6 In the context of the European Semester, the Committee proposes that the European social partners (through the European social dialogue) and organised civil society should be involved at an early stage in the preparation of the Annual Growth Survey. Such involvement is also urgently needed in relation to establishing the priorities for the employment policy guidelines and the broad economic policy guidelines.

## 2. Introduction

2.1 On 30 May, the European Commission issued a communication on Action for stability, growth and jobs (COM(2012) 299). The communication comes at a critical stage in the European Semester, which begins with the Annual Growth Survey produced by the Commission and ends with the country-specific recommendations approved by the European Council.

2.2 At the request of the Commission, the European Economic and Social Committee agreed to produce an opinion on the Communication on Action for stability, growth and jobs. This opinion focuses on a specific aspect, in particular on the common responsibility of the social partners and organised civil society and on the contribution they can provide. The EESC underlines the role they can play in formulating and applying policies to relaunch economic growth, create more and better jobs and restore financial stability.

In this opinion, and following an analysis of certain policy fields, the Committee intends to make recommendations as to how the social partners and the representatives of organised civil society can play a greater, better, decisive role in the European Semester. As a next step, the Committee will produce an opinion on the Annual Growth Survey 2013 in which all major policy areas brought up by the Commission will be analysed.

2.3 The Committee notes first of all that the Commission communication refers to the role of the social partners and organised civil society in relation to only three subjects, namely human capital, pay and the general issue of 'change' (see further point 4.1). In this respect, the Committee wishes to emphasise at once that social and civil dialogue cover many other areas and issues, including innovation, economic reform, industrial policy, sustainable development, entrepreneurship,

more and better jobs, combating poverty and social protection. In this opinion, the Committee will therefore begin by highlighting the importance of social and civil dialogue (see section 3), before examining the three specific areas in which the Commission communication refers expressly to the role of consultation and dialogue (section 4). In the final section, the Committee makes further suggestions on how to embed consultation and participation in the structure of the Europe 2020 policy agenda.

## 3. Social and civil dialogue are key to successful policies

3.1 The Committee stresses that participation and involvement are not a luxury: they are essential in order to develop, shape and implement policy changes and structural reforms properly.

- Structural changes to social and economic policy may change existing and future job opportunities between various groups and very often have an important impact on the distribution of incomes. In this respect, organised social dialogue can ensure that efforts to put the economy back on the right track are shared fairly. Consultation and participation are therefore very closely linked to social justice.
- That also implies that if social and civil dialogue take place, they can improve the credibility and social acceptability of those social and economic measures, thus ensuring the success of policies. Indeed, a policy that, because of the broad social consensus around it, is expected to be maintained consistently over time will substantially improve the climate of confidence and actually lead to innovation and investment. On the other hand, a policy that brings about a major shock, but whose decisions have to be quickly reversed because they lack the support of stakeholders, will create doubt and confusion, ultimately depriving the policy of much of its impact and relevance. In other words, investment in social dialogue is also a good investment in the social capital of a society.
- Participation is also important in order to keep a close eye on the policy that is actually implemented and its results. In this respect, civil society organisations and social partners provide an early warning system: they can spot recent trends and unforeseen or undesirable consequences of a policy at an early stage and can raise those issues with policy makers.
- Finally, in many cases it is also social organisations, particularly the social partners, who have to translate policy proposals into practice. For a policy to be implemented well, it is essential that those who have to implement that policy also support it.

3.2 The Committee specifically points out to the Commission, the European Council and other policy makers at both European and national level that social and civil dialogue must be strictly observed. This is not about making fine-sounding pronouncements about the importance of participation and then implementing the policy that was planned in the first place, without taking account of the contribution and proposals of the social actors on the ground. That sort of behaviour leads to a loss of social capital and trust, ultimately resulting in a breakdown in both economic and social communication.

3.3 The 'horizontal clause' (Article 9 of the Treaty on the Functioning of the European Union) is also relevant in this respect. That clause requires the European Union to take account of specific social criteria and objectives in defining and implementing its policies and activities. Specifically, those are the promotion of a high level of employment, adequate social protection, the fight against social exclusion, a high level of education and training and a high level of protection of health. Participation of social actors in policy is a logical and necessary consequence of the horizontal clause.

#### 4. Specific policy fields in respect of which the Commission mentions social and civil dialogue

4.1 The Committee notes that in three places, the Commission communication points to the importance and the role of the social partners and of organised civil society. The Committee is referring specifically to the following passages from the communication:

- Governance, page 3, second paragraph - *We need to build consensus and confidence in the need for change and in the choices to be made. The social partners will play an important role in this dialogue.*
- Tapping into the potential of human capital - page 6, fourth paragraph - *In its recent employment package, the Commission has proposed a set of concrete measures for a job-rich recovery across the EU. Cooperation between the Commission, the Member States, the social partners as well as public and private stakeholders will be needed to implement the specific actions proposed to tap into the job creation potential of key sectors as ICT (information and communication technologies), healthcare and the green economy. The enhanced monitoring of national job plans through the benchmarking and scoreboard proposed by the Commission will further strengthen the impetus for job creating reforms (...).*
- Tackling unemployment and the social consequences of the crisis - page 14, sixth paragraph - *Some Member States have introduced far-reaching reforms of their wage-setting and indexation systems to ensure that wage developments better reflect productivity developments over time. Limited progress has been made in other countries where the functioning of certain wage indexation systems has been identified as a possible threat to*

*competitiveness. These countries will need to find ways, in consultation with social partners, to reduce this handicap in future. In countries with current account surpluses, some rebalancing in favour of domestic demand, including through wage increases is noticeable and should continue.*

4.2 First of all, the Committee welcomes the Commission's decision to involve the social partners and social organisations, at least in the three specific areas mentioned above. However, the Committee wishes to make the following comments.

4.3 The Committee emphasises the importance of stronger European economic governance, to make monetary union work better and in the interests of all. However, there is a pressing need to draw lessons from reality. If a particular economic policy is holding back growth and various European economies are back in recession, threatening both stability (since deficits and debt ratios remain high) and social cohesion (with high and growing unemployment), policy makers must take that seriously and must change policy course. Social dialogue helps produce a better policy supported by the society at large, rather than stubbornly persisting, against one's better judgement, with a policy that has proved to have harmful consequences for the economy, public finances and social cohesion.

4.4 The Committee welcomes the Commission's proposal for a scoreboard and benchmarking in relation to employment, as well as the monitoring of national job plans in a structured way. The European social partners should be closely involved in establishing the scoreboard and benchmarks, as well as the criteria for evaluating the national job plans.

4.5 The third area in which the Commission specifically mentions the role and involvement of social actors and the social partners concerns pay, in relation to which, in the words of the Commission, the social partners should be 'consulted' on the reform of wage-setting systems. In this respect, the Committee wishes to draw the Commission's attention to the fact that in many Member States, not only wages and wage-bargaining, but even the wage-setting system itself, come within the autonomous remit of the social partners, which negotiate and conclude collective agreements in this respect. This autonomous negotiation role of the social partners cannot be reduced to mere consultation. Nor can the right to take part in dialogue be restricted to a mere advisory role. Indeed, the autonomy of the social partners and of social dialogue is confirmed in Articles 152 and 153(5) TFEU, which, among other things, state the principle that the EU must respect the national systems of industrial relations. In this context, 'consultation' of the social partners in relation to, for example, reforms to indexation mechanisms is wholly inadequate and even inappropriate, particularly where, in the relevant national model of social dialogue, such indexation mechanisms are negotiated and agreed by the social partners themselves by way of collective agreements.

On the substance of this issue, the Committee wonders whether the Commission is not attributing rather too much importance to the role played by downward adjustments of wages. Closer analysis of the country-specific recommendations that accompany the Commission communication shows that, of the 17 Member States that have received Commission recommendations concerning pay, 16 of them have recommendations aimed at reducing wage growth, whether by reforming indexation, limiting minimum wages, decentralising wage bargaining or increasing the flexibility of the lowest wages. However, the imbalances that characterise European monetary union are primarily structural and are mainly linked to the fact that globalisation has different effects on different members of the monetary union (Footnote: Reference to IMF Working Paper 12/236, External Imbalances in the Euro Area, 2012). The fact remains that the competition with low-wage countries cannot be won by reducing wages.

### 5. Structurally embedding social dialogue and participative processes

5.1 Finally, the Committee calls on European policy makers to embed social dialogue and the idea of social participation in the structure of the various policy processes. Experience on the ground shows that for a number of reasons, not least the institutional reforms that the Commission keeps making to these policy processes, European decision-making is having more and more impact on consultation and social participation at national level. In this context, the Committee finds it absolutely unacceptable for consultation and social participation at national level to be reduced to a sham, by hollowing out national traditions of consultation or even disregarding them altogether (there is a problem of the timing that must be taken into account in relation to consultation procedures, and the drafting of reform programmes is centralised in the hands of national bodies that have little or no link with social and participatory dialogue).

5.2 In line with the timetable of the European Semester, the Committee makes the following proposals:

- The European social partners (through the European social dialogue) and organised civil society should be involved at an early stage in the preparation of the Annual Growth Survey.
- Such involvement is also urgently needed in relation to establishing the priorities for the employment policy guidelines and the broad economic policy guidelines.
- A broad, more participatory dialogue should be put in place with the social partners and organised civil society in connection with the drafting of the national reform programmes. That implies a review of the timetable to give sufficient time for an in-depth debate allowing well-founded alternative proposals and approaches to be produced. The Committee also proposes that a final report be prepared on the dialogue at national level, setting out the various viewpoints and suggestions, and that it be attached to the country reports prepared by the Commission. That will make it possible to see where social participation is playing a significant role.
- Another step in the European Semester process is the Commission's publication of country-specific recommendations. The social partners and organised civil society should be informed and consulted about these in a timely fashion.
- Finally, in relation to social participation, the country-specific recommendations under the Europe 2020 strategy and the analyses and recommendations under the excessive macroeconomic imbalances procedure should be made consistent with one another. Here too, the social partners and organised civil society should have an extensive opportunity to be heard and to make their views known.

Brussels, 13 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2187/2005 for the conservation of fishery through technical measures in the Baltic Sea, the Belts and the Sound’**

COM(2012) 591 final — 2012/0285 (COD)

(2013/C 44/28)

On 22 October 2012, the European Parliament, and, on 5 November 2012, the Council decided to consult the European Economic and Social Committee, under Article 43 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2187/2005 for the conservation of fishery through technical measures in the Baltic Sea, the Belts and the Sound*

COM(2012) 591 final — 2012/0285 (COD).

Since the Committee endorses the contents of the proposal, it decided at its 485th plenary session of 12 and 13 December 2012 (meeting of 12 December 2012) by 129 votes, with 1 abstention, to issue an opinion endorsing the proposed text.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Amendment to the Commission proposal COM(2011) 626 final/3 for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation)’**

COM(2012) 535 final — 2012/0281 (COD)  
(2013/C 44/29)

On 22 October and 24 October 2012, the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Amendment to the Commission proposal COM(2011) 626 final/3 for a Regulation of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation)*

COM(2012) 535 final — 2012/0281 (COD).

Since the Committee endorses the contents of the proposal, it decided at its 485th plenary session of 12 and 13 December 2012 (meeting of 12 December 2012), by 124 votes, with 5 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Amendment to the Commission proposal COM(2011) 625 final/3 for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy’**

COM(2012) 552 final — 2011/0280 (COD)

(2013/C 44/30)

On 22 October and 24 October 2012, the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Amendment to the Commission proposal COM(2011) 625 final/3 for a Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy*

COM(2012) 552 final - 2011/0280 (COD).

Since the Committee endorses the contents of the proposal, it decided at its 485th plenary session of 12 and 13 December 2012 (meeting of 12 December 2012), by 127 votes to 2 with 2 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 12 December 2012.

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

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**Opinion of the European Economic and Social Committee on the ‘Amendment to the Commission proposal COM(2011) 627 final/3 for a Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)’**

COM(2012) 553 final — 2012/0282 (COD)

(2013/C 44/31)

On 22 October, the European Parliament and on 24 October 2012, the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Amendment to the Commission proposal COM(2011) 627 final/3 for a Regulation of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)*

COM(2012) 553 final — 2012/0282 (COD).

Since the Committee endorses the content of the proposal, it decided, at its 485th plenary session of 12 and 13 December 2012 (meeting of 12 December), by 137 votes with 4 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 12 December 2012.

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

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