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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

488TH PLENARY SESSION HELD ON 20 AND 21 MARCH 2013

Opinion of the European Economic and Social Committee on 'Exploring the needs and methods of public involvement and engagement in the energy policy field' (exploratory opinion)

(2013/C 161/01)

Rapporteur: **Mr ADAMS**

On 13 November 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

Exploring the needs and methods of public involvement and engagement in the energy policy field

(exploratory opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 27 February 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 183 votes to 2 with 5 abstentions.

1. Introduction and recommendations

1.1 The European Commission has welcomed a proposal from the European Economic and Social Committee to **explore the creation of a civil society dialogue on energy issues**. Public involvement, understanding and acceptance of the different changes which our energy system will have to go through over the coming decades are absolutely essential. In this regard, dialogue with civil society is vital, and the EESC's membership and constituency, reflecting European society, is well placed to reach out to citizens and stakeholders in the Member States and establish a comprehensive programme embodying participative democracy and practical action.

1.2 Following preliminary consultation with Member States, regional and municipal bodies, organisations representing the social partners, NGOs, the energy sector and grassroots citizens' organisations the European Economic and Social Committee recommends moving ahead with the proposals contained in section 7 of this Opinion.

1.3 In summary:

- The EESC will take a lead in establishing a **European Energy Dialogue** (EED), a coordinated multi-level, action-oriented conversation within and across all Member States.
- The programme will be ambitious and professional, sponsored and funded by stakeholders in the energy chain, linking with existing initiatives and gaining recognition as a trustworthy "social brand" responsive to public needs and concerns.
- The EED will be synonymous with reliable information about energy, and will offer a "negotiation space" where implementation issues can be discussed against a background of societal impact and acceptance, investment and resource strategy and other policy considerations.

- The main indicator of success of the programme will be its adoption in Member States, a measurable influence on policy-making across all forms of energy and a recognised role in stimulating convergence at EU level, with strong links to the post-2020 energy and climate action framework.
- The EESC therefore recommends strong political and administrative backing for the proposed EED with adjustment of the European Commission's internal approach, emphasising dialogue and conversation.
- The EESC recommends financial support to sustain the EED's work in the coming EU financing period (2014-20).

2. Context

2.1 In order to meet the low-carbon 2050 objectives energy efficiency is critical, irrespective of the particular energy mix chosen. If Member States are to keep open, flexible options in their energy mix, then early investment in a modernised, upgraded and well connected internal market is also vital. These, and the switch to the greater use of electricity, are the relatively uncontested elements of EU energy policy, though issues of cost, funding, speed of implementation and impact remain outstanding. Meanwhile, questions about the energy supply mix and how energy efficiency and the necessary level of investment can be achieved, are increasingly coming under intense scrutiny within Member States. Whilst it is likely that the development of a European approach will result in lower costs and a more secure supply compared to diffuse, unilateral national schemes much of the public debate continues to centre on the ever-increasing rise in consumer prices and the increasing impact of infrastructure and production methods. In rare cases Member States may organise national debates on aspects of the energy transition but, as a rule, such a discussion will not happen on its own and needs to be encouraged.

2.2 Because European public values around "energy futures" are in transition and relevant policy measures will largely be initiated at EU level, **EU bodies must participate in building trust** in the relationship between, and among, statutory and non-statutory civil society energy stakeholders and policy actors, through fostering public involvement in structured dialogue. By adding this element, an important step is made by distinguishing between what is technically and economically possible and what is feasible and socially acceptable to stakeholders. It will also introduce a practical example of participative democracy concerning an issue relevant to everyone.

2.3 This exploratory opinion on the needs and the methods of public involvement and engagement in the energy policy

field outlines **how such a comprehensive and inclusive dialogue could be framed and developed** at the interface between European, national and local levels. Such a dialogue should also point to practical steps which can be taken by the citizen and stimulate innovative action and response by suppliers and the authorities.

3. The policy framework

3.1 The framework of EU energy policy is designed to **strengthen and maintain energy security, competitiveness and sustainability**. The 2050 reduction target for greenhouse gases emissions of at least 80 % of 1990 levels remains a firm quantitative but not yet legally binding goal. However other aspects of sustainability – for example the proportion of renewables in the energy mix – remain unresolved beyond 2020. Similarly, what constitutes an acceptable degree of energy dependency or the energy price differential with major global competitors is also unlikely to be quantified. EU policy somehow has to accommodate these uncertainties – indeed recent history indicates that global energy price volatility and the impact of unforeseen events demands an energy policy which is both flexible and capable of dealing with complex external circumstances.

3.2 EU policy-making on the **energy transition often lacks true ownership by the Member States** and does not engage with citizens in terms of explaining trade-offs and preferences. The scenario building approach developed in the Energy Roadmap 2050 is a sensible way of tackling a fluid situation. However, using this technique to prepare the ground for policy formulation stumbles over this lack of ownership by Member States and the doubts of a public generally less informed or interested in most energy issues other than price and, in some countries, supply security. EU-level policy documents are mainly meant for Member States, major institutional and industrial stakeholders, and sometimes fail to connect and resonate with the public's concerns. Part of the public involvement and engagement process that is set out in this Opinion necessarily involves the "translation" of complex energy concepts. The key driver will be the role of public knowledge, views and values in helping all parties to reassess, adjust and adapt for an uncertain world. The three pillars of energy policy – security of supply, competitiveness and sustainability – should be joined by a fourth – participation.

3.3 This will not be easy. To date, reconciling EU solidarity and cooperation and the Member State's right to determine its energy strategy has resulted in **blurred policy and unclear messages**, not least to citizens, and hence deep misunderstandings.

3.4 **Engaging citizens at the national level and then setting national energy policies within a broader EU**

perspective is one way of bridging this gap and bringing clarity (National initiatives under development such as the *Débat national sur la transition énergétique* in France, the *Energiewende* in Germany and the Spanish Energy Mix Forum would all benefit from an enhanced connection with the European dimension). National leaders need a democratic mandate, an electorate informed about this key issue and one which is prepared to walk in partnership with their politicians down what will be a difficult road. If open and inclusive public discussion does not happen about cooperative, pan-European energy futures, the assumption will remain that only national attitudes are socially acceptable. This national pre-emption has already led some stakeholders to describe EU energy policy as neither coherent nor credible. This lack of clarity reduces the capacity to set in place a coherent low-carbon energy policy to deal with the pressure of climate change – and time is running out.

3.5 Across Europe citizens have expressed dissatisfaction with the functioning of the energy market (see Consumer Markets Scoreboard – http://ec.europa.eu/consumers/consumer_research/editions/docs/8th_edition_scoreboard_en.pdf), which undermines further effort towards joint EU action on the energy transition if it remains unaddressed. **Citizens need to be more efficiently involved in the strategic direction of major policy choices – beyond their role as energy consumers – because preparing the energy transition goes beyond the important market issues.** In many Member States similar dissatisfaction is growing about the political process – the "politics". At the critical EU level, the "politics" either isn't happening or isn't delivering and the EU dimension has often devolved to uncoordinated national energy policy debates. For this situation to change the joint responsibility for our collective energy future will involve a shared enterprise between citizens, key stakeholders and political decision makers.

3.6 Although numerous local, regional and national initiatives are underway involving the public in various aspects of energy planning there is a real practical need to channel and focus existing public involvement, expertise and capacity. There is currently no proper framework in place for a citizen/stakeholder/civil society organisation (CSO) dialogue about how to source, transfer and use energy. Such a dialogue - one that can inform EU policy and feed back the European dimension into national debates - is urgently needed. **A far-reaching, ambitious, coordinated programme of public engagement and involvement** should stimulate an informed discussion, raising the level of debate and understanding and providing policy makers (who in turn should listen and respond), with greater confidence in going forward. In outlining the conditions required and the action needed for such a programme this exploratory opinion builds on a preparatory research study commissioned by the EESC and published in December 2012 entitled Future national energy mix scenarios: public engagement processes in the EU and elsewhere, it is available at <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-energy-futures-civil-society-publications>.

4. Enhancing and building on existing participation mechanisms

4.1 Since 1997 a number of energy forums have been established to discuss technical, regulatory, consumer and policy issues: three regulatory forums (Florence electricity forum, Madrid gas forum, London citizens' energy forum) as well as the Berlin fossil fuels forum, the Bucharest sustainable energy forum and the European nuclear energy forum. While these are all designed to improve the functioning of the internal market in energy none have the broad remit of the type of energy dialogue proposed in this opinion. The Citizens' Energy Forum, as the name implies, seeks the implementation of competitive, energy-efficient and fair retail markets for consumers and thus offers a platform to advance consumer empowerment issues and consumer interests in regulatory matters. These forums all play some part in energy dialogue. And their greater integration through a specific coordinating platform or body would be very welcome. Indeed such a body could also represent European Commission energy interests in the structure of the ambitious European Energy Dialogue outlined below.

4.2 There are also possibilities of drawing in neighbouring third countries, particularly those already party to the Energy Community and this would support the approach suggested in *The EU Energy Policy: Engaging with Partners beyond Our Borders*, COM(2011) 539.

4.3 As an advisory body to EU institutions whose primary mission is to involve civil society organisations more in the European venture **the EESC is well placed to help frame and plan civil society's input into policy-making.** The Committee has presented Opinions on all the EU's major energy legislation and policy development work and organised an extensive programme of conferences for civil society on energy matters, engaging with all levels of energy stakeholders through direct visits in Member States. Its underlying position on the need for a **European energy community and the vital nature of an underpinning societal dialogue** were set out in the joint declaration with Notre Europe – Jacques Delors Institute of January 2012 (<http://www.eesc.europa.eu/eec>).

4.4 The essential element in building a productive dialogue will be trust. Trust in and between stakeholders cannot be assumed – quite the contrary. Therefore one of the objectives of the dialogue is to **build trust between participants.** For this to happen the European Economic and Social Committee, if it is to play a formative role in this process, must be open and trustworthy and have a balanced position.

4.5 **Attitudes to energy in Member States are rooted in societal values.** At a human level these will include safety, fuel

poverty and the access of vulnerable groups to affordable supply. At a national level there are concerns about energy dependency and exposure to external influence. The debate must therefore include a strong ethical as well as economic dimension, as recognised in the Opinion of the European Group on Ethical Aspects of the Energy Mix in Europe adopted in January 2013. This should be recognised as an essential tool in the debate. It calls for an ethics framework to use for all energy sources and for decision making in the energy mix and urges the involvement of civil society through democratic participation and transparency. Further work is necessary in applying these concepts at Member State level and one of the roles of the EESC will be to recognise national sensitivities and offer a route towards convergence and collaboration.

4.6 For example, an integral element in a global socially acceptable and ethical approach to energy which EU policy should underpin is the concept of not disadvantaging the "voiceless" parts of the world, those who are vulnerable in the competitive drive for energy resources.

4.7 Effective involvement works best when **informal non-statutory civil society networks are empowered to interact with more formal statutory networks**. Involvement-led innovation can be a powerful means for agreeing and/or delivering national, regional, city, and local strategic objectives, at a lower cost to the public purse and with less bureaucracy than traditional processes. Presently there are few existing mechanisms to integrate metropolitan, national and pan-EU "energy futures" involvement. However initiatives such as the Covenant of Mayors that advocate better energy efficiency and more renewables indicate what is possible. Linking that involvement to policy and decision-making structures is not yet in place within or across Member States.

5. Achieving public involvement and engagement: a European Energy Dialogue

5.1 The working title for the process outlined above is the **European Energy Dialogue (EED)**, though to emphasise the need for concrete steps to be taken variations of the title European Energy Action might also be considered. The EED would not duplicate existing bodies but rather **will build on current initiatives and supplement them with both concerned energy stakeholder and citizen involvement**. An important objective will be to improve policy-making by organising interaction, provide appropriate information, promoting ownership and fostering legitimacy and backing for political decisions at national and European levels. In principle all energy issues should fall within its scope, including: infrastructure, energy sources and resources, markets, consumer issues, technologies, political and environmental issues, etc.

5.2 The EED must address **the needs and concerns of both statutory and non-statutory stakeholders** – those groupings

involved in the energy supply chain as well as investors, customers, regulators and legislators. In the context of national, EU and globally identified priorities, it must also consider representatives of inter-generational issues as a stakeholder category, particularly those of resource use and depletion, pollution control and climate change.

5.3 It should be noted that the EED would not be involved in operational or technical implementation but would have **the role of providing a "negotiation space"** in which implementation issues can be discussed against a background of societal impact and acceptance, investment and resource strategy and other policy considerations. It should, however, connect with very concrete actions that people can engage with such as smart metering and energy efficiency. Theory, education and practical action need to go hand-in-hand.

6. Implementing a European Energy Dialogue

6.1 The objectives would initially be to:

- identify and prioritise actions which will inform and empower civil society on energy issues;
- identify stakeholders, including industrial and individual energy users, energy operators, workers and trade unions and other interest groups, by their type of interest, level of knowledge, and resource capacity;
- frame the key issues in such a way that everyday knowledge and experience and professional expertise can mutually interact and contribute;
- develop a flexible "conversation" format adaptable in all Member States which brings citizens closer to decision-making.

6.2 **Enhanced consultation and participation mechanisms** are essential to a successful energy transition. An informed, structured, inclusive and responsible dialogue at the EU level is also necessary to ensure that policy making and implementation are strategic, consistent and inclusive - and therefore recognised as credible and efficient.

6.3 Ultimately public engagement must help lay the foundations for a knowledge-based, participative and efficient transition towards a low-carbon energy system by 2050. It would have the potential **to add greater legitimacy to EU action on energy issues whilst enabling citizens to voice their views and preferences at national and pan-EU level**.

6.4 Each identified stakeholder group should be asked, on a reciprocal basis,

- what does each of them require from engaging with the dialogue; and
- what is required from them in contributing to the dialogue.

6.5 If the dialogue is to be successful in the longer-term, **the process must seek to understand and respond to the concerns, knowledge and values of Member States and pan-European civil society.** Such a response is likely to require the development, between the stakeholders themselves, of:

- strategies that will deliver what stakeholders require, at an agreed level of adjustment and compromise where necessary;
- a process to deliver these strategies; and
- the capability to underpin this process.

6.6 For the dialogue to achieve its tasks there are a number of basic questions to be asked:

- Strategies: What strategies must be put in place to facilitate energy sector stakeholder and civil society involvement?
- Processes: What critical processes must be built or re-designed to execute these strategies?
- Capabilities: What capabilities are needed in the dialogue to operate and further develop these processes?
- Energy sector stakeholder and civil society contribution: What contribution should the dialogue expect from its stakeholders and citizens to develop, maintain and enhance these capabilities?

7. Practical steps and recommendations

7.1 It is proposed that by 2016 energy sector stakeholders, citizens and civil society organisation will be engaged in the European Energy Dialogue, in the form of a coordinated multi-level conversation within and across all Member States. In keeping with the scope, scale and urgency of the issue the proposed energy stakeholder and public involvement process must be ambitious, well-resourced and effective; it should follow the tactical approach described in section 6. It needs to **build confidence amongst participants and a reputation for open dialogue** and the progressive resolution or acceptance of the numerous points of view that will be expressed. It should be:

- pan-EU in the sense of converging and integrating at EU level;

- national, in that it will be taking place across differing cultural and energy future landscapes;

- multi-level within a country, integrating national, regional, metropolitan and local levels and recognising the vital role of citizen and consumer influence on policy;

- action-oriented, with all participants asking themselves and each other "what steps can be taken to secure a better energy future?"

7.2 The EED is not a replacement for the debate that needs to be held within the institutions of representative democracy but an enhancement of that debate, **mixing everyday knowledge, experience and understanding with technical and expert information.** Here, participatory democracy acts as a necessary adjunct to representative democracy.

7.3 A three-year programme could be developed by the EESC responding to and combining with national initiatives, and eventually leading to an independent EED. This process will include:

- Research - building on and extending existing research into public engagement and involvement and the underlying complex energy issues that need clarification for the citizen.

- Development of alliances with all interested parties (Member States and rotating EU presidencies, civil society organisations, industry, trade unions, foundations, academic institutions etc.) to establish a firm resource base commensurate with the ambition of the programme.

- A major launch event which will herald active pilot/demonstrator programmes in up to five Member States which will implement national dialogues, each starting with a national event in 2014.

- Establishing links between the EED and the existing forums where possible and appropriate, including with the Energy Community (south-east Europe) and the Eastern Partnership.

- A presentation and debate about the EED as part of the Citizens' Energy Forum in November 2013 and at other energy forums and events, as appropriate.

- Oversight of the development of the dialogue by the EESC's Permanent Study Group, Towards a European Energy Community and the establishment of a representative steering group.

7.4 In structuring public dialogue, decision – support tools work well, especially in exploring "what if" questions and resulting trade-off options, risks and outcomes. Some specific tools include: Scenario building and modelling, participatory multi criteria analysis, virtual reality techniques (including 3D visualisation and geographic information systems [GIS] mapping), life cycle analysis and quantitative environmental assessment. Of these tools, scenario-building has proved to be the most accessible and interactive means to **enable people to understand the scale of the challenge, explore and test their own preferred solutions**, and translate these into practice - the EC Energy Roadmap 2050 used scenario-building as a way to better inform and involve people on policy options.

7.5 To move the energy debate from the margin to the mainstream, to have it discussed in cafes, clubs, kitchens and classrooms, will need more than sophisticated engagement techniques. Major exhibitions and events, the involvement of the scientific community and national media interest will also play their part. This will require professional planning and establishing the dialogue as a European "social brand" which will gain recognition and trust.

7.6 An energy futures dialogue will require clear, transparent and accountable governance processes. The organising body, which is envisaged as being independent of any existing stakeholder, institution or interest group, must be trusted by all participants, seen as reliable and authoritative, and based on an agreed set of social and ethical principles which reflect common values.

7.7 The EESC's role is formative. It will prepare the path by which the EED moves from theory to reality. Beginning with this current phase of initial planning and stakeholder dialogue, and then as part of the group involved in the crucial core start-up tasks the EESC will continue its support as the EED develops in its own right and act as a catalyst in mobilising the substantial resources which will be deployed.

7.8 Essential tasks which the EED will undertake are:

- Establishing a common framework for energy dialogues.
- Creating an overall European "social brand" for the dialogue and accompanying licensing and governance mechanisms.
- Developing an agreed knowledge-based "library" on practical energy issues.
- Hosting a forum for an open energy policy debate between Member States and at EU level.
- Offering funding or essential support for national and regional initiatives.

- Undertaking or commissioning research to fill knowledge gaps.
- Compiling guidelines to existing or approaching energy issues which take into account societal, environmental, ethical and economic issues.
- Collaborating with national and regional organisations.
- Fostering a network of organisations within each Member State.

7.9 The EED can also be regarded as a practical, large-scale exercise in participative democracy, genuinely interfacing with representative democracy on a topic vital to everyone. Subsidiarity, implemented through a franchised or licensed framework, will be the organising principle, i.e. the EED will build on what exists and enhance it. In its establishment phase the EED will develop, through inclusive participation of citizens and stakeholders, agreed dialogue processes open to replication at national, regional and local level. In this way the resources, knowledge and skills of organisations of many types already active in energy issues can play a part. These would include, for example: municipal and regulatory authorities, energy companies, business in general, trades unions, NGOs and consumer organisations and EU institutions (European Commission, European Parliament, Committee of the Regions). The intention would be to provide a "negotiation space" in which implementation issues can be discussed against a background of societal impact and acceptance, investment and resource strategy and other policy considerations. This would involve the consistent presentation of objective information, and be a place where that information and citizens' own experience could explore what degree of convergence on the "framed" energy issues was possible.

7.10 A set of common principles for this dialogue is essential. The challenge is to translate a number of "universal" commitments which recognise and sustain the value of our shared humanity into something which can serve as a basis for policy and action on energy. Such commitments are already contained in the Treaty of European Union which confirms the attachment of Member States to fundamental human and social rights. This solidarity between nations and peoples, a founding principle of the EU, is one that is applicable, in ethical terms, at a global level, where any EU energy policy also has to be relevant.

7.11 The four ethical principles suggested by the EGE Energy Ethics Report (http://ec.europa.eu/bepa/european-group-ethics/publications/opinions/index_en.htm) – access to energy, sustainability, safety and security – clearly overlap with the three pillars of EU energy policy and will need exploring in depth. The EGE report also stresses that, "Participation is at the very core of social and political justice." affirming the approach of the Energy Roadmap 2050 – "Engaging the public is crucial" (point 3.4).

7.12 Developing a principled approach to public participation will be a necessary precursor to the launch of an energy dialogue and is seen as one of the tasks which the EESC can help organise. Five questions are tentatively offered as a contribution to this task:

- How do we ensure that everyone, individuals and industry, can afford the energy they need?
- Does our production and use of energy take account of the needs and impact on future generations?
- Have we assessed and balanced all the short and medium term risks involved in energy production and use?

— Are we certain that our energy supply is both stable and secure enough, given its essential role?

— What can **we** do about these questions?

7.13 For energy sector markets to move beyond the short term, more certainty and effective cooperation is needed. "Business as usual" will not deliver sufficient change at the rate and scale required to achieve policy objectives - and citizen, energy sector, and government stakeholders will all need to play their part in transitioning to low-carbon economies. Here, the EED will provide a means of building confidence and trust, engaging citizens at the national level and then setting national energy policies within a broader EU perspective.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on ‘The citizen at the heart of an inclusive digital internal market: an action plan for success’ (own-initiative opinion)

(2013/C 161/02)

Rapporteur: **Ms DARMANIN**

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 opinion on

The citizen at the heart of an inclusive digital internal market: an action plan for success

(own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 7 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 69 votes and one abstention.

1. Conclusions and recommendations

1.1 The digital internal market has great potential to promote growth, jobs and prosperity in general. However, a number of citizens are currently still excluded from the benefits of this opportunity. The reasons for such exclusion are sociological, cultural and also legislative. The EESC has identified a number of challenges and barriers that are currently preventing the citizen from truly being at the heart of the digital single market, these being:

- a) Infrastructure problems;
- b) An unclear legal framework;
- c) Citizens’ rights not being well defined;
- d) Complaint resolution schemes, both individual and collective, still not being fully implemented;
- e) Discrepancies in the consumer environment in different Member States;
- f) Cybersecurity;
- g) E-procurement and e-signatures still not being fully implemented;
- h) Lack of implementation of e-Government services; and
- i) Enforcement in the internal market.

1.2 The EESC therefore suggests that a number of actions be taken to fully achieve the goal of putting the citizen at the heart of the digital single market:

- a) Free and universal access;
- b) Open internet and net neutrality;
- c) Prevention of abuses;

- d) ICT standardisation;
- e) Inter-operability and inter-connectivity;
- f) Cloud computing;
- g) Price control, i.e. minimum tariffs;
- h) Education and training;
- i) Protection against cyber-fraud and cybercrime (e.g. piracy and counterfeiting);
- j) Safety (incl. data protection and privacy, protection of children, the elderly and the disabled);
- k) A charter of Digital Rights ⁽¹⁾;
- l) Application of the consumer rights directive to digital content;
- m) Revision of the legislation on e-commerce, e-payments, mobile telephony, etc.;
- n) Revision of broadcasting policy;
- o) Information campaigns;
- p) Participation and involvement of civil society at all levels of political decision-making;
- q) Publication of an EU guide to digital services.

⁽¹⁾ The European Commission has recently published a compilation of the rights that currently exist in different EU law texts: <https://ec.europa.eu/digital-agenda/en/code-eu-online-rights>.

2. The citizen at the heart of the digital internal market: the citizen as an economic, social and political actor in line with the four basic freedoms of the internal market

2.1 Empowering the citizen as an economic actor: The digital revolution has got rid of a number of jobs. However, as McKinsey ⁽²⁾ states, it has created 2.6 jobs for every job lost. Society has to adjust to this and currently has the potential to do so. Certain jobs will disappear and younger generations will have a different perspective: they will need to engage with the digital revolution as a job provider. Such initiatives as the MIT *Scratch* programme create added value that reflects one's own value. NASA's "Skunk Works" lab, which produced the right environment for creativity after the Shuttle programme came to an end, is another example.

2.2 Empowering the citizen as a political actor: People have to be free to transfer their ideas, which the internet greatly facilitates even though, despite being hooked to the internet, younger generations travel more. The internet produces a taste for engaging with people. Digital technology has created a new freedom of movement.

2.2.1 There are specific examples, both within Europe and beyond, of citizens mobilising to express their views and to change policies in a democratic way. It is clear that citizens' voices should be better heard in the political arena. The democratic process also needs to adapt to digitisation.

2.3 The citizen as a social actor: e-Skills are not only about learning to use the net; they are about exploiting the net to benefit a social community and for one's personal advancement. For this reason, communities need to make greater use of the potential of the net. However, it is imperative that individuals' personal choices to use or not to use the net be fully respected.

2.4 As highlighted in the EP resolutions on "Completing the Digital Single Market" ⁽³⁾ and "A Single Market for Europeans" ⁽⁴⁾, a number of deficiencies exist in relation to ensuring that the citizen is truly at the heart of the internal market. Those deficiencies, which are not only legislative but also sociological, involve the continuing existence of a number of barriers to full access for consumers to the internal market.

3. General considerations and actions to be taken to enhance citizens' digital usage, considerations for an action plan

Access, knowledge and trust are amongst the most fundamental issues for the public when using the internet and when beginning to make use of the digital market.

⁽²⁾ McKinsey May 2011: Internet Matters, the net's sweeping impact on jobs, growth and prosperity.

⁽³⁾ Rapp. Pablo Arias Echeverría, 2012/2030 (INI), 11.12.2012.

⁽⁴⁾ Rapp. António Fernando Correia de Campos, 2010/2278 (INI), 6.4.2011.

3.1 Access

It is imperative to guarantee equal access capability to every EU citizen. In this respect, infrastructure, hardware, software and orgware ⁽⁵⁾ must be considered.

Access by means of infrastructure

3.1.1 Every EU citizen should be able to have *the same access capability* to the network ⁽⁶⁾. Furthermore, it is essential that a set maximum price for *the cost per Mbps*, for both fixed and mobile access, be determined and established throughout the Member States.

3.1.1.1 According to BEREC (Body of European Regulators for Electronic Communications), the majority of national regulatory authorities have received complaints from consumers concerning the *discrepancy between advertised and actual access speeds* for internet connections. A real digital internal market can be brought into existence only if all EU network operators are under strict public control in order to guarantee the nominal bandwidth in accordance with the Digital Agenda for Europe (DAE) broadband-related pillar.

3.1.1.2 The current heterogeneity of mobile internet access is one of the greatest barriers to a real digital internal market, especially because the rapid spread of smartphones and tablet devices is increasing the economic importance of mobile, internet-based activities to the public (e-commerce, e-health, etc.). In this context, DAE Action 101 clearly indicates that the difference between roaming and national tariffs should approach zero by 2015.

3.1.1.3 Furthermore, infrastructure should ensure full coverage of the whole of Europe, since people must not be discriminated against due to their rural location. The EESC recognises that industry may not consider providing such infrastructure to be economically viable. However, this hurdle should be overcome. Potential solutions may include PPP for rural areas. Content providers may also partner into the infrastructure investment, as they often subsequently benefit from coverage.

Urban wi-fi hot spots

3.1.2 Basic free wi-fi access should be a fundamental right for every European citizen. The EESC believes ⁽⁷⁾ that setting up free public internet access at urban hot spots and providing access to open data 2.0 and open sources would allow people to communicate and carry out job searches.

⁽⁵⁾ "Orgware refers to the capacity building of the different institutional actors involved in the adaptation process of a new technology" (Wikipedia).

⁽⁶⁾ The Digital Agenda already sets out the three main broadband capacity targets: 100 % of EU citizens should be reached by a 2 Mbps connection by 2013 and, by the end of 2020, 100 % of EU citizens should be reached by a 30 Mbps connection and 50 % of European households should have subscriptions above 100 Mbps.

⁽⁷⁾ See footnote 2.

3.1.3 While geographical coverage should not be a strict requirement, it is essential that every single municipality ensure the existence of at least one wi-fi hot spot. A rational approach would be to guarantee a minimum number of free hot spots proportional to the population; each national regulatory authority could specify local rules in line with EU directives.

3.1.4 Although internet access and a universal broadband network are recognised to be of the utmost importance, the Commission has pointed out⁽⁸⁾ that there is no consensus about the future role of **universal service obligations** ("USOs") in furthering Europe's broadband objectives.

3.1.5 To date, Finland, Spain and Malta have adopted legislation to include broadband in national USOs. On 5 July 2011, the European Parliament adopted a resolution⁽⁹⁾ underlining the importance of USOs as a safety net for social inclusion.

Hardware

3.1.6 Being included as a digital European citizen means being able to connect to the internet, which in turns means owning proper *hardware* and *software* that makes it possible to go online.

3.1.6.1 Basic *hardware*⁽¹⁰⁾ should be available in all EU countries at a price that is accessible for all. For this reason, the EESC strongly encourages the development of a specific project under Horizon 2020 whereby basic hardware can be manufactured in Europe at a genuinely affordable price. Regrettably, the Horizon 2020 budget has recently been reduced in Council.

Software

3.1.6.2 *Software*⁽¹¹⁾ should be open-source, avoiding additional costs and allowing common, standard, non-proprietary tools for editing and sharing documents. Such software should also be made accessible for people suffering from disabilities. Open source should complement other mainstream software.

3.2 Protecting the open internet and net neutrality

3.2.1 The Committee has already pointed out⁽¹²⁾ that, from the EU citizen's point of view, it is essential that Internet Service Providers (ISP) guarantee that people are free to connect to the public internet without restrictions from governments or network operators on content, sites, platforms, the kinds of

equipment that may be attached and the modes of communication allowed. This is the very concept of the "**open internet**", one of the fundamental rights of the digital citizen.

3.2.2 Moreover, all EU ISPs should treat all sources of similar internet data equally without discriminating between different types of traffic for economic reasons.

3.2.3 BEREC preliminary findings on traffic management practices in Europe clearly show that blocking of VoIP⁽¹³⁾ traffic is common⁽¹⁴⁾.

3.2.4 EU regulators found that VoIP services like Skype are mainly blocked by mobile operators. Peer-to-peer traffic, which allows exchange of files between internet users, is also regularly slowed down or blocked by both fixed-line and mobile operators.

As more services migrate to the Web, operators seem to be increasingly tempted to discriminate against other services that compete with their own or do not yield much profit, effectively creating fast lanes and slow lanes for different services. **Net neutrality** would therefore be seriously challenged.

3.2.5 On the contrary, the net neutrality principle implies that no provider can prioritise traffic on the net for economic reasons. Instead, every user should be served with the providers' best effort.

The words "net neutrality" are totally absent from the European Commission's DAE Communication, but the Committee underlines that **the principle of net neutrality should be unambiguously defined** and enshrined in European law as an endorsement of citizens' rights as defined in the EU Charter of Fundamental Rights.

3.3 Orgware

3.3.1 Technology is not enough to exploit the potential of the digital single market. Orgware – the knowledge, skills and awareness of users – is equally important. Therefore, the EESC puts emphasis on knowledge – e-skills – while being critical about the benefits considering the dangers of using the net.

3.3.2 Knowledge

Orgware is a crucial aspect of maximising the use of the net by knowing how to use it not only for leisure, but also for personal and community development.

⁽⁸⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Universal service in e-communications: report on the outcome of the public consultation and the third periodic review of the scope in accordance with Article 15 of Directive 2002/22/EC (23.11.2011).

⁽⁹⁾ Resolution (P7_TA(2011)0306).

⁽¹⁰⁾ Hardware is understood to be a desktop PC, a laptop, a netbook, a smartphone, a tablet device or any electronic device capable of network connection.

⁽¹¹⁾ Software: mainly a web browser and a document editing package.

⁽¹²⁾ OJ C 24, 28.1.2012, p. 139.

⁽¹³⁾ Voice over IP.

⁽¹⁴⁾ The findings are the result of a survey carried out by BEREC over several months and represent information gathered from 250 fixed-line and 150 mobile operators across Europe.

3.4 Ensure training on e-skills

3.4.1 In order for EU citizens to be truly at the heart of the digital internal market, they absolutely need *enhanced digital competences and advanced media literacy* in order to effectively minimise the digital divide and maximise their digital inclusion.

3.4.1.1 Digital inclusion mainly implies giving equal opportunities to every EU citizen and, in particular ⁽¹⁵⁾, to:

- older people;
- people with disabilities;
- low income earners;
- educationally disadvantaged people; and
- minorities.

It is thus essential to propose EU-wide indicators of digital competences and media literacy ⁽¹⁶⁾ and to implement long term e-skills and digital literacy policies as soon as possible ⁽¹⁷⁾ in each of the Member States. It is therefore imperative that cohesion funds, namely the ESF, be targeted at use by local civil society actors in regions to develop e-literacy skills.

3.5 Digital Schools

3.5.1 The process of European digitalisation must involve schools – both teachers and students. It is necessary to provide the means for real digital schools, which could move towards more digitalised administration and teaching, contributing at the same time to environmental improvement.

3.5.2 While students are usually more accustomed to new technologies and need help and guidance to develop their skills, there is a high rate of ICT illiteracy among older generations. The creation of a digital school and a digital society highlights the need to train teachers in ICT skills in order to allow the elderly to better engage with younger generations.

3.5.3 Teaching methods must, in fact, be re-thought. Finding the right combination of traditional teaching methods and new technologies represents a constant challenge to teachers.

3.5.4 Further, to fill the gap between traditional education and new technologies, on-line teaching resources should be put in place, in order to make a consistent and reliable learning process accessible everywhere by everyone. Actions 61 ⁽¹⁸⁾ and 68 ⁽¹⁹⁾ of the DAE seem to be planning measures in this sense. However, it is important to remember that not all future end users have the same level of ICT skills. Interfaces and content

should therefore be capable of adaptation to different levels in order to be user-friendly for basic users and more challenging, and so more interesting, for more advanced users.

3.6 European Computer Driving Licence

3.6.1 The **European Computer Driving Licence** (ECDL) should be officially extended to all Member States and constantly updated to the state-of-the art software and hardware tools available.

3.6.1.1 The ECDL should be based on open software and should be granted only after an EU-standardised exam. It should be included in all public secondary school programmes, to provide a common basic level of IT expertise to all EU students.

3.6.2 It is necessary to implement the content in accordance with the means. In its effort to digitalise Europe, the EU should increase the availability of resources in digital format, such as e-books. In this sense, the EESC welcomes the Commission's will to further develop the **European Library** ⁽²⁰⁾, but at the same time fears that this potentially revolutionary service is unknown by many and should be better promoted, particularly in the educational sector.

3.7 Trust

3.7.1 Trust is a key issue in ensuring that the potential of the Internet is maximised within the internal market. To this end, people must be sure that adequate systems are in place to ensure **prevention** of personal or community harm; an adequate level of **protection**; the **prosecution** of cyber criminals, similar to physical crime, as well as **proper regulation** of the internet and its **enforcement**.

3.8 Prevention

3.8.1 Education in relation to the key potential and risks of the net is essential. Clear educational campaigns targeting different levels of expertise can effectively contribute to prevention.

3.8.2 **Regulation is also a key element in ensuring prevention.** While regulating the internet is a very difficult task, protection from any form of risk is of utmost importance for the European people. The EESC therefore strongly recommends that an enforceable basic framework of regulation be drawn up at a European level.

3.8.3 More responsibility, e.g. in line with the Charter of Fundamental Rights, could be assumed by internet providers through self-regulation, as successfully practised in such sectors as advertising. This option, which would remedy the current state of deregulation, implies regular assessment and monitoring by the legislator as well as sanctions.

⁽¹⁵⁾ OJ C 318, 29.10.2011, p. 9.

⁽¹⁶⁾ DAE Action 62.

⁽¹⁷⁾ DAE Action 66.

⁽¹⁸⁾ Develop an online consumer education tool on new media technologies.

⁽¹⁹⁾ Member States to mainstream e-Learning in national policies.

⁽²⁰⁾ DAE action 79: Propose a sustainable model for financing the European digital library.

3.9 Protection

3.9.1 In going digital, citizens must feel adequately protected. E-services should therefore clearly display the level of protection they offer. In this respect, content providers could demonstrate the protection level of their sites by adhering to specific guidelines ⁽²¹⁾.

3.9.2 Identity theft is one of the major concerns of users. It is therefore recommended that research be undertaken to guarantee personal data protection on the Internet.

3.9.3 Furthermore, it is essential for EU citizens that the development of digital broadband networks does not proceed at the expense of public health. In particular, every Member State should guarantee, within the same EU regulatory framework, the following basic requirements:

- safe exposure to electro-magnetic fields;
- prohibition of dangerous chemical components in ICT products;
- network development in harmony with the environment; and
- requirement of low energy consumption products in public tenders.

3.10 Prosecution

3.10.1 Cybercrime is as serious as physical crime and should be treated in a similar manner. It is essential that Member States increase their resources to be able to handle and prosecute cybercrime in an effective, efficient and timely manner.

3.11 Charter of Digital Rights

3.11.1 The EESC calls on the Commission to establish a "Charter of Digital Rights" of the citizen ⁽²²⁾; this will be a means of ensuring that the citizen is truly protected and would enhance trust within the digital internal market.

4. Specific considerations

4.1 e-Government services

4.1.1 It is clear that e-Government facilitates the use of government services, particularly by citizens and SMEs. Interoperability is a prerequisite for effective and efficient e-Government services. In this context, citizens must have full control of and access to their own data, without the possibility to modify it but with the ability to identify who has accessed

any part of it, rightfully or not. It is essential, however, that people have the freedom of choice to use services in either digital or traditional form.

4.1.2 Full e-Government services are desirable, however, for the sake of such benefits as cost and red tape reduction and efficiency. Member States should all opt for digital services as a contribution to facilitating citizens' mobility.

4.2 SMEs and the Enterprise Europe Network

4.2.1 In its opinion on *Small business, Big world* ⁽²³⁾, the Committee called for "measures to support e-commerce, which could become an important area in SME internationalisation". The implementation of the EU's digital strategy is an absolute priority for SMEs as well. In this context and in view of the job creation potential of SMEs, it is of strategic importance to set up "one-stop-shops" for VAT, to promote e-invoicing as well as cloud computing. The smart use of ICT, the development of e-skills in SMEs, an increase in the participation of SMEs in e-procurement and their full access to broadband are crucial, as are such instruments as the European e-Business Support Network (eBSN), the Competitiveness and Innovation Programme (CIP) and the Programme for the Competitiveness of Enterprises and SMEs (COSME).

4.2.2 The Committee welcomes the Commission's intention to review the governance of the Enterprise Europe Network (EEN) and to place European SMEs in a digital environment. Here too, trust in a digital single market plays a major role and a bottom-up approach involving the social partners could have didactic added-value.

4.2.3 The Enterprise Europe Network (EEN) has been created to support European SMEs in developing new markets, implementing new technologies and accessing EU funds.

4.2.4 The role of EEN should be enhanced to guarantee universal digital inclusion to all European SMEs and to help every EU citizen to access all available open data, which can progressively create an EU-wide digital network of connections.

4.2.5 The effectiveness of EEN actions should be constantly monitored by the Commission through periodic collection of feedback from EU SMEs and from all EU citizens who have benefited from its services.

4.3 Natural barriers to the digital single market

4.3.1 Language is one of the most prominent natural barriers to the single market – digital or not.

4.3.2 Although this is a right, remaining excluded from the digital single market and its true benefits is a barrier.

⁽²¹⁾ In the absence of regulation, content providers could develop codes of conduct, as is the case in many other sectors (more on this under <http://www.eesc.europa.eu/?i=portal.en.self-and-co-regulation-enter-the-database>).

⁽²²⁾ See footnote 1.

⁽²³⁾ OJ C 229, 31.7.2012, p. 49.

4.3.3 Whereas the digital single market has eliminated geographical barriers and isolation, the interface with the physical world, such as shipping of goods, still makes geographical location and isolation a natural barrier.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

**Opinion of the European Economic and Social Committee on 'Abuse of the status of self-employed'
(own-initiative opinion)**

(2013/C 161/03)

Rapporteur: **Mr SIECKER**

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

Abuse of the status of self-employed

(own-initiative opinion).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 21 March), the European Economic and Social Committee adopted the following opinion by 157 votes to 17 with 35 abstentions.

1. Conclusions and recommendations

1.1 There is currently no unambiguous, EU-wide definition making a clear distinction between *bona fide* self-employed people working on their own account and sham self-employed. Each competent authority and each individual body uses its own legal or regulatory framework, which can differ according to their jurisdiction and policy field (tax legislation, social security, business law, labour market, insurance). These abuses range from evasion of social security contributions, through tax evasion and undermining labour rights to undeclared work. This is a serious distortion of competition for the genuinely self-employed, micro businesses and SMEs.

1.2 In its 2006 Green Paper on *Modernising labour law to meet the challenges of the 21st century*, the European Commission raised the question of whether the Member States' legal definitions of salaried work and self-employed work should be made clearer, to ease *bona fide* transitions from salaried to self-employed work and *vice versa*. In the consultation that followed the Green Paper, it was acknowledged that the absence of an EU-wide definition could lead to problems, particularly in situations involving cross-border work (and supply of services).

1.3 The 2006 ILO recommendation takes a broad approach to the notion of "employment relationship" to allow action against sham self-employment. In determining whether or not there is an employment relationship, the primary focus should be on the facts concerning the activities and the remuneration of the employee, irrespective of how the relationship is characterised in, for example, contractual terms. A hidden employment relationship exists where the employer treats a worker in such a way as to conceal his or her true legal status as an employee, and where contractual terms can have the effect of taking away the protection to which employees are entitled.

1.4 Several Member States have already attempted to come up with a precise definition of the difference between employees and self-employed people, based on a set of criteria laid down in advance. The complex variety of people's actual situations means that, in practice, it has often proven difficult to produce such a definition. The EESC is aware of this issue, and therefore suggests evaluating the different experiences of the Member States with a view to drawing conclusions and making recommendations for a more effective approach.

1.5 Reliable regulation, and a definition of sham self-employment, would help *bona fide* self-employed and micro businesses. Sham self-employment should be combated through better registration and monitoring of the real position in the labour market. Economic dependence on a client (often the former employer) points to the continuation of an employment relationship.

1.6 Developing a good social security system for the self-employed in all Member States, taking account of the specific features of self-employed status, will help to combat and prevent possible abuses.

1.7 Employees who become genuinely self-employed are a normal part of the labour market and the economy. Therefore, consideration should be given to how they can benefit from joint facilities like integration into existing SME organisations, business organisations, chambers and labour market organisations, as well as inclusion in different parts of the social security systems and pension schemes. Also health and safety in the workplace should apply in full, and vocational training institutions should be made accessible.

1.8 The EESC emphasises the societal and socio-economic value and importance of self-employment. It is, however, important for individuals to be able to make a free, informed choice as to whether or not they wish to be self-employed.

1.9 Some schemes set up in Member States to develop entrepreneurship may create distortion of competition for genuine self-employed, micro businesses and SMEs. It is important to have a study of impact on all these categories. The EESC proposes that a suggestion would be made to Member States to identify especially problematic sectors and to set through social dialogue minimum hourly rates that may vary even within the same Member State within regions.

It is essential that public procurement at Member State level would respect such a move in order to set an example and further tackle unfair situations.

2. Development of the labour market

2.1 Self-employment is a legitimate status on the labour market and everyone has the right to be self-employed. The EESC took this position in several opinions it produced on the self-employed. But there also is a reverse side to this phenomenon that has not yet been addressed by the Committee. The last opinion stated explicitly: "We shall not try to address the subject of undeclared work or that of so-called bogus self-employment, even though both may have, or appear to have, a link with economically dependent self-employed workers" ⁽¹⁾. The current opinion finally addresses these topics.

2.2 In recent decades, major shifts have taken place in the composition of the category of self-employed people, next to the "classical" type of independents and small entrepreneurs. In the present period, it has become necessary to assess whether the operating environment offers sufficient protection to self-employed. The EESC recalls its previous opinion ⁽²⁾ in which it recommended:

— data gathering on so-called "economically dependent self-employed work" in the EU;

— identifying aspects common to definitions of employed persons in different EU Member States; and

— promoting studies permitting a detailed analysis of national experiences particularly in cross-border areas.

2.3 Self-employment differs from one Member State to another. In some countries (Netherlands) it is defined as a person working on his/her own account, mainly as a subcontractor to another company. In other Member States (France) the self-employed status is reserved for an entrepreneur who is not an employee of his company; he may have or not employees. Self-employment is not limited to subcontracting because it can also have consumers as customers. Different definitions of employment and self-employment are of great significance not only for labour law, but also for social security and tax legislation.

2.4 The establishment of the single market and the related introduction of free movement have contributed to the development referred to in 2.2 and have introduced the use of self-employment in the most vulnerable parts of our labour markets. A number of workers nowadays are hired (through all kinds of agencies) not as workers but as "self-employed service providers". The person engaged is not contracted because he/she delivers with his/her independent work a special service for his/her own account. Cheap labour can be provided with an invoice without compliance to the national labour standards ⁽³⁾. It is legitimate to ask whether this new type of self-employed status is genuine.

⁽³⁾ In a recent publication evidence is given that the self-employed status is also used to circumvent the restrictions on the labour market related to the enlargement process. According to Béla Galgóczi "One of the most controversial issues in the EU labour mobility debate, not least in the context of transitional measures imposed by some Member States, has been the possible substitution of employees by self-employed workers, making use of the freedom of service provision to circumvent restrictions imposed as transitional measures on waged employment." (p. 23). There is no excessive recourse at the aggregate level to (bogus) self-employment, but in countries with restrictions by transitional measures "it clearly is an adjustment strategy that is used" (p. 25). The rate of self-employed workers from EU2 countries increased since 2008 and differed in 2011 stark in Germany, Belgium and Austria, compared to native and EU8 self-employed workers. With UK restrictions still applying for Romanian workers, a high percentage enters through the use of the self-employed status (almost 45 %). Workers from the EU8 countries that no longer need authorisation on average have nowadays a percentage of self-employed that has decreased to the national UK average. Evidence for this bypass can be derived from the Italian case; with no restrictions for the care taking sector and construction the E2 migrant workers, mainly from Romania, that predominantly work in these sectors have on average lower figures of self-employment than natives or other EU and non-EU migrants (*EU Labour Migration in Troubled Times - Skills Mismatch, Return and Policy Responses* by Béla Galgóczi, Janine Leschke, Andrew Watt (Eds.), Ashgate, 2012).

⁽¹⁾ OJ C 18, 19.1.2011, p. 44.

⁽²⁾ Ibid.

2.5 There are a lot of identifiable problems with labour relations, particularly in cross-border cases⁽⁴⁾. There are similarities between such relationships and the position of the traditional casual or day labourer, a type of work with the use of gangmasters that everyone thought had been consigned to the past⁽⁵⁾. Thus, in some countries, self-employed operating on their own account can take up activities overnight that usually requires years of occupational training for people with a permanent job. Special gangmasters and recruitment agencies arose, offering the services of self-employed. These allow businesses to switch easily to contracts under which self-employed do the same work that was previously done by employees. There is a need for more reliable evidence to assess the number of affected workers and the most critical borders. Therefore more professional research is necessary.

2.6 As well as private contractors, more and more large businesses and the public sector also make regular use of self-employed. One quarter of the businesses that hire self-employed people identify the knowledge and experience as the most important reason for hiring them. They are used to deal with peaks in the production process and shortages of qualified staff. Another important reason, according to employers, is flexibility in staffing arrangements.

2.7 To the extent that self-employed choose of their own free will to run businesses on their own account, there is no issue. However, if the change is not based on a genuinely free choice of self-employed status, social risks are in practice transferred from the firm to the individual workers. This leads to abuses ranging from evasion of social security contributions, through tax evasion and abuse of labour rights, to undeclared

⁽⁴⁾ The 1999 Supiot Report observed already the emergence of the "new" self-employed in various EU Member States and called this problematical for two reasons: self-employment can function as a means to evade employer obligations; and, by choosing for entrepreneurship, younger, well-educated workers do not participate in the solidarity of employee social security schemes. At the same time, there is also a positive side to the "new" self-employed phenomenon. Self-employment can offer more room for the capabilities of genuinely autonomous, usually highly qualified workers, and may therefore contribute to an increase in the quality of work and innovation of the organisation of work. Designations as "bogus" and "dependent" are used in order to emphasise the dark side of this type of self-employment. "Bogus" to indicate that the term self-employed used here can hardly be qualified as such, "dependent" to show that these so-called self-employed are not independent, neither economically nor in the control of their terms and conditions of employment (M. Westerveld, http://www.uva-aiaas.net/news_agenda/agenda/522).

⁽⁵⁾ In France this archaic type is called "marchandage de main-d'œuvre". The first legal acts to ban this type of labour-only recruitment were already formulated in France in the mid 19th century.

work⁽⁶⁾. This is a serious distortion of competition for the genuinely self-employed, micro businesses and SMEs. Moreover, some schemes set up in Member States to develop entrepreneurship (the case of auto-entrepreneurs in France) may create distortion of competition between genuine self-employed and this new category of self-employed.

2.7.1 The EESC proposes that a suggestion would be made to Member States to identify especially problematic sectors and to set through social dialogue minimum hourly rates that might vary even within the same Member State within different regions.

It is essential that public procurement at Member State level would respect such a move in order to set an example and further tackle unfair situations.

2.8 The proportion of self-employed increased throughout Europe in the 1980s, before falling slightly in the 1990s. In recent decades, the picture has differed between Member States. In some countries, self-employment has again increased, while in others the proportion has remained stable or shown a downward trend (OECD Employment Outlook 2005 and OECD Factbook 2006). Since the start of the financial crisis, the proportion of self-employed has not increased overall. Part of the self-employed now belongs to what is known as the "flexible layer" of the workforce: employment relationships that have little stability and can be quickly dissolved at times of economic downturn, to be called on again when growth prospects cautiously reappear.

2.9 The self-employed meet lower health and safety at work and environmental protection standards than employees. One of the ways to overcome this deficit would be to create service centres for the self-employed that would perform these tasks and operations for them.

⁽⁶⁾ The European Commission (EC) describes some types of abuses: "In France, the new 'auto-entrepreneur' status has been abused by some employers so that they can pay less tax for employees who are pushed into accepting the new status. In different Member States, including the Netherlands and Belgium, there is 'false self-employment', referring to supposedly self-employed workers whose status (self-employed or employees) is unclear. In theory, they are self-employed (the employer only pays a lump sum of which the worker has to pay his own insurance and other expenses), but, in practice, there is no difference between them and any other employee doing the same work" (EC, European Employment Observatory Review, Self-employment in Europe 2010, p. 29).

3. Definition of self-employed

3.1 There is no unified reference in legislation or regulation to self-employed (7). The term refers sometimes to freelancers, at other times to all self-employed people who work independently. The status implies that they have no employment contract, but provide services to clients or contractors on the basis of a commercial contract.

3.2 The category of self-employed is often split between two extremes (European Foundation, 1996). At one extreme are highly qualified and experienced professionals who are well aware of their market position, know what they are worth and wish to carry on business on their own account. This first group mainly consists of older, well paid personnel who plan and organise their work themselves. The other extreme comprises self-employed people whose status has no purpose other than to reduce the administrative and financial burden on the client. People in that situation are bogus self-employed, have little or no freedom of choice and are entirely economically dependent on their client. Looking at literature this often happens to 2 out of 5 categories of the self-employed that have been defined in a recent study (8).

3.3 From a legal point of view, self-employed are not all in an equally good position compared to employees. A Dutch study, carried out in 2010 by EIM for the Ministry of Social Affairs and Employment, showed how self-employed manage risks. They cannot fall back on collective insurance for employees, and should therefore insure themselves against risks. In many cases, that does not happen. They fairly often have liability insurance (72 %), but are less often insured against illness (20 %) or incapacity for work (36 %). Only one in two self-employed is building up a reserve for retirement. As a result they risk finding themselves in a state of poverty when they retire. In agriculture and construction they are more likely than average to be insured against risks, and those in construction and business services are more likely to have pension provision. The EESC recommends that the self-employed, when applying for this status, be properly informed of the consequences of making only low social and health insurance contributions and of other conditions and obligations involved in starting a business.

4. Frictions and abuse of status

4.1 Whether or not there is an employment relationship, and what rights and protection are linked to this status, has been subject of renewed interest in various European countries in recent years. This is due to significant changes in the way

that businesses operate, with an increase in outsourcing and tendering, while legislators have heeded the call for more flexibility and the reduction of "administrative" burdens, leading to deregulation and a policy that seeks to end "traditional" forms of job security.

4.2 From a legal point of view several European countries tried to draw the line by further developing the definition of "employment relationship" on the basis of various criteria. Such a relationship is characterised by the performance of paid activities in return for remuneration, with any profit from that paid work belonging to the client. Important indicators in that respect include the fact that the work is performed under the control of another party and that the employee is required to be available. They also include the fact that the remuneration is the sole, or main, source of income for the employee and the absence of economic risk for him or her.

4.3 The EESC limits itself to guiding the Member States by suggesting best practice models. A good example is the model from Malta that has proven highly successful.

When considering the employment status of a person who is nominally self-employed and is prima facie not considered as an employee, it shall/can be presumed that there is an employment relationship and that the person for whom the service is provided is the employer if at least five of the following criteria are satisfied in relation to the person performing the work:

- (a) s/he depends on one single person for whom the service is provided for at least 75 % of his income over a period of one year;
- (b) s/he depends on the person for whom the service is provided to determine what work is to be done and where and how the assigned work is to be carried out;
- (c) s/he performs the work using equipment, tools or materials provided by the person for whom the service is provided;
- (d) s/he is subject to a working time schedule or minimum work periods established by the person for whom the service is provided;
- (e) s/he cannot sub-contract his work to other individuals to substitute himself when carrying out work;

(7) The EC notes (ibid p. 6) that there are different understandings and definitions of the term self-employment across the countries, with a number of different subcategories defined: for instance, according to the legal status of the enterprise, whether the business has employees or not (employers versus own-account workers) and/or the sector in which the business operates (e.g. agriculture). Some countries also make the distinction between self-employed status and the status of "dependent self-employed" (e.g. Spain, Italy), where the self-employed person works for only one client. Others distinguish self-employment which is carried out in addition to paid employment (e.g. Belgium).

(8) "Self employed workers: industrial relations and working conditions". EIRO, 2009.

- (f) s/he is integrated in the structure of the production process, the work organisation or the company's or other organization's hierarchy;
- (g) the person's activity is a core element in the organization and pursuit of the objectives of the person for whom the service is provided, and
- (h) s/he carries out similar tasks to existing employees, or, in the case when work is outsourced, he performs tasks similar to those formerly undertaken by employees.

4.4 Different definitions exist not only in the various European countries⁽⁹⁾, but also in EU law. This lack of clarity creates major problems in cross border situations. The absence of a link between the national and European legal frameworks in relation to the distinction between taking on work and providing services makes the concept of self-employment a problematic subject, particularly in relation to cross-border work.

4.5 From an international perspective it is becoming increasingly difficult to determine whether or not there is an employment relationship. This arises in situations in which the rights and obligations of the parties to the contract are not clear and unambiguous, or where greater flexibility and deregulation make it difficult to verify the possibility that there is an employment relationship. It also arises where legislators create various sorts of intermediate forms, or simply treat the possibility of setting up in self-employment overnight as being one of the new ways that business is conducted.

4.6 The International Labour Organization (ILO) gave an early warning of the potential abuse of self-employment, which lead to circumvention of employee rights and of the legal protection that is usually linked to the employment rela-

tionship. The ILO referred to the possibility of abuse resulting from a combination of factors: legislation is either too narrow or interpreted too narrowly; legislation is worded in such a way that its scope and effects are minimal; although there is indeed an employment relationship, it is unclear who the employer is; various forms of sham self-employment are not covered; and there is a general failure to monitor compliance.

4.7 The definition set out in the International Classification of Status in Employment defines self-employed work as work where the remuneration is directly dependent upon the profits derived from goods produced and services rendered. Historically speaking, that distinguishes three major groups of self-employed people: micro-enterprises, small businesses and freelancers. At the June 2006 General Assembly, a recommendation on the employment relationship was adopted (Recommendation 198)⁽¹⁰⁾. The main aim of that recommendation was to improve national policy on protection of the rights of employees who are in an employment relationship (Art. 1.4).

4.8 At the same time, the ILO worked between 2005 and 2007 to further develop the concepts used. Besides the recommendation already mentioned, several documents were produced that, among other things, give an overview of the existing national rules. From that overview, it is obvious that there is a growing need to develop clear definitions so as to allow differentiation between legitimate forms of self-employment and fraudulent practices whose sole aim is to evade or circumvent employment law and other legal provisions.

4.9 The EESC recommends that tackling the specific problem of the self-employed be discussed in the social dialogue at both European and national level and that organisations representing their interests be allowed to take part in the social dialogue.

Brussels, 21 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁹⁾ From the legal perspective, several criteria are formulated in the EU Member States with regard to the definition of a labour relation: Subordination to a user undertaking; submission to orders and instructions in the performance of work; integration in a (collective) scheme of planning, execution and control designed by others; economically and socially the worker is dependent on the work done for and by an undertaking that belongs to someone else; financial dependency on a (single) employer (<http://www.clr-news.org/CLR-News/CLR%20News%202-2007%20ISSN.pdf>, p. 35).

⁽¹⁰⁾ The recommendation was accepted with 71 % of votes cast. It has to be noted that the employers delegation cooperated in the preparation of the recommendation and finally decided to abstain from voting.

APPENDIX

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 (Rule 54(3) of the Rules of Procedure):

Point 1.3

Amend as follows:

- 1.3 *The 2006 ILO recommendation takes a broad approach to the notion of "employment relationship" to allow action against sham self-employment. In determining whether or not there is an employment relationship, the primary focus should be on the facts concerning the activities and the remuneration of the employee, irrespective of how the relationship is characterised in, for example, contractual terms. A hidden employment relationship exists where the employer treats a worker in such a way as to conceal his or her true legal status as an employee, and where contractual terms can have the effect of taking away the protection to which employees are entitled. It has to be noted, however, that ILO recommendations are addressed to national governments and not to the EU.*

Point 4.6

Amend as follows:

- 4.6 *The International Labour Organization (ILO) gave an early warning to national governments of the potential abuse of self-employment, which lead to circumvention of employee rights and of the legal protection that is usually linked to the employment relationship. The ILO referred to the possibility of abuse resulting from a combination of factors: legislation is either too narrow or interpreted too narrowly; legislation is worded in such a way that its scope and effects are minimal; although there is indeed an employment relationship, it is unclear who the employer is; various forms of sham self-employment are not covered; and there is a general failure to monitor compliance.*

Reason

The rapporteur grounds part of his arguments for action at EU level on the ILO "Recommendation concerning the employment relationship" of 2006. However, the ILO limits explicitly the scope of its recommendation to national policies and national laws. Furthermore, it is worth noting that this recommendation was far from being adopted by consensus (quite the common practice in the ILO) – on the contrary, only 71 % of votes cast supported the proposal, with the opposition of the entire employers group.

In accordance with Rule 51(4) of the Rules of Procedure, these two amendments were examined together.

Outcome of the vote:

For: 73

Against: 122

Abstentions: 12

Opinion of the European Economic and Social Committee on ‘The internal market and State aid for the regions’ (own-initiative opinion)

(2013/C 161/04)

Rapporteur: **Mr IOZIA**

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 internal market and state aid for the regions.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 21 March), the European Economic and Social Committee adopted the following opinion by 156 votes to 6 with 2 abstentions.

1. Conclusions and recommendations

1.1 As changes in the state aid system draw nearer, the Committee considers it useful to draw up an own-initiative opinion on state aid for the regions, as viewed by civil society, and its inclusion among the fundamental principles of the internal market.

1.2 This important topic becomes crucial at a time of crisis and widespread economic recession calling for flexible support and intervention mechanisms which respect competition rules. In recent years the Commission has adopted temporary intervention frameworks precisely in order to facilitate appropriate support for the banking and business system.

1.3 As regional state aid is designed to offset the disadvantages faced by the less favoured regions and thus to promote the economic, social and territorial cohesion of the Member States and of the EU as a whole, this form of aid provides a valuable tool for overcoming the crisis and relaunching the economies of the EU's regions. For SMEs, in particular, it is important that these instruments are efficient and effective: access to this form of aid should be made easier by simplifying access conditions, making it more flexible, and providing appropriate information about the possibilities being offered.

1.4 The Committee is thus delighted that as part of the process for modernising state aid ⁽¹⁾ launched by Commissioner Almunia, the Commission has also decided to update and modernise the guidelines on public aid for businesses in disadvantaged areas. This revision will ensure consistency between regional policy and competition policy, and respect for the subsidiarity principle.

1.5 The Committee therefore calls on the Commission to make EU policies more consistent with competition policy, so that competition policy does not thwart objectives of common European interest such as the harmonious, integrated development of Europe's regions but instead provides an opportunity for relaunching regional economies in the single market after the crisis.

1.6 On 14 January 2013 the Commission launched a public consultation on its paper containing draft regional aid guidelines for 2014-2020 ⁽²⁾. The paper broadly reflects the approach taken in the "non-paper" sent to Member States in December 2011. An initial multilateral meeting has been held on it, during which the Commission intimated that it might be amenable to some of the requests made by the Member States, for example regarding the ceiling for population coverage at EU level. In this context, the present opinion can play a strategic role in putting the Committee's message across to the Commission.

1.7 Accordingly, the Committee requests that the new guidelines on state aid for the regions give Member States a flexible cross-sectoral instrument for achieving the Europe 2020 objectives, by harnessing regional excellence irrespective of the sector or size of companies involved in investment projects for the development of disadvantaged areas.

1.8 The current system has remained largely unchanged for over 40 years. It is based on geographical mapping of the EU, and is inappropriate and rigid. If the current method continues to be used in the new economic and social context facing the Union, it could hamper the development of the internal market.

⁽¹⁾ OJ C 11, 15.1.2013, p. 49.

⁽²⁾ http://ec.europa.eu/competition/consultations/2013_regional_aid_guidelines/explanatory_note_en.pdf.

1.9 The Committee asks the Commission to adopt more flexible parameters that are better tailored to a dramatically changing economic context. These parameters should be based on units of intervention selected on the basis of priorities, needs, the territorial configuration of economic inefficiencies and social exclusion traps, and the institutional context, irrespective of administrative boundaries.

1.10 The Committee therefore stresses that as part of the wider modernisation process, regional state aid should be updated in line with the dynamics and pace of the post-crisis economy, which bring a need for greater flexibility when determining regional disadvantages. In such circumstances, a geographical map which rigidly establishes disadvantaged areas for the whole programming period (seven years) is not appropriate.

1.11 To that end, the Committee considers that the selection of disadvantaged areas under the Article 107(3)(c) exemption should not be decided simply by subtracting the population of the areas assisted under Article 107(3)(a) from the total percentage of the EU population covered (which in any case is arbitrary). Instead, Member States should be able to use a broad set of parameters for determining regional disadvantages.

1.12 The Committee thinks that it is a mistake to exclude large companies from support for investment projects that promote regional cohesion and development. Such a move creates a serious risk of losing the development potential that is only afforded by synergy and horizontal integration across the whole business system, regardless of company size.

1.13 The Committee calls on the Commission to establish a mechanism that takes account *ex ante* of potential adverse side-effects of regional state aid, such as significant job losses at existing sites within the EU, not only as part of the comparative assessment which is undertaken by the Commission during the notification process (and which currently only concerns major investment projects)⁽³⁾, but also under the general block exemption regulation.

1.14 The Committee stresses that regional state aid must be fine-tuned to ensure it does not encourage businesses to move or relocate, in "subsidy races" caused by high differentials in aid in neighbouring and bordering regions which fragment the single market.

1.15 The Committee suggests that the Commission should:

- reconsider its intention to reduce aid intensity for large enterprises from 40 % down to 35 and 25 %. This suggested reduction would in reality lead to the loss of attraction for foreign investment;

- not limit the aid intensity to the amount of additional costs and not toughen the process of proving the incentive effect for large enterprises;

- avoid crippling the ability of "a" areas to attract foreign investment and create new jobs and values, which would put these areas at a competitive disadvantage compared with other regions outside Europe whose investment schemes are in many instances much more generous.

1.16 At the same time the Commission should introduce a safeguard clause obliging large companies which receive regional aid for setting up a new establishment or for purchasing assets directly tied to a particular establishment, to guarantee that for the five years following the granting of the aid:

- they will maintain employment levels at establishments in those Member States where they have not requested aid under Article 107(3)(a), or

- any reduction in employment at establishments in those Member States where they have not requested aid under Article 107(3)(a) will only occur after and in conformity with an agreement with the social partners, at regional or national level, where appropriate, of the Member States involved.

1.17 The Committee asks the Commission to reduce aid levels in a more gradual, tapered and balanced manner. The reduction should be in keeping with the reduction of the aid received by the regions under cohesion policy.

1.18 The Committee proposes that alongside per capita GDP (currently the sole parameter, and not indicative of the true state of a regional economy), other parameters should be used such as: unemployment rate, ratio of job losses to total number employed, and others that could fit better with the real situation.

2. The new economic context after the crisis

2.1 Controls on state aid are a necessary instrument of competition policy to ensure that the single market is governed by effective principles of free trade and competition, providing a level playing field for all businesses across the single European market. Article 107 TFEU therefore prohibits Member

⁽³⁾ 2009/C 223/02, p. 54.

States from granting aid to businesses that would affect trade between Member States, or distort or threaten to distort competition, by giving unwarranted selective advantages to certain businesses, preventing market forces from rewarding the most competitive firms and thereby reducing overall EU competitiveness.

2.2 Nevertheless, the Treaty allows for possible exceptions in cases where aid pursues objectives of common European interest which cannot be achieved by market forces alone. Articles 107(2) and 107(3) identify the main market failures and list the **exceptions** where certain types of aid "shall be compatible" or "may be considered to be compatible" with the internal market, on the basis of criteria laid down exclusively by the European Commission.

2.3 Under Article 107(3)(a) and (c), the Commission may thus consider state aid to promote the economic development of certain disadvantaged areas within the EU as compatible. This type of aid is termed "regional state aid" or "national regional aid". It may be destined mainly for **large companies** to support investment and job creation or, in certain circumstances, it may take the form of operating aid. In both cases, it is **targeted at specific regions in order to redress regional disparities**, more particularly by encouraging firms to set up new establishments there.

2.4 Being designed to offset the disadvantages faced by the less favoured regions, regional state aid promotes the economic, social and territorial cohesion of the Member States and of the EU as a whole. Its aims are consistent with those of the Structural Funds, which provide possible funding sources for implementing regional development policy alongside national budgets.

2.5 The Committee stresses the vital need to safeguard and in some cases strengthen controls on state aid which can severely distort the proper operation of the internal market. However, it must be ensured that the rules on state aid do not make aid disjointed; these rules must also prevent the serious risk of competition and trade distortions due to Member States' differing capacity to grant investment aid.

2.6 At the same time, the Committee considers that the instruments available to provide exceptional assistance for crisis situations or for areas hit by a crisis must be made effective and flexible.

2.7 The current rigid system of guidelines for regional state aid, based on a geographical mapping of the EU, has obvious shortcomings. It does not fully meet the Treaty objectives set

out in Article 107(3)(c) and could potentially distort competition. If the current method is used in the new economic and social context facing the Union, it could hamper the development of the internal market.

2.8 The modernisation of state aid should also apply to this important instrument which completes the range of possible measures for helping disadvantaged areas. It is strange, to say the least, that the Commission not only intends to keep a system that dates back to 1971, with various later amendments, but also to make its application even more restrictive. The Commission's oft-mentioned objectives of growth and job creation are contradicted by inconsistent policies which limit the potential that a careful reform of the guidelines could offer.

2.9 The Commission itself, in the Europe 2020 strategy, recognises that economic conditions change more quickly than political ones, and that in order for Europe to return to sustainable growth and sustainable public finances after the crisis, it needs a new approach which targets resources on particular topics and priorities. As recently stressed by DG Competition in its discussion document of 23 February 2012 on modernisation⁽⁴⁾, this should be achieved by a "dovetailed package of reforms" in the various sectors, through "partnership with Member States and stakeholders with a view to developing a broad and balanced agreement on the way forward".

2.10 The Committee welcomes this approach, which it feels is more flexible and dynamic and thus better designed to address the rapidly evolving crisis facing the EU. In particular, the Committee asks that it be adopted when dealing with the Treaty exemptions for regional state aid.

3. Consistency between regional cohesion policy and competition policy

3.1 The Committee notes that right from the 1998 guidelines which first laid down the principles underpinning national regional aid⁽⁵⁾, the Commission has always stressed the need to make regional policy and competition policy more mutually consistent and focused⁽⁶⁾.

3.2 This approach ensured the mutual consistency of the two systems up to the 2000-2006 programming period as, for political and economic reasons, the maps of the EU

⁽⁴⁾ Comp/DG/2012/012588 of 23 February 2012.

⁽⁵⁾ OJ C 90, 26.3.1998, page 3.

⁽⁶⁾ Communication from the Commission to the Member States on the links between regional and competition policy – reinforcing concentration and mutual consistency, 98/C 90/03, point 1.

regions eligible for structural aid under objectives 1 and 2 were made to coincide with the maps of the regions eligible for regional state-aid exemptions; however, this practice ceased as of the 2007-2013 programming period.

3.3 On the one hand, changes were made to regional policy in response to the need for a multi-disciplinary or integrated approach that recognises the particular problems presented by different geographical circumstances: this called for "a comprehensive strategy which sets the framework within which specific objectives and actions are pursued" (7). Regulation (EC) No 1083/2006 (8) thus established a new method for implementing structural assistance on the ground, whereby implementation is the responsibility of each Member State at the appropriate territorial level, in accordance with its respective institutional system and socio-economic requirements and characteristics.

3.4 On the other hand, competition policy has continued to pre-determine the areas eligible for regional state-aid exemptions by means of seven-year maps. Regional and cohesion policy has thus not been flanked by an equally flexible competition instrument, undermining the integrity of the internal market and betraying the asymmetric nature of policies which nonetheless pursue the same goal of cohesion.

3.5 The Committee also points out that in its 2008 green paper on territorial cohesion (9), the Commission recognised that eligibility for structural policy support had to be decided at regional level, increasingly aware that in order to improve governance of cohesion policy it had to be made "more flexible, more capable of adapting to the most appropriate territorial scale, more responsive to local preferences and needs and better coordinated with other policies at all levels, in conformity with the principle of subsidiarity".

3.6 The Commission also concluded that an effective response to the problems of economic growth in a globalised world economy "requires a policy response on a variable geographical scale" (10).

3.7 If, as the Commission recognises, "competition policy can affect the territorial distribution of economic activity by

ensuring that regional aid is concentrated in the most disadvantaged areas and by adjusting the intensity of aid allowed to the nature and scale of problems" (11), it cannot ignore the path already taken by regional policy, based on measures focused on the EU's thematic priorities and on geographical concentration on a variable scale; this necessarily means reviewing the method for identifying areas eligible for regional exemptions under Article 107(3).

4. Reasons why the current mapping of disadvantaged areas is inappropriate

4.1 The Committee points out that the method used by the Commission to identify EU areas eligible for regional exemptions under Article 107(3) gives priority to the regions with the most serious problems (subparagraph a), identified on the basis of GDP/PPS compared to the overall European average. Further criteria should be added in order to measure serious underemployment, which is specifically mentioned in the Treaty. The criterion used by the Commission is indicative of an abnormally low standard of living but does not necessarily indicate serious underemployment. The unemployment rate could be a useful correcting factor for GDP. The Committee would also ask the Commission why disadvantaged areas under Article 107(3)(c) are to be determined simply by subtracting the Article 107(3)(a) areas from the overall population coverage for the Member State concerned. Such a practice means that the possibility of helping disadvantaged areas under Article 107(3)(c) depends on the scale of disadvantaged areas under Article 107(3)(a), creating serious disparities between Member States without making a comparative assessment of the problems faced by the regions selected.

4.2 This leads to distortions: some countries have eligible regions whose development levels are significantly higher than those of regions in other countries that could not be granted regional aid because the country's ceiling for Article 107(3)(c) is low. The distortion of trade caused by any form of aid would not then be justified in the common interest: it would be both unjustified and a total distortion.

4.3 The Committee stresses the importance of continuing to use comparison with the national development level in order to determine Article 107(3)(c) areas, as comparison within a country is the only way that a Member State can address disparities between its regions and apply national regional policies to counter the fragmentation of the internal market.

(7) Communication from the Commission on Cohesion Policy in Support of Growth and Jobs: Community Strategic Guidelines, 2007-2013, COM(2005) 299 final of 5 July 2005, point 5.

(8) Article 12 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.

(9) COM(2008) 616 final of 6 October 2008, point 1.

(10) Ibid, point. 2.3.

(11) Ibid, point. 3.1.

4.4 In a highly globalised world and in a European context of rapidly disappearing internal barriers, disparities within the Union are increasingly more apparent at regional than at national level, in areas whose socio-economic problems transcend administrative boundaries and are rooted in specific structural and systemic weaknesses of an economic rather than political nature.

4.5 A rigid planning system which ties the definition of "weak" areas to a geographical map based on average data for 2008-2010, and which covers a seven-year period, is anachronistic in the rapidly changing economic and social context of today.

4.6 Moreover, attempts to make the spatial distribution of economic activity more balanced by investing in the most disadvantaged areas could produce "forced" results that do not reflect the real potential of those areas, impeding efficient groupings in Article 107(3)(c) areas and benefitting "local subsidy hunters" in Article 107(3)(a) areas. Pre-defining disadvantaged areas in a static manner is not at all conducive to competitiveness and innovation. It inhibits the development of the innovation clusters which Europe 2020 identifies as key to smart specialisation strategies for regional growth; the Commission states that support for their development *needs to be concentrated on areas of comparative advantage* ⁽¹²⁾, i.e. those economic sectors where aid is most cost-effective.

4.7 It has also been widely shown ⁽¹³⁾ that a regional development policy based essentially on offsetting regional differences related to productivity gaps (in other words, which simply transfers financial resources from the richer regions to the poorest) puts a serious brake on mobility and efficient clustering. Such an approach must leave room for a "place-based development strategy", in which regional and other boundaries are "independent of administrative boundaries ... and can change over time".

5. The need to change the method for defining disadvantaged areas: proposals

5.1 The Committee therefore thinks that the mapping of "disadvantaged areas" should enable each administrative region to intervene in all areas which, during the programming period, show signs of disadvantage, identified using parameters that have been defined, recognised and jointly agreed in advance.

5.2 The Committee endorses the model for modernising regional policy that was recommended in Fabrizio Barca's

2009 report on cohesion policy ⁽¹⁴⁾. This uses units of intervention selected on the basis of priorities, needs, the territorial configuration of economic inefficiencies and social exclusion traps, and the institutional context, irrespective of administrative boundaries.

5.3 The Committee suggests that the Commission uses the same approach for competition policy, adopting a new method for defining "economic areas" under Article 107(3)(c); this method would not be tied to geographic or administrative boundaries, but would be able to take account of the actual conditions which regions face from time to time.

5.4 The Committee believes that this method could guarantee regional development objectives by means of thematic concentration, while also safeguarding competition principles and the integrity of the market by placing a quantitative limit on the resources to be allocated to national regional aid; this limit would be decided upstream for each Member State and NUTS-II [Nomenclature of Territorial Units for Statistics] region, as already happens in the case of the national *de minimis* ceiling in the fisheries and agriculture sectors, for instance.

5.5 The Committee proposes that the establishment of a ceiling be accompanied by the setting of assessment parameters for crisis situations, designed to ensure that support for undertakings will help to further the development of lagging regions, and that the areas where national regional aid can be deployed at certain times are decided on the basis of a broad set of indicators and minimum thresholds approved in advance by the Commission.

5.6 The Committee thinks that it would make more sense for disadvantaged areas to be designated using a method which takes account of local socio-economic conditions. This could be done by identifying NUTS-III areas where unemployment levels exceed the national average, taking the total resident population there and applying a multiplying factor (to be agreed with the Commission) to establish a ceiling for the aid to be granted to companies in those areas.

5.7 The Committee considers that this method would enable the Commission to safeguard competition more effectively than the current method because while meeting the compatibility requirements laid down in the guidelines it sets an effective ceiling for the aid that Member States can grant within a

⁽¹²⁾ COM(2010) 553 final of 6 October 2010, Regional policy contributing to smart growth in Europe 2020, point. 3.1.

⁽¹³⁾ See footnote 14.

⁽¹⁴⁾ An agenda for a reformed cohesion policy: A place-based approach to meeting European Union challenges and expectations – Independent report drawn up by Fabrizio Barca in April 2009 at the request of Danuta Hübner, Commissioner for Regional Policy.

given area, preventing richer countries from providing undue support for their own businesses at the expense of other countries. The current rules, in contrast, allow Member States to concentrate state aid in a particular eligible area to an extent where the overall sum could distort competition.

6. The need to continue aid for large companies in Article 107(3)(c) areas

6.1 The Committee notes that since its inception, regional state aid has provided assistance for large companies, whose strategic role in the development of regional economies is neatly expressed in the Commission's 1998 communication on the links between regional policy and competition policy⁽¹⁵⁾. This stressed the need for the two policies to be mutually consistent precisely in order to attract investment by major companies, recognising that "this would be highly desirable in regional development terms because of the knock-on effects and access to world markets it would bring".

6.2 Remembering this, and in the light of the above comments, the Committee thinks that it should remain possible to grant regional aid to large companies in Article 107(3)(c) areas under the conditions laid down in the existing guidelines.

6.3 The Committee points out that denying such aid to large companies in Article 107(3)(c) areas could seriously skew public resources in Article 107(3)(a) areas, in some countries which not only have a particularly high maximum level of aid but which are also in receipt of significant Community resources and have much lower labour costs: this would inevitably distort competition.

6.4 Liberalisation of the financial markets and expansion of the single market now enable businesses to adopt strategies to minimise the tax they pay and "shop around" for the most fiscally attractive location⁽¹⁶⁾. Whilst awaiting tax harmonisation which would minimise unhealthy fiscal competition, the Committee considers that the Commission should at this time prefer such forms of aid and such aid schemes (e.g. long-term tax relief based on enough "binding" conditions) which can help to minimise distortion of the market better than reduction of aid. The regulatory framework for the next programming period should tighten up the rules on relocation

and ensure that there are appropriate coordination channels for cases where the use of EU cohesion funding and state-aid authorisation involve the same company.

6.5 The Committee urges the Commission to take a close look at the regulatory system adopted by one of the EU's main competitors, the USA, on support for the economic development of disadvantaged areas (Title 13 of the Code of Federal Regulations, Business credit and assistance). This mechanism for identifying areas eligible for public assistance provides for the designation of economic development districts and economically distressed areas, and the selection of development projects based not on geographic or administrative boundaries but on intervention goals and priorities and a set of parameters broadly laid down at federal level, which each state then fleshes out, tailoring them according to their own economic structure.

7. Stakeholders' views

7.1 A public hearing on State aid for the development of Europe's regions was held on 29 January 2013. Speakers included representatives of various EU regions (from Spain, Germany and Italy: Andalusia, Bavaria and Emilia Romagna), local and national business associations, and the European Parliament, as well as the expert for the Committee of the Regions' rapporteur, who outlined the opinion adopted by this EU advisory body on 1 February 2013⁽¹⁷⁾. The opinion puts forward questions and proposals broadly supporting the need to modernise the rules on state aid for the regions.

7.2 Despite their differing standpoints, both regions and businesses stressed that the Commission proposal falls short of providing a satisfactory response to the many calls to modernise and improve the national regional aid system, particularly during the current serious crisis. The EP representative endorsed the proposals set out in the present opinion, feeling that they were better attuned to improving regional balance. Interesting proposals were made for the addition of new criteria alongside GDP for calculating divergence from the EU average and aid eligibility for Article 107(3)(a) regions, such as regional unemployment level. The Committee wholeheartedly supported these proposals.

7.3 Lastly, from both the local and the national standpoint, businesses stressed the need for intervention to be flexible: access to regional aid should be assessed in terms of quality of investment, and of its expected impact on the economy and on competition, and not in terms of company size. It was also pointed out that in order to be able to gauge more effectively the impact on competition of aid for firms larger than SMEs,

⁽¹⁵⁾ See footnote 5.

⁽¹⁶⁾ A new strategy for the single market at the service of Europe's economy and society – Report by Mario Monti to the President of the European Commission José Manuel Barroso, 9 May 2010.

⁽¹⁷⁾ <http://www.toad.cor.europa.eu/corwipdetail.aspx?folderpath=COTER-V/034&id=21792>.

the company-size parameters contained in the Commission's 2003 recommendation ⁽¹⁸⁾ needed updating, as the "non-SME" category includes many businesses which are not large multinationals and, being much smaller than these, should not be treated in the same way.

8. The need to maintain intensity of support for large companies in Article 107(3)(a) areas

8.1 The Committee urges the Commission to reconsider its intention to reduce aid intensity for large enterprises from 40 % down to 35 % and 25 %. The Commission argumentation for aid reduction is not valid. The suggested reduction would in reality lead to the destruction of current schemes in "a" areas established to attract foreign investment.

8.2 The Committee is also seriously concerned about the Commission's intention to limit the aid intensity to the amount of additional costs and to toughen the process of proving the incentive effect for large enterprises.

8.3 The measures described above would in reality cripple the ability of "a" areas to attract foreign investment and create new jobs and values, thus putting these areas at a competitive disadvantage compared with other regions outside Europe whose investment schemes are in many instances much more generous.

Brussels, 21 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁸⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises: OJ L 124, 20.5.2003.

Opinion of the European Economic and Social Committee on 'Job creation through apprenticeships and lifelong vocational training: the role of business in education in the EU' (own-initiative opinion)

(2013/C 161/05)

Rapporteur: **Ms DRBALOVÁ**

On 12 July 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

Job creation through apprenticeships and lifelong vocational training: the role of business in education in the EU.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 February 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 83 votes to 1 with 6 abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the active approach of employers and businesses to a Europe-wide move supporting the development of skills and their adaptation to the needs of the labour market in order to rekindle growth, create jobs and, in particular, improve the situation of young people on the labour market.

1.2 Education and training are costly activities involving multiple beneficiaries. There are many models that can implement cost-sharing systems across Europe. Employers should be involved in them according to national practices and conditions.

1.3 The Committee calls on employers and businesses to support the principle of partnership and cooperation between all stakeholders involved in the reform of education systems, vocational training systems and in the development of lifelong learning strategies. In this context, the Committee recognises the role of social dialogue and the results to date of cooperation among social partners at all levels.

1.4 In the interest of maintaining and strengthening the position of industry in Europe, the Committee urges employers and businesses to help improve the image of industry, technical subjects and STEM skills⁽¹⁾ and to analyse, anticipate and communicate the needs of individual sectors, thereby helping match skills more closely to labour market needs.

1.5 Employers and business organisations should at the same time respect the specific needs of micro-enterprises and small

businesses – given their huge potential to create jobs – in order to help them to develop an overview of how these more flexible, dynamic businesses operate.

1.6 The Committee recommends that businesses, together with other labour market players, work closely with schools and educational institutes and get actively involved in preparing curricula and syllabuses for vocational training in line with their expected results. Such cooperation should also be reflected in the training given to teachers active in the area of vocational education and training.

1.7 The Committee believes that more effective cooperation between businesses and public and private employment services will help make in-house training more consistent with the principles of an active employment policy and therefore increase participation in lifelong learning.

1.8 Under the proposed European Alliance for Apprenticeships, employers and businesses should commit themselves to supporting quality apprenticeships and improving the image and enhancing the attractiveness of apprenticeships in Europe. They should take responsibility for creating a sufficient number of places for trainees and apprentices on the basis of dual systems that link school learning with in-house work experience, along with other means of acquiring practical skills and knowledge. Nevertheless, appropriate conditions need to be established for businesses at national level, along with incentive-based instruments.

1.9 The Committee is aware of the contribution made by employers under the social partnership to develop and

⁽¹⁾ STEM fields (science, technology, engineering and mathematics).

implement European instruments such as the EQF ⁽²⁾, ESCO ⁽³⁾, ECVET ⁽⁴⁾ and Europass, as well as other instruments at national level. It once again highlights the need to tailor these instruments to the situation of small and micro-enterprises and craft companies.

1.10 The Committee also calls on employers and businesses to tap into the potential of women and to encourage them to study STEM subjects in particular in order to increase their employment prospects and facilitate their transition onto the labour market.

1.11 The Committee urges employers and businesses to make more efficient use of the EU's funds – ERDF, EAFRD and above all the new generation ESF ⁽⁵⁾ and Erasmus for All. It also calls for greater resources to be allocated to the COSME and HORIZONT programmes.

2. Introduction

2.1 This opinion follows on directly from the Committee's opinions on the Europe 2020 strategy and the relevant flagship initiatives ⁽⁶⁾ and its opinions on skills development and the role of vocational education and training ⁽⁷⁾.

2.2 This opinion welcomes the Commission's call ⁽⁸⁾ to build strong partnerships of trust among all stakeholders, which respects the role of civil society and the autonomy of the social partners ⁽⁹⁾ and therefore dovetails with the Committee's opinions on this topic ⁽¹⁰⁾.

2.3 The aim of this EESC opinion is to highlight the active contribution of employers and businesses in implementing the measures adopted at EU level in the area of employment, education and youth opportunities. This will therefore involve comparing the policies and measures adopted with the realities and demands of business practice. Businesses in Europe are central to efforts to overcome the employment crisis ⁽¹¹⁾.

2.4 Europe must mobilise all its drivers of growth, which include a skilled labour force of the right size and structure to meet current labour market needs. This is why the focus must also be on practical work skills (results), vocational training, apprenticeships and technical subjects.

2.5 The EESC has stepped up its activity in recent years to support closer and better ties between education systems and the needs of the world of work ⁽¹²⁾ in order to increase workers' employability, provide employers with access to more skilled workers and facilitate the transition from school to working life. The Committee has formulated a series of recommendations for employers and businesses:

- Participate, through tripartite negotiations with the government and social dialogue, in the reform of the labour market and modernisation of education systems
- Take part in drawing up forecasts of future labour market needs
- Contribute to the formulation of effective strategies for lifelong learning
- Together with other labour market players, launch and boost cooperation among businesses, schools and educational institutes
- Promote the validation of the outcomes of non-formal and informal learning
- Collaborate with institutions active on the labour market, particularly private and public employment services, and get actively involved in the provision of vocational orientation schemes for young people and jobseekers
- Improve the image of industrial sectors in particular and offer more apprenticeships and opportunities for practical work experience and traineeships
- Organise work placements for teachers and trainers
- Work together with families and individuals to help adapt people's ambitions to businesses' needs

⁽²⁾ European Qualifications Framework.

⁽³⁾ European Skills, Classifications and Occupations taxonomy.

⁽⁴⁾ European Credit System for Vocational Training and Education facilitating the validation, recognition and accumulation of work-related skills and knowledge.

⁽⁵⁾ European Regional Development Fund, European Agricultural Fund for Regional Development, European Social Fund.

⁽⁶⁾ COM(2010) 682 final, 23.11.2010, COM(2010) 477 final, 15.9.2010, COM(2010) 614 final, 28.10.2010, etc.

⁽⁷⁾ OJ C 68, 6.3.2012, p. 1–10, OJ C 318, 29.10.2011, p. 142–149, OJ C 68, 6.3.2012, p. 11–14, OJ C 132/55, 3.5.2011.

⁽⁸⁾ COM(2012) 727 final.

⁽⁹⁾ Framework agreement on inclusive labour markets (2010) and Framework of actions for the lifelong development of competences and qualifications (2002).

⁽¹⁰⁾ OJ C 143, 22.5.2012, p. 94–101, OJ C 318, 29.10.2011, p. 69–75, OJ C 11, 15.1.2013, p. 65–70.

⁽¹¹⁾ OJ C 11, 15.1.2013, p. 65–70.

⁽¹²⁾ The EESC has launched a series of actions focusing on good examples of cooperation between schools and businesses, links between vocational education and training and practice, as well as on support for young entrepreneurs: Nunc Thermo Fisher Scientific, Roskilde, Denmark, 6.2.2012: "From school to work"; Guarda Polytechnic, Portugal, 5.6.2012: "Forum for the new millennium"; ESC Versailles, France, 29.8.2012: conference entitled "European Youth: Hope or despair for the new generation?", and forums to support young entrepreneurs and women entrepreneurs.

- Create the structures and conditions enabling workers to pass on their know-how and experience to apprentices and trainees or to act as temporary teachers in vocational education and training
- Help increase the mobility of workers, students and teachers between different education systems and vocational training schemes as well as between different countries (through instruments such as EQF, ECVET, EQAVET, Europass etc.)
- Take part in initiatives promoting the introduction of the *National Qualification Framework (NQF)* and the *National Occupational Systems (NOS)*
- Use EU funding to support education and the mobility of pupils in Europe
- Promote voluntary work in education and apprentice training
- Make effective use of the Structural Funds, in particular the ESF.

3. Ongoing initiatives at EU level

3.1 The *Agenda for new skills and jobs* highlights the need to invest in education and vocational training systems, to anticipate which skills are needed and to improve lifelong learning. It also proposes the formulation of comprehensive strategies in this area.

3.2 The *Youth on the move*⁽¹³⁾ initiative stresses the importance of quality education, successful integration into the labour market and greater mobility. It proposes raising the attractiveness, diversity and quality of vocational education and training, improving access to high quality traineeships and encouraging companies to act as good host organisations.

3.3 The communication entitled *Towards a job-rich recovery*⁽¹⁴⁾ focuses on the creation of jobs, particularly in sectors with a strong potential for growth, on restoring dynamism to labour markets, the development of lifelong learning, guaranteeing job security and on the creation of opportunities for young people.

3.4 In a period of rising unemployment and weak economic growth, it is vital to make use of new learning opportunities, including those outside the formal system of education. In this context, the Council's recommendation on the validation of non-formal and informal learning⁽¹⁵⁾ is a contribution at EU level to speeding up reforms.

⁽¹³⁾ COM(2010) 477, 15.9.2011.

⁽¹⁴⁾ COM(2012) 173, 18.4.2012.

⁽¹⁵⁾ COM(2012) 485, 5.9.2012, Proposal for a Council Recommendation on the validation of non-formal and informal learning.

3.5 The EC communication on *Rethinking Education: Investing in skills for better socio-economic outcomes*⁽¹⁶⁾ sets out a series of specific proposals and innovative approaches, including in the area of vocational education and training, apprenticeships and support for education, entrepreneurship and mobility. European VET must aim at world excellence, both as regards its standards and as regards its actual performance⁽¹⁷⁾.

3.6 The Commission communication on *Moving Youth into Employment*⁽¹⁸⁾ is based on existing proposals such as the European Quality Framework for Traineeships⁽¹⁹⁾ and the Youth Guarantees, and recommends the creation of a European Alliance for Apprenticeships⁽²⁰⁾.

3.7 The *Entrepreneurship 2020 Action Plan – Reigniting the Entrepreneurial Spirit in Europe* covers entrepreneurial education and training and the creation of a pan-European entrepreneurial learning initiative⁽²¹⁾ which aims to develop business knowledge and essential skills and attitudes.

4. The role of employers and businesses

4.1 Action to strengthen the position of industry and related services in Europe will require changes in the structure of qualifications and related skills in all sectors based on clearly defined results.

4.2 Restructuring in a range of sectors, which is a natural feature of a dynamic economy, involves both job losses and job creation. However, the number of new jobs created is markedly lower than the number of jobs lost⁽²²⁾. This means that employers must be able to anticipate and manage change, in

⁽¹⁶⁾ COM(2012) 669 *Rethinking Education: Investing in skills for better socio-economic outcomes*.

⁽¹⁷⁾ SWD(2012) 375 *Vocational education and training for better skills, growth and jobs*.

⁽¹⁸⁾ COM(2012) 727 *Moving Youth into Employment* see SWD(2012) 406 *Quality Framework for Traineeships*.

⁽¹⁹⁾ On 5 December 2012 saw the start of the second stage of the consultations with the European social partners in accordance with Article 153(5) of the TFEU.

⁽²⁰⁾ The education ministers met in Berlin on 10 and 11 December 2012 and adopted a memorandum supporting the alliance and outlining ten specific proposals for raising the attractiveness and quality of vocational education and training and for the development of dual systems.

⁽²¹⁾ COM(2012) 795 *Entrepreneurship 2020 Action Plan – Reigniting the Entrepreneurial Spirit in Europe*, 9.1.2013.

⁽²²⁾ European Restructuring Monitor (ERM) Eurofound: from July to September 2012, it recorded 274 cases of restructuring, which represents a loss of 105 076 jobs and the creation of 30 520 new jobs.

cooperation with governments and as part of the social dialogue process, in order to cushion the social impact and increase the positive effects of restructuring. This will entail significant involvement in investments in education and re-skilling.

4.3 It is therefore vital to anticipate future labour market needs. Although specialist international studies reveal how difficult it is to accurately predict the long-term future needs of the labour market in view of the dynamic nature of global development, employer and business organisations should carry out short- and medium-term analyses of individual sectors, identify regional disparities and respond to the changing need of businesses for skilled manpower. These analyses and forecasts cover all types of enterprises, including cooperatives and craft companies.

4.3.1 The optimal approach would be to fix strategic objectives and elaborate action plans. Such plans generally involve strengthening marketing in the given sector, proposing an educational concept and identifying requirements, sharing responsibility and getting the state and other stakeholders economically involved in education and graduate training, fostering cooperation between businesses and schools and other stakeholders in order to link theory with practice, setting up student trainee schemes at companies and developing a culture of company mobility.

4.3.1.1 This educational approach could include assessing the quality of graduates of the various disciplines relating to a given sector, specifying which occupations may be supported through re-skilling, cooperation among sectors and with other branches of industry and establishing a list of cooperating primary and secondary schools. This process could also involve participation on the part of careers guidance experts as well as the organisation of questionnaire-based surveys on final year students' motivation and ideas for their professional careers.

4.3.1.2 It is important to provide student training within companies. This would involve, *inter alia*, setting up dedicated training programmes, preparing companies to get students involved in their business activity and establishing rules for assessing the effectiveness of student training. Businesses should support the mobility of students and apprentices and organise exchange programmes.

4.3.1.3 Education and training are costly activities involving multiple beneficiaries⁽²³⁾. Public authorities take on considerable co-financing responsibility for supporting adults in acquiring basic skills, as well as the necessary skills and competences for entering/re-entering the labour market. Employers are expected to take over the prime responsibility for financing the development of job-specific skills. Individuals should also bear the responsibility for obtaining and developing employability and personal skills.

4.3.1.4 In many Member States, the state is involved – including financially – in the implementation of education and re-skilling programmes. This public accountability is vital and could be improved by providing funding opportunities through EU funds or ensuring that it is possible to utilise and link projects together. Financing from public sources, however, should never be a substitute for the accountability of each stakeholder, including employers.

4.4 As part of the social dialogue, employers should be more effectively involved in the design and implementation of national education policies to improve the accessibility of pre-school education, and modernise and rehabilitate secondary and tertiary vocational education and training.

4.4.1 A good quality and accessible system of pre-school care for children forms an integral part of an individual's initial education. Employers may work together with pre-school facilities and encourage the development of talent e.g. by providing technical toys in a wide variety of subjects, in cooperation with training centres and parents.

4.4.2 Starting at primary school level, education should offer basic practical skills for a wide range of professions, including technical occupations, and examine the prospects of various branches of industry and services and current requirements in terms of skills and qualifications. Without any progress on STEM and practical skills, it will be difficult to improve VET and apprenticeships. This could be one of the ways to facilitate the integration of young people into today's labour market.

4.4.3 The most recent report published by Cedefop⁽²⁴⁾ reveals that a number of European countries have already adopted measures to make VET more appealing. Nevertheless, this report shows that there has been insufficient effort in a number of key areas – improving pathways for the transition from VET to higher education, revising and updating syllabuses, improving the infrastructure of vocational education and training centres, promoting access for specific groups, introducing structural changes and improving cooperation among the different levels, improving the apprenticeship system and, in particular, ensuring greater involvement on the part of employers and the social partners.

⁽²³⁾ <http://adult-learning-investment.eu/docs/BackgroundReport.pdf>.

⁽²⁴⁾ Workshop 9-10.10.2012, Brussels: Attractive vocational education and training: what really matters? Study by SKOPE, University of Oxford, www.cedefop.org.

4.4.4 The potential of European higher education institutions to fulfil their role in society and contribute to Europe's prosperity remains underexploited⁽²⁵⁾. The knowledge economy needs people with the right mix of skills: transversal competences, e-skills for the digital era, creativity and flexibility and a solid understanding of their chosen field. For this reason, higher education is another area in which appropriately chosen schools and businesses must work together. Employers cannot simply wait for schools to start producing made-to-measure graduates for them. They should get involved in the curriculum in line with their skills and improve facilities and equipment at schools. At the same time, there is also a need to respect the independence of schools, which also fulfil a number of other important roles for society at large.

4.5 The shortage of STEM skills will become one of the greatest barriers to economic growth. These sectors have an ageing workforce; a change of generation is a reality for a number of STEM professions, with highly experienced employees leaving companies to go into retirement. It will be several years before the schools systems have adapted to supply the labour market with the skilled specialists that are so urgently needed.

4.5.1 That is why employers must fight the myth that STEM skills have no future. They must show that, on the contrary, the development of STEM subjects at schools of all levels will mean greater opportunities in the future and more flexibility in terms of career development. They need to inform people more effectively about the future skills needed by companies and must contribute to the process of lifelong learning among teachers⁽²⁶⁾.

4.5.2 The blame should not be laid on education systems alone. Employers must anticipate future developments in good time, respond to global and technological challenges, modernise their operation sites and create job opportunities for graduates that enable them to acquire world class skills.

4.5.3 Employers should also fight the myth that women are not suited for work in certain sectors and fully tap into the potential of women e.g. by supporting career talent development, mentoring schemes, sponsoring programmes, vocational training and examples of best practices. There are still significant differences between men and women in terms of the type of education they receive. Women continue to be under represented in STEM professions.

4.5.4 As the technical schools disappear so too do the teachers of vocational training. It is therefore vital to ensure that there is a sufficient number of good quality teachers and

trainers. They should be aware of the changing needs on the labour market and be able to pass on their technical know-how to their students. Lifelong learning and placements within companies should be encouraged for teachers and trainers. This is why employers should allow appropriate employees who have the necessary skills and desire to work as teachers in-house to do so and ensure they have appropriate training in teaching and psychology.

4.6 Above all, in the context of social partnership, employers must get involved in designing national lifelong learning strategies and creating the right conditions for recognising the outcomes of non-formal and informal learning. Competences and skills gained through non-formal and informal learning should be supported and validated in order to increase the capacities of young people and their role on the labour market⁽²⁷⁾ ⁽²⁸⁾. Lifelong learning strategies, in parallel with rural development strategies, should also address the issue of access to further education and re-skilling for those in rural areas who are interested.

4.6.1 Employers have a right to expect the education system to provide them with graduates who are keen to continue learning and who have a range of broadly applicable skills which ensure that their on-the-job training is neither long nor expensive and may be continually developed by further training.

4.6.2 Employers must shoulder their share of the responsibility for vocational or professional training which is specific to their company or which is related to a temporary demand for skills in certain narrowly defined occupations.

4.6.3 In addition, micro-enterprises, small companies and craft companies need a more dynamic and flexible education system which is able to respond to the actual needs of both new and older workers, who wish or need to follow additional education or training (lifelong learning).

4.6.4 The low rate of participation in lifelong learning may also be explained by the absence of any link between in-house training and the principles of an active employment policy or between current re-training methods and employers' actual needs. Such shortcomings in the area of further training are

⁽²⁵⁾ COM(2011) 567, 20.9.2012, Supporting growth and jobs – an agenda for the modernisation of Europe's higher education systems.

⁽²⁶⁾ BUSINESSEUROPE publication entitled Plugging the skills gap: the clock is ticking (2011).

⁽²⁷⁾ CEDEFOP Guidelines on validation of non-formal and informal learning.

⁽²⁸⁾ OJ C 181/154, 21.6.2012 Erasmus for All: "[T]he EESC calls for an operational and clear definition of lifelong learning and more targeted policies for improving accessibility for each learner group."

making it increasingly difficult to adapt to the accelerating pace of technological change, which is transforming technical equipment at companies and the related comparative economic advantages.

4.6.5 Continuous cooperation between employers and employment services is absolutely vital. The capability, infrastructure and methodology of employment services all play a pivotal role in promoting demand for further training and impact on the further education available.

4.7 There are several ways in which employers can bring a greater influence to bear on making the education system more effective in strengthening growth and employment and adapting it to the needs of the labour market which vary according to the opportunities and practices existing in different countries.

4.7.1 As part of the social partnerships, employers either work with state or private schools in the local area or region through joint forums involving schools and businesses or regional or sector-specific councils or agreements to promote employment and skills, or – alternatively – they join together to set up and run schools and apprenticeships or found their own schools or apprenticeship centres.

4.7.2 This applies to all types of enterprises, including micro-enterprises, small companies, associations and craft companies. These initiatives must therefore be developed at the optimal level for boosting their impact and must be organised in cooperation with state and local government bodies as it is necessary to take account of the public interest, take part in active employment policies and maintain quality and sustainable jobs.

4.8 Traineeships (work placements) are an important part of the training process.

4.8.1 Employers view traineeships as a process which aims to provide young people with hands-on employment experience and working practices. It is in the interest of employers to facilitate young people's transition from the education system to the labour market, to not exploit the position of trainees and to give them work that meets the requirements of practical training by ensuring appropriate working conditions.

4.8.2 The EESC therefore welcomes the preparatory work on the *Action plan for youth employment* underway within the framework of a joint programme of European social partners⁽²⁹⁾, which, as part of its jointly defined objectives, will also address traineeships, work experience and apprenticeships.

⁽²⁹⁾ Joint Multiannual Programme of the European Social Partners for 2012-2014, which provides for the preparation of a Framework for Action on Youth Employment.

4.9 Know-how and experience gained through non-formal and informal learning through voluntary work can increase employees' creativity and innovative capacity and help increase their employment prospects and facilitate their transition onto the labour market. Businesses support the voluntary activities of their employees as part of their CSR strategies. However, the absence of a legal framework, the lack of instruments for assessing and recognising skills already acquired and, above all, the existence of financial and taxation barriers all prevent employers from providing systematic support for voluntary work⁽³⁰⁾.

5. The contribution of employers to the implementation of European instruments at national level

5.1 In the ambit of the social partnership, employers take part in the design and roll-out of common European principles (in such areas as guidance or the identification and recognition of non-formal and informal learning) and related instruments⁽³¹⁾ (EQF, ECVET, EQAVET, Europass). The aim of these common principles and instruments is to help increase the mobility of workers, students and trainers between different systems of education or vocational training as well as between different countries.

5.2 The EU Member States have adopted the **European Qualifications Framework (EQF)**⁽³²⁾, which defines eight levels of qualifications on the basis of general knowledge, skills and competences. Each Member State is required to classify every national qualification into one of these eight levels.

— Descriptions of qualifications for occupations that exist in a given sector may be drawn up by employer representatives through sector based councils, together with other stakeholders, for example. Such national qualifications frameworks (classifications) or standards represent a foundation for education and a criterion to be used for the validation of qualifications. They can also serve as a basis for the creation of national syllabuses at schools or educational programmes for other educational institutes. This will enable the creation of National Occupational Systems, which monitor and register the demand for individual occupations on the labour market and in this way constitute an important source of information in the field of human resources and vocational education at all levels.

5.3 One of the measures outlined in the Agenda for new skills and jobs was the completion of the Classification of European Skills/Competences, qualifications and Occupations (ESCO) by the end of the year 2012, which would serve as a

⁽³⁰⁾ COM(2011) 568, 20.9.2011, Communication on EU Policies and Volunteering: Recognising and Promoting Crossborder Voluntary Activities in the EU.

⁽³¹⁾ EQF (European Qualifications Framework), ECVET (European Credit System for Vocational Education and Training), EQAVET (European Quality Assurance in Vocational Education and Training), EUROPASS (a set of documents supporting professional and geographical mobility).

⁽³²⁾ The recent Bologna Process Implementation Report (2012) shows that only a minority of the EU member states has already fully implemented national qualifications in compatibility with the EQF.

joint platform in the area of employment and vocational education and training. The ESCO project should replace or complement the existing national and international occupational classification systems and become an instrument facilitating the development of a dynamic labour market, characterised by smooth transition from, firstly, one job to another or from education to a first job.

5.3.1 The ESCO is not, however, relevant for micro-enterprises and small businesses as the ESCO standards assume that all persons holding a specific job and having the same qualification all perform the same list of tasks irrespective of the company they work for. In today's rapidly changing workplace factors such as the wide range of technologies, customer requirements, working practices and the availability of skilled employees all mean that the share of tasks given to employees requires that they be flexible in what they do and that they be willing to adapt their working practices to meet the ever changing technological and ICT world in which businesses actually operate.

5.3.2 It is essential that employers and business organisations take account of the specific needs of micro-enterprises and small businesses to help them to develop proper mappings that detail how these more flexible, dynamic businesses operate. This mapping must ensure that "outcomes" are expressed as tasks and not generic functions. The developments of training and qualifications can then be constructed from the task mappings, thereby producing a clear audit trail from workplace to final qualifications.

5.4 Employers and businesses and other stakeholders should use all projects financed from national budgets and the EU's structural funds, particularly the ESF and Erasmus for All. As part of their active employment policies, the Member States are currently launching a series of projects to keep people in employment, update and increase workers' skills and to promote the transition of young people onto the labour market⁽³³⁾. The adoption of a new Multiannual Financial Framework will also enable a series of new programmes supporting education, mobility and innovation such as Erasmus for All, COSME and Horizon 2020.

6. Prospects and challenges for dual systems in Europe

6.1 Europe is, for good reason, today pinning all its hopes on the promotion and development of dual systems. It is

⁽³³⁾ In the Czech Republic, this included projects such as "Education is an opportunity", "Learning for growth", and "Traineeships at companies".

absolutely clear that those Member States which operate such systems over the long-term obtain good results and have a level of youth employment which is significantly below the EU average⁽³⁴⁾.

6.2 In its opinion on the Employment package, the EESC specifically states that one of the ways of bridging the gap between the needs of the labour market, education and the expectations of young people is to encourage and support the development of high-quality apprenticeship schemes.

6.3 A European Commission study on the apprenticeship system in the EU⁽³⁵⁾ highlights certain challenges which such apprenticeship systems must contend with. It notes, for example, that rapid transition from education to the world of work usually leads to only a temporary advantage. Employment prospects over the long-term, however, are less evident. Another issue concerns the extent to which skills and qualifications acquired at one company may be "transferred" to another business (in the same or different sector).

6.4 This study also highlights the fact that as a result of the global economic crisis, there was an increase in 2008 in the number of students in vocational education and training which was accompanied by a fall in the number of apprenticeships and other traineeships in numerous Member States due to the unstable business climate. This situation provides the trigger which can encourage all stakeholders to share their responsibilities for the creation of new apprenticeships or alternative schemes supported by the state.

6.5 The BUSINESSEUROPE⁽³⁶⁾ survey, which looked at actual practice in this area at national level, outlined the various approaches used when creating schemes that link work placements to school education. This survey spawned a series of recommendations, including those addressed to employers themselves, such as:

- to get involved in organising apprenticeships under the dual system and to help draw up programmes and adapt them over time, which is an important factor for ensuring that they are in line with the needs of the labour market, while at the same time taking into account the need to cut red tape for businesses.
- to keep businesses informed and to encourage them to take part in dual systems, to provide them with advice and to promote cooperation among businesses.

⁽³⁴⁾ Example of best practice: Brussels, 3.12.2012: Joint seminar by the Permanent Representation of Austria to the EU and the Austrian Federal Economic Chamber "Dual system: what works" as the employers' contribution to the European and national discussions on the employment prospects for young people in Europe.

⁽³⁵⁾ EC study entitled Apprenticeship supply in the Member States of the European Union, January 2012, IKEI Research & Consultancy, <http://ec.europa.eu/social/main.jsp?catId=738&langId=en>.

⁽³⁶⁾ BUSINESSEUROPE publication: Creating opportunities for youth: How to improve the quality and image of apprenticeships, March 2012.

6.6 Employers have therefore welcomed the Commission's call for Alliances to support quality apprenticeships and improve the image of and raise the attractiveness of apprenticeships in Europe. They are prepared to shoulder their share of the responsibility for creating apprenticeships on the basis of dual systems which link school learning with in-house work experience ⁽³⁷⁾.

6.7 Apprenticeship schemes not only provide employers with a handy way of testing out potential candidates prior to employing new workers, they also provide broad economic advantages over the long-term and are an expression of social responsibility.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽³⁷⁾ On a global scale, this commitment can take the form of a joint project, "Global Alliance for Vocational Education".

Opinion of the European Economic and Social Committee on 'Employee involvement and participation as a pillar of sound business management and balanced approaches to overcoming the crisis' (own-initiative opinion)

(2013/C 161/06)

Rapporteur: **Wolfgang GREIF**

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

Employee involvement and participation as a pillar of sound business management and balanced approaches to overcoming the crisis

(own-initiative opinion).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 February 2013.

At its 488th plenary session of 20 and 21 March 2013 (meeting of 20 March) the European Economic and Social Committee adopted the following opinion by 85 votes to three with eight abstentions:

1. Summary

1.1 The financial crisis has reached businesses. Overcoming this crisis in the interests of all stakeholder groups, investors, employers, employees and regions (multi-stakeholder approach) requires joint efforts and shared goals (such as long-term business development), the existence of a good social dialogue in a climate of confidence as well as a positive attitude. The EESC would like to encourage the exploration of new paths in this area, not least in connection with the EU corporate governance framework.

1.2 The EESC is convinced that "good" and thus "sustainable" business management must be built on the internal market's tried and tested legal structures and practices of employee involvement based on information, consultation and, where applicable, co-determination too.

1.3 Sustainability is to be based on reconciling economic efficiency with social and environmental goals. A requirement for this is that a business must be understood as an institution in which the various stakeholders work together and in which all stakeholders jointly pursue a long-term business outlook, economic competitiveness and social balance and gear their activities towards this. To this end, the EESC is launching a discussion on the "sustainable company" as a business management concept. This entails, among other things, that the "voice" of employees is respected in business decisions.

1.4 Businesses can be run successfully using this concept if their system of business management is based on the principle of a "fair relationship" between employees, management and owners and thus guarantees all stakeholders the possibility of having a guaranteed say in any changes, adopting a targeted and problem-solving approach and without any attempt to interfere with the management's right to issue instructions. To this end, a set of tools already exists for the obligatory involvement of employee representatives at national and European level,

which should be used effectively. This approach has proved effective in enabling restructuring in businesses to be dealt with and anticipated better, especially in times of crisis.

1.5 In order to establish this principle in practice and to consolidate it, the EESC feels it is also incumbent on European policy-makers, within their remit for shaping the internal market, to create appropriate incentives and to improve the requisite European legal framework, without interfering with national competences. The EESC is therefore putting forward proposals for implementing the current basic European right to employee involvement in national law and for formulating it more effectively in European law.

1.6 In this connection, possibilities for employee involvement in the strategic orientation of businesses should become a universal element of European company law, which the European Commission plans to develop in the near future. In addition, the provisions on obligatory employee involvement should be consolidated and applied generally in EU law, on the basis of standards already achieved, and in particular definitions of information, consultation and participation should be standardised.

1.7 A provisional new stage in this debate is marked by the European Parliament's resolution of 15 January 2013. By a large majority, the resolution calls for a legal framework with minimum standards for restructuring in order to minimise social and economic costs and promote anticipation. It is to include obligations for strategic planning as well as preventative measures concerning initial and further training. It will also entail measures geared towards maintaining jobs and the workforce and provisions which encourage businesses to engage in preventative cooperation with regional offices (mainly government and job centres) and local supply chains, in the event of restructuring.

2. Introduction

2.1 This EESC opinion seeks to highlight how businesses and investors can work together with their employees in order to find balanced and sustainable approaches to overcoming the economic and financial crisis and to dealing with climate change. It will also highlight what social and legal conditions these stakeholders need in order to achieve this and where the European legal framework will have to be improved, while respecting the diversity of situations and different arrangements that exist at national level.

2.2 Business management that is geared towards long-term development is underpinned by legally assured dialogue based on trust between management and employees. The EESC sees a political consensus for this between governments, the social partners and civil society which is deeply rooted in the history of European integration. As established in numerous European directives, the obligatory involvement of employees in economic activities is an indispensable element of socially responsible economic management. The thousands of stakeholders in European businesses and companies as well as the 17 000 or so stakeholders in around 1 000 European works councils show that this principle of participation-based business management is applied in practice.

2.3 This political consensus is reflected in various European legal sources dating from different historical periods. Informing and consulting employees is not only provided for at national level – including in the area of SMEs – on the basis of EU law ⁽¹⁾, but also at transnational level ⁽²⁾, where the possibility of employee involvement at company level, which is standard in European companies (SE) and European cooperative societies (SCE), is also used ⁽³⁾. Numerous other EU directives ⁽⁴⁾, including in the area of health and safety and European company law, provide for information and consultation. Article 27 of the EU's Charter of Fundamental Rights makes the individual fundamental right to information and consultation into a binding component of Community law. There is no doubt therefore that obligatory employee involvement in economic activities is part of the legal framework of European democracy.

2.4 In the interests of economic success, but also especially in the interests of European social cohesion, it is important to strengthen this established and efficient everyday economic resource as a means of overcoming the current crisis. Businesses - which are not only there for their investors but are also supposed to contribute to society - are nowadays exposed to more uncertain conditions:

— Given the need to be competitive in world markets, value-added chains have become more transnational in nature.

This makes businesses harder to manage. Restructuring and relocations are more difficult to understand for those affected, especially workers.

- Corporate financing by pure financial investors is predominantly geared towards short-term profit and restricts businesses' long-term future planning. This makes it enormously difficult for company managements to maintain a relationship with their employees based on trust and partnership.
- Ambitious climate goals require innovation and in principle new products and services. In many cases, this demands radical structural change, which puts the employees and enterprises concerned under considerable strain and presents them with new development responsibilities.
- Supported by European company and financial market law, companies nowadays move with increasing ease across borders within the European internal market. National rights on board-level participation and cooperation practices based on trust could fall by the wayside if they do not also move across national borders.

2.5 All this underlines the need for corrective action against the distortion of corporate values through short-term thinking. It is necessary to map out ways in which EU policy can redirect the current trend for one-sided corporate transparency in the interests of shareholders towards a broader understanding of the business as a "sustainable company", which is in the interests of long-term corporate development ⁽⁵⁾.

2.6 Crisis management, a long-term focus, sound business management, the ability to innovate and trust-based cooperation between employers and employees underpinned by obligatory involvement rights are all part of the same framework for Europe's future. As the new model, the EESC proposes anchoring and consolidating the concept of the "sustainable company" in European policy. The idea is to open up new horizons for legislation as well as operational and policy measures with a view to providing the relevant practitioners with the motivation and guidance needed to carry out sustainable business management. There must be agreement on the various elements of the "sustainable company". Their practical implementation must correspond to the respective situation in each business. In practice, this will vary from country to country.

3. The model sustainable company

3.1 The model sustainable company ⁽⁶⁾ is capable of translating the requirements of European policy into a comprehensive business management method, in which economic efficiency targets are fused with social and environmental goals to form a coherent concept. The "sustainable company" is based on the idea that businesses are "social organisations" in which

⁽¹⁾ Directive 2002/14/EC.

⁽²⁾ Directive 2009/38/EC on the European Works Councils.

⁽³⁾ Directive 2001/86/EC and Directive 2003/72/EC (on employee participation in SE/SCE).

⁽⁴⁾ Including Directive 77/187/EEC (mass redundancies) and Directive 2001/23/EC (transfers of businesses).

⁽⁵⁾ See also Michel Barnier, Commissioner for Internal Market and Services: "We need to reduce harmful short-term tendencies. Sound corporate governance can help achieve this." Opening Speech at the 11th European Corporate Governance Conference, Warsaw, 15.11.2011.

⁽⁶⁾ Vitols, Sigurt/Norbert Kluge (eds) (2011) *The Sustainable Company: a new approach to corporate governance*. Brussels: ETUI.

the "voice" of employees must be respected. Business decisions are therefore predictable for both sides, and for customers too. They are less susceptible to outside intervention geared purely towards short-term expectations of profit.

3.2 The "sustainable company" is characterised by the following key elements (7):

- 1) The concept is based on a multi-stakeholder approach: owners of a business jointly work together with other important stakeholders like employees and authorities of the region in which the business operates.
- 2) The description of the businesses' objectives and their implementation are the result of the joint efforts of employees and management without any attempt to interfere with the management's right to issue instructions; to this end, various forms of employee involvement exist which have proved to be successful in practice.
- 3) Business management is geared toward the long term. The business's statement of goals is consistent with its sustainability objectives.
- 4) In order to run a sustainable company, the management needs to have a complete picture of the business. Requirements for the system of reporting must include the various aspects of sustainable business management (8).
- 5) Management and executive pay must be linked to efforts to implement sustainability goals successfully. This includes social measures, for example in the area of health and safety, vocational education and training and equal opportunities.
- 6) The sustainable company needs investors who are more interested in long-term profit targets.

3.3 The "sustainable company" can function successfully only if it follows a specific management principle: the "fair relationship" principle. This principle gives all stakeholders (management, employee representative bodies, investors and relevant regions) the possibility to have a say in any changes to the business, adopting a targeted and problem-solving approach and without any attempt to interfere with the management's right to issue instructions. In this way, restructuring can be dealt with and anticipated more effectively, especially in times of crisis.

3.4 The "fair relationship" concept is based on binding agreements between the parties concerned about long-term business prospects as well as the social dimension, which ensures as much as possible the maintenance of business sites

(7) See Vitols, S. (2011): "What is the Sustainable Company?" Vitols, S. and N. Kluge (eds): *The Sustainable Company: a new approach to corporate governance*. Brussels, pp. 15-37.

(8) An ambitious example is the 2011 sustainability report of Volkswagen AG <http://www.volkswagen.de/de/Volkswagen/nachhaltigkeit.html>.

and jobs in the event of business sales and acquisitions. Especially in the case of purchases and sales of businesses or parts of businesses across national borders and in the event of restructuring, the following key points serve as a basis:

- a clear long-term management and industrial approach,
- contractual assurances about investments, maintenance of business sites and employment,
- in the event of restructuring, examination of all alternatives to redundancies,
- the retention of acquired social entitlements and collective agreements,
- the possibility of examining whether agreements and pledges are being met.

3.5 The creation of a sustainable company goes hand in hand with the obligatory involvement of employees through information, consultation and, where applicable, through participation in company boardrooms at national and transnational level. Experience has shown that countries with strong employee involvement rights and effective relations between the social partners have emerged from the recent crisis more effectively than others. In order to harness this process for long-term business development, European policy-makers, acting within their remit to shape the internal market, must create relevant incentives and legal obligations within the corporate governance framework.

4. The need for action at European level – policy recommendations

4.1 *Improving the legal framework in line with the concept of the sustainable company*

4.1.1 Work, investment and entrepreneurship must prove worthwhile in Europe. The sustainable company offers a suitable model for this. It pursues economic, social and environmental goals on an equally long-term basis. This kind of enterprise is run according to the "fair relationship" principle, under which change is viewed as a challenging and worthwhile business task and the social entitlements and rights of their employees are not called into question in this process.

4.1.2 The EESC feels that it is incumbent on European policy-makers to continue to lay a firmer foundation, allowing the most important groups in the economy to work together. Building on the standards of employee involvement already achieved in Europe, the Committee would welcome fresh initiatives from the European Commission aimed at adapting the rights of employees and their representative bodies to current conditions in the European internal market and at consolidating these rights. This also includes legislative initiatives aimed at improving the framework for implementing the new model outlined above.

4.1.3 Businesses in which the "fair relationship" principle is applied are especially good at anticipating and shaping structural change. It therefore also makes economic sense to strengthen the role of employees in shaping and anticipating change. The European legal framework for this must be improved. In accordance with the sustainability strategy of the Europe 2020 strategy, such measures would help ensure that the most important groups in the economy are working together in the interests of European democracy and the competitiveness of Europe's economy.

4.2 Consolidation and implementation of European employee involvement rights

4.2.1 In order to improve businesses' freedom of establishment and mobility within the internal market, European company law is being continually developed. Corporate governance rules are increasingly being made at European level. The EESC feels that it is incumbent on European policy-makers to grant all relevant stakeholders - firms, investors and employees - the same legal status for their activities at national and transnational level⁽⁹⁾. The "fitness check" of European directives on obligatory employee involvement announced by the European Commission must not be used as an excuse for not carrying out major political initiatives. In this connection, the EESC agrees with the European Parliament that new political efforts are required with the aim of strengthening opportunities for employee involvement in the workplace and in businesses at transnational level.

4.2.2 In this connection, the EESC feels it is necessary for the basic European right to employee involvement to be implemented in national law and for it to be formulated more effectively in European law. In particular, rules on obligatory employee involvement should be consolidated in European legislation, on the basis of rights already acquired⁽¹⁰⁾.

— The European Parliament recently commissioned a report that proposes amending the EU directive on informing and consulting employees (2002/14/EC) generally to include the presence of employee representatives in company boardrooms.

— Existing directives on involving employees in the event of transfer of undertakings and acquisitions⁽¹¹⁾, on standards for informing and consulting employees⁽¹²⁾, on the establishment of European works councils⁽¹³⁾ and on participation of employees in a European company/European cooperative society (SE/SCE)⁽¹⁴⁾ came about at different times. The EESC suggests that serious consideration be given to the extent to which consolidation in a single European framework directive could at least ensure greater

standardisation of the various definitions of information and consultation and, where applicable, participation in company boardrooms as well.

4.2.3 Such measures would improve the European legal framework. It would become easier to invest, produce and work in Europe. The EESC therefore welcomes these recommendations wholeheartedly and expects the European institutions to take steps to implement these proposals without delay.

— By default, existing obligatory involvement rights would also be applied generally within the framework of future legislation, and would have to be implemented in national law⁽¹⁵⁾. There would also be more legal certainty for businesses.

— Furthermore, the proposals could help achieve a breakthrough in establishing the necessary consistency in European law. The principle of employee involvement has found expression in several EU directives. These were drawn up at different times and contain varying definitions of information, consultation and, where applicable, of employee participation in company boardrooms as well.

4.2.4 The EESC is in favour of consolidating the provisions on employee involvement throughout EU law, taking into account the different issues involved. Regarding the substance of these rights, the following legal acts must serve as a benchmark: the revised Directive 2009/38/EC on European works councils, especially with regard to the definition of information and consultation as well as structural changes, and Framework Directive 2002/14/EC (participation of employees in the European company) in connection with participation on company boards.

4.2.5 With all of these measures, the EESC feels that European law must safeguard and consolidate existing national involvement rights and existing European provisions. This applies in particular to employee participation in company boardrooms. However, due to the diversity of the situations and the different arrangements that exist at national level, it would be inadvisable and counterproductive to impose a single European model of employee participation.

— European law, which regulates the cross-border transfer of a registered office or mergers and creates types of European company, must not bring about a move away from board-level participation.

— There are good reasons for a general introduction of obligatory employee participation as a standard feature in European company law, although the diversity of national company laws must be respected.

⁽⁹⁾ European Parliament Resolution of 14.6.2012 on the future of European company law.

⁽¹⁰⁾ See also EP 2012/2061.

⁽¹¹⁾ (Directive 2001/23/EC).

⁽¹²⁾ (Directive 2002/14/EC).

⁽¹³⁾ (Directive 2009/38/EC).

⁽¹⁴⁾ (Directive 2001/86/EC and Directive 2003/72/EC).

⁽¹⁵⁾ See study on Relations between company supervisory bodies and the management. National systems and proposed instruments at the EU level with a view to improving legal efficiency. (European Parliament (2012) PE 462.454), <http://www.europarl.europa.eu/committees/en/juri/studiesdownload.html?languageDocument=EN&file=75509>.

4.3 Setting binding minimum standards for restructuring

4.3.1 Given the increasing pace of restructuring⁽¹⁶⁾ and a corporate financing climate which has become more aggressive, the EESC believes that innovative approaches are required at national and European level which signal Europe's openness and attractiveness to investors, while also – as stressed in the Committee's opinion on the Green Paper entitled *Restructuring and Anticipation of Change* – preparing both companies and employees for new challenges ahead in order to minimise the negative social impact of the changes and maximise the chances of successful restructuring⁽¹⁷⁾.

4.3.2 The financial crisis has shown that a new approach is needed in order to ensure that in businesses the goal of sustainable value creation takes precedence over short-term profit. In order to ensure an effective policy response to the challenges of restructuring, an integrated approach covering several policy areas (e.g. employment, education, innovation and industrial policy) is required. The interests of employees should also be taken into account if they are affected by business decisions. The concept of the "sustainable company" is geared towards the long term and provides a practical response to the European policy requirement of supporting businesses in creating "sustainable growth".

4.3.3 The EESC believes that anticipating change can happen only if a climate of mutual trust is created and the social

partners and organised civil society are closely involved⁽¹⁸⁾. This means, among other things, that employees can play a part in the run-up to business decisions by exercising their information and consultation rights and using them to ensure effective problem-solving at local level⁽¹⁹⁾. In this connection, the 2009 directive on European works councils also allows timely involvement in cross-border matters.

4.3.4 The right approach to restructuring has long been the subject of debates at European level, in which predominantly the European social partners, the European Parliament and the EESC have played an active role, alongside the Commission.

4.3.5 A provisional new stage in this debate is marked by the European Parliament's resolution of 15 January 2013. By a large majority, the resolution calls for a legal framework with minimum standards for restructuring in order to minimise social and economic costs and promote anticipation⁽²⁰⁾. It is to include obligations for strategic planning as well as preventative measures concerning initial and further training. It will also entail measures geared towards maintaining jobs and the workforce and provisions which encourage businesses to engage in preventative cooperation with regional offices (mainly government and job centres) and local supply chains, in the event of restructuring.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁶⁾ Eurofound 2012 Report from the European Restructuring Monitor (ERM): After restructuring: labour markets, working conditions and life satisfaction.

⁽¹⁷⁾ EESC opinion of 11 July 2012 on *Restructuring and Anticipation of Change*, (OJ C 299, 4.10.2012), point 1.3.

⁽¹⁸⁾ EESC opinion of 11 July 2012 on *Restructuring and Anticipation of Change*, (OJ C 299, 4.10.2012), point 1.3.

⁽¹⁹⁾ European social partners: orientations for reference in managing change and its social consequences, adopted on 16.10.2003, <http://ec.europa.eu/social/BlobServlet?docId=2750&langId=en>.

⁽²⁰⁾ European Parliament Resolution of 15.1.2013 with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring, P7_TA-PROV(2013)005.

Opinion of the European Economic and Social Committee on 'Social dialogue in the Eastern Partnership countries'

(2013/C 161/07)

Rapporteur: **Mr MITOV**

At its plenary session on 18 and 19 January 2012, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

Social dialogue in the Eastern Partnership countries.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 February 2013.

At its 488th plenary session, held on 20-21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 91 votes with 3 abstentions.

1. Conclusions and recommendations

1.1 The Committee expresses its support for the Eastern Partnership (EaP), which aims to contribute to the economic and social development of Europe's neighbours in the east, consolidate democratic institutions and foster shared commitment to the standards and values underpinning the common European project.

From this perspective, it reiterates the importance of civil society involvement and the vital role played by social dialogue, in which the social partners (employers' organisations and trade unions) come together to seek consensus and thereby reconcile the diverse social and economic interests of businesses and employees.

1.2 The Committee emphasises the unique nature of social dialogue, which must be allowed to take place at all the various levels and in all the various areas where the social partners can claim legitimate interests, in parallel to and complementing civil dialogue, which aims to foster participatory democracy in the broader sense. It notes that both social and civil dialogue are predicated on the independence of the social partners and civil society organisations (CSOs) and calls for respect for this independence, as one of the fundamental human and social rights defined by international and European organisations.

1.3 The Committee calls for compliance with these fundamental rights – in particular, freedom of association and the right to collective bargaining – to be fully recognised in the Eastern Partnership. It calls on the countries concerned to make the requisite efforts to achieve progress towards integrating European and international norms, as defined by the Charter of Fundamental Rights of the European Union, the European Social Charter (Council of Europe) and the International Labour Organisation (ILO) and towards establishing the "social rule of law". Compliance with these norms must be included amongst the formal criteria used in drawing up and evaluating association agreements. In this regard, the

Eastern Partnership could draw inspiration from the approach the Commission adopted in establishing its Generalised System of Preferences (GSP+) scheme for trade.

1.4 The Committee believes that the Eastern Partnership ought to make a genuine contribution to strengthening social dialogue within the partner countries and, to this end, calls for regular consultations with the existing consultation structures during the preparation and evaluation of association agreements. In this regard, the Committee notes that the action plans proposed by the EaP cover a series of issues in areas including energy, various sectors of economic activity and the role of public services, which have a very direct impact on the interests of employees and economic players and therefore warrant consultations not only at the level of overall economic policy but also at the level of the various sectors and territories concerned.

1.5 The Committee welcomes the decision of the Civil Society Forum (CSF) to create a fifth working group to address social dialogue, which met for the first time in Stockholm in November 2012.

1.6 The Committee calls for a review of the CSF's rules of procedure and civil society organisation selection procedures, to ensure that the involvement of representatives of the social partners is proportionate to the role their organisations play in the countries concerned. It emphasises that balanced representation of the social partners and other civil society organisations – taking as an example the three groups that co-exist within the EESC - would make the CSF a more representative and legitimate interlocutor with the national and European authorities associated with the Eastern Partnership.

1.7 The Committee would like to see coordination established between the CSF, its national platforms and national social dialogue bodies, so as to avoid unnecessary and damaging competition between these structures. Representatives of the social partners on national platforms could liaise between the latter and the existing bipartite or tripartite structures.

1.8 The Committee proposes that a specific "panel" focusing on social policy and employment be created within the Eastern Partnership. This panel, which should come under the remit of the European Commission's Directorate General for Employment, Social Affairs and Inclusion, should be tasked, in the near future, with implementing a systematic programme aimed at fostering exchanges and identifying good practices between the EU and the partner countries in the area of social policy and employment, in connection with the objectives defined for this area by Multilateral Platform 2 (Economic integration and convergence with EU policies). In the longer term, the Committee would like to see this panel become a thematic "platform". This fifth platform would allow social policy and employment issues to be given full consideration and put on the same footing as the other four priorities set by the EaP.

1.9 The Committee welcomes the creation of a Civil Society Facility and a European Endowment for Democracy (EED) and calls for the EED to be made operational as swiftly as possible. The Committee hopes that, by defining objective and transparent criteria, these funds will make a genuine contribution to strengthening civil society and its action and, in particular, to strengthening social dialogue in the countries concerned. Funding for country-by-country research on the social dialogue, which would allow objectives and indicators for measuring progress in this area to be established, could be included in the programmes of the EED. In addition, the Committee calls for an over-arching programme, modelled on the Initiative for Social Cohesion of the Stability Pact for South Eastern Europe, to be set up for the Eastern Partnership countries.

2. The Eastern Partnership and the contribution of civil society: background

2.1 Just as the Union for the Mediterranean aimed to strengthen European Neighbourhood Policy (ENP) in relation to the EU's southern neighbours, the Eastern Partnership (EaP) was set up to deepen and extend the ENP for the EU's neighbours to the East (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), with a view to achieving the objective of "political association and economic integration" of the six partner countries⁽¹⁾. The EaP was officially launched on 7 May 2009, at the Summit of Heads of State of the six partner countries and representatives of the EU and the Member States, in Prague.

2.2 The EaP proposes a two-track approach: (1) bilateral, designed to "create a closer relationship between the EU and each of the partner countries"; (2) multilateral, designed to "provide a new framework where common challenges can be addressed". The Commission proposed establishing "four policy platforms, bringing together representatives of the partner countries, the EU Member States and the European institutions: (1) democracy, good governance and stability; (2) economic integration and convergence with EU policies; (3) energy security;

and (4) contacts between people. In addition, a number of flagship initiatives and "comprehensive institution-building (CIB) programmes" are planned to support the proposed approach.

2.3 Provision was made for the EaP to involve "government representatives and the European Commission, [but also] other EU institutions, international organisations (such as the OSCE and CoE), International Financial Institutions, parliaments, business representatives, local authorities, and a wide range of stakeholders in the fields covered by the thematic platforms⁽²⁾. In particular, it was proposed that an EaP "Civil Society Forum" (CSF) be established to "promote contacts among CSOs and facilitate their dialogue with public authorities".

2.4 The CSF was intended to encourage the participation of a wide range of players, including, "trade unions, employers' organisations and professional associations, NGOs, think-tanks, non-profit foundations, national and international CSOs/networks and other relevant Civil Society (CS) actors"⁽³⁾. Following a selection process from among the interested parties, organised by the Commission and the Council, the CSF held its first gathering in Brussels in November 2009, at which it adopted its rules of procedure, determined its working methods and elected a steering committee. Since then, it has held annual general assemblies (Berlin, in November 2010, Poznań, in November 2011 and Stockholm, in November 2012) and supported the establishment of "national platforms" with the aim of devolving its work to national level in the six partner countries.

2.5 The EaP, an initiative the Committee has welcomed from the beginning⁽⁴⁾, has now been in existence for four years and has supported a range of extremely useful reforms relating to the economy, trade, energy and free movement of persons. However, with regard to civil society's contribution to the EaP, in particular through the CSF, the Committee regrets the increasingly feeble involvement of civil society representatives from the EU Member States in the activities of the CSF and calls for a debate to be launched, within both the CSF and the European Commission, on measures and incentives for correcting this imbalance. In an opinion dated 16 June 2011⁽⁵⁾, the Committee also regretted that employers, trade unions and other socio-economic organisations (such as farmers, consumers and representatives of SMEs) at national level are involved little if at all in the activities of the CSF.

2.6 In so doing, the Committee was conveying the concerns expressed repeatedly by European and international employers' organisations and trade unions. Mario Sepi, the EESC president,

⁽¹⁾ Statement by Jose Manuel Barroso, President of the European Commission, at the press conference of 3 December 2008.

⁽²⁾ Communication from the Commission to the European Parliament and the Council, Eastern Partnership, 3 December 2008, COM(2008) 823 final, p. 12.

⁽³⁾ http://eeas.europa.eu/eastern/civil_society/docs/results_en.pdf.

⁽⁴⁾ EESC opinion on Involvement of civil society in the Eastern Partnership, OJ C 277, 17.11.2009 pp. 30-36.

⁽⁵⁾ EESC opinion on the contribution of civil society to the Eastern Partnership, OJ C 248, 25.8.2001, pp. 37-42.

thus noted, in a letter addressed to the CSF steering committee in May 2011, that the term "civil society" included not only NGOs and community-based organisations but also "the stakeholders in the labour market (trade unions and employers) and organisations (such as consumers organisations) representing social and economic players which are not social partners in the strict sense of the term" (6).

2.7 In response, the CSF agreed (1) to relax the rules for the selection of CSOs, which restricted the latter's participation in the CSF assembly to two one-year terms and would lead ultimately to the exclusion of the trade unions and employers organisations that were most involved and (2) to set up a fifth working group, on social dialogue within the CSF, which would be open, without restrictive conditions, to representatives of employers organisations and trade unions. This working group was constituted for the first time at the Civil Society Forum's general assembly in Stockholm in November 2012.

2.8 In addition, at its general assembly in November 2011 (Poznań), the CSF had already discussed ways of consolidating its status and stepping up its action. To this end, it decided to set up an association with legal status, enabling it to take part in the cooperation programmes introduced by the Commission for the EaP, and a permanent secretariat to carry out the coordination work inherent in its role. It also called for a "Facility" to be opened to support civil society and the CSOs. Furthermore, it insisted that its representatives be entitled to participate fully in the EaP's various activities, from meetings of the multilateral platforms through to the Ministerial Meeting.

3. The complementarity of social and civil dialogue

3.1 Social dialogue is the dialogue that takes place between representatives of employers and workers - either directly between them or between both parties and the government and its representatives (including regional and/or local authorities) - with the aim of promoting economic and social progress and fostering constructive resolution of the conflicts arising from divergent social and economic interests. Social dialogue normally aims to provide a normative framework, in the form of legislation, government regulations or collective agreements, which are binding on the signatories and those they represent, but whose scope can also be broadened, by a decision of the government and the social partners, to include all socio-economic players. The form taken by social dialogue in each country depends on the rules and procedures introduced at national level. In most EU and neighbouring countries, it relies on the existence of bi- or tripartite consultation and negotiation structures.

(6) Letter from Mario Sepi, EESC President, to the members of the CSF Steering Committee, 19 May 2010, in which the EESC president referred to the definition given by the Commission in its "General principles and minimum standards for consultation of interested parties by the Commission" (COM(2002) 704).

3.2 Social dialogue is predicated on the recognition of fundamental social rights, defined by the International Labour Organisation (ILO), the European Social Charter (Council of Europe) and the Charter of Fundamental Rights of the European Union. This includes recognition of the independence of trade union and employers' organisations and the right of workers or employers to be affiliated to an organisation of their choice (ILO Convention 87).

3.3 Civil dialogue is the dialogue that takes place between all the various CSOs and between the latter and the government or its representatives with the aim of fostering participatory democracy, by drawing on the expertise and commitment of the public through organisations set up by ordinary citizens either to defend particular interests or to promote particular objectives or values. In a number of EU or neighbouring countries, civil dialogue is conducted at national level via structures such as social and economic councils or committees for consultations with civil society.

3.4 Civil dialogue is predicated on recognition of fundamental civil and human rights, in particular, freedom of expression, association and assembly. These rights are set out in the Charter of Fundamental Rights of the European Union.

3.5 Although social dialogue and civil dialogue are conducted primarily at national level, their importance has also been recognised at European level, where they are conducted under a variety of arrangements. In view of its role as the consultative body for European civil society and, in particular, the fact that it is made up of equal numbers of representatives of employers' organisations (Group I), workers (Group II) and other CSOs (Group III), the European Economic and Social Committee is situated at the point where social and civil dialogue meet and is therefore in a position to "facilitate a structured process of joint elaboration of standpoints involving the various categories of economic, social and civil activity which it represents" (7).

4. Social dialogue in the six EaP countries

4.1 The Committee has addressed the situation of the social partners and the social dialogue in the six EaP countries in a number of opinions. It was not possible, especially in view of the sometimes considerable differences between the various countries, to present a detailed country-by-country analysis of the situation in this opinion. Accordingly, the Committee

(7) Opening address by the EESC President, Roger Briesch, at the seminar "European social dialogue and civil dialogue: differences and complementarities", held in Brussels, on 10 June 2003. The composition of the EESC is determined by Article 300(2) of the Treaty of Lisbon.

draws attention to previous opinions where these issues have often been explored in some depth⁽⁸⁾ and intends to restrict itself in the following observations, to highlighting a number of issues common to all the EaP countries.

4.2 Employers' and workers' organisations exist in all six partner countries. Some emerged out of the social or economic organisations that existed under the Soviet system, having been re-established on a new basis at the beginning of the 1990s. Others are new organisations set up during the democratisation and economic liberalisation process that began in these countries following the demise of the USSR. In some countries, pluralism has prevailed, with a multiplicity of organisations. In others there is a single organisation representing employers (Azerbaijan, Georgia and Moldova) or workers (Armenia, Azerbaijan, Georgia and Moldova).

4.3 How independent these organisations are in relation to the government and the public authorities varies from one country to another and from one organisation to another. In Belarus, the current regime has shown no qualms about intervening directly in the running and activity of employers' organisations and trade unions. In countries where there is only one employers' or workers' organisation, the effective monopoly these organisations enjoy restricts, sometimes severely, the full exercise of freedom of association and collective bargaining. Lastly, attention should be drawn to the recurring difficulty for governments in all countries across the region, including those that claim officially to be aligned with democracy and the market economy, in accepting the independence and legitimacy of the organisations representing employers or workers. What is more, this does not apply only to the social partners, as CSOs that are critical of the public authorities and their practices have also found on a regular basis.

4.4 National consultation and concertation bodies, mostly tripartite in structure, exist in all the countries. Bipartite structures also exist at sectoral level, but far less systematically. The ILO has played a leading role in this area, particularly through the establishment of its Decent Work Country Programmes. However, although the structures are in place, all too often, their functioning leaves a lot to be desired. Most of the organisations feel that there is still a tendency for the social dialogue that takes place within them to be overly formal and sporadic and, in addition, that there are considerable limitations on the issues that can be addressed. In practice, the tripartite structures tend to serve as channels for the government to inform the social partners about decisions that have, in many cases, already been taken and can no longer be

altered. The EaP and the accompanying programmes have almost never been included on the agenda of these meetings.

4.5 The six partner countries have all ratified the ILO's core conventions and some of the other major conventions, although there are wide disparities between them when it comes to integrating these conventions (for instance, 61 of the 69 conventions ratified by the Ukraine are now in force, whereas Georgia has ratified and applied only 16). The six countries have also integrated the most important clauses in the European Social Charter (albeit with certain reservations concerning the protocol on collective bargaining, which it should be possible to resolve). However, all this does not mean that the fundamental social rights are respected, far from it. In addition to the complaints issued against Belarus, a number of complaints against Moldova, Ukraine and Georgia have also been brought before the ILO. The difficulty of establishing the social rule of law and the lack of consideration for European and international standards displayed by some governments is having very direct consequences for freedom of association, social dialogue, social rights and the status of employees in general. Furthermore, it should be noted that, in all these countries, the legal system is slow and often dysfunctional and therefore incapable of ensuring that the law is enforced, within an appropriate time-frame and with sufficient force of dissuasion, in the social field.

4.6 In 2010, the CSF supported a research project on the state of social dialogue in the various countries, proposed by the Eurasia Partnership Foundation (EPF). The Committee draws attention to the value of this project, which complements the Civil Society Facility project on mapping the organisations comprising civil society in the various countries. The initial project, in which representatives of the social partners should be closely involved, ought to be integrated into this research on civil society. It should address all the various levels of social dialogue (national, regional, local; tripartite, bipartite) and its key objective should be to identify the barriers and impediments to implementing genuine social dialogue in the various countries. The Committee calls for this project to be included in the priorities of the programmes to which the CSF should be given access.

4.7 With the support of civil society organisations, the CSF has developed a "European Integration Index for Eastern Partnership Countries", a monitoring tool intended to provide annual assessments of the progress made by each of the EaP countries, looking both at linkages between them and their cooperation with the EU. However, the Committee notes that whilst this Index incorporates a series of objectives linked with the EaP, it gives little attention to the social dimension, employment, respect for fundamental social rights and freedoms or progress towards genuine social dialogue. Consequently, the Committee calls for this Index to be revised and extended and asks the CSF to draw on the expertise of the European institutions in doing so, in particular the work of the Council of Europe and the criteria which the European Commission has set for the "Generalised System of Preferences" (GSP+) in the framework of its trade cooperation policy.

⁽⁸⁾ Cf. in particular: "EU-Ukraine relations: a new dynamic role for civil society" (OJ C 77, 31.3.2009, p. 157-163); "The EU's relations with Moldova: What role for organised civil society?" (OJ C 120, 15.05.2008, p. 89-95 and OJ C 299, 4.10.2012, p. 34-38), "Belarus Civil Society" (OJ C 318, 23.12.2006, p. 123-127); "Civil society involvement in implementing the ENP Action Plans in the countries of the Southern Caucasus: Armenia, Azerbaijan and Georgia" (OJ C 277, 17.11.2009, p. 37-41).

5. The debate on issues relating to social dialogue, social policy and employment in the framework of the CSF

5.1 From the beginning, the Committee has stressed the importance of involving civil society in the EaP - and the CSF was set up for this purpose. In 2009, CSOs interested in taking part were selected, using the criteria (geographic origin/nationality, diversity and proportionality, experience in EU/ENP/EaP matters) set out in the "Concept Paper" drawn up by the Commission⁽⁹⁾. In this regard, the Committee regrets the absence of any specific requirement of representativeness. Although specific mention is made of employers' organisations, trade unions and professional associations in criteria two, this has resulted in the social partners being markedly under-represented.

5.2 Until now, the CSF has not had a dedicated working group to address social dialogue, social policy and employment and respect for fundamental social rights. Some of these issues have been addressed in Working Group II (Economic Integration and Convergence with EU Policies) or Working Group I (Democracy, Human Rights, Good Governance and Stability). However, it is clear that the result of adding these issues to an already busy agenda is that they have not been given the full attention they deserve.

5.3 Consequently, the Committee welcomes the CSF's decision to establish a fifth working group focusing on social dialogue, noting that it should go beyond promoting social dialogue in the six partner countries and address economic and social policy in broad terms, the role of public services, the operation of the labour market, professional training, working conditions and working relations as such - in other words, the full range of issues generally covered by social dialogue, including social protection, respect for social rights, gender equality, the fight against the informal economy, impoverishment and the problems resulting from what is, in many cases, mass immigration.

5.4 It goes without saying that on many of these issues, the working group on social dialogue will need to coordinate with the other working groups, particular those looking at human rights, good governance and economic integration. It should be added that, although representatives of the social partners are required to be included in the membership of this working group, this must not be seen as excluding other representatives, for example of consumer and farmers' organisations or other CSOs active in the social sphere, which should also be able to participate. That also goes, of course, for membership of the other working groups, which should also be open to representatives from employers' organisations and trade unions concerned by the issues they address.

5.5 When this fifth working group is established, its leaders (one from the EU and one from a partner country) will be entitled to take part in the Steering Committee of the CSF,

whose membership would therefore increase from 17 to 19. Nevertheless, the Committee points out that this must not be taken as adequate representation of the social partners in the management of the CSF. Consequently, the Committee calls for the CSF's rules of procedure to be reviewed to ensure that the social partners are more fairly represented. Another positive step would be for each "group" - in the sense used by the Committee ("employers", "trade unions" and "other CSOs") - to be responsible for selecting its own members, using criteria adapted to the situation of the organisations belonging to each "group".

5.6 The EaP should serve to strengthen the social dialogue conducted in the formal structures that exist in the partner countries. Hitherto, the CSF has sought to decentralise its work by setting up "national platforms". These are extremely active in many of the countries, but their status in relation to the public authorities has yet to be defined. Alongside these "platforms" responsible for promoting civil dialogue, it would be advisable for role of the existing national tripartite structures in promoting social dialogue to be recognised and for the CSF to have direct links with them, as well as with the "national platforms". Similarly, the EaP should encourage the partner States to involve the social partners systematically, in the framework of social dialogue, in everything that touches on the social and economic aspects of its activities, including the association agreements established on a bilateral basis.

6. Issues relating to social dialogue at the level of the EaP

6.1 In 2011, the Commission and the European External Action Service (EEAS), reviewing the performance of the ENP on the countries both to the south and east of the EU, put forward a "new response to a changing Neighbourhood"⁽¹⁰⁾. This new strategy rightly focuses on deepening democracy and establishing partnerships with civil society but also stresses the need to support sustainable economic and social development, focusing in particular on economic growth and job creation. On this point, both the Commission and the EEAS stress that "feeble growth, rising unemployment and an increased gap between rich and poor are likely to fuel instability" in the countries concerned. In response to this, there is a need to "enhance dialogue on employment and social policies" alongside the existing macro-economic dialogue already initiated with the partner countries.

6.2 While evaluation conducted by the Commission and the EEAS obviously takes account of the events which have taken place in the southern Mediterranean, the analysis also has wider implications. Problems such as unemployment, impoverishment, the informal economy, immigration and human trafficking are a reality in the East as well as in the South, a reality whose destabilising effects have an impact not only on the political institutions in the countries concerned, but also on the region

⁽⁹⁾ http://eeas.europa.eu/eastern/civil_society/docs/results_en.pdf.

⁽¹⁰⁾ Joint Communication 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, COM (2011) 303 final.

as a whole. Consequently, the Committee, which in 2011 expressed its support for the new strategy being proposed⁽¹¹⁾, calls for the kind of balanced and sustainable growth which encourages job creation and greater social security to be taken into account fully as a future priority in the EaP.

6.3 The EaP includes a number of objectives in the field of social policy and employment, in connection with its policy on "Economic Integration and Convergence with EU Policies" (Thematic Platform II). In this context, the DG for Employment, Social Affairs and Inclusion has set up several initiatives aimed at promoting best practice in the area of social policy and employment. However, a more structured programme has not yet been established, owing to opposition from one of the partner countries, which is openly casting doubt on whether these issues should be addressed by the EaP. The Committee hopes that this obstacle will be removed and calls on the Commission officials concerned to resume discussions with that country's new government to encourage it to adopt a more constructive attitude in this area.

6.4 The Committee reaffirms the importance of a social dimension and stresses that it must be addressed in parallel with the economic dimension of the programme of reforms proposed by the EaP. Accordingly, it hopes that the "panel" proposed by the DG for Employment and Social Affairs to address questions relating to social policy and employment will be set up in the near future. This panel should aim to promote a number of standards and good practices which the partner countries and the EU representatives would agree to consider as indicators of the social progress that ought to accompany economic progress. The CSF should be involved in this work through its fifth working group. In the longer term, the Committee would like to see the current division of the EaP's priorities into four platforms changed and a fifth platform, focusing on social policy and employment, duly established on a formal basis.

6.5 The inclusion of social and employment policy amongst the EaP's priorities would need to be matched by adequate funding and tailor-made programmes for implementing these priorities. In this regard, the Commission could draw on the example of the Initiative for Social Cohesion programme set up several years ago in connection with the Stability Pact for South Eastern Europe. The aim of this programme was to, "better incorporate the social dimension in economic development and reconstruction efforts in the region" and, to this end, to "build on best European practice" to support reforms in the social sector.

6.6 The Committee welcomes the decision taken by the Commission and the EEAS, to create a Civil Society Facility and a European Endowment for Democracy, which should help to strengthen civil society, OSCs and their capacity for action. However, reiterating what it said in 2003⁽¹²⁾ and 2011⁽¹³⁾, the EESC calls on the Commission "to learn from the experience gained with the Civil Society Facility for the Western Balkans in order to avoid some shortcomings" and, in particular, to take better account of the specific characteristics of the social partners and the other economic and social organisations in connection with access to sources of funding.

6.7 Lastly, the Committee urges the organisations already taking part in the Eastern Partnership to better account of the social dimension. It also calls on the Council of Europe to incorporate, in future reports and recommendations, assessments of the social rights situation in relation to the principles set out in the European Social Charter and the articles that have and have not been ratified by the States concerned. Given its status as a tripartite organisation and the fact that it is extremely active in the countries concerned it would also like to see the ILO involved more closely, in future, in the work of the EaP.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹¹⁾ EESC opinion on A new response to a changing Neighbourhood, OJ C 43, 15.2.2012, p. 82-93.

⁽¹²⁾ EESC opinion on The role of civil society in the new European strategy for the Western Balkans, OJ C 80, 30.3.2004, p. 158-167.

⁽¹³⁾ EESC opinion on The contribution of civil society to the Eastern Partnership, OJ C 248, 25.8.2011, p. 37-42.

Opinion of the European Economic and Social Committee on ‘Civil society’s contribution to a strategy for prevention and reduction of food losses and food waste’ (own-initiative opinion)

(2013/C 161/08)

Rapporteur: **Mr SOMVILLE**

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

Civil society’s contribution to a strategy for prevention and reduction of food losses and food waste.

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 29 January 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 159 votes to 1 with 1 abstention.

1. Conclusions and recommendations

1.1 In a world where many people do not have enough to eat and resources are limited, the Committee believes that the prevention and reduction of food losses and food waste must imperatively be given a key place on the political agenda. The Committee is also pleased that the European Parliament has become active and the Commission has recently undertaken various initiatives in this field.

1.2 In order to ensure that policies are consistent, the Committee underscores the need for a definition and a common EU methodology to quantify food losses and food waste. However, it considers that in view of the current situation and the objectives set, steps need to be taken without waiting to see the results of programmes currently underway.

1.3 The Committee is in favour of developing and continuing platforms for exchanging experience on combating food waste in EU regions and Member States in order to make the best use of the resources devoted to these programmes and to promote initiatives which prove effective.

1.4 As the resources available to food banks are unfortunately declining and their needs rising sharply as a result of the economic crisis, the Committee draws particular attention to the need for the distribution and food service sectors to channel the greatest possible number of products still fit for consumption to them. Steps must be taken to disseminate initiatives in place in some Member States in the areas of taxation, discharge of liability for donors or adapting certain administrative constraints to make donating easier while guaranteeing food safety.

1.5 Training has a key role to play as regards waste reduction. It would be useful to include this topic in the

curriculum and ongoing training modules of future food service professionals in the collective and private sectors. The same approach could be taken in training establishments for packaging designers with regard to food conservation and ensuring maximum use of contents.

1.6 The Committee considers that communication with consumers is clearly essential and that it needs to be based on accurate analysis of the causes of waste. Alongside general awareness raising about the impact of waste, the main focus will be on how to interpret use-by dates of products, how to plan ahead as regards shopping, how to store food products, how to use leftovers, etc. Communication will be tailored to household type.

1.7 Research as a whole needs to prioritise this issue, as every link in the food chain is concerned. Applied agricultural research thus continues to be relevant as further improvements in production techniques are needed. Further on down the chain, progress with regard to packaging should also help to prevent and reduce waste (conservation, smart labelling, etc.).

1.8 As regards primary production, the interprofessional tools recommended by the CAP will need to be made effective and sustainable. Particular attention will be given to initiatives developing low-food-mile systems which can play a role in reducing losses and waste.

2. Introduction

2.1 Since the food crisis of 2008-2009, food security has been the number one concern of most groups of policy-makers and international organisations. The sharp rise in the price of cereals and other crops in 2012 has intensified this interest.

2.2 Efficient agricultural production will continue to be the key factor in feeding the world's population.

2.3 Agricultural production will need to increase by 60 % in order to cope with the increase in the world's population (set to reach around 9 billion by 2050), despite declining resources and climate change; an effective drive to combat food losses and food waste will be needed as well.

2.4 These losses and waste, which affect every link in the food chain albeit to varying degrees, are globally estimated to represent one-third of the volume of food intended for human consumption (*Global food losses and food waste*, FAO).

2.5 In the EU in 2011, in the wake of the economic and financial crisis, 24.2 % of Europeans – 119.6 million people – were on the brink of social exclusion, and the number of beneficiaries of the European aid programme for the most deprived persons rose from 13 million in 2008 to 18 million in 2010 ⁽¹⁾. Food banks therefore need ever more resources in order to cope.

2.6 This opinion is in line with the strategic discussion on Europe 2020. Furthermore, the European Commission communication on the efficient use of resources ⁽²⁾ contains a section on food and the need to reduce food waste.

3. An overview of the issue

3.1 Definitions

3.1.1 The concepts of food loss and food waste need to be analysed holistically, from production through to consumption, including the intermediary stages of processing and distribution and without overlooking food services outside the home.

3.1.2 In the EU, the production stage is responsible for a relatively small share of food losses, particularly since any products which do not meet regulatory or market standards and which cannot be used directly for human consumption are fully or partly used for processing. Unusable products should be used for animal feed or bio-fuel or returned to the soil in order to boost the organic material content.

3.1.3 Food losses and food waste can be defined as any product initially intended for human consumption, excluding products which are not for use as food, which is thrown out or destroyed at every stage in the food chain from farm to

consumer. According to the FAO, food losses occur at the start of the food chain (primary production, post-harvest and processing stages) whereas food waste is observed at the end of the chain (distribution and end consumer stages).

3.1.4 Inedible crop residues and processing by-products do not, therefore, fall within the scope of food losses and food waste. However, as knowledge and technology advance, it may be possible to use items which are not currently edible and cannot be processed into by-products. These definitions should therefore not be considered to be set in stone.

3.1.5 Still with regard to the production stage, successive CAP reforms in recent years have adapted mechanisms so as to prevent and improve management of market surpluses. However, improvements in the way the chain functions, for example genuinely boosting the negotiating powers of farmers, still need to be put into effect.

3.2 The scale of the problem in the food chain

3.2.1 Food losses and food waste occur in every part of the world. However, according to the FAO, in developing countries over 40 % of these losses take place in the post-harvest and processing stages, whereas in industrialised countries they occur chiefly in the distribution and consumption stages.

3.2.2 According to a European Commission study published in 2010, the volume of food waste is 179 kg per person per year. This is divided between the various links in the food chain as follows: 42 % for households, 39 % for food industries, 5 % for distribution and 14 % for food services outside the home. Without a policy shift, by 2020, this quantity is likely to rise by 40 %. It should also be pointed out that this study does not factor in food losses and food waste during the farming and fishing stages.

3.2.3 A study carried out in Brussels on the content of household dustbins showed that food waste makes up 11.7 % of overall household waste. This can be broken down as follows: 47.7 % partly eaten products, 26.7 % out-of-date products and 25.5 % leftovers.

3.3 The causes of food losses and food waste

3.3.1 In developing and low-income countries, the bulk of losses occur in the production and post-harvest stage owing to financial resources insufficient to improve existing infrastructure.

⁽¹⁾ EESC opinion on *Distribution of food products to the most deprived persons in the Union* (OJ C 43, 15.2.2012 p. 94-98).

⁽²⁾ COM(2011) 571 final, *Roadmap to a Resource Efficient Europe* p. 21.

3.3.2 In industrialised countries, however, the problem is more behavioural in nature. In recent decades in the EU, rising agricultural productivity has made it possible to guarantee a reasonably priced food supply for the public. This development, coupled with a rise in disposable income, has had the effect of slashing the proportion of people's budget which is spent on food. This trend can partly explain the increase in consumer waste.

3.3.3 Sociological reasons such as changes in family structure or lifestyle are also contributing factors in food waste.

3.3.4 Some visual quality standards applied to fresh produce by distribution chains can be a source of waste: products fit for consumption are rejected at the production stage for reasons other than food safety.

3.3.5 Some processors could adapt certain techniques in order to help reduce waste. It is difficult to completely empty some packets, some products are packaged in a way which does not reflect households' sociological development, some types of packaging do not reseal properly, etc.

3.3.6 Although the primary aim of business practices is to encourage people to buy, some of them can also promote a specific form of waste (for example, purely price-based communication; three for the price of two, etc.). Here again however, studies have pinpointed major behavioural differences between different types of families.

3.3.7 There is considerable confusion among consumers on the difference between "use-by" and "best before" dates, which leads to food being wasted. In the United Kingdom, research into labelling has shown that 45 % to 49 % of consumers misunderstand the use-by dates on products, accounting for 20 % of total avoidable food waste WRAP (Waste and Resources Action Programme).

3.4 *The impact of food losses and food waste*

3.4.1 Food losses and food waste have an economic, a social and an environmental impact.

3.4.2 The environmental impact is the most tangible, as it translates directly into an increase in the degradable part of household waste. In addition to the waste generated, any food waste means that the resources used to produce, process and distribute the product have been thrown away. The further along the food chain the food is wasted, the more resources are wasted.

3.4.3 The production of greenhouse gases contributes adversely to climate change. The household stage has the greatest impact in this respect, with 45 % of estimated emissions linked to food waste; the processing sector accounts for around 35 % of annual emissions. However, according to this study, estimates of greenhouse gas production should be viewed with caution, as they are dependent on the reliability of food waste figures (Preparatory study on food waste across the EU-27, executive summary, October 2010).

3.4.4 For the consumer as well as for the other links in the chain, any waste is a financial loss. Waste policies will become more vigorous in future, imposing additional costs (cost of transport to landfills, taxes, etc.) for the various players in the chain. This trend will necessarily encourage investment in prevention.

3.4.5 Both socially and ethically, it is inconceivable that no political action should be taken to reduce the scale of food losses and food waste, particularly at a time when the economic crisis is dragging increasing numbers of people down into poverty across the EU. The ever-growing needs of food banks illustrate this worrying trend.

4. **Current initiatives**

4.1 Many initiatives are taking place at global, European, national and local level, ranging from behavioural and quantification studies to grassroots projects.

4.2 International projects include the FAO's Global Initiative on Food Loss and Waste Reduction (Save Food) that establishes public-private partnerships and evidence-based policy development and investment support based on resource mobilisation, coherent and coordinated assessments and data analysis of food losses and wastage; awareness raising; networking and capacity building among stakeholders of the food and agricultural system.

4.3 On 19 January 2012, the European Parliament adopted a resolution on the strategy for a more efficient food chain. It called on the European Commission to take practical steps to reduce food waste by 50 % by 2025. The Parliament wants a coordinated strategy with European and national measures to be implemented so as to reduce losses at every stage of the food chain.

4.4 In its communication on the efficient use of resources⁽³⁾, the Commission dedicates a chapter to food, and calls on the

⁽³⁾ COM(2011) 571 final, *Roadmap to a Resource Efficient Europe*.

Member States to solve the problem of food waste in the context of their national waste prevention plans. It is stated here that food waste should be halved by 2020.

4.5 The Commission has published on August 2011 Guidelines on the Preparation of Food Waste Prevention Programmes which aims to help Member States to develop national waste prevention programmes in the domain of food waste. Furthermore the Commission has set up a dedicated food waste website with information on food waste prevention (i.e. 10 Tips to reduce food waste, clarification sheet on the difference between "best before" and "use by" dates, a compilation of good practices, etc.).

4.6 Lastly, the Commission is currently preparing a communication on sustainable food, which will devote a key chapter to food waste, due to be published at the end of 2013. Within the advisory group on the food chain and animal and plant health, a working group on food losses and food waste has been set up so that the Commission and all major stakeholders in the food chain can hold discussions on this subject.

4.7 Greencook is an initiative partly funded by the EAFRD (European Agricultural Fund for Rural Development) which aims to reduce food waste. The cross-sector partnership makes it possible to discuss the various initiatives being carried out on the ground, helping these to move beyond the experimental stage and become widespread strategy. Progress reports are encouraging and the final conclusions are due to appear in 2014.

4.8 The Council, too, is looking into issues surrounding sustainable food production. The vision recently set out by Austria and endorsed by 16 Member States for a new European Food Model covers, among other things, aspects relating to the appreciation of food, which should help to avoid food waste (see 16821/12).

4.9 In the United Kingdom, WRAP has been active for several years, focusing on quantification and campaigns on preventing food losses and food waste. This association was behind an agreement (the Courtauld Commitment) between the main UK retailers and many of the largest food and drink producers to promote and implement measures to reduce waste. There has been an improvement in the food chain since the project's launch in 2006/2007.

4.10 The food services stage is another critical point in food losses. A report published in the United Kingdom by the Sustainable Restaurant Association (Restaurant Food Waste Survey Report (2010)) sheds light on what goes on in this sector. The initial aim was to establish more accurate figures on the food waste generated by ten restaurants which are SRA members, divided into three categories: food left by consumers, food wasted during preparation and products which are

damaged or unusable for various reasons. The analysis was intended to lead to practical recommendations for reducing these losses.

4.11 With the economic and financial crises, food banks are concerned that their resources are shrinking while their needs are growing, with variations between the Member States. There are agreements between various charitable associations and stakeholders in the distribution and processing industries which enable products withdrawn from sale to be used. Naturally, these food products comply fully with health and safety requirements.

5. General comments

5.1 Faced with the challenges of demographic developments, climate change and the need to use resources efficiently, combating food losses and food waste must be considered part of the solution to the problem of food security.

5.2 The first step must be to develop different approaches to developing and industrialised countries.

5.3 In developing countries, losses occur primarily during the first stages of the chain; the solutions proposed must therefore be different and have already been addressed in a number of EESC documents. In industrialised countries, including the EU, the fight against food losses and food waste needs to focus on the processing, distribution, consumer and food services stages.

5.4 In industrialised countries, however, the problem is more behavioural in nature: over the last forty years, food has become a much smaller item in terms of household expenditure, and this probably encourages consumers to be more careless of it. Some studies show that attitudes to food, both purchasing and consumption, vary according to family type (level of income, size and age of household, etc.). This will need to be taken into account to make the necessary education, awareness and information campaigns as effective as possible.

5.5 When considering the wide range of studies and initiatives on combating food losses and food waste, it is clear that reliable and comparable figures are crucial. Developing an EU-level definition and common methodology for quantifying losses and waste is thus a priority, and this will be done as part of the European programme for research and technological development (FP7) "Fusions" project launched in August 2012. This project also focuses on sharing and developing best practices, organising events involving various partners, raising awareness and issuing policy recommendations.

However, the urgency of the matter and the goals that have been set mean that practical steps have to be taken alongside research into improving data.

5.6 In order to make the best possible use of the results of projects in place at EU, national and local level, a framework encouraging stakeholders to pool information and best practice needs to be set up.

5.7 As a general rule:

- efforts to reduce food losses and food waste must respect a waste hierarchy: first prevention, then use for human consumption (such as donations to food banks), then use for animal consumption and lastly energy production and composting;
- actions need to be taken at every stage in the food chain. Incentive-based approaches will as far as possible be given priority;
- all actions designed to reduce losses and waste must comply fully with food safety requirements.

5.8 Although large-scale distribution is not the worst culprit in terms of generating waste, it can play a key role in reducing waste by adapting certain business practices and ensuring that consumers are more informed and aware of the issues at stake.

5.9 However, when analysing studies of sales practices, it is not always easy to identify which practices have a clear impact either way on food waste. There is a range of criteria which dictate whether specific practices will have a positive impact on waste, such as household size, its type or the type of food concerned.

5.10 The conclusions of a study by the CRIOC (Belgian Consumer Research and Information Centre) on business practices in Belgium suggest a number of initiatives that could be developed in collaboration with the distribution sector to encourage consumers to make responsible choices. These could include opening up dialogue with consumers on origin, production method and nutritional value rather than just the price factor, or teaching people how to interpret use-by dates correctly.

5.11 Given that food banks are faced with falling resources and increasing demand for their services, the authorities must leave no stone unturned in helping food to reach them.

Although food safety must remain a priority, authorities need to adapt certain administrative requirements in order to smooth the way for distributors who wish to channel goods towards food banks rather than disposing of food which is still fit for consumption. The same applies to the food services sector. Steps should be taken to promote pilot schemes carried out in some Member States in the areas of discharge of liability for donors (subject to certain conditions) and tax incentives.

5.12 During the campaign encouraging the food services sector to use local products, it became clear that local producers and cooperatives can be discouraged by the existing red tape. Giving these actors easier access to public procurement could be part of the solution. Local authorities also have a role to play here, both as regards developing specific criteria for the canteens for which they are responsible, and in training staff on more sustainable food practices.

5.13 Still with regard to the food services sector, the various initiatives have demonstrated the need to communicate with staff and consumers in order to change behaviour.

5.14 The training of future chefs should be adapted to include raising awareness of the various aspects of food waste such as stock management, recycling, the potential financial benefits or the consumer-based approach.

5.15 Any prevention policy must be based on joint, coordinated action by all stakeholders. The measures will need to be tailored to the actors, types of food and methods of consumption in question, so as to produce tangible results as rapidly as possible.

5.16 One example is the need to open dialogue with the processing industry to urge it to market products which will help reduce food waste by households (packaging design, appropriate quantities and formats for certain food products, etc.). This issue should also be included in the training curriculum of packaging designers.

5.17 At primary production level, various lines of action could be encouraged and developed:

- to continue and even step up applied animal and plant research in order to reduce losses resulting from illnesses, technical deficiencies or weather-related issues; the European Innovation Partnership on Agricultural productivity and sustainability could be incorporated into this procedure;

- to encourage interprofessional agreements, recommended by the current and future CAP, ensuring that they are effective and sustainable;
- agriculture will continue to play a key role as an agri-food industry supplier, but promoting and developing low-food-mile systems can help reduce losses and waste by doing away with middlemen between production and consumption.

5.18 Currently, the scale and causes of food losses and food waste are in principle well known, but more accurate data on

the amount of food lost owing to each cause is needed. The various studies quantifying food losses and food waste at the various stages are clearly crucial to improving our understanding of this issue and introducing prevention measures based on valid, verifiable arguments. This is particularly important given that the costs linked to waste, via the volume of waste generated, will inevitably rise in the future.

5.19 There are many factors behind food waste by consumers and these vary from one Member State to another based on culture, climate, diet and type of household. This observation further complicates the choice of communication geared to the EU level.

Brussels, 20 March 2013.

The President
of the Economic and Social Committee
Staffan NILSSON

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

488TH PLENARY SESSION HELD ON 20 AND 21 MARCH 2013

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission — The outermost regions of the European Union: towards a partnership for smart, sustainable and inclusive growth’

COM(2012) 287 final

(2013/C 161/09)

Rapporteur: **Mr MALOSSE**

On 20 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 - The outermost regions of the European Union: towards a partnership for smart, sustainable and inclusive growth

COM(2012) 287 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 4 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 165 votes to 2 with 6 abstentions.

1. Conclusions and recommendations – the ORs as outposts of Europe

1.1 The EU's current priority in relation to the outermost regions (ORs) must be to strengthen the links that connect them with mainland Europe and their citizens' sense of belonging to the European project. The ORs can serve as laboratories, testing grounds and even models for Europe in certain areas, such as biodiversity, earth observation, renewable energies and cultural integration.

1.2 The ORs have considerable assets with which they can contribute to the future of Europe. These include the talents of their men and women, their agricultural, fisheries and industrial products, their high-quality tourism and their geographical role as outposts of Europe in their neighbourhoods. The ORs must have access to all the advantages of the internal market, on an equal footing with other European regions.

1.3 Despite the extremely tight budgetary situation, specific support for the ORs must not be cut. These regions must have access to appropriate financial means to allow them to achieve the objectives of the Europe 2020 strategy and to compensate for their disadvantages, particularly those linked to their remoteness.

1.4 Although European policy in favour of the ORs has delivered good results, the concept of outermost regions needs to be revitalised on the specific legal basis established in the TFEU by giving it a more strategic and ambitious dimension. The ORs can thus no longer be excluded from European policies on major networks, research, mobility and earth observation.

1.5 The POSEI instrument should be evaluated and extended to cover all the ORs' products, both agricultural and non-agricultural.

1.6 Article 349 of the Treaty on the Functioning of the European Union (TFEU) needs to be properly implemented in relation to certain European policies, such as those on competition, public procurement, fisheries and the environment, so as to take account of the ORs' specific geographical and climatic circumstances. Given the text of the Treaty, the European Commission's current silence on these issues is not really justified. The EESC calls on the European Commission to draw up and publish an analysis of the application of Article 349.

1.7 Employment and young people are vital issues for the ORs. The social dimension must be a priority in EU policies for the ORs. As a result, this angle needs to be effectively developed through the application of short, medium and long-term measures under support programmes for education and training, in line with the needs of the world of work in such regions, on the one hand, and support for job- and wealth-creating activities on the other.

1.8 Europe's competitiveness can also be improved by implementing programmes in the ORs concerning, for example, renewable energy, marine science, biodiversity studies, forestry, health and combating tropical diseases.

1.9 It is clearly necessary to try to improve the ORs' integration in their local environment. There are many examples which show that the European Commission has a general difficulty in understanding the ORs' strategic role in EU external policy as outposts of the EU, particularly in relation to trade, fisheries policy and development cooperation. Decisive, more visible and more active support from the European Commission for regional cooperation is essential.

1.10 The involvement of civil society in the EU's strategy must be more than just a slogan. The EESC proposes that round tables be organised, bringing in civil society players in each OR, to prepare the "Action Plans" setting out targets and milestones for the implementation of the Europe 2020 strategy. The EESC is willing to launch this process in partnership with the Conference of Presidents of the ORs and the ORs' Economic and Social Councils.

1.11 The EESC also supports establishing a structured dialogue between civil society in the ORs and in the countries of their respective neighbourhoods (i.e. Latin America, the Atlantic Ocean, the Caribbean or the Indian Ocean, as the case may be). That would, in particular, involve the participation of representatives of the ORs in the dialogue set up by the European Commission under the Economic Partnership Agreements (EPAs). The EESC is in favour of creating monitoring committees involving civil society under all the EPAs, and calls for the participation of the ORs in the committees that concern them.

1.12 The EESC proposes that EU offices be set up in each of the ORs, to make the links between the EU and those regions more tangible, visible and direct.

2. Introduction and general comments

2.1 Articles 349 and 355 TFEU define the outermost regions and recognise their special characteristics. Furthermore, since 1989 those regions have benefited from a specific programme to support socio-economic measures aimed at achieving greater convergence with the rest of the EU.

2.2 The ORs substantially extend the EU's territory and geographical presence in the world, thus increasing Europe's political, economic and cultural influence and adding huge fishing areas in the Atlantic and Indian oceans. Better use should be made of the ORs' position as outposts of Europe, by integrating them into the trans-European networks (such as TEN-T and the digital networks) and giving them priority access to European earth observation programmes (GMES and GALILEO) as well as to European research programmes on renewable energy and biodiversity. Mobility and cooperation programmes should also be used to develop the ORs' role as transmission mechanisms for Europe's influence in the world. The presence of EU special representatives in these regions, which is justified by their remoteness, will act as both a political signal and an effective tool to promote their role as outposts of the EU.

2.3 For more than twenty years, the EESC has also supported the efforts of civil society in the ORs to bring themselves closer to the EU and to be listened to and consulted more fully. In that respect, it is particularly worth highlighting the negative effects that its trade policy could have on the ORs, particularly as a result of free-trade agreements and EPA agreements with the ORs' neighbours⁽¹⁾. It is regrettable that the European Commission makes no mention of this issue in its Communication and has not taken on board the recommendations in the EESC's opinion of 17 February 2010 (rapporteur: Mr Coupeau)⁽²⁾, particularly in relation to flanking measures.

⁽¹⁾ EESC Opinion on *The impact of the Economic Partnership Agreements on the outermost regions (Caribbean region)*, OJ C 347, 18.12.2010, p. 28.

⁽²⁾ These recommendations can also be found in other documents, such as:

the study by ISMERI Europa for the European Commission on *Growth Factors in the Outermost Regions*;

the report by Pedro Solbes Mira for Michel Barnier, European Commissioner responsible for the internal market, on *Europe's Outermost Regions and the single market: the EU's influence in the world*;

the study by INED for the European Commission on *Demographic and migration trends in the OR: impact on economic, social and territorial cohesion*;

the report of the European Parliament's REGI Committee (rapporteur: Mr Nuno Teixeira) on *The role of cohesion policy in the outermost regions of the European Union in the context of EU 2020*;

the study for the European Parliament on *The role of regional policy in addressing the effects of climate change in outermost regions*.

2.4 Another weakness of the Communication is that there is a major political fact whose consequences it fails to address, namely that the ORs are part of the European Union. The hearing on Réunion showed that civil society is committed to European integration, which it has never called into question. In the EESC's opinion, the EU's strategy in relation to the ORs should focus on improving their integration into Europe as a whole, while taking their situation into account.

3. Specific issues

3.1 Simplification and speed in selection procedures and the allocation of funds have become a pressing need in relation to the implementation of cohesion policy. Excessive delays are often primarily the fault of the EU and the national authorities. These delays seriously harm the EU's credibility. This issue must be addressed urgently before the future financial perspectives are considered.

3.2 Another essential requirement for future EU programmes is to ensure that European support is more visible and more concentrated. The fact that funds are spread too thinly at present both contributes to inefficiency and leads to criticism. As stated in Mr Coupeau's opinion, mentioned above, the EESC recommends that the focus at this stage should be on three key priorities. The first of these is education and training to enhance the employability of young people, including support in the form of basic infrastructure, since of course the greatest wealth of these regions lies in the talent and entrepreneurial spirit of the men and women who live there. The second is support for the private sector's role of job- and wealth-creation, in areas such as SMEs/SMLs, tourism, services to the factors of production, agriculture, forestry and fisheries. The third priority is investment in major networks such as ICTs, transport, waste, water and energy, to ensure that the public has fair access to services of general economic interest that contribute to the competitiveness of these regions.

3.3 Sustainable development is a major issue, but it needs to be broadened to cover many areas other than just the environment. For example, sustainable development in relation to tourism includes respect for local identities, regional know-how, preservation of traditional ways of life, language, and typical local products. The issues of accessibility for all, demographic change and dealing with dependence are particularly important in the ORs and are not adequately developed by the European Commission in its communication.

3.4 The EESC encourages the Commission to look into the possibility of reflecting the situation of the ORs in the public procurement rules. The specific circumstances in the ORs justify taking into account not only local employment, but also the

need to prevent social dumping from neighbouring countries with much lower wage costs, as well as aggressive price-cutting practices by some economic players which first eliminate all local competition and then, acting as monopolists, charge high prices.

3.5 As far as relations with neighbouring third countries are concerned, the EESC regrets that the Commission's communication lacks a clear vision such as the one proposed in Mr Coupeau's opinion. The EESC highlights the importance of cooperation between the ORs and neighbouring countries, particularly ACP countries, in the form of joint cooperation projects using EDF, ERDF, ESF, EAFRD and EMFF funds. Many studies have been carried out in this field, but in the absence of operational rules, few concrete cooperation projects have been implemented. However, there are many opportunities for cooperation in the fields of transport, tourism, education, health, fisheries and agriculture, research and development, and environmental protection. Equally, the issue in relation to the EU's trade policy has not been addressed. The current or prospective free-trade agreements and EPAs pose a genuine threat to the fragile economies of some ORs. The draft EU strategy in favour of the ORs is pointless if their very real interests in EU trade policy are not taken into account.

3.6 Finally, it is regrettable that this communication pays so little attention to creating a partnership with civil society in the ORs so as to establish structured consultation of civil society on the implementation of cohesion activities and develop projects that would help strengthen their inhabitants' sense of European identity through information campaigns, European citizenship and mobility programmes. The EESC would refer to its opinion on the European Code of Conduct on Partnership (CCP) ⁽³⁾.

4. Proposals for the future

4.1 POSEI (Programme of Options Specifically Relating to Remoteness and Insularity).

4.1.1 A careful assessment should be made of the way this programme is applied. Alongside the major resources lavished by the POSEI on two OR products (sugar and bananas) account should be taken of a range of other local products whose export could be promoted (e.g. vanilla, fruit and vegetables, fisheries products).

4.1.2 Funding for the POSEI agriculture programmes should not only be maintained but strengthened so that production for export as well as for the local market can continue to be developed, while at the same time guaranteeing the supply of raw materials and basic products.

⁽³⁾ OJ C 44, 15.2.2013, p. 23.

4.2 *Economic, social and territorial cohesion*

4.2.1 The EESC welcomes the European Council's decision to continue to offer the ORs special treatment so that they can make the best use of the funds available, proposing a co-financing rate of 85 % regardless of their income levels. Nevertheless, it regrets that the co-financing rate for the specific allocation to offset the additional costs of remoteness remains set at 50 % and urges the Commission to exercise sufficient flexibility to ensure that it is fully effective.

4.2.2 Lastly, the EESC is concerned that the Commission's proposals for territorial cooperation do not offer concrete answers to the ORs' indispensable need for regional integration.

4.3 Mobility programmes: the EU needs to guarantee equal access to these employment or study programmes for citizens living in the ORs. There is a clear and unacceptable contradiction, for example, between the desire to allow young people and academics from the ORs to reap the full benefit of mobility programmes such as "Erasmus for all" and the refusal to take account of their geographical situation by not paying the travel costs incurred as a result of their remoteness by students coming to the ORs or travelling to other EU countries.

4.3.1 A further inconsistency is that "Erasmus for all" does not take account of third countries that are neighbours of the ORs. These inconsistencies must be removed. There should be a specific Erasmus Mundus programme for the ORs, allowing exchanges to be arranged for young people with neighbouring countries, thereby using these European outposts to promote European identity and culture.

4.4 *Accessibility*

4.4.1 The EESC, together with the European Parliament, highlights the need to establish an ad hoc framework for transport and ICT so that the ORs can address the problem of territorial separation and the digital divide.

4.5 *Regional integration*

4.5.1 The ORs should be automatically eligible for cross-border cooperation, despite the requirements for maritime borders to be no more than 150 km apart.

4.5.2 The effective regional integration of the ORs calls for measures to be adopted to improve their connectivity with neighbouring third countries and to foster the internationalisation that is essential to their SMEs.

4.5.3 It is essential that the European Union carry out impact assessments when concluding trade or fisheries agreements with the neighbouring countries of the ORs and

that it keep the political authorities and civil society in the ORs informed of the negotiations and involve them on matters that directly affect them.

4.5.4 There is also interest in professional and legal circles in the ORs in the security of investments in their local environment. In that respect, the EESC supports the creation of a bar association of the ORs and all other such initiatives, including, inter alia, the Atlantic arbitration centre.

4.5.5 In a number of areas, such as transport or waste management, regional integration would make it possible to achieve economies of scale, provided that the EU shows more clearly than it has done so far that it intends to make the ORs into outposts of Europe.

4.6 *Support for businesses*

4.6.1 Article 107(3)(a) TFEU represents real conceptual progress, allowing the Commission to take account of the different economic situation of the ORs in the state aid framework for regional aid, as well as of the manifest deficiencies in relation to state aid for other purposes (such as research, innovation, transport and the environment). The EESC highlights the contradiction that currently exists between the priorities of the Europe 2020 strategy and the fact that the state aid frameworks for research and innovation and the environment are inadequate for the ORs. That contradiction must be corrected for the coming period.

4.6.2 At a time when the European state aid framework is under review, the ORs are concerned as to whether the existing framework will be maintained. They call for the most favourable treatment possible to be maintained, for consistent treatment of state aid for the full range of different purposes (with increased aid intensities for investment in businesses and operating aid that is not gradually reduced and not limited in time, to compensate for the additional costs associated with the outermost areas, in line with Article 349 TFEU) and a search for simple, flexible procedures.

4.6.3 The ORs have a substantial need for jobs, to put a stop to structural unemployment affecting all strata of the population. Businesses in the ORs are by definition small and medium-sized enterprises, often operating in geographically limited markets: these are very different characteristics from those that exist in mainland Europe. It must remain possible, as in 2007-2013, for aid to businesses to be granted to all types of firm.

4.6.4 Investment aid intensities in the ORs appear to have stabilised at the level applied in 2007-2013, with both the thresholds and the principle of a "bonus" for the ORs being

maintained in the future. The EESC emphasises that this has no effect on intra-EU trade, particularly because the markets of the ORs have very little appeal to foreign investors. The EESC therefore calls for operating aid that is not gradually reduced and is not limited in time to continue to be allowed.

4.6.5 Public support, including European support, and investment by businesses in the ORs in innovation, the digital agenda and the search for partnerships in their local areas should be treated as priorities.

4.6.6 Due to the particular structure of the ORs, their business fabric is made up almost entirely of very small businesses. The Commission's strategy should emphasise effective implementation of the European Small Business Act and application of the "Think Small First" principle, particularly in relation to procedures and monitoring. The competition rules should be closely monitored in the ORs, to protect the interests of small and medium-sized enterprises.

4.7 Energy

4.7.1 The geography of the ORs makes them highly vulnerable and means that they need to meet the energy challenge in a different way from mainland Europe. The EU should help the ORs to secure their energy supply in complex surroundings and circumstances which significantly raise prices and restrict competitiveness.

4.7.2 It is critical for the ORs to obtain and use their own energy resources, whether in the form of energy derived from oil or gas or low-carbon forms such as wind, thermal, solar, hydropower and marine (tidal, wave, marine current and thermal) energy.

4.7.3 The EESC proposes that research into renewable energies be promoted in these regions and that energy projects in the ORs be supported through EU financial instruments, taking their specific characteristics into account.

4.8 Agriculture

4.8.1 The fundamental importance of agriculture in the ORs is clear. It contributes to employment, provides influence and helps protect traditional environments and ways of life. Besides sugar and bananas, the EU should continue to work towards diversification and self-sufficiency in food for the ORs. There is also a need to maintain the current balance between agricultural production for export and for local markets.

4.8.2 The procedures related to European aid sometimes favour large organisations and the use of intermediaries. That tendency leads to a disregard of the interests of small independent producers, who are in a large majority in the ORs, and should be changed. EU support should also serve to improve the functioning of the food chain and to promote the participation of farmers and their organisations.

4.9 Fisheries

4.9.1 The EESC welcomes the Commission's intention to ensure more regional decision-making in this field by focusing on regional maritime zones, taking account of local stock and putting in place an advisory council for the ORs. However, that advisory council must be organised according to the sea basin to which each OR belongs, to take better account of their specific situation, given that there are great differences between the fisheries of the various ORs.

4.9.2 The fisheries policy reform proposal does not satisfactorily address the situation of the ORs, for example in relation to aid to fishing fleets (as regards construction/purchase and modernisation, management of fishing effort and the impact on the ORs of fisheries agreements between the EU and third countries), as well as the lack of developments in relation to fisheries POSEIs, the content of which would benefit from a conceptual review on the model of the current approach for agricultural POSEIs. The Committee also reiterates the ideas set out in its own-initiative opinion of 27 October 2011 on The development of regional areas for the management of fish stocks and the control of fishing (rapporteur: Mr Burns).

4.10 Forestry

4.10.1 The potential for growing sustainable specialist tropical and sub-tropical hardwoods is an opportunity that should be considered in the Outermost Regions and the Overseas Countries and Territories. Their special relationship with Europe would allow them direct access due to their ability to provide certified wood that can be guaranteed not to breach any of the **Forest Stewardship Council (FSC)** certification rules.

4.10.2 Wood for special historical restoration projects is a specific market that should be considered, as many of the original types of wood are on endangered lists and therefore extremely difficult to source legally. Mahogany, Ipe, Virola, Padauk, Greenheart, Ramin, Apitong, or Wenge is only a small list of woods that are required for restoration projects.

4.10.3 In addition to wood, tropical and subtropical forests provide an ideal environment for growing rare plants for use in medicine and cosmetics. Wood from tropical and subtropical forestry is not a get-rich-quick-scheme, but it does offer a huge long term opportunity for these regions to capitalise on highly profitable markets that require access to these rare wood and plants.

4.11 *Research and its development*

4.11.1 The EESC supports the continuation of the European environment programme and the biodiversity action plan (80 % of potential European biodiversity is to be found in the ORs) and believes that future programmes under the 2020 strategy, particularly those concerning renewable energy, sustainable development and marine science, should take better account of the potential of the ORs.

4.11.2 The European Commission is not developing the ORs' potential sufficiently in this area.

4.11.3 The EESC supports the idea of creating European networks of clusters in these fields that include the ORs.

4.12 *Strengthening the social dimension of the development of the ORs*

4.12.1 The EESC is pleased that the Commission is focusing on the social aspect of the European model in relation to the Europe 2020 strategy. That focus should not just be a matter of good intentions, but must take the form of concrete commitments. No European citizen should be excluded or left behind by the process of development. That is the very meaning of European solidarity. The EESC supports the proposal by the President of the Region of the Canary Islands to put in place an emergency plan to combat mass unemployment, which is growing exceptionally quickly.

4.12.2 Besides the implementation of the strategic priorities, the EESC emphasises the following:

4.12.2.1 Essential basic needs, such as water for all (both individuals and businesses), sustainable energy, treatment of waste water and waste disposal, are issues of huge importance for these regions. In this respect, the Commission does not give sufficient emphasis to the need for well-functioning network services in the ORs.

4.12.2.2 A European tourism strategy is essential for the ORs; such a strategy must incorporate sustainable development and respect for identity as key pillars of the development of this sector, to avoid falling into the trap of cultural homogenisation or concreting over of coastal areas. In this context, the EESC draws attention to the Commission's Communication on Blue Growth and to the opinion currently being drawn up by the Committee ⁽⁴⁾.

4.12.2.3 The European Commission's strategy should give more attention to the cultural dimension. The ORs are an outstanding asset for the EU in that respect. The EESC therefore calls for the cultural strand of the action plans implementing the Europe 2020 strategy to be substantially strengthened.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁴⁾ EESC opinion on *Blue Growth: opportunities for marine and maritime sustainable growth*, ((See page 87 of this Official Journal)).

Opinion of the European Economic and Social Committee on the 'Proposal for a Council regulation amending Regulation (EC) No 723/2009 concerning the Community legal framework for a European Research Infrastructures Consortium (ERIC)'

COM(2012) 682 final — 2012/0321 (NLE)

(2013/C 161/10)

Rapporteur: **Mr STANTIČ**

On 19 December 2012 the Council decided to consult the European Economic and Social Committee, under Articles 187 and 188 of the Treaty on the Functioning of the European Union, on the

Proposal for a Council regulation amending regulation (EC) No 723/2009 concerning the Community legal framework for a European Research Infrastructures Consortium (ERIC)

COM(2012) 682 final — 2012/0321 (NLE).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 78 votes to one with three abstentions.

1. Conclusions and recommendations

1.1 The EESC supports the proposed amendment to Article 9 of the Regulation in order to eliminate discrimination between Member States and associated countries and boost more active participation of associated countries in setting up and operating future ERICs.

1.2 The EESC believes that equality in voting rights will not affect the *Community dimension of the Regulation* and that the Community can retain enough control over essential elements of ERIC activities through other existing provisions in the Regulation.

1.3 The EESC is concerned about the slow pace at which the ERIC legal instrument is being applied to the setting up and operation of research infrastructure projects of European interest from the European Strategy Forum for Research Infrastructure (ESFRI) Roadmap. Therefore, it urges the Commission to provide maximum support to potential partners and thus facilitate use of the ERIC legal form.

1.4 The EESC would also recommend that the Community contributes more to the co-financing of ERIC projects, by ensuring better synergies between the Structural Funds and the Horizon 2020 Framework programme.

2. Introduction and background

2.1 Top-class research infrastructure plays a crucial role in the advancement of knowledge and new technologies for a more competitive and knowledge-based European economy.

2.2 Although support and development of research infrastructure in Europe has been an ongoing objective of the

Community for the last decade, the relative fragmentation and regionalisation⁽¹⁾ of this infrastructure have consistently been among the reasons for a lack of excellence.

2.3 In 2006 the ESFRI identified numerous key infrastructure projects of pan-European interest to be developed by 2020⁽²⁾. One major barrier to setting up such infrastructure between EU countries was the lack of an adequate legal framework for the creation of proper partnerships.

2.4 Therefore, in 2009 the Council adopted the ERIC Regulation⁽³⁾. This specific legal instrument gives an ERIC a legal personality recognised in all Member States. It can also benefit from VAT and excise duty exemption, and may adopt its own procurement procedures.

3. Context of the proposal to amend the ERIC Regulation

3.1 According to the current Regulation, ERICs should have members from at least three Member States and may also include qualified associated countries⁽⁴⁾ as well as third countries and specialised intergovernmental organisations. EU Member States always jointly hold the majority of voting rights in the Assembly.

⁽¹⁾ Half of total research expenditure goes to 30 regions out of 254, and a majority of ESFRI Roadmap projects are located in just 10 Member States.

⁽²⁾ The ESFRI Roadmap was updated in 2008 and 2010. The next update is scheduled for 2015.

⁽³⁾ Council Regulation (EC) No 723/2009 – Community Legal Framework for a European Research Infrastructure Consortium (ERIC).

⁽⁴⁾ There are currently 14 countries associated to the 7th Framework Programme. These are the following: Norway, Iceland, Liechtenstein (on the basis of the EEA Agreement), Israel, Faroe Islands, Switzerland (on the basis of a self-standing international agreement); Moldova, Croatia, Turkey, Bosnia Herzegovina, Montenegro, Albania, Serbia and FY Republic of Macedonia (on the basis of Memoranda of Understanding).

3.2 Such an arrangement puts associated countries in an unequal and subordinate position in respect to their voting rights, even though they may be willing to make a substantial financial contribution to setting up and operating an ERIC ⁽⁵⁾.

3.3 In order to encourage associated countries to actively participate in ERICs, the amendment to Article 9 proposes a change, with only one Member State (of a minimum of three members) being needed to establish a Consortium. The other two members can be from associated countries. Associated countries would also be able to hold voting rights accordingly.

4. General and specific comments

4.1 The EESC generally supports the amendment to the ERIC Regulation if it can boost the active participation of associated countries in setting up and operating ERICs, but would like to make the following remarks.

4.1.1 The main argument for the minimum of three Member States in the current Regulation was to assure the *Community dimension of the Regulation* ⁽⁶⁾. In this respect the change from three to one seems quite radical.

4.1.2 The EESC recalls that this Regulation was primarily established to ensure efficient execution of Community research and technological infrastructure projects. The EESC therefore recognises the need for the Community to retain control over certain essential elements of ERIC activities.

4.1.3 On the other hand, the EESC notes some provisions in the current Regulation which may compensate for the potential weakening of the position of EU parties due to the amendment to Article 9, for example:

- Entities wishing to set up an ERIC have to submit an application to the European Commission.
- ERICs are governed by Union law, in addition to the law of the host State.
- ERICs must submit their annual reports and any information that may prevent them from fulfilling their

tasks or meeting the requirements of the Regulation to the Commission.

- Substantial amendments to the Statutes require the formal approval of the Commission.
- The European Court of Justice has jurisdiction over ERICs.

The EESC requires full assurance that the above provisions outweigh the proposed amendment to Article 9 and ensure enough control over ERIC activities.

4.1.4 The EESC expresses its concern that so far no associated countries or third states have joined an ERIC, and hopes that the unfavourable situation regarding voting rights was indeed the main reason for their lack of interest.

4.1.5 The EESC acknowledges with satisfaction that 19 of the 51 infrastructure projects in the ESFRI roadmap anticipate using the ERIC legal form for their establishment and operation. At the same time, the Committee is concerned that only 2 ERICs have been established since the Regulation entered into force, back in 2009.

4.1.6 The EESC would like to see this process being speeded up. It considers that the reasons for such slow progress include the complex and demanding administrative and legal procedures required to establish an ERIC. Therefore, the EESC urges the Commission to provide support measures and tools for potential partners in order to facilitate their work (templates for statutes, practical guidelines, specific support measures for ERICs under Horizon 2020, etc.)

4.1.7 Although not directly related to the proposed amendment to the Regulation, the EESC would like to reiterate its recommendation that the Community contributes more actively to the co-financing of ERIC projects by increasing the funds for research infrastructures in the Horizon 2020 framework programme, and in particular by increasing synergies between Horizon 2020 and the Structural Funds.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁵⁾ Norway is interested in hosting 3 ERICs for major projects from the ESFRI Roadmap (CESSDA, SIOS, ECCSEL), subject to more favourable voting rights.

⁽⁶⁾ See paragraph (14), OJ L 206 of 8.8.2009, p. 1.

Opinion of the European Economic and Social Committee on the ‘Green Paper — An integrated parcel delivery market for the growth of e-commerce in the EU’

COM(2012) 698 final

(2013/C 161/11)

Rapporteur: **Daniela RONDINELLI**

On 19 February 2013, 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

Green Paper — An integrated parcel delivery market for the growth of e-commerce in the EU

COM(2012) 698 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 7 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013, (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 156 votes, with 2 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) believes it is important to restore the confidence of online consumers and retailers in the integrated logistics systems used in e-commerce, which is particularly attractive to many consumers, given the importance of the digital market and its **high potential for economic growth and jobs**.

1.2 The EESC welcomes the Commission initiative to address the issues facing the sector by consulting all the relevant stakeholders through its Green Paper on an integrated market, which is aimed at securing an integrated parcel delivery market for online purchases and at developing e-commerce, **not only B2C but also B2B and C2C**.

1.3 The EESC calls on the Commission to draw up a directive focusing on six priority requirements:

- joint and several liability regime that would apply to online sellers and delivery operators throughout the delivery chain, in particular when consumers return items upon withdrawal or lack of conformity;
- full traceability of deliveries;
- the obligation to offer consumers the choice of more delivery options;
- full acceptance of the system of national e-commerce delivery problem-solving centres;
- the obligation to guarantee fair working conditions;

— transparency regarding conditions and prices

and to present a report on the results from individual Member States and cross-border deliveries.

1.4 The Committee believes that the shortcomings in the regulatory framework need to be addressed, and recommends a structured dialogue between representatives of organised civil society – in particular of organisations of consumers and SMEs, online sellers and delivery operators – in order to assess the appropriate regulatory and non-regulatory policy options to address the six aforementioned priorities.

1.5 The Committee believes it is important for the European standardisation bodies to be strongly urged to develop – with the involvement of consumer groups, SMEs and other operators concerned on an equal basis – **European technical and regulatory standards** in order to ensure the quality, reliability and sustainability of integrated logistics used in e-commerce and the relevant **social and reliability guarantees**. Development of a European reliability and quality mark for delivery systems would be highly desirable.

1.6 The Committee considers that, to ensure that integrated delivery services are affordable, reliable and efficient, measures are needed under European programmes for **technological research, the environment and transport**, in particular **Galileo**.

1.7 Full interoperability of systems and network interconnection platforms is crucial for information-sharing and coordination between all stakeholders.

1.8 With a view to ensuring fair competition and preventing abuse of dominant positions, the EESC recommends that adequate support be given to innovative SMEs that create new jobs, through the introduction of **EIB assistance lines** for that purpose.

1.9 The EESC calls strongly for the creation of a European network of national e-commerce delivery **problem-solving centres** which is user-friendly and provides quick and inexpensive solutions to online consumers' and sellers' problems, and the establishment of a **European monitoring centre** to address the sector's problems.

1.10 The Committee advocates setting up a **rapid alert system for e-commerce delivery** with the same powers as the RAPEX/ICSMS system, which facilitates the rapid exchange of information between Member States and the Commission on measures taken to prevent or restrict the marketing or use of an e-commerce delivery system posing a serious risk to the rights of online consumers or sellers.

1.11 The EESC considers that, to achieve an integrated parcel delivery market, high-quality jobs are needed with a **sound, well-integrated social dimension** allowing the redefinition of existing skills and reskilling, securing fair and decent working and pay conditions, and combating undeclared unemployment, in the context of a **dialogue between the social partners** in the sector at European, national and regional levels.

1.12 The EESC recommends creating a user-friendly European network of national e-commerce delivery problem-solving centres to provide rapid, costless solutions to all users' and e-retailers' problems, and establishing a European monitoring centre for e-commerce delivery systems that reports on a quarterly basis on problems encountered in e-commerce delivery.

1.13 In order to promote the fair and sustainable development of the sector, the exchange of national good practices on standard contracts ⁽¹⁾ and quality and arbitration systems, as well as greater cooperation and interoperability between all stakeholders involved at national and cross-border level, the EESC believes that a conference on the new integrated logistics for e-commerce delivery should be organised at the interinstitutional level.

2. E-commerce and integrated parcel delivery systems

2.1 E-commerce in Europe had a turnover of EUR 300 billion in 2012, which represents an increase of 20 % over the previous year ⁽²⁾, with online purchases having risen from

20 % to 37 % in five years ⁽³⁾. Consumer savings are estimated to total some EUR 12 billion per year.

2.2 The benefits of e-commerce can be measured in terms of the savings made in a transaction and its speed, cross-border nature and completeness, and the speed of information and service content relating to traded goods. The physical availability of most products, except for digital products, remains dependent, however, on the capacity to manage logistics methods for the processing and packaging, tracking, identification, handling, storage and transport of parcels and packages.

2.3 The Commission's strategy aimed at "building trust in the Digital Single Market for e-commerce and online services" ⁽⁴⁾ identified "five main obstacles to the Digital Single Market and [...] an action plan to remove them". These include the observation that "payment and delivery systems are still inadequate", while, in addition, "10 % of people currently do not buy online ⁽⁵⁾ because they are concerned about the cost of delivery services, in particular cross-border delivery, and about service quality". The Commission therefore states that:

- "the choice between various options for the consumer must be developed, and the best European practices, such as home delivery at specific times, collection in a partner shop or in automated systems with long opening hours, etc., must be disseminated and used in the various Member States";
- "from the viewpoint of both customers and businesses, the issue of liability for damaged, stolen or lost parcels should be clarified";
- "care must [...] be taken to ensure that the delivery services are also efficient and affordable in rural or remote areas and in the outermost regions of the EU, so that e-commerce lessens rather than accentuates inequalities in terms of territorial cohesion";
- where deliveries of falsified and/or counterfeit medicinal products are concerned, guarantees should be put in place to ensure "adequate protection for patients purchasing medicinal products online".

2.4 The traditional logistics systems used in the delivery chain are now obsolete and could hamper the process of disseminating and developing e-commerce, especially where cross-border transactions are concerned, while faster development of new technologies is opening up new convergence possibilities.

⁽¹⁾ See for example Thuiswinkel: Dutch standard contract, drawn up on 1.1.2012 by the Dutch Economic and Social Council in consultation with consumers, now used by 80 % of e-operators.

⁽²⁾ Source: McKinsey – 4th Annual European E-Commerce Conference, 14.11.2012, Brussels.

⁽³⁾ Source: EUROSTAT for the period 2004-2009.

⁽⁴⁾ COM(2011) 942 final, 11.1.2012.

⁽⁵⁾ Eurostat, Household survey 2009.

2.5 The development of business to consumer (B2C) e-commerce for products that have to be physically delivered or cannot be delivered by digital means has led to a marked growth in small to medium-sized shipments to an extremely high number of destinations that are non-recurring and difficult to plan for, with a service that is increasingly tailored to the needs of an individual customer.

2.6 The speed of information gathering and completion of transactions made possible by an increasingly direct interface between producers and consumers is leading to higher expectations as regards the speed and reliability of deliveries, which places considerable pressure on the efficiency and costs of the logistics system.

2.7 The Committee believes it is important to restore the confidence of online consumers - whose main concerns include failure to deliver, damage to or loss of the goods ordered and the possibility of recovering their money, especially in cross-border transactions - and of online retailers, who suffer from the lack of a structured network that reflects the needs of the sector's operators, the lack of interoperability and the lack of an appropriate regulatory framework.

3. The Commission Green Paper

3.1 The Commission's Green Paper sets out three lines of action to solve the problems and overcome the challenges facing online consumers and retailers in order to boost the growth of e-commerce and ensure that every individual and SME in every European region can access its benefits with a delivery system that is sustainable and efficient at the national, Community and international levels. This means:

- making delivery services in the EU more convenient for consumers and SMEs;
- giving consumers and SMEs delivery solutions that are more efficient in terms of lower costs and tariffs;
- promoting greater interoperability among operators in delivery services, improving methods of collaboration and cooperation between operators and online retailers, especially SMEs.

4. General comments

4.1 The EESC welcomes the Commission's initiative to create an integrated parcel delivery market for online purchases and at developing e-commerce, not only B2C but also B2B and C2C, in order to improve trust among all stakeholders, especially European citizens, guaranteeing affordability, reliability, transparency, efficiency and due regard for and safeguarding of reciprocal rights.

4.2 The Committee believes that the current regulatory framework contains shortcomings that need to be remedied:

- with regard to postal services, with "A universal postal service ensuring the availability of high-quality, reliable and affordable postal services irrespective of geographical or financial situation or other factors is a key element of the European social model" ⁽⁶⁾;
- with regard to access to the provision of services of a cross-border nature and information obligations, with full application of the services directive ⁽⁷⁾.

4.3 In the Committee's view, it is essential that the regulatory framework be adapted in order to bring greater social and economic benefits to European consumers, in terms of greater autonomy and convenience, transparency and competition and access to a wider range of products and services, and give businesses - SMEs in particular - broad opportunities to offer innovative products and services that are of high quality and close to the consumer throughout the online European internal market, strengthening the position of such companies and enabling them to remain competitive in the global economy.

4.4 There is a need for "policy makers to set quantitative as well as qualitative targets, using the SMART [specific, measurable, achievable, realistic and timely] principle. Measurement of progress against realistic goals is a key requirement for effective management of policy initiatives and the evaluation of their practical impact" ⁽⁸⁾. This will boost the confidence of consumers, operators and businesses and improve the working conditions of employees in a traditionally labour-intensive sector.

4.5 The Committee considers it important that CEN-CENELEC-ETSI ⁽⁹⁾ be strongly urged to draw up, with the involvement of consumer groups, SMEs and other stakeholders on an equal basis, **European technical and regulatory standards**. This will ensure quality, reliability, sustainability and social and reliability guarantees for integrated delivery services used in e-commerce, according to a precise timetable, by means of a proper internet and media information campaign. The EESC also considers that establishing a **European trustmark for the reliability and quality of deliveries** (similar to VeriSign Secured Seal for online payments) - **to be issued by the European network of problem-solving centres** - would be a useful step.

4.5.1 The EESC recommends creating a user-friendly European network of national e-commerce delivery problem-solving centres to provide rapid, costless solutions to all users'

⁽⁶⁾ OJ C 168, 20.7.2007, p. 74.

⁽⁷⁾ OJ C 224, 30.8.2008, p. 50.

⁽⁸⁾ OJ C 108, 30.4.2004, p. 23.

⁽⁹⁾ CEN: European Committee for Standardisation; CENELEC: European Committee for Electrotechnical Standardisation; ETSI: European Telecommunications Standards Institute.

and e-retailers' problems, and establishing a European monitoring centre for e-commerce delivery systems that reports on a quarterly basis on problems encountered in e-commerce delivery.

4.5.2 The EESC calls strongly for the establishment of a rapid alert system modelled on RAPEX ⁽¹⁰⁾/ICSMS ⁽¹¹⁾ which, once reports of abuse to the national e-commerce delivery problem-solving centres have been confirmed, can block fraudulent commercial practices in the sector, hiding the website in question and penalising the delivery operator until an effective, user-friendly solution to the problem is found.

4.6 In order to make integrated delivery services affordable, reliable and efficient, the Committee believes, in addition, that:

- Horizon 2020 should prioritise **research into integrated logistics technology**, to guarantee tracking, fast routing and cooperation interfaces between producers, logistics operators and consumers in order to shorten the actual delivery time and to keep costs down;
- the operational start of the **Galileo satellite constellation** with earth station networks should be speeded up, as per the opinions adopted by the Committee on the matter ⁽¹²⁾;
- full **interoperability** should be ensured, **especially of surveillance systems** and simplified digitised systems for product and repayment networks, also drawing on the experiences of the IDA, IDABC and ISA Community programmes ⁽¹³⁾ - Interoperability solutions for European Public Administrations;
- **network interconnection platforms** should be launched for information-sharing and coordination among carriers, also with a view to limiting the environmental impact of "last mile" delivery, on the basis of pilot projects carried out under *Horizon 2020* and *Living well, within the limits of our planet 2020*;

— an **SME integrated logistics line from the EIB** should be activated as a means of providing financial assistance to innovative small and medium-sized enterprises and that create jobs under the Growth and Employment initiative ⁽¹⁴⁾;

— the transparency of individual cost items should be ensured in order to monitor the cost/price structure and the accessibility of services should be adequate, with market surveillance enhanced to ensure diversity of supply.

4.7 The parcel delivery sector is highly labour-intensive, employing, in particular, non-EU nationals but lacking skilled labour. In many EU countries, working conditions in the sector are characterised by insecure contracts, long working hours, low pay and few opportunities to access ongoing vocational training. This situation is the result of outsourcing processes that delivery companies have engaged in, through forwarding cooperatives or individual agents who, despite working for a courier whose uniform and branding they use, in fact own the van used to make deliveries (false self-employed) ⁽¹⁵⁾.

4.8 The EESC considers that, in order to pursue an integrated internal parcel delivery market, a solid and coherent social dimension is essential, the quality of jobs must be ensured, ongoing training provided and undeclared employment combated. The Committee therefore recommends that, by means of collective bargaining, Member States ensure that workers are employed directly by parcel delivery companies and are guaranteed fair and decent working conditions throughout the sector.

4.9 The Committee therefore deems it of strategic importance to the development of the parcel delivery and logistics sector for a **structured sectoral dialogue** to be established at European, national and regional level, involving both the social partners representing the sector and the representatives of organised civil society – especially organisations representing consumers and SMEs, online sellers and delivery operators – in order to promote cooperation and mutual trust and full sustainability and interoperability of the market in the delivery of online orders.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁰⁾ The Rapid Alert System for non-food dangerous products.

⁽¹¹⁾ ICSMS: Information Communication System Market Surveillance.

⁽¹²⁾ OJ C 256, 27.10.2007, p. 73; OJ C 324, 30.12.2006, p. 41; OJ C 324, 30.12.2006, p. 37; OJ C 318, 23.12.2006, p. 210; OJ C 221, 8.9.2005, p. 28; OJ C 302, 7.12.2004, p. 35; OJ C 48, 21.2.2002, p. 42.

⁽¹³⁾ OJ C 218, 11.9.2009, p. 36.

⁽¹⁴⁾ ETF Start-up Programme - European Investment Fund.

⁽¹⁵⁾ See EESC opinion "Abuse of the status of self-employed" (See page 14 of this Official Journal).

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities in the field of financial reporting and auditing for the period of 2014-20'

COM(2012) 782 final — 2012/0364 (COD)

(2013/C 161/12)

Rapporteur: **Mr PEZZINI**

On 24 January 2013 the Council of the European Union, and on 15 January 2013 the European Parliament, decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on establishing a Union programme to support specific activities in the field of financial reporting and auditing for the period of 2014-2020

COM(2012) 782 final — 2012/0364 (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 7 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 82 votes to 1 with 1 abstention.

1. Conclusions and recommendations

1.1 This proposal seeks to extend the programme launched by the Commission in 2009 for providing funding to bodies working in the field of financial reporting and auditing, to cover the period 2014-2020. Since the programme was established, the sector has undergone a number of changes. The number of bodies has been reduced to three: the International Financial Reporting Standards (**IFRS**) Foundation, the European Financial Reporting Advisory Group (**EFRAG**) and the Public Interest Oversight Board (**PIOB**).

1.2 The Committee **approves the essence of the programme**, recognising the great value of financial reporting and auditing as one of the pillars of a sound and transparent market. However, **it does not have sufficient information** to gauge the **appropriateness** of the amounts allocated to the functioning of each programme, and is unable to form its own opinion on the adequacy of the "output" of each institution vis-à-vis the needs of users, although the latter seem to take a wholly positive view.

1.3 The financial crisis, with which the market is still grappling, has revealed an increased need for more accurate information and increasingly effective auditing standards; however, such tools will serve no purpose if their "users" are unable to make full use of them. Hence the **need to train high-level experts** in the public and private sectors: a task to which the EU, the Member States and businesses must apply themselves fully, with an adequate commitment of funds.

2. Introduction

2.1 On 19 December 2012, the Commission published a proposal for a regulation of the European Parliament and of the Council aimed at **supporting**, over the period from

1 January 2014 to 31 December 2020, **the activities of bodies engaged in standard-setting in the field of financial reporting and auditing**. The previous plan, established in 2009, will expire on 31 December 2013. Some of the bodies covered by the original plan have been subsumed by others; therefore, this proposal concerns only the remaining beneficiaries, namely the IFRS Foundation (the legal successor of the International Accounting Standards Committee Foundation (IASCF)), EFRAG and the IOB. All the provisions refer to the private sector. The public sector is governed by *Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (ESA 95)*, which laid down the principles underpinning the drawing-up of public budgets.

2.2 Both the proposal and its accompanying report are so peppered with acronyms that it is easy to get lost amidst the web of abbreviations and links between the various bodies mentioned in the text. Although the documents have been drafted with precision in terms of their technical terminology, to make them more readable, there is a need for a **reader's guide to the acronyms and organisational structures** involved, which pose a serious challenge to the understanding of these documents, even by experts.

2.3 Such a guide should provide a highly simplified explanation of the following beneficiary bodies:

2.3.1 The **IFRS Foundation**, which has replaced the IASCF and constitutes the global-level body that, along with the IFRS Interpretations Committee (**IFRIC**), establishes the accounting standards to be used by companies listed in the EU in drawing up their financial reports. These standards have been incorporated into EU law. Under the authority of the IFRS Foundation are the technical bodies – the International

Accounting Standards Board (**IASB**) and **IFRIC**. Governance is provided for by a set of bodies on whose functions it is difficult to comment: in addition to the Board, we have a **Monitoring Board**, a **Standards Advisory Committee** and a **Due Process Oversight Committee**.

2.3.1.1 The Commission considers the IFRS Foundation to play a key role as the global-level standard-setter, and recommends continuing the support previously given to the IASCF through a stable co-financing scheme. Several Member States are already involved in the plan, with the EU, for its part, funding 17 % of expenditure in 2011.

2.3.2 **EFRAG** is the Commission's technical advisor on financial reporting matters. It is a private organisation, established in 2001, the governance of which was originally determined in proportion to the extent of the financial contribution of the various participants, including the Commission. In 2008, EFRAG's structure was overhauled in order to more closely mirror the **public policy role** that it had by then assumed, as a platform for the voice of Europe on accounting matters. While representation and voting rights are still tied to its governing bodies – the **General Assembly** and the **Supervisory Board** – enhanced governance is now delivered by a Planning and Resource Committee (**PRC**), and especially by a **strengthened 17-member Supervisory Board**, representing the various stakeholders: preparers and users of financial statements and financial institutions, as well as four public policy experts, designated by the Commission.

2.3.2.1 The Commission believes that EFRAG needs robust, long-term funding to maintain its credibility and independence; several large Member States directly contribute to its funding. *The Commission co-finances EFRAG on behalf of the smaller Member States.*

2.3.3 The **PIOB** is a Spanish foundation established in Madrid. Despite its private status, this is a body of substantial authority and weight, which ensures that due process, oversight and transparency are respected in international standards for auditors, laid down by the International Federation of Accountants (**IFAC**), which is the private body representing accountants and auditors worldwide. Its key partners are the **Monitoring Group** (**MG**) and **IFAC** itself; the **MG** represents international regulators and institutions at the highest level ⁽¹⁾. The governance of the **PIOB** is carried out by 10 members, two of which are nominated by the Commission.

⁽¹⁾ The **MG** comprises the European Commission, the International Organisation of Securities Commissions (**IOSCO**), the Basel Committee on Banking Supervision (**BCBS**) and a number of other similar bodies, at EU and global levels.

2.3.3.1 The 2009 decision assigned funding to the **PIOB** that amounted in 2011 to 22 % of its eligible expenses; the Commission works in close contact with this body and has even helped train its staff on EU budgetary matters. Furthermore, it seems that the structure of its network of financiers is to be revised: apart from the Commission, **IFAC** is the sole contributor, funding the remaining 78 % of the costs. The Commission is seeking to "diversify" its funding, so as to reinforce the **PIOB's** independence vis-à-vis **IFAC**: in addition to the funds already promised for 2013 from several international institutions, a special task force is leading a campaign to acquire further funding from donors from all over the world.

2.4 The matters dealt with by these bodies in receipt of substantial funding are highly technical and hard to evaluate, outside of the narrow circle of specialists in this field; the Commission has not carried out any **external consultations** thus far but has merely assessed the appropriateness of the contributions in the light of its own experience and knowledge. The impact evaluation found that the funding programme has met the expectations and objectives set.

3. Comments and proposals

3.1 The Committee has already commented ⁽²⁾ on the original programme, expressing its support for the Commission's proposals while putting forward certain reservations and proposals which will be reiterated in this text, where necessary. Now, as then, it can only **endorse the principle** of the need to fund the activities of institutions that carry out extremely delicate tasks of the utmost importance. It is not possible, however, to give an **informed opinion on the scale of the funding**, as establishing this requires a degree of knowledge available only to a narrow circle of specialists.

3.2 The financial crisis was already underway in 2009, the year in which the programme was established, but then it was perhaps too early for a broad analysis that included the less obvious aspects of the causes of what happened, or rather of the contributing factors. The passage of time and the events that have taken place in the meantime allow further reflection now.

3.3 **Financial reporting and accounting techniques are costly**, and become even more so when they derive from the work of specialists who are not readily available on the market and for whom university studies are only a starting point for

⁽²⁾ OJ C 228, 22.9.2009, p. 75; other important opinions, particularly as regards certain specialist aspects, OJ C 191, 29.6.2012, p. 61.

acquiring the requisite high-value skills in the field. Moreover, these specialists should also be of good moral character, to ensure the confidentiality of the information and the **neutrality** of their analysis; all of this leads to the conclusion that while funding these bodies is certainly useful, **training** specialists, who must be given appropriate remuneration and incentives, is also vital.

3.3.1 When speaking about "specialists" one tends to think of those who are the **originators** of information or standards; but the **users** of such information or standards – those for whom the information is a work tool and the standards a guide in their activities – should also be "specialists". It is thus clear that the availability of **adequately trained human resources** should be a **priority**, not only for those producing the information but also **for those who have to use it**: regulators and supervisors, legislators, companies and research institutes.

3.4 A corollary to the training issue is the aspect of the **quality of the information**: point 3.1 above noted the difficulty of giving a view on the scale of the proposed funding; providing an assessment of the added value of the information in terms of its usefulness to users is even more difficult and uncertain. All that remains is to **endorse the Commission proposal** as regards the **amount** of the contributions, purely on the basis of trust and appreciation of the underlying motivations.

3.5 In its previous opinion⁽³⁾ issued in 2009 upon the launch of the programme, the Committee recommended taking particular care to prevent undue influence or interference in the **securities market**⁽⁴⁾ governed by **IASCF** and **EFRAG** rules; the issue had been raised by the Commission itself, which had called for an EU contribution to prevent "undue influence from parties with a stake". The new proposal for a regulation

makes no reference to this important and delicate aspect; the Committee calls on the Commission to confirm its full confidence in the independence of these bodies. The same goes for the **PIOB**⁽⁵⁾.

3.6 With regard to EFRAG, it should be noted that the Commission co-funds this body on behalf of the smaller Member States (the larger ones contribute directly). The Commission's contribution would probably not vary that greatly if all Member States were to pay their share, or perhaps a symbolic amount. However, the gesture would signal conscientious **involvement of the entire EU system** in bodies of common importance, irrespective of the size of each Member State.

3.7 The IFRS establish mark-to-market accounting for businesses. During the financial crisis it was noted that the standards could have a pro-cyclical, short-term effect. The Committee suggests that a cost/benefit analysis of the standards could be carried out, for example as part of the programme under discussion.

3.8 As a final point, the Committee would like to stress once again not only the **importance of collecting and collating information**, but above all the **need to know how to properly understand and use that information**: while the high level of professionalism of the data "suppliers" needs to be recognised, much remains to be done with regard to the multifaceted category of users, in terms of training and updating of adequate human resources.

Brussels, 20 March 2013.

The president
of the European Economic and Social Committee
Staffan NILSSON

⁽³⁾ See footnote 2.

⁽⁴⁾ See point 3.2.1.

⁽⁵⁾ See point 3.4.

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 — Moving Youth into Employment'

COM(2012) 727 final

(2013/C 161/13)

Rapporteur-general: **Pavel TRANTINA**

Co-rapporteur-general: **Philippe DE BUCK**

On 19 December 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 - Moving Youth into Employment

COM(2012) 727 final.

On 13 November 2012 the Committee Bureau instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Pavel Trantina as rapporteur-general and Mr Philippe de Buck as co-rapporteur-general at its 488th plenary session, held on 20 and 21 March 2013 (meeting of 21 March 2013), and adopted the following opinion by 174 votes to 4 with 1 abstention.

1. Summary of recommendations

1.1 The EESC reiterates its oft expressed denouncement of the catastrophic youth unemployment rate and asks all stakeholders for urgent, effective and definitive measures in order to break the vicious circle, which risks compromising the future of an entire generation. It is high time for proper investment in young people, whose fruits will be harvested in the long term.

1.2 At the same time the EESC stresses that a real growth strategy at EU and national level is needed to support the creation of more and more stable jobs, because they are a pre-condition for the success of measures to bring young people into employment. This requires a coordinated approach to all the efforts and policies aimed at strengthening competitiveness and at restoring the confidence of investors and households. The European Semester provides an opportunity to recommend adequate policies and reforms to be implemented in each Member State.

1.3 The EESC welcomes the Youth Employment Package proposal and recommends that special attention be given to its application at Member State level, by making measures to combat youth unemployment an important part of the National Reform Programmes.

1.4 The EESC supports the idea of the establishment of youth guarantee schemes in the Member States being funded through a specific Youth Employment Initiative Fund, within the Multiannual Financial Framework and appreciates its creation, noting that it must be complemented at national level. However, the EESC considers it insufficient to finance

this fund with just EUR 6 billion, which will come partly from existing money from the European Social Fund. Furthermore, given that the fund will only support regions where youth unemployment is over 25 %, the EESC stresses that other regions should be able to access financial support under the standard ESF procedures. It is, however, necessary to act immediately, financing the proposed measures with new funds, without creating competition among the young people and other disadvantaged categories in the ESF framework.

1.5 The EESC supports the approach of the Commission according to which the "Youth Guarantee is to be implemented by a comprehensive and holistic scheme that ensures that young people receive a good quality offer of employment, continued education, an apprenticeship or a traineeship within four months after having left school or becoming unemployed". The EESC understands that there are differences between Member States and recognises the importance of enabling them to set the age ceiling in line with their respective needs and possibilities. However, it recommends that, whenever possible, the age limit for access to the scheme be increased to 30, to cover young people who leave university later or those who are still in a transition phase from education to employment and are still at risk of losing contact with the labour market, especially in the countries with the highest youth unemployment.

1.6 The EESC also welcomes the political agreement of the EPSCO Council reached on 28 February 2013 on the proposal of the Youth Guarantee. However, the EESC considers

intervention after four months to be too late. The Youth Guarantee should take effect as early as possible, ideally when registering at a job centre ⁽¹⁾.

1.7 The EESC considers it fundamental, for the full and correct implementation of the Youth Guarantee, to define better and more clearly, at EU and national level, the instruments, the responsibilities, the goals and the indicators for the monitoring. For this reason the EESC proposes that the implementation of the Youth Guarantee be included among the indicators in the European Semester process.

1.8 Based on the successful examples from some Member States, the social partners and youth organisations and their representative platforms should play a key role in designing, implementing, promoting and monitoring the scheme.

1.9 Reforms of the EURES services, and, where necessary, of the Public Employment Services in the Member States should also actively support young people and adapt their services and approaches in order to make them more accessible. Personalised career counselling and guidance must be put in place already in schools.

1.10 The conditions for offering traineeships and apprenticeships should be improved. High quality standards for traineeships and apprenticeships must be ensured through specific criteria that should be made mandatory when requesting financial support. As a complement to this, better mechanisms for monitoring and safeguarding the rights of the trainees should be introduced.

2. Summary of the Commission initiatives

2.1 Overall employment rates for young people fell by almost five percentage points over the last four years - three times as much as for adults. The chances for a young unemployed person of finding a job are low: only 29.7 % of those aged 15-24 and unemployed in 2010 found a job in 2011, a fall of almost 10 % in three years. More than 30 % of unemployed people under 25 have been unemployed for more than 12 months - 1.6 million in 2011, compared to 0.9 million in 2008. According to Eurofound, 14 million young people in the EU aged 15-29 (7.5 million young people aged 15-24) are NEETs - not in employment, education or training ⁽²⁾. The economic cost of not integrating young people into the labour market has been estimated at over EUR 150 billion per year, or 1.2 % of EU GDP. The social consequences include phenomena such as disengagement from society and mistrust of the political system, low levels of autonomy, fear of the unknown and "brain-waste".

2.2 The European Commission has presented its Youth Employment Package, which includes four areas of action. The first is a proposed recommendation to Member States on introducing a Youth Guarantee to ensure that all young people up to the age of 25 receive a quality offer of a job, continued

education, an apprenticeship or a traineeship within four months of leaving formal education or becoming unemployed. The proposed recommendation urges Member States to establish strong partnerships with stakeholders, ensure early intervention by employment services and other partners supporting young people, take supportive measures to enable labour integration, make full use of the European Social Fund and other structural funds to that end, assess and continuously improve the Youth Guarantee schemes and implement the schemes rapidly. The Commission will support Member States through EU funding, by promoting exchanges of good practice among Member States, monitoring implementation of Youth Guarantees in the European Semester exercise and awareness-raising.

2.3 To facilitate school-to-work transitions, the Package also launches a consultation of European social partners on a Quality Framework for Traineeships intended to enable young people to acquire high-quality work experience under safe conditions.

2.4 Furthermore, the Commission announces the creation of a European Alliance for Apprenticeships to improve the quality and supply of apprenticeships available by spreading successful apprenticeship schemes across the Member States and outlines ways to reduce obstacles to mobility for young people.

2.5 Finally, with regard to the substantial differences between the levels of youth unemployment in the various Member States, the Commission suggests measures to increase the trans-national mobility of young workers, mainly improvement of the EURES system.

2.6 The proposed measures in the Youth Employment Package build on the actions of the "Youth Opportunities Initiative", launched in December 2011. The Commission also uses other policy instruments to address youth unemployment, such as the Country-Specific Recommendations (CSRs). In July 2012, recommendations ⁽³⁾ aimed at improving the situation of young people were issued to almost all the EU Member States.

3. General comments on the Commission's package

3.1 A real growth strategy at EU and national level is needed to support the creation of more and more stable jobs. This requires a coordinated approach to all the efforts and policies aimed at strengthening competitiveness and at restoring the confidence of investors and households. The European Semester provides an opportunity to recommend adequate policies and reforms to be implemented in each Member State. Synergic effects, such as including social aspects in public calls, should not be underestimated.

⁽¹⁾ EESC Opinion on Annual Growth Survey 2013 (OJ C 133, 9.5.2013).

⁽²⁾ <http://www.eurofound.europa.eu/emcc/labourmarket/youth.htm>.

⁽³⁾ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ecofin/131662.pdf.

3.2 The situation of Europe's youth on the labour market is a matter of key concern. In order to facilitate the smooth transition of young people into employment it is important that the requisite measures are taken to:

- reduce all the obstacles that hinder the entry of young people into the labour market;
- reduce mismatches between skills supply and demand;
- support young people's autonomy;
- increase the attractiveness of vocational education and training, in particular apprenticeships in strategically important subjects such as technology and engineering;
- promote partnerships and synergies between all stakeholders;
- encourage and support businesses to create jobs and traineeships for young people.

3.3 The EESC welcomes the Commission's long-term focus on young people. In this regard, the Youth Employment Package presents another step forward in the direction of building a coherent and integrated approach to tackle youth unemployment and promote a quality transition from education to the labour market. However, it must be taken into account that special attention should be directed towards the Member States, who are the main actors in the field of youth employment and are expected to take subsequent action within the next few months. Nevertheless, given the urgency of the situation and the crucial importance of investing in young people as a key resource in the labour market, this is not enough. It is of the utmost importance to build up trust by establishing common principles for the Youth Guarantee in Europe with the aim of increasing the quality, accessibility and impact of the tool throughout the continent.

3.4 The EESC is ready to contribute actively to the design and promotion of the Package, as:

- its members, representing the employers, trade unions and other civil society organisations, have been involved in the processes leading to better employment of young people on a long-term basis, have the necessary contacts and therefore outreach, and have developed numerous initiatives to cope with youth unemployment;

- the EESC has a wide expertise, having organised a number of conferences, hearings and seminars in recent years ⁽⁴⁾ and produced a number of important opinions on the same subject ⁽⁵⁾.

3.5 The EESC welcomes the draft recommendation from the European Commission on the introduction of the Youth Guarantee to ensure that all young people up to the age of 25 receive a quality offer of a job, continued education, an apprenticeship or a traineeship within four months of leaving formal education or becoming unemployed. The guarantee, if applied properly, could represent an important step for investing in young people, can reduce the huge costs that youth unemployment engenders for both individuals and Europe as a whole and can play a key role in increasing the quality and the effectiveness of the transition of young people from education to employment. However, the EESC considers intervention after four months to be too late. The Youth Guarantee should take effect as early as possible, ideally when registering at a job centre.

3.6 The EESC supports the idea of the establishment of youth guarantee schemes in the Member States being funded through a specific Youth Employment Initiative Fund within the Multiannual Financial Framework and appreciates its creation, noting that it must be complemented at national level. However, the EESC considers it insufficient to finance it with just EUR 6 billion and partly with the existing money coming from the European Social Fund. Moreover, considering that the loss due to not integrating young people into the labour market (in terms of excess welfare transfers and foregone earnings and unpaid taxes) stands at over EUR 150 billion per year (1.2 % of EU GDP) ⁽⁶⁾, and that the ILO has concluded that investing EUR 21 billion can lead to significant change within a few years ⁽⁷⁾, the EESC considers the Youth Guarantee to be a useful social measure with a huge positive cost-benefit impact.

3.7 The EESC supports the approach of the Commission according to which the "Youth Guarantee is to be implemented by a comprehensive and holistic scheme that ensures that young people receive a good quality offer of employment, continued education, an apprenticeship or a traineeship within four months after having left school or becoming

⁽⁴⁾ Conference "The Economic Crisis, Education and the Labour Market" – Brussels, 24 January 2012; Conference "From School to Work" organised by LMO – Roskilde (DK), 4 February 2012; Conference "Quality jobs for youth: are we asking too much?" organised by LMO together with the European Youth Forum – 20 April 2012; Group III Conference Youth Education and Employment within the Europe 2020 Strategy – Sofia, 8 June 2012; Group I Conference "The Future of Youth in Europe - European Youth: Hope or Despair for the New Generation?" – Versailles, 29-30 August 2012.

⁽⁵⁾ OJ C 132, 3.5.2011, p. 55-62; OJ C 318, 29.10.2011, p. 50-55; OJ C 68, 6.3.2012, p. 11-14; OJ C 181, 21.6.2012, p. 143-149; OJ C 181, 21.6.2012, p. 150-153; OJ C 68, 6.3.2012, p. 1-10; OJ C 181, 21.6.2012, p. 154-159; OJ C 299, 4.10.2012, p. 97-102; EESC Opinion on "Towards a job-rich recovery"(OJ C 11, 15.1.2013, p. 65).

⁽⁶⁾ <http://www.eurofound.europa.eu/publications/htmlfiles/ef1254.htm>.

⁽⁷⁾ International Institute for Labour Studies of the International Labour Organization in its study "EuroZone job crisis: trends and policy responses".

unemployed". The EESC understands that there are differences between Member States and recognises the importance of enabling them to set the age ceiling in line with their respective needs and possibilities. However, it recommends that, whenever possible, the age limit for access to the scheme be increased to 30, to cover young people who leave university later or those who are still in a transition phase from education to employment and are still at risk of losing contact with the labour market, especially in the countries with the highest youth unemployment. Moreover, the Youth Guarantee must become a structural measure in the EU active labour market policies and not only in this period of crisis.

3.8 The EESC believes that it is important to develop clear quality standards and indicators regarding the development and implementation of youth guarantee schemes at European and national level. Traineeships undertaken in the framework of the youth guarantee scheme must be in line with the quality framework for traineeships and should also enable young people to live independently. Member States are also encouraged to develop personalised career counselling and guidance and to introduce mechanisms for monitoring the different opportunities offered and assessing the impact of the scheme on the beneficiaries' subsequent transition into work.

3.9 The EESC emphasises that the Youth Guarantee initiative should be integrated into the framework of an active labour market strategy aimed at supporting young people's lasting insertion in the labour market in order to gain their autonomy. Another important part of such a strategy should cover reforms of the Public Employment Services in the Member States, where necessary, oriented towards actively reaching out to young people and adapting their services and approaches in order to make them more accessible whilst further improving the services they provide to all unemployed people. The PES should cooperate with educational institutions, making direct contact with young people and offering them a work or further training opportunity in the framework of a proactive, tailored mentoring approach, early on before they leave school. The EESC urges the European Commission to consider this element in its support strategy for the PES in Europe. In this regard, EURES services should be better adapted to the needs of young people and promoted much more intensively amongst the younger generation.

3.10 The EESC also recommends that Member States boost support for enterprises, cooperatives and third sector organisations wishing to participate in youth guarantee schemes in close cooperation with the PES. Mechanisms such as tax incentives, subsidies for the fixed costs of employment and the possibility to access funding for in-site training are important elements for making the scheme work and supporting enterprises wishing to invest in young people's potential in a proper and effective way. Their application should be connected with the fulfilment of quality frameworks/guidelines and involve the establishment of monitoring mechanisms. The EESC considers it necessary to support capacity building of all actors involved in quality apprenticeship systems.

3.11 The EESC considers that the social partners have a fundamental role to play in the design, implementation and monitoring of the scheme. A sound social dialogue is fundamental in order to offer young people youth guarantee schemes with high quality standards for both enterprises and young people. In this context, it is also important to involve the social partners in monitoring the implementation of the youth guarantee and of the employment or training offers made available under the different schemes.

3.12 Another important role is played by third sector organisations, especially youth organisations and their representative platforms, which are important participation channels for young people, enabling them to develop their competences and get the right working relationships and behaviour; and it is therefore important to involve them also in the design and implementation of the schemes. Various social enterprises and other relevant stakeholders could also be involved. The Committee also draws attention to the good practices with respect to stakeholder involvement put in place in Austria ⁽⁸⁾, Sweden and Finland ⁽⁹⁾.

3.13 Another priority should be to increase access to the scheme for youth organisations and third sector organisations. By participating, they would be able to submit bids for jobs to improve their local communities and therefore play a beneficial role both for young people and society.

3.14 The EESC considers it key to equip the proposal with adequate means to support Member States and regions wishing to establish ambitious youth guarantee schemes or apprenticeship alliances. In this framework, the EESC wishes to recommend that the money from the EU be allocated to those schemes that comply with the minimum quality standards set through the EU initiative and by Member States.

3.15 Consequently, the EESC supports the idea of the establishment of youth guarantee schemes in the Member States being funded through a specific Youth Employment Initiative, financed within the Multiannual Financial Framework, and equipped with at least EUR 6 billion of which half will be taken from the European Social Fund. The EESC welcomes the creation of the fund but, given that it will only support regions where youth unemployment is over 25 %, stresses that other regions should be able to access financial support under the standard ESF procedures. This money will constitute a fundamental source, complementing the necessary investments from national budgets.

3.16 In order to equip young people with the skills that will be fundamental in their future professional life, the EESC urges the Commission and the Member States to ensure, that the measures introduced to stimulate youth employment, especially

⁽⁸⁾ http://issuu.com/yomag/docs/youth_guarantee.

⁽⁹⁾ <http://www.eurofound.europa.eu/publications/htmlfiles/ef1242.htm>.

those funded entirely or partly by the EU funds, are more effective and permanent, so that young people do not need to be supported subsequently after a temporary or unpaid placement.

3.17 As the establishment of the youth guarantee will be effective only if it is integrated into EU and national approaches oriented towards growth and jobs, the EESC repeats the call it has already made several times for the definition of new targets to reduce youth unemployment⁽¹⁰⁾. This should be a key element of the national reform programmes related to the EU 2020 strategy.

4. Specific comments on the Commission's proposals

4.1 *The Youth Guarantee*

4.1.1 The EESC welcomes the fact that the Commission's Proposal for a Council Recommendation on Establishing a Youth Guarantee contains a number of important features, including a clear definition of the youth guarantee as "a good-quality offer of employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or leaving formal education". However, the EESC considers intervention after four months to be too late. The Youth Guarantee should take effect as early as possible, ideally when registering at a job centre.

4.1.2 It is important to acknowledge the cost-effectiveness of the Youth Guarantee investments as, according to Eurofound⁽¹¹⁾, the annual Europe-wide loss due to having young people not in employment, education or training (in terms of excess welfare transfers and foregone earnings and unpaid taxes) currently stands at 1.2 % of GDP, or EUR 153 billion. At the same time, when investing to combat this loss, we have to concentrate on better partnerships, the improvement of related services and the empowerment of education providers.

4.1.3 The EESC stresses the need for proper validation of non-formal education (NFE) as a way of valorising competencies required on the labour market.

4.1.4 The EESC draws attention to the new typologies of the NEET and to the need to focus also on categories traditionally considered not to be at risk of exclusion, such as graduates and young people who already have some professional or internship experience but are not yet able to access the labour market permanently.

4.1.5 The rising number of qualified and skilled young people forced to work below their potential and experiencing "brain waste", should be also addressed, as it results not only in their employment in jobs where they cannot use their education and training, but also has a socially and psychologically harmful effect on these individuals. A better and more appropriate match between personal skills and the needs of the labour market could reduce this phenomenon.

4.2 *Quality Framework for Traineeships*

4.2.1 The EESC acknowledges the positive role that quality traineeships can play in facilitating young people's access to employment and helping enterprises to find potential skilled workers. Such experience can ensure that young people acquire the necessary competencies that meet their needs and previously acquired skills, whilst receiving appropriate compensation and gaining access to social protection and to other educational pathways in the Life Long Learning framework. In this framework, one of the areas which attention should focus on is traineeships taking place outside of the educational system, especially after graduation, which should be considered as work placements and therefore protected according to the internationally accepted labour standards.

4.2.2 The EESC stresses the importance of setting high quality standards for apprenticeships, work placements and traineeships. In this framework it restates its commitment to "closely monitoring and supporting all initiatives for improving the quality of work placements and traineeships, such as the European Quality Charter on Internships and Apprenticeships put forward by the European Youth Forum, in order to strengthen the civil dialogue for establishing appropriate rules in this area"⁽¹²⁾.

4.2.3 The EESC is convinced that increasing the quality of traineeships is a priority and therefore views the European Commission's initiative on the European Quality Framework on Traineeships as progress in this direction. At the same time, the EESC urges all the institutions, Member States and social partners involved, to make the most effective use of the results of current consultations, taking into consideration the support previously expressed by the social partners, NGOs, members of the public, and a number of education providers. The EU institutions must act quickly and create a framework for quality traineeships and continued direct involvement of young people and their organisations in this process alongside the social partners. In this regard, the European Quality Charter on Internships and Apprenticeships⁽¹³⁾ proposes minimum quality standards to bridge the gaps between countries in Europe in terms of learning processes, available guidance and mentoring, social and labour rights, recognition of skills, legal contract provisions, reimbursement and remuneration, evaluation and monitoring, etc.

⁽¹⁰⁾ OJ C 143, 22.5.2012, p. 94–101 and EESC opinion on "Employment Policy Guidelines" (OJ C 133, 9.5.2013).

⁽¹¹⁾ NEETs - Young people not in employment, education or training: Characteristics, costs and policy responses in Europe (2012).

⁽¹²⁾ OJ C 299, 4.10.2012, p. 97-102.

⁽¹³⁾ http://qualityinternships.eu/wp-content/uploads/2012/01/internship_charter_EN.pdf.

4.2.4 The EESC also considers it fundamental that such a framework be oriented towards supporting enterprises in their efforts to offer high quality traineeships for young people. Therefore, the framework should also be implemented at national level through measures directed towards this objective.

4.3 *European Alliance for Apprenticeships*

4.3.1 The EESC is convinced of the utility of the European Alliance for Apprenticeships, as close cooperation between educational institutions, enterprises and social partners, as well as policy makers, practitioners and youth representatives, is essential for the success of vocational education and training. This is proved by the success of dual learning systems in some Member States. The development of the Alliance should encourage the sharing of knowledge and ideas and ultimately help to boost the number and quality of apprenticeship positions available across the Member States and encourage the participation of young people in such schemes.

4.3.2 The Alliance should also support European and national campaigns for changing the perception of vocational education, including in the context of the Copenhagen process, and organise a regular forum for discussions on monitoring of the European apprenticeship strategy with the relevant European and national stakeholders in this area.

4.3.3 Incentives should also be provided to facilitate funding for cross-border training activities enabling companies and social partners to become involved in the establishment of a dual system. More proposals can be found in the publication "Creating Opportunities for Youth: How to improve the quality and image of apprenticeships" (BusinessEurope, 2012) ⁽¹⁴⁾ or in the Spanish-German trade union agreement on quality standards for apprenticeships.

4.4 *Mobility for young people*

4.4.1 The EESC believes that, with a view to fostering the mobility of young workers, Member States must make further progress towards the mutual recognition of qualifications and skills, and towards the compatibility of national social security systems, especially of pension systems and further invest in language learning as language barriers also need to be overcome. The Commission should further strengthen social

security coordination to ensure that not a single month of social security contributions is "lost" due to work in another EU country.

4.4.2 The EESC stresses the utility of EU mobility programmes such as Erasmus and Youth in Action, for the mobility of young people and supporting the development of their skills, competences and character, through volunteering and other civic initiatives. The EESC asks for the proper financing of the future Erasmus for all/YES Europe programme in the new Multiannual Financial Framework, which is now lacking EUR 1 billion contrary to the initial proposal.

4.4.3 The EESC supports further improvements of and investment in the "Your first EURES Job" Initiative. Specifically, the EESC calls on the European Commission to introduce such improvements to EURES, which would increase its visibility and availability for young people, as well as its user-friendliness. Young people must be actively encouraged to participate, in order to overcome obstacles stemming from cultural and language barriers and their lack of organisational skills and fear of the unknown. This could be done through an improved career and personal advice system, which would support students, trainees (and young people in general) in becoming more aware of their desires, capabilities and job opportunities. This also includes advice regarding employment law and socio-political environment and advice regarding the rights and obligations of both employers and workers.

4.4.4 The EESC supports the initiative of the European Parliament aimed at updating the Directive on Recognition of Professional Qualifications. The current directive is out of date as many professions develop rapidly. Furthermore, modernising the directive would involve introducing an electronic card detailing a professional's qualifications and experience. This would make it easier for professionals to find work and to have qualifications recognised in another Member State and would harmonise training, competencies and practices in the EU. It would also encourage mobility and sharing of expertise.

Brussels, 21 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁴⁾ <http://www.besnesseurope.eu/Content/default.asp?pageid=568&docid=29967>.

Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union'

COM(2012) 576 final — 2012/0278 (COD)

(2013/C 161/14)

Rapporteur without a study group: **Lutz RIBBE**

On 19 November 2012 the European Parliament and on 5 November 2012 the Council decided to consult the European Economic and Social Committee, under Article 192(1) of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union

COM(2012) 576 final — 2012/0278 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 82 votes to 2 with 1 abstention.

1. Conclusions and recommendations

1.1 The EESC welcomes the submission of the proposal for a regulation. It sees the effective implementation of the Nagoya Protocol, which is intended to implement some of the objectives of the Convention on Biological Diversity (CBD), as a major opportunity for a bio-based economy in the EU. As this is often dependent on the import of genetic resources, improved access to these resources is clearly in the European interest.

1.2 The Nagoya Protocol was not concluded, however, purely in order to promote bio-based research and product development but rather to ensure fair sharing of benefits from the utilisation and marketing of genetic resources. In this way the countries (or indigenous peoples) which provide these genetic resources and traditional knowledge of their use may profit from their marketing, and the marketing industry may itself be freed from the accusation of bio-piracy.

1.3 The EESC has identified a number of shortcomings in the draft regulation in relation to this very issue of benefit sharing, for which the Nagoya Protocol was primarily negotiated. These should be eliminated as a matter of urgency and certain areas which are open to interpretation should be clarified.

1.4 The areas in question are:

- the rules on benefit sharing (points 3.1– 3.6),
- the establishment of an effective system of control, monitoring and sanctions (points 3.7 – 3.10),
- the date from which the benefit sharing shall apply (point 4.1),

- the consideration of biotechnology and derivatives (points 4.2.1 – 4.2.2), as well as the sharing of the benefits of "traditional knowledge" (points 4.2.3 – 4.2.4),
- the late timing of the reporting of use (points 4.3.1 – 4.3.5),
- the question as to whether privately financed research and the products derived from it are subject to reporting (point 4.3.5),
- the prosecution of cases of bio-piracy reported by third parties (point 4.3.6), and
- the effectiveness of the system of sanctions (point 4.3.7).

2. Introduction

2.1 In 1992, in the framework of the Rio Conference on Environment and Development, the Convention on Biological Diversity (CBD) was concluded, to which 193 UN member states have now acceded (The only UN member states not to have acceded so far are Andorra, the Vatican, South Sudan and the USA).

2.2 The CBD has three objectives:

- 1) protection of biodiversity;
- 2) its sustainable use, and
- 3) "the fair and equitable sharing of the benefits arising out of the utilization of genetic resources".

2.3 Article 15(1) of the CBD recognises "*the sovereign rights of States over their natural resources*". The individual states are granted the right to determine access to genetic resources.

2.4 Article 15(7) requires the CBD member states to "*take legislative, administrative or policy measures*" to share "*in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources*".

2.5 Article 8(j) calls on the members of the CBD "*subject to (their) national legislation*" to respect the traditional knowledge of indigenous and local communities "*relevant for the conservation and sustainable use of biological diversity*" and to "*encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices*".

2.6 Given the failure to date to implement this requirement of international law for benefit sharing adopted in 1992, at the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002 the heads of state and government decided to negotiate an "*international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources*" within the framework of the CBD (Plan of Implementation, paragraph 42(o)).

2.7 At the 7th Meeting of the Conference of the Parties to the CBD, held in Kuala Lumpur in 2004, the CBD contracting states agreed to effectively implement **all** relevant elements of the CBD by means of an **agreement on access to genetic resources and benefit-sharing (ABS)**.

2.8 The result of this work was presented and adopted in October 2010 - after more than six years of negotiations - at the 10th Meeting of the Conference of the Parties to the CBD in Nagoya, Japan: the **Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol)**.

2.9 All members of the CBD can ratify the Nagoya Protocol: twelve states have already done so (as of February 2013) and 92 states signed the protocol after its adoption, including the European Commission and 24 out of the 27 EU Member States (except Latvia, Malta and Slovakia).

2.10 Whilst the developing countries called for a protocol binding in international law at the WSSD in 2002, it was only shortly before the beginning of the final round of negotiations in the ABS working group on the drafting of the protocol that the EU came out in favour of a protocol with "legally binding and non-binding provisions" (Decision of the Environment Council of 15.3.2010).

2.11 The proposal for a regulation submitted by the Commission is intended to implement the objectives of the Nagoya Protocol.

2.12 In addition to the CBD, the adoption of the United Nations Declaration on the Rights of Indigenous Peoples should also be mentioned in connection with the Commission document. Article 31(1) of the Declaration establishes the right of indigenous peoples to "*maintain, control, protect and develop*" genetic resources and related intellectual property. Article 31(2) calls on States to "*take effective measures to recognise and protect the exercise of these rights*". The implementation of the Nagoya Protocol should be one of these effective measures for the implementation of the UN Declaration.

3. General comments

3.1 In the explanatory memorandum to the draft regulation the Commission states that "*Union implementation and ratification of the Protocol will create new opportunities for nature-based research, and contribute to the development of a bio-based economy*" ⁽¹⁾. The Commission goes on to argue that "*the EU and its Member States are politically committed to become Parties to the Protocol to secure access of EU researchers and companies to quality samples of genetic resources, based on reliable access decisions at low transaction costs*" ⁽²⁾.

3.2 The EESC also sees in implementation of the Nagoya Protocol great opportunities for the bio-based economy in the EU. It points out, however, that the main objective of the Nagoya Protocol is the implementation of the third objective of the CBD, the "*sharing of the benefits of the utilization of genetic resources*". Appropriate access to genetic resources, appropriate transfer of the relevant technologies with due regard to all rights over these resources and technologies and appropriate financing are the decisive aspects of benefit sharing.

3.3 The Nagoya Protocol thus rests on three pillars:

- Measures for **access to genetic resources and associated traditional knowledge**, which ensure transparent and non-arbitrary procedures,
- Measures to **ensure the sharing of benefits** from the utilisation and marketing of genetic resources and associated traditional knowledge, and
- Measures for the **establishment of an effective national monitoring system**, particularly regarding the implementation of benefit sharing.

3.4 When, by contrast, the European Commission asserts in its proposal for a regulation that "*the Protocol rests on **two** main*

⁽¹⁾ COM(2012) 576 final, p. 4.

⁽²⁾ COM(2012) 576 final, p. 5.

pillars: measures on access, and measures on user-compliance" ⁽³⁾, it fails to explicitly stress **benefit sharing** as an essential objective of the Nagoya Protocol, a requirement of the WSSD and an international-law obligation under the CBD.

3.5 The draft regulation thus gives the impression that the Nagoya Protocol is intended to ensure unhindered access for the EU Member States to raw materials in developing countries.

3.6 Not only is this almost complete failure to take account of the essential objective of the Nagoya Protocol a serious failing in the Commission draft, but an ineffective and unsatisfactory solution could also have serious consequences for European companies. Without clear rules on benefit sharing (and monitoring), companies will find it difficult to refute the frequently raised accusations of bio-piracy.

3.7 The Commission's draft regulation builds on **the principle of due diligence** (Article 4). This assigns to the user of the genetic resource and associated traditional knowledge the main role in ensuring compliance with the applicable national and foreign laws on access and benefit sharing.

3.8 The EESC welcomes this approach, based on the **responsibilities of the research and industrial sectors**. It would, however, point to the international-law obligation entered into with ratification of the Nagoya Protocol to adopt "*legislative, administrative or policy measures*" to ensure that the benefits derived by the user from the utilisation and marketing of genetic resources and associated traditional knowledge are actually shared with the country of origin or the indigenous and local communities.

3.9 The draft regulation also largely omits this important part of the commitments deriving from the Nagoya Protocol, and the EESC recommends that the Council and the Parliament, in the course of the further procedure, adopt sufficient rules for monitoring compliance with these responsibilities. This also means that national governments must not be absolved of their responsibility for monitoring the rules.

3.10 The proposal for a regulation is thus not sufficient to build a basis for mutual trust between the EU Member States, their companies and researchers, and the countries of origin, which is needed to promote bilateral ABS treaties and for the constructive continuation of the international ABS negotiations. The EESC is concerned that the proposed ABS system will hinder rather than promote European industry and research.

4. Specific comments: specific elements of the proposal for a regulation

4.1 Scope in the broader sense (Article 2)B

4.1.1 Article 2 of the draft regulation states that the rules on benefit sharing would only apply to genetic resources and

associated traditional knowledge that are acquired **after the entry into force of the Nagoya Protocol** for the EU. The Commission has failed to draft rules on benefit sharing which would apply to current use and marketing of genetic resources and associated traditional knowledge which have reached the EU since 1993 without ABS treaties.

4.1.2 The draft regulation thus lags behind the text of the Nagoya Protocol and the CBD (IUCN 2012, pp. 84-85), and it ignores the CBD's international-law commitment to benefit sharing from 1993. Article 3 of the Nagoya Protocol explicitly confirms that the rules of the Protocol apply to all genetic resources falling within the scope of the CBD. The implementation of the Nagoya Protocol must be used to correct this implementation shortcoming and to draw up effective rules on the sharing of benefits which have arisen since 1993.

4.1.3 In its provision on the relationship to other international treaties the draft regulation fails to incorporate the decisive passage from Article 4(4) of the Nagoya Protocol. This makes it clear that genetic resources can only be covered by the rules of another agreement "*provided that they are supportive of and do not run counter to the objectives of the Convention and this Protocol*". This stipulation is missing and must be incorporated into the draft regulation in order to implement the Nagoya Protocol correctly. The decision on whether the ABS rules of another agreement apply to specific genetic resources must be taken by the relevant international organisations and EU institutions.

4.1.4 The EESC therefore considers that Article 2 of the draft regulation does not clearly implement central elements of the Nagoya Protocol and must therefore be revised or amplified.

4.2 Definitions (Article 3)

4.2.1 The Commission's draft regulation differs significantly from the text of Article 2 of the Nagoya Protocol. The Commission fails to incorporate the important principle of Article 2(c) of the Nagoya Protocol, that the utilisation of genetic resources includes "*the application of biotechnology as defined in Article 2*" of the CBD. This definition is of enormous importance in connection with the benefit sharing. In almost all cases of successful product development from genetic resources, e.g. in the fields of medicine and cosmetics, it is no longer the resources themselves but rather extracts or ingredients ("derivatives") obtained via the use of biotechnology which are marketed for profit. In this connection the draft regulation should also include in its provisions the concept of "derivative", as defined in Article 2(e) of the Nagoya Protocol.

4.2.2 This abbreviation of the definitions will have a serious impact on the benefit sharing obligations. Benefits arising from the use of derivatives would not have to be shared. It should be borne in mind that it is from these very derivatives - isolated biochemical substances such as medically active ingredients and ingredients of cosmetics - that the profits from the marketing of products developed via the use of genetic resources are made.

⁽³⁾ COM(2012) 576 final, p. 3.

4.2.3 It is to be welcomed that in many cases the draft regulation treats genetic resources and associated traditional knowledge on an equal footing. The draft regulation does define traditional knowledge (Article 3(8)), but only in the context of its importance as an aid to research and development involving genetic resources. According to the regulation, details will be laid down later in contracts to be concluded between users and indigenous peoples and local communities.

4.2.4 It is not clear to the EESC how these provisions will ensure satisfactory benefit sharing in line with the relevant articles of the Nagoya Protocol. The Commission, the Council and the Parliament are asked to clarify this in the course of the procedure.

4.3 *Monitoring compliance with the due diligence requirement (Articles 7, 9 and 11)*

4.3.1 Article 7(2) of the draft regulation requires the use of genetic resources and associated knowledge to be declared only at the time of the market approval or commercialisation of a product. The earliest time at which the authorities have to be informed by the user is thus **after** utilisation (which, within the meaning of the Nagoya Protocol, constitutes research and development, and not marketing). Logically, research and development precede market access.

4.3.2 It is well known that only a proportion of R&D utilisation ultimately leads to marketable products. In the nature of things, use for purely scientific purposes is not aimed at product development. This will mean that the competent authorities will never be informed of a large proportion of use, as long as the reporting requirement does not apply at the beginning of use, i.e. at the research and development stage.

4.3.3 This provision actually runs counter to the draft regulation's political objective. Recital 8 states that "*it is also essential to prevent the use of illegally acquired genetic resources or traditional knowledge associated with genetic resources in the Union*"⁽⁴⁾. Requiring reporting only after conclusion of the research and development phase makes it impossible to prevent use which is

illegal or in breach of contract; at best, sanctions can only be applied after the event.

4.3.4 It cannot be in the interests of the industrial or research sector to operate within a legal framework which fails to perform its essential task, that of preventing bio-piracy.

4.3.5 The EESC also notes that Article 7(1) of the draft regulation leaves scope for interpretation, which must be clarified by the Commission, the Council and the Parliament as a matter of urgency. The text of the regulation could be interpreted to mean that privately financed users are exempt from the reporting requirement. If this interpretation were correct, this, in combination with the late reporting deadline under Article 7(2), would mean that most use and marketing of genetic resources and associated knowledge could be carried out without the competent authorities being informed. This would make official checks on the compliance of privately financed research and development and the resulting marketing with benefit sharing arrangements impossible.

4.3.6 Article 9(3) of the draft regulation leaves it up to competent authorities whether to conduct checks on a user on the basis of substantiated concerns provided by third parties, e.g. reports of bio-piracy from NGOs or indigenous peoples. This provision also runs counter to the regulation's political objective and must be reformulated in a binding way.

4.3.7 Failure to comply with the due diligence requirement can result in the imposition of sanctions (Article 11), including "*seizure of illegally acquired genetic resources*". These proposals are intended to ensure that only legally acquired genetic resources are used. These sanctions only apply during the utilisation phase, in the sense of research and development, but not during the marketing phase. As the proposed monitoring system, under Article 7(2), is effective only during the marketing phase, and even then only partially, the threat of sanctions can be regarded as largely ineffective. The EESC is concerned that the draft regulation will lead to a situation in the EU in which products which have been obtained in a way which is illegal or in breach of contract can be marketed freely.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽⁴⁾ COM(2012) 576 final, p. 8.

Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on a General Union Environment Action Programme to 2020 "Living well, within the limits of our planet"'

COM(2012) 710 final — 2012/0337 (COD)

(2013/C 161/15)

Rapporteur: **Mr RIBBE**

On 10 December 2012, the European Parliament and, on 12 December 2012, the Council decided to consult the European Economic and Social Committee, under Article 192(3) of the Treaty on the Functioning of the European Union, on the

Proposal for a Decision of the European Parliament and of the Council on a General Union Environment Action Programme to 2020 – "Living well, within the limits of our planet"

COM(2012) 710 final — 2012/0337 (COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 March 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 82 votes to 4 with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the draft proposal for a seventh Environment Action Programme (EAP). The decision of the Council and of the Parliament establishes an environment policy consensus among the EU's decision-making institutions on how serious the environmental situation remains, that there are significant deficiencies in the implementation of European environment law, that the efforts made to date to solve current and future problems have been inadequate, and on what action needs to be taken in environment policy in the period up to 2020.

1.2 The proposal is in keeping with the view expressed by the Committee on a number of occasions, that Europe's current environmental problems are attributable not to a lack of understanding or of ideas about how to tackle them, but to a lack of political will to follow through.

1.3 However, this draft seventh EAP is characterised less by clarity and more by a lack of specifics, both in general and on individual points. If the aim of a programme according to its title is to allow us to live well "within the limits of our planet", it must offer at least a rudimentary description of those limits and explain in greater detail the link between specific policy measures and their impact on social and economic activity in Europe. Unfortunately, the seventh EAP does not do this.

1.4 The seventh EAP is therefore more a report on the environmental situation than a genuine policy document or action programme.

1.5 In the EESC's view, the seventh EAP does not take a clear enough position on the economic and social changes needed to achieve the environment policy goals. The Committee would

point out that when the Commission presented the "resource-efficient Europe" flagship initiative, it stressed that achieving the necessary changes would require not only technological improvements and changes in the behaviour of producers and consumers, but also "a significant transition in energy, industrial, agricultural and transport systems".

1.6 The seventh EAP accurately analyses shortcomings in implementing previous EAPs, but it hardly offers any proposals on how these failures might be mitigated or eliminated altogether. Almost all positive developments in terms of nature and the environment have come at the behest of civil society. In the view of the EESC, civil society organisations are key players in implementing the seventh EAP, and their role should be strengthened and given much more attention in the form of an additional priority objective.

1.7 The role of an effective seventh EAP must be to describe much more clearly the path away from conventional environment policy focusing on end-of-pipe technology and towards sustainable development. The Europe 2020 strategy expires at the same time as this seventh EAP. The EESC has repeatedly said that the Europe 2020 strategy cannot be a substitute for a European sustainability strategy that defines the goals and strategies for sustainable development in Europe, with a long-term planning horizon and balanced consideration of the economic, social and environmental dimensions. It invites the Council and Parliament to set the objective in the seventh EAP of developing a new overarching EU sustainability strategy, as called for by the Council of Environment Ministers in its conclusions on the United Nations Rio+20 sustainable development conference (Point 3 of the Conclusions on Rio+20: Outcome and follow-up to the UCSO 2012 Summit; 3 194th Environment Council meeting; Luxembourg, 25 October 2012). This would bring real added value to the seventh EAP.

2. Introduction

2.1 The Environment Action Programmes (EAPs) – of which there have now been six – have made an important contribution to the development and shaping of EU environment policy since the early 1970s. The sixth Environment Action Programme expired in July 2012; the European Commission has since been asked by the Council and the European Parliament to propose a successor programme.

2.2 According to the Commission, the proposed seventh EAP aims to step up the contribution made by environment policy to conserving natural capital, to the transition to a resource-efficient, low-carbon economy, and to protecting human health.

2.3 The proposal takes stock of the environmental situation, referring in particular to the problem of the ongoing loss of natural capital, including biodiversity. It also expresses concern that natural resources continue to be wasted through inefficient use, and about ongoing air and water pollution and contamination by hazardous substances.

2.4 The proposal points to inadequate implementation of existing environment legislation and established standards by the Member States as a key source of the problem.

2.5 The Commission concludes "there is evidence that planetary boundaries for biodiversity, climate change and the nitrogen cycle have already been transgressed."

2.6 The seventh EAP counters this with a vision for 2050 of "living well, within the limits of our planet", and sets out a framework for environment policy action to 2020 that focuses on nine *priority objectives*.

2.7 The EESC was involved in the preliminary stages of the discussions on the seventh EAP, with an exploratory opinion at the request of the Danish Presidency ⁽¹⁾. It stressed that Europe's current environmental problems were attributable to a lack of political will to follow through. The Committee felt that it was not clear how the seventh EAP would relate to the Europe 2020 strategy and to the "resource-efficient Europe" flagship initiative and roadmap. It recommended reviving the sustainability strategy, adopting a workable seventh EAP as its environment policy implementation approach, incorporating the flagship initiative resource-efficient Europe with all its individual initiatives, and ensuring close and careful coordination between environment and economic policy considerations.

3. General comments

3.1 In the EESC's view, the primary added political value of the seventh EAP lies in the fact that, unlike the Commission's existing environment policy strategies, flagship initiatives and roadmaps, it will be adopted by the Council and the Parliament, thus establishing a degree of consensus between the EU's

decision-making institutions on what must be done in environment policy to 2020.

3.2 The seventh EAP thus provides a point of reference for future decisions by policy-makers and institutions at EU level, as well as in the Member States, to which the EAP also applies.

3.3 The EESC also welcomes the publication of the seventh EAP because, by adopting it in a binding Decision, the Council and Parliament are together making it clear that the environmental situation remains very serious, that there are significant deficiencies in the implementation of European environment law, and that many of the efforts made to date to solve current and future problems have been inadequate.

3.4 In terms of content, the programme essentially reiterates what has already been set out in the Commission's environment policy communications, strategies, flagship initiatives and roadmaps, although the decision of the Council and of the Parliament does give it greater political emphasis.

3.5 The draft seventh EAP is characterised less by clarity and more by a lack of specifics, however, both in general and on individual points. If the aim of a programme according to its title is to allow us to live well "within the limits of our planet", it must offer at least a rudimentary description of those limits and explain in greater detail the link between specific policy measures and their impact on social and economic activity in Europe. Unfortunately, the seventh EAP does not do this.

3.6 In the areas where more detail is given, the programme fails to set out specific responsibilities and review criteria that would make it possible to monitor achievement of the objectives and implementation of the measures.

3.7 The seventh EAP is therefore more a report on the environmental situation than a genuine policy document or action programme. This is a disappointment for the EESC, which in its exploratory opinion on the *Seventh EAP*, but also as far back as 2004 in its exploratory opinion on *Assessing the EU sustainable development strategy* ⁽²⁾, called for precisely such clear and specific flagship programmes.

3.8 The Committee is concerned that the vitally necessary environment-policy outlook beyond 2020 falls far too short. It has already become clear that a planning horizon of 2020 is too short in energy and climate policy. It is not evident from the seventh EAP whether the objectives and measures proposed for 2020 are appropriate and sufficient to make the vision of "living well, within the limits of our planet" by 2050 a realistically achievable goal. There needs to be at least an indicative plan of future goals for 2030 and 2040, as further stages on the way to achieving this vision by 2050. Moreover, the 2020 horizon is too short to provide security for long-term investments in the green economy.

⁽¹⁾ EESC opinion on the *7th Environment Action Programme and follow-up to the 6th EAP* O.J. C 191, 29.6.2012, p. 1.

⁽²⁾ EESC opinion on the *Assessing the EU sustainable development strategy*, O.J. C 117, 30.4.2004, pp. 22-37.

3.9 The alignment of the time horizon for environmental action planning with the Europe 2020 strategy and the associated flagship initiatives is welcome in principle; the timescale also coincides with the 2014-2020 financial framework, which would be a major advantage if the necessary links could be established. Although one of the nine listed priorities is to secure the necessary investment for environment policy, only very vague references are made to the EU's medium-term financial planning when outlining requirements, to say nothing of the fact that the seventh EAP comes too late to have any impact on the latter.

3.10 The nine *priority objectives* identified in the seventh EAP are open to criticism. For example, the "urban environment" is a subject that came up repeatedly in previous EAPs. The considerable importance of "urban environment policy" notwithstanding, the EU's influence in this area is relatively slight. It has much more influence over transport policy, the particular relevance of which to climate protection has been repeatedly stressed by the Commission. Despite this, transport policy is barely mentioned in the proposed seventh EAP.

3.11 For the EESC, it would make sense to strategically incorporate civil society into the EAP in the form of a separate *priority objective* (see 4.4.9).

3.12 Trade policy also has a direct bearing on European environment and sustainability policy, such that it could be prioritised at the same level as the "urban environment" ⁽³⁾.

3.13 The Committee would point out that when the Commission presented the "resource-efficient Europe" flagship initiative, it stressed that achieving the necessary changes would require not only technological improvements and changes in the behaviour of producers and consumers, but also "a significant transition in energy, industrial, agricultural and transport systems". The seventh EAP will fall short if it repeatedly calls for environmental needs to be reflected in other policy fields, without showing how a "significant transition" in certain economic sectors towards a sustainable economy and lifestyles can be achieved.

3.14 Nor does the EAP take the opportunity to give more detail on the importance of resource and environmental protection to economic development and the creation of new and skilled jobs. Here the EESC refers to its previous opinions ⁽⁴⁾. The interactions between environment, social, development and economic policy, which are the key dimension of sustainability, need to be better highlighted.

⁽³⁾ EESC opinion on the *Trade, Growth and World Affairs: Trade Policy as a core component of the EU's 2020 strategy* O.J. C 43, 15.2.2012, p. 73–78.

⁽⁴⁾ EESC Opinion on the *Towards a job rich recovery* O.J. C 11, 15.1.2013, pp. 65-70.

3.15 It is thus also clear that the significance and role of the seventh EAP must be to describe much more clearly the path away from conventional environment policy focusing on end-of-pipe technology and towards sustainable development. The Europe 2020 strategy expires at the same time as this seventh EAP. The EESC has already repeatedly said that the Europe 2020 strategy cannot be a substitute for a European sustainability strategy that defines the goals and strategies for sustainable development in Europe, with a long-term planning horizon and balanced consideration of the economic, social and environmental dimensions. It invites the Council and Parliament to set the objective in the seventh EAP of developing a new overarching EU sustainability strategy, as called for by the Council of Environment Ministers in its conclusions on the United Nations Rio+20 sustainable development conference (Point 3 of the Conclusions on Rio+20: Outcome and follow-up to the UCS2012 Summit; 3 194th Environment Council meeting; Luxembourg, 25 October 2012). This would bring real added value to the seventh EAP.

4. Specific comments

4.1 Here the EESC only wishes to comment on those of the nine priority objectives that it regards as particularly important.

4.2 *Priority objective 1: to protect, conserve and enhance the EU's natural capital*

4.2.1 The seventh EAP should make it clear that implementation of the Commission's proposals for greening agriculture and fisheries in connection with CAP and CFP reform is vital to maintaining natural capital.

4.2.2 The proposed seventh EAP quite rightly also calls for soil to be better protected. The rise in soil pollution, soil degradation and land-take in Europe remains a matter for concern. In the EESC's view, legislative action is needed at European level to reverse the negative trend, and the Council should therefore resume discussions on the soil protection directive as soon as possible. In addition, by means of a thematic strategy the European Commission should encourage Member States to reduce the serious problem of land being used for transport and housing purposes and to step up efforts to protect agricultural and forestry land.

4.3 *Priority objective 2: to turn the EU into a resource-efficient, green and competitive low-carbon economy*

4.3.1 With the "resource-efficient Europe" flagship initiative, the Commission put using natural resources more efficiently at the centre of its policy, setting out key milestones for 2020 in the associated roadmap. It is regrettable that the objectives set out in point 41 only dimly reflect important milestones.

4.3.2 In particular, the (complete) decoupling of economic growth and adverse environmental impacts should be included in the objectives, as should the aim of agreeing by 2020 on ambitious resource-efficiency targets and reliable indicators that will guide public and private decision-makers in the transition

to a resource-efficient economy⁽⁵⁾. The Committee also reiterates its call for the Ecodesign Directive to be used to phase out unsustainable products by extending its scope to cover improving resource efficiency in materials as well as energy efficiency⁽⁶⁾.

4.4 *Priority objective 4: to maximise the benefits of EU environment legislation*

4.4.1 Evaluation of the sixth EAP has made it abundantly clear that deficiencies in the implementation of existing environment law are the most serious obstacle to much-needed progress in environmental protection. It is therefore to be welcomed that improving the implementation of the EU environment *acquis* at Member State level is made a top priority in the seventh EAP.

4.4.2 However, the Commission has already given top priority to improving the implementation of environment legislation in the past, without notable success. It must therefore be assumed that there are fundamental obstacles that cannot be removed simply by making the proposed improvements to inspection mechanisms, access to justice and information on environment legislation.

4.4.3 The decisive factor, rather, is that many Member States lack the political will to give the same high political priority to effective implementation of environment legislation and, accordingly, to give the enforcing authorities adequate resources and expert staff and provide them with the necessary political support in the event of conflict.

4.4.4 There are obvious parallels to the financial crisis. Just as that crisis was triggered by unsustainable use of economic resources as a result of failure to respect criteria established in the Maastricht Treaty to ensure the stability of the single currency, environmental problems can also be traced back to excessive use of resources – in this case, soil, water, air, climate, non-renewable mineral and fossil resources, etc.

4.4.5 The EESC feels that the response to the environmental crisis should be similar in design to the measures taken in the fiscal compact in response to the financial crisis, with clear requirements, clear indicators, checks and sanctions. The seventh EAP provides none of this: the approaches set out are not adequate to really rectify the structural implementation deficiencies described, and the proposed objectives for better application by 2020 are ill-defined and unverifiable.

4.4.6 The EESC believes that compliance with legislation requires effective monitoring by independent bodies, and a credible willingness to impose or accept sanctions where necessary. It therefore expects the seventh EAP to extend binding criteria for effective Member State inspections and surveillance to include the wider body of EU environment law, and to develop complementary capacity at EU level.

4.4.7 Moreover, the inclusion in the European Semester of monitoring progress in implementing ecological objectives, as mentioned in point 82(f), is likely to focus the attention of political leaders at EU and Member State level on this issue. As the Commission points out, mounting environmental pressures can have adverse macroeconomic effects. The Stern Review Report on the Economics of Climate Change from 2006 and the 2010 synthesis report of the TEEB initiative on The Economics of Ecosystems and Biodiversity offer striking evidence of this.

4.4.8 The seventh EAP should be extended to include measures that provide incentives to comply with environment legislation. In particular, linking the allocation of EU funding to Member States and private legal entities to proof of compliance with relevant environment legislation is an effective way of encouraging compliance. For the EESC, it remains very important to use cooperative strategies and disseminate examples of best practice in order to motivate business to become involved in improving the state of the environment.

4.4.9 Ultimately, effective implementation of environmental protection means giving civil society an active role, enabling the public to take on a watchdog role. Tools to allow this were introduced into European environment law pursuant to the Aarhus Convention in particular – for example, free access to environmental information, involvement of civil society organisations in decision-making on environment law, and access to justice. The proposed seventh EAP mentions these tools, but does not discuss the role of civil society in implementing environment legislation or make further-reaching proposals. Almost all positive developments in terms of nature and the environment have come at the behest of civil society. In the view of the EESC, civil society organisations are key players in implementing the seventh EAP. Their role should be strengthened and given much more attention in the seventh EAP in the form of an additional priority objective. The catalogue of measures should be extended to include provisions on promoting action to enhance civil society engagement (e.g. local Agenda 21 partnerships or similar forums), forging partnerships and getting organised civil society more closely involved in environment or sustainability councils.

4.5 *Priority objective 6: to secure investment for environment and climate policy and get the prices right*

4.5.1 It is vital to take action to promote investment in environment and climate policy and to include ecological costs when setting prices in order to guarantee the transition to a resource-efficient, low-carbon economy. The EESC therefore welcomes the fact that the Commission has included this as a priority objective in its proposed seventh EAP. However, here too the proposed objectives for 2020 (point 82(a) and (b)) are very vague and do not provide verifiable measures of success.

⁽⁵⁾ COM(2011) 571 final, milestones 3.1.2 and 6.1. OJ C 181, 21.6.2012, p. 163–168.

⁽⁶⁾ EESC opinion on the *Promotion of sustainable production and consumption in the EU*, OJ. C 191, 29.6.2012, p. 6.

4.5.2 Once again, there are vague references to phasing out environmentally harmful subsidies, just as in the 2006 sustainability strategy, which promised that a list would be published. There is a risk that EU environment policy will lose credibility if actions are repeatedly announced but not implemented. The same goes for the oft-proclaimed principle of internalising external costs and the major shift from taxation of labour towards taxation of the environment as a limited resource.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions — Social protection in European Union development cooperation’

COM(2012) 446 final

(2013/C 161/16)

Rapporteur: **José María ZUFIAUR**

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 European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Social protection in European Union development cooperation

COM(2012) 446 final.

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 21 February 2013.

At its 488th plenary session, held on 20–21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following by 102 votes with 3 abstentions.

1. Comments and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the European Commission’s Communication on *Social protection in European Union development cooperation*⁽¹⁾ and the European Council’s Conclusions⁽²⁾ on this document, and makes the following comments and recommendations.

1.2 It voices its concern that, given the limit of a maximum of three sectors in EU development cooperation (DC) programming, social protection may be neglected in both programming and in its actual implementation. It therefore calls on the Commission and the Member States to take the necessary steps to ensure that social protection is effectively included in DC programming and its actual implementation

1.3 The EESC upholds the principle that a minimum of 20 % of total EU aid should be devoted to social integration and human development and that its funding be increased by re-allocating resources not utilised in other areas. Moreover, it is concerned that this percentage also includes the education, health and social protection sectors, without any assurances of funds being distributed and allocated separately, with the result that there is no guarantee that social protection will not be edged aside. The concept of social protection may include health but can hardly include education, except as a basis for, or an addition to, certain social protection programmes. A balance should thus be sought which would allow these three basic aspects to be coordinated.

1.4 It supports the International Labour Organisation’s (ILO) recommendation 202 regarding social protection floors (SPFs)⁽³⁾, which includes decent work, of which social protection forms one of the basic pillars. The principles of SPFs should be considered as a minimum threshold, intended to bring about improvement towards developing systems in the future that comply with the rules set out in ILO Convention 102⁽⁴⁾.

1.5 It believes that social protection should be considered as a fundamental investment for social cohesion and inclusive and sustainable development. Development cooperation policy should therefore focus on aspects that support social protection systems: decent employment (including dimensions such as gender or people with disabilities), distribution of wealth, population growth and the universal provision of social services and the State’s fundamental role in achieving these objectives.

1.6 It believes it is necessary for DC to support the establishment of social protection systems for regular workers, including those with insecure jobs, the self-employed, the economically dependent and those in the agricultural sector, together with systems of assistance catering for all of the population including the informal economy. It therefore advocates combining contributory systems with non-contributory

⁽¹⁾ COM(2012) 446 final.

⁽²⁾ Council Conclusions on Social Protection in European Development Cooperation, 15 October 2012, 14538/12.

⁽³⁾ Recommendation 202 concerning the National Social Protection Floors, 101st session of the International Labour Conference, Geneva, 14 June 2012.

⁽⁴⁾ *Social Security (Minimum Standards) Convention*, number 102, 35th session of the International Labour Conference, Geneva, 28 June 1952.

systems funded by taxes. In this way, ODA should boost States' institutional and tax-raising capacity for securing the necessary resources for meeting their social obligations.

1.7 It highlights the need for social protection systems to prevent and reduce risks, including natural disasters or post-conflict situations. In this respect, it calls for DC to be used for this purpose.

1.8 It considers that the partner States have primary responsibility for creating and implementing their social protection systems and that EU cooperation should help to strengthen their institutional, tax-collecting and management capacities for achieving self-sufficiency and being able to develop sustainable and durable public systems.

1.9 Nevertheless, for the purposes of strengthening SPFs in low-income countries, it is not opposed to multi-annual financial aid being made available via direct transfers to partner States, monitored via the appropriate control mechanisms.

1.10 It believes that, although DC for social protection should be given as a priority to low-income countries, middle-income countries with serious domestic poverty and inequality problems - which in some cases are worsening - should not be overlooked. Seventy-five percent of the world's poor currently live in middle-income countries. EU aid should be channelled through sectoral and thematic programmes, in particular, to broaden the cover and improve the efficiency of existing systems by boosting their public institutional capacity. Specific programmes for areas with large migration flows should also be set up.

1.11 The EESC calls for the gender dimension to be a cross-cutting approach given priority in the EU's development policy with a view to allowing women greater access to social protection, which would help combat individual and family poverty.

1.12 It suggests that the EU's DC include components in its programmes with sufficient resources to encourage social and labour-market inclusion for people with disabilities and provide adequate social protection for them. The EESC thus supports the idea that EU DC include in its objectives the requirement for member countries to ratify and properly implement the UN Convention on the Rights of Persons with Disabilities (5).

1.13 It calls for social protection to be taken into account and form a programming priority in the chapter on DC in the future Multiannual Financial Framework.

(5) Convention on the Rights of Persons with Disabilities, United Nations General Assembly, New York, 13 December 2006.

1.14 It believes that the EU should provide the technical and economic means to strengthen the exchange of good South/South practices on social protection.

1.15 It calls for a chapter on social protection to be included in Association Agreements, trade agreements and Stabilisation and Association Agreements signed by the EU.

1.16 It points to the advisability of encouraging Regional Development Associations in the social protection sphere.

1.17 The EESC recommends setting up a network of social protection experts from Europe (from national ministries and development and civil society agencies) using instruments such as the Technical Assistance, Information and Exchange (TAIEX) programme to allow the inclusion of professional experts. This network's first task would be to draw up a map of the support the EU provides for social protection. This would encourage the exchange of best practices and help with the division of the work by highlighting shortcomings and overlaps or identifying possible comparative advantages.

1.18 The EESC recalls its recommendation that civil society organisations (CSOs) should be part of the process for identifying, drawing up and monitoring cooperation programmes and strategies. For this purpose, it calls for social protection to be included in the "roadmaps for engagement with CSOs" set out in the Commission Communication *The roots of democracy and sustainable development* (6). Moreover, it stresses the need for the social partners and other SC organisations to play a real part, consistent with their characteristics, in the advisory and management bodies of the social protection institutions which provide either financial benefits or material assistance.

2. Background

2.1 In accordance with the joint principles of the Busan Partnership for Effective Development Cooperation (7), the European Commission Communication *An Agenda for Change* (8) and the ILO recommendation on SPFs, the Commission Communication on social protection in EU development cooperation, subsequently endorsed by the Council, represents a significant step forwards in European development cooperation.

2.2 The joint Busan goals are in line with the objective that the EU should adopt a more general approach to human development in accordance with the Commission Communication on *An Agenda for Change*, which emphasises support for health and education, decent work and systems that develop social protection, and reduce inequality of opportunity.

(6) Commission Communication "The roots of democracy and sustainable development: Europe's engagement with civil society in external relations" COM(2012) 492 final.

(7) 4th High Level Forum on Aid Effectiveness, Busan, 29 November – 1 December 2011.

(8) COM(2011) 637 final.

2.3 These approaches are also in keeping with the ILO recommendation concerning SPFs, which include four basic social security guarantees: minimum levels – defined by individual countries – of security of earnings during childhood, working life and old age, together with access to basic, affordable health care.

2.4 Furthermore, this approach is endorsed by the Council Conclusions, which call for growth characterised by the equitable distribution of wealth, full employment and universal access to basic social services, such as health and education. In this respect, the Conclusions state that "Social protection policies can play a transformative role in society by fostering equity, promoting social inclusion and dialogue with social partners".

2.5 All these declarations, agreements and conclusions concur in including social protection in the EU's DC within a concept of inclusive and sustainable growth – that is to say as something more than quantitative economic growth of GDP.

2.6 It is similarly worth noting that EU citizens also support the need to continue with European DC policy endeavours. According to a Eurobarometer survey⁽⁹⁾, the majority of European citizens (85 %) continue to support the provision of aid to developing countries in spite of the economic crisis, and a large percentage (61 %) advocate an increase in aid to lift large numbers of people out of poverty.

3. The need to meet the challenge of social protection in the context of globalisation

3.1 World GNP has risen ten-fold and per capita income has increased by 2.6 % since the Universal Declaration of Human Rights (UDHR) was approved in 1948⁽¹⁰⁾. Nevertheless, the social protection situation for the large majority of the world's population, which continues to live without social protection, has barely altered. The following figures are significant⁽¹¹⁾:

3.1.1 Around one third of the world's population, 1 750 million people, suffer from poverty on several levels, characterised by a lack of earnings, opportunities for decent work, healthcare and education;

3.1.2 A total of 9.2 million children under five die as a result of preventable health problems;

3.1.3 Approximately 5 100 million people, i.e. 75 % of the world's population, lack adequate social protection;

3.1.4 Fewer than 30 % of the economically-active people in the world are covered by unemployment insurance and only 15 % of the unemployed receive unemployment benefits;

3.1.5 Only 20 % of the world's population of working age have access to full social security systems. In many countries, workers in the informal sector, farm workers and the self-employed have no social protection whatsoever;

3.1.6 By contrast, the level of poverty and inequality in the most developed countries of the Organisation for Economic Cooperation and Development is roughly half of what is to be expected where there are no social protection systems.

4. Social protection's potential for inclusive and sustainable development

4.1 This opinion refers to social protection in its broadest sense, which encompasses both social security in the strict sense and social assistance. Social protection can be considered to include both policies and measures intended to improve the capacity of every person, particularly those from vulnerable groups, to avoid falling into poverty or succeed in rising out of poverty, and policies and measures that can offer income security, facilitate lifelong access to basic health services and encourage equality and dignity.

4.2 Included in this definition, therefore, are social security services in coin or in kind covering sickness, maternity, old age, incapacity, accidents at work and occupational illnesses, survival benefits, family allowances and unemployment benefits, together with social assistance services which are fundamentally intended to provide protection in generic or specific cases of need, regardless of their causes.

4.3 The EESC consequently supports the principles set out in Article 25 of the UDHR, which stipulates that: "Everyone has the right to [...] medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or the lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, should enjoy the same social protection".

4.4 Although education is recognised to be an essential public policy in Europe, it is not included in either social security or in social protection in the broadest sense. Nevertheless, some successful programmes, such as the "Family Allowance" Programme in Brazil, make the granting of family allowances (social protection) conditional on the requirement to participate in school programmes (education policy).

⁽⁹⁾ *Special Eurobarometer 392, Solidarity that spans the globe: Europeans and development*, October 2012.

⁽¹⁰⁾ United Nations General Assembly, December 1948.

⁽¹¹⁾ Data collected by the World Bank, the UNDP, the FAO, UN-Habitat, UNESCO, UNICEF, WHO, ILO.

4.5 Whilst it is appropriate to make the most of and even extend these and other different experiences, which might be included under a broad definition of SPFs, including education as a component of social protection may reduce the distribution of funds intended for social protection in the EU's operative DC programmes. It may also lead to confusion between benefits and social protection, equating a part to the whole.

4.6 There needs to be a clearer definition of what is meant by assistance policies within social protection systems. The latter are structural systems providing universal protection, whilst the former can use components of social protection, such as economic transfers, to achieve an educational goal, as in the case of the "Family Allowance" programme in Brazil, and can thus form a part of SPFs.

4.7 Social protection plays a fundamental role in periods of economic growth and acts as an economic stabiliser in times of crisis. As the Commission Communication points out, social protection increases access to public services, provides people with risk management tools, encourages stability in earnings and demand, acts as a macro-economic stabiliser, reduces inequalities by contributing to inclusive and sustainable growth, encourages inter-generational bonding and can make a powerful contribution to achieving the Millennium Development Goals.

4.8 Thus, social protection is an investment rather than a cost. It is not a mere factor for redistributing earnings, disconnected from wealth-creating mechanisms, but rather an factor of production that is essential for increasing wealth. It is just as important - perhaps even more important - a tool as monetary policies or innovation policies, especially in a world in which ageing populations, particularly in the major developing countries, will increase significantly and constitute a key challenge for their future, which could prove to be terrible without social protection systems.

5. Comments on the European Commission's proposal

5.1 The EESC believes that recognising social protection as a key component of DC reflects the values and principles of the EU as set out in the EU Treaty⁽¹²⁾ and in the EU Charter of Fundamental Rights⁽¹³⁾.

5.2 The Committee deems it positive that the Commission has included social protection in the EU's DC policy, as has been repeatedly called for by a number of bodies, including the EESC⁽¹⁴⁾.

⁽¹²⁾ Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, Official Journal of the EU, 2010/C 83/01, 30.3.2010.

⁽¹³⁾ Charter of Fundamental Rights of the European Union, Official Journal of the EU, 2010/C 83/02, 30.3.2010.

⁽¹⁴⁾ EESC opinion on *The External Dimension of EU Social Security Coordination*, point 1.10, OJ C 11, 15.1.2013, p. 71-76.

5.3 On the whole, the Committee supports the main thrust of the proposal. It particularly welcomes the importance given to the structural obstacles preventing the eradication of poverty in situations associated with exclusion and marginalisation; the importance placed on decent work and adequate fiscal systems; the desire for everyone to have equal access to social protection, combining social protection with inclusive and sustainable development; the role of development cooperation in both lesser-developed countries and middle-income countries; the gender dimension and SPFs; and the support for civil society involvement and the importance of the social partners and social dialogue.

5.4 The EESC stresses the need for greater coordination between the bodies responsible for EU development cooperation and the other players involved in the process, including international bodies and organisations, together with greater cohesion between development cooperation and other EU policies. Similarly, as a result of the inclusion of new approaches linked to social protection (resilience, reducing the risk of catastrophes) in the EU's DC, progress should be made towards a better conceptual definition of these approaches and making the most of the synergies that can be derived.

5.5 The EESC emphasises the goal of placing social protection at the heart of national development strategies through national policies. It is also necessary to boost the institutional capacities of the partner States, to which end EU technical cooperation would be useful. Mention should also be made of the need for international coordination of social protection rights.

5.6 The Committee believes that the concept of "transformative social protection" referred to in the Commission Communication should be understood as being a means for strengthening the ownership and empowerment of those benefiting from social protection, particularly the vulnerable, who suffer most from poverty and social exclusion, by giving them the necessary resources for achieving this.

5.7 In terms of public-private partnerships, the EESC would have liked the Commission to have emphasised the essential role of the State in developing and implementing social protection systems. Cooperation between the private and public sectors is also necessary, particularly in the sphere of complementary social protection⁽¹⁵⁾. The Committee does not believe that voluntary corporate social responsibility should form a basic component of an area such as social protection, which should be based on binding rules and policies.

⁽¹⁵⁾ We call for the legal obligations concerning financing of social protection to be complied with, following the guidelines on multinationals and international organisations.

5.8 It is furthermore regrettable that in its reference to the goals of the Europe 2020 strategy the Communication does not mention the imbalance between these goals and the "internal devaluation" policies and structural reforms being advocated by the EU. In fact, the actual policies that have been implemented bear little relationship to the goals of that strategy: they have created unemployment, poverty, inequality and social exclusion. At the same time, the reforms implemented have not resulted in a more competitive and cohesive EU, but in an increase in insecure employment and a deterioration in public services.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Blue Growth: opportunities for marine and maritime sustainable growth’

COM(2012) 494 final

(2013/C 161/17)

Rapporteur: **Mr POLYZOGOPOULOS**

On 13 September 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 - Blue Growth: opportunities for marine and maritime sustainable growth

COM(2012) 494 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 27 February 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 100 votes to 2 with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC sees the communication under discussion as the necessary logical continuation of efforts to implement an Integrated Maritime Policy (IMP) in the European Union.

1.2 The EESC regards the communication generally as an apt contribution to the EU’s Integrated Maritime Policy in the context of the Europe 2020 strategy, with the aim of economic recovery in Europe drawing on the potential of the maritime economy to create jobs, strengthen competitiveness and promote social cohesion.

1.3 From this point of view, the EESC welcomes the communication, particularly in the current economic crisis, which has created a difficult economic landscape in Europe, with negative effects also for sectors of the maritime economy.

1.4 If the communication is to give fresh impetus to the IMP as intended, the EESC believes that there must be consistent use and development of good existing initiatives and measures alongside the proposed new framework so that the EU does not miss the opportunity to frame a cutting-edge IMP based on high standards.

1.5 The EESC believes that continuity and consistency are essential to the achievement of blue growth, and it must therefore be made clear that the five Focus Areas identified on the basis of the study *Blue Growth. Scenarios and drivers for Sustainable Growth* (2012) complement rather than replace the existing traditional spheres of action (<https://webgate.ec.europa.eu/maritimeforum/content/2946>).

1.6 The Committee emphasises that seeing the blue economy as an inexhaustible source of unexploited resources and insistently invoking blue growth as a panacea for the problems Europe’s economy faces might increase the many different types of stress already being placed on the EU’s coasts and seas; the Committee therefore recommends constant vigilance to ensure that a balance is maintained between economic objectives and the principles of sustainable development.

1.7 The EESC has addressed the importance of the human factor in the maritime economy extensively, recommending that due attention be paid to the social dimension when seeking a balance between economic, social and environmental factors for a sustainable IMP.

1.8 The EESC believes that blue growth must help to further social integration without generating exclusion, by providing opportunities for employment, training and full involvement above all for local and coastal populations, including remote and sparsely populated communities, with their particular characteristics and needs.

1.9 With reference to key points it has made on marine and maritime research⁽¹⁾, the EESC underlines the central importance of research and innovation in establishing a strong competitive position for Europe, especially in new emerging sectors, with the emphasis on basic and advanced research geared towards leading-edge applications and optimum methods so as to support cooperation between industry and academia.

1.10 The EESC considers education to be particularly important, and urges the Commission to design an appropriate

⁽¹⁾ OJ C 306, 16.12.2009, p. 46.

innovative education framework for attracting highly-qualified students to a career path in the marine sector.

1.11 Since the consolidation of blue growth is a particularly ambitious and complex undertaking of enormous scope, the EESC points to the need for greater detail in the area of implementation; in this opinion it identifies certain key and other specific issues that must be addressed so as to avoid there being a gap between expectations and what can actually be achieved.

2. Introduction

2.1 The communication addresses blue growth in the conviction that coastlines, seas and oceans can help to address the stresses and problems that Europe is facing and to achieve economic recovery in Europe.

2.2 The Commission considers the objective of blue growth to be the achievement of "smart, sustainable and inclusive growth" with the focus on innovation, putting the process of enhancing the blue economy on the agendas of the Member States, the regions, businesses and civil society.

2.3 The communication describes how the Member States and the EU are already supporting the blue economy. Drawing on the Blue Growth study (see point 1.5 above), the Commission text singles out, from all the maritime activities mentioned, five Blue Growth Focus Areas with high growth potential that can be further developed through targeted measures. These are: (1) maritime, coastal and cruise tourism, (2) blue energy, (3) marine mineral resources, (4) aquaculture, and (5) blue biotechnology.

2.4 Value chains or spheres of the blue economy can be divided into traditional, mature activities (maritime transport and maritime and coastal tourism), growth-stage activities (aquaculture and maritime surveillance), and emerging sectors (ocean renewable energy and blue biotechnology).

2.5 This "reactivation" of the IMP was cemented at the beginning of October with the adoption of the Limassol Declaration⁽²⁾, a political declaration supporting and strengthening the IMP, with future guidelines for blue growth and an agenda for growth and jobs.

2.6 The long-term blue growth strategy is intended to spotlight the synergies and interplay within sectoral policies and various activities, and to study their potential impact on the marine environment and biodiversity.

2.7 Other objectives include identifying and supporting activities with significant long-term growth potential by encouraging investment in research and innovation and by upgrading skills through education and training.

⁽²⁾ Declaration by the ministers responsible for the IMP and the European Commission on the state of play with the policy and the marine and maritime agenda for growth and jobs, adopted in Nicosia, Cyprus on 7 October 2012.

2.8 After extensive negotiation, the Commission will be launching a series of measures to explore growth potential, with communications to be published on coastal and maritime tourism, blue energy, blue biotechnology and offshore mining, as well as strategic guidelines on aquaculture.

3. General comments

3.1 The EESC has in previous opinions⁽³⁾ made important comments, taking a position on a number of issues relating to blue growth and applauding the way in which the Commission has been implementing the Integrated Maritime Policy since its inception in 2007⁽⁴⁾, with the aim of ensuring sustainable development of the maritime economy and improving protection of the marine environment.

3.2 The EESC sees the proposed consolidation of blue growth as a complex and difficult undertaking on a massive scale embracing: (1) six sea basins (the Baltic Sea, Mediterranean, North Sea, North-East Atlantic Ocean, Arctic Ocean, Black Sea and the outermost regions of Europe) with their particular economic, social, environmental, geographical, climate and institutional characteristics and needs, (2) many sectors and activities at various levels of development, of varying importance and with particular characteristics, and (3) development strategies that build on the advantages and address the weaknesses of each maritime region and each sector.

3.3 The EESC is known to favour cross-sectoral and cross-border cooperation between all players, to strengthen European competitiveness and ensure optimum conditions for growth of the maritime economy.

3.4 The EESC endorses the functional and geographical approach of blue growth, with sea basin strategies that consider the particular features of Europe's sea basins in relation to the various maritime economic activities and the issues of partnerships, synergies – as well as tensions – within and beyond EU borders.

3.5 The EESC recommends strengthening maritime clusters and promoting joint projects that can boost innovation and develop new business concepts. Regional groupings that bring together the public and private sectors, NGOs, as well as regional maritime agreements and targeted studies of sea basins, can counter the fragmentation of the maritime economy based on cross-border cooperation and European programmes.

⁽³⁾ OJ C 299, 4.10.2012, p. 133; OJ C 255, 22.9.2010, p. 103; OJ C 267, 1.10.2010, p. 39; OJ C 306, 16.12.2009, p. 46; OJ C 211, 19.8.2008, p. 31; OJ C 172, 5.7.2008, p. 34; OJ C 168, 20.7.2007, p. 50; OJ C 146, 30.6.2007, p. 19; OJ C 206, 29.8.2006, p. 5; OJ C 185, 8.8.2006, p. 20; OJ C 157, 28.6.2005, p. 141.

⁽⁴⁾ COM(2007) 575 final.

3.6 As far as the local communities of coastal regions, islands and outermost regions are concerned, the EESC advocates discouraging "one-size-fits-all" approaches and encouraging adapted local strategies and cooperation with local and regional authorities, local communities and local civil society organisations with the aim of safeguarding the cultural heritage and traditional forms of production and employment and protecting natural resources.

3.7 In the EESC's view it should be made explicit that promoting blue growth under the IMP is not an exclusively EU matter, since marine ecosystems and maritime economies transcend national borders. Serious challenges can only be successfully addressed through international cooperation and coordinated action. This applies both to global challenges like the sustainable use of marine resources, climate change, loss of biodiversity, fair competition in the shipping and shipbuilding sectors, and promoting conditions for decent jobs in these spheres, and to issues that are more a matter for the regional level, e.g. environmental protection in the Mediterranean or Baltic Sea regions.

3.8 The EESC urges the Commission to make the seven outermost regions (the autonomous Spanish community of the Canary Islands, the Portuguese autonomous regions of Madeira and the Azores, and the four French overseas departments of Guadeloupe, French Guiana, Martinique and Réunion) – as outposts of the EU in their regions⁽⁵⁾ – central to the external dimension of the IMP, taking into account the priorities for a stronger partnership⁽⁶⁾, and to present regional blue growth strategies for these regions, since they give the EU the largest Exclusive Economic Zone in the world and can play an important role.

3.9 The EESC welcomes the mention in the communication of employment, training and skills, but believes that the social dimension which they signal must be incorporated into policies introduced with the new agenda for the marine and maritime sectors adopted on 8 October 2012 to back the Europe 2020 strategy, with targeted measures to improve living, working and training conditions and with involvement of the social partners.

3.10 Since the communication identifies the skills shortage as a major obstacle in the area of blue growth, the EESC considers it essential to ensure not only a minimum level of training of seafarers⁽⁷⁾, but also the development of professional skills and experience to meet the needs of emerging sectors for new high-level skills. It therefore recommends that existing policies and measures be fleshed out and broadened given that maritime training focuses mainly on existing mature activities (fishing, shipping).

4. Economic dimension

4.1 The communication presents the economic dimension and employment data in the maritime and shipping sectors, which already provide jobs for 5.4 million people and generate an annual total gross value added of around EUR 500 billion in Europe (excluding military activities). In all, 75 % of the EU's external trade and 37 % of its domestic trade is seaborne (per tonne-kilometre). This activity is concentrated mainly around Europe's coasts. In addition, some land-locked countries are developing very successful related activities, e.g. manufacture of marine equipment.

4.2 Based on value chains, growth prospects for the blue economy are considerable in gross value added and employment terms: by 2020, employment could increase to 7 million jobs and total annual gross value added to EUR 600 billion.

4.3 Trends and possible future development prospects are considered for each of the five Focus Areas derived from the Blue Growth study (see point 1.5 above), with an emphasis on innovation and new jobs. Specifically:

4.3.1 Coastal and maritime tourism, which is the largest sector in terms of gross value added and employment, accounts for 2.35 million jobs, which is 1.1 % of the total EU labour force, with over 90 % of the companies concerned employing fewer than 10 people. The sector is expected to grow by 2-3 % by 2020, while cruise tourism alone could create 100 000 new jobs between 2010 and 2020. The yachting sector is expected to grow by 2-3 % per year, according to the European Cruise Council⁽⁸⁾.

4.3.2 In 2011, offshore wind accounted for 10 % of installed capacity in Europe, employed 35 000 people directly and indirectly, and represented EUR 2.4 billion in annual investment and a total capacity of 3.8 GW. On the basis of Member States' National Renewable Energy Action Plans, by 2020 wind power is expected to produce 494.6 TWh, of which 133.3 TWh will be generated offshore. This translates into a probable 170 000 jobs by 2020 and 300 000 jobs by 2030. Early-stage sectors such as tidal energy, followed by wave energy (where quite a few Member States have already made substantial investments), offer promising prospects.

4.3.3 Global annual turnover of marine mineral mining can be expected to grow from virtually nothing to EUR 5 billion in the next 10 years and up to EUR 10 billion by 2030, based on estimates given by industrial stakeholders in the Blue Growth study. By 2020 and 2030, 5 % and 10 % respectively of the world's minerals, including cobalt, copper and zinc, could come from the ocean floors. Prices of many non-energy raw materials increased by about 15 % per year during the period 2000-2010, mainly owing to demand from emerging economies, according to WTO data (WTO PRESS/628, 7 April 2011). On the other

⁽⁵⁾ COM(2004) 343

⁽⁶⁾ OJ C 294, 25.11.2005, p. 21.

⁽⁷⁾ OJ C 43, 15.2.2012, p. 69.

⁽⁸⁾ COM(2012) 494 final.

hand, the exploitation or mining of minerals other than sand and gravel from the sea has only just started and is being developed in shallow water.

4.3.4 In 2010, total aquaculture production in the EU was less than 1.3 million tonnes, giving a turnover of EUR 3.2 billion and providing 80 000 jobs. Over 90 % of aquaculture businesses in the EU are SMEs. Globally, aquaculture is growing at a rate of 6.6 % per year: between 2002 and 2009 output grew from 40 to 53 million tonnes, making aquaculture the fastest-growing animal-food-producing sector (FAO 2010, "The State of World Fisheries and Aquaculture"). However, while global demand is increasing, European production remains static and demand for fish in the EU is met through imports, which account for 60-65 % of total supply. The EESC urges the Commission to review its funding policy for aquaculture, which involves switching from subsidies to direct payments for the period 2014-2020, so as to support development of the sector.

4.3.5 The nascent blue biotechnology sector currently employs only a small number of people in Europe and has an estimated gross value added of EUR 0.8 billion. In the very short term, the sector may develop into a niche market for high-value products for the health, cosmetic and industrial biomaterials sectors. By 2020, it could grow into a medium-sized market, expanding into the production of metabolites and primary compounds (lipids, sugars, polymers, proteins) as inputs for the food, feed and chemical industries. In the long term, subject to technological breakthroughs, biotechnology could develop into a provider of mass-market specialised products with high value added.

4.4 The EESC notes that the economic outlook for the five focus areas will depend on a range of conditions and that their growth potential is subject to complex technological, environmental, research, investment, competition and institutional challenges, many of which relate to the international dimension of the IMP or to international economic and other developments, e.g. the ability to obtain extraction licences in international waters and oil price fluctuations.

4.5 The rate at which blue growth is achieved will essentially be determined by the long-term context. A situation of sustainable and steady growth would provide better support, whereas fragile economic recovery combined with constraining international factors would hinder development.

4.6 However, the EESC notes that the communication does not seem to take sufficient account of the general and specific impact of the ongoing economic crisis, which is making it more difficult to address short- and long-term challenges at European and global level.

4.7 In inherently risky new markets, the competitiveness of European businesses depends on access to adequate financing in an environment that is conducive to investment under transparent conditions. Access to venture capital is of vital

importance to SMEs and attention must be paid to micro-businesses, which have the potential to become a lever for blue growth.

4.8 The EESC points to the particular importance of the blue economy for the Member States with Exclusive Economic Zones and to the need to develop maritime business clusters and boost their contribution to growth and employment.

4.9 Finally, the EESC believes that in order to avoid a gap between expectations and reality, the current difficult climate and generally unfavourable forecasts for the European and world economy must be seriously considered as part of a realistic approach to the need to further enhance blue growth.

5. Governance and issues relating to the regulatory framework

5.1 The communication contains references to existing policies and strategic investments of the Member States and the EU in the blue economy. However, the EESC feels that these initiatives and measures by the Member States do not measure up to the ambitious goals of blue growth and do not yet provide the necessary critical mass.

5.2 The EESC believes that building the necessary critical mass to make blue growth a lever for employment and entrepreneurship during a time of crisis requires effective governance structures.

5.3 It points out that developing functional governance mechanisms means addressing regulatory bottlenecks and administrative constraints, which were also pointed up during the consultative process.

5.4 Since new methods of using marine resources are being developed, it is important for the Member States to establish solid regulatory and planning systems that encourage long-term investment, cross-border cohesion and synergies through joint projects focused on innovation.

5.5 The EU lacks in particular a coherent policy for emerging sectors, such as marine biotechnology, and this must be rectified in good time, as European endeavours are fragmented and based on national rather than common European priorities, resulting in a competitive disadvantage.

5.6 It is consequently of vital importance in the EESC's view to address promptly the regulatory deficits and obstacles resulting from a complex and erratic legal framework characterised by regulatory uncertainty about the post-2020 period (offshore wind energy) or inadequate EU regulation for certain activities (use of seabed resources, offshore aquaculture and offshore wind energy).

5.7 The EESC notes in particular the need for a systematic effort to address key issues such as the lack of integrated maritime spatial planning, especially in relation to aquaculture and floating offshore wind, tortuous licensing/approval procedures (offshore wind, blue biotechnology), obstacles to setting up and financing experimental farms, as well as tensions, for instance, between maritime shipping and ocean renewable energy farms (production of tidal energy, ocean thermal energy conversion (OTEC) and wave energy).

6. Environmental dimension

6.1 The EESC urges recognition of the Marine Strategy Framework Directive (MSFD)⁽⁹⁾ as the basis for sustainable development, as this is the environmental pillar of the IMP and sets out a cohesive policy based on continuing the protection and preservation of the marine environment and preventing its deterioration.

6.2 The EESC believes it is right to include in the Limassol Declaration and future policy documents the objective of achieving or maintaining good environmental status of EU marine waters by 2020 and the precautionary principle as pillars of the IMP and blue growth.

6.3 To be sustainable, maritime activities that can provide employment require a long-term, coherent approach that aims to achieve a balance between economic growth and environmental challenges; this requires adequate support from local, national, international and EU policies based on the principles of sustainable development.

6.4 The EESC notes that although marine resources are significant, they are not inexhaustible, and points out that repeating the serious mistakes of overexploitation and overdevelopment that have characterised earlier development initiatives could undermine the sustainability of blue growth and place further stress on the environment.

6.5 While the communication recognises the environmental challenge, it seems to overlook the fact that over the past few decades Europe's seas and oceans have been deteriorating as a result of land, marine and atmospheric pollution, acidification of the oceans, overexploitation of resources, destructive fishing practices and climate change. Degradation of marine and coastline ecosystems and loss of biodiversity can be observed in the Baltic Sea, the Black Sea, the Mediterranean, the North-East Atlantic and the Arctic, according to recent studies on the limits to blue growth. (*Limits to Blue Growth*, 2012. http://www.seas-at-risk.org/news_n2.php?page=539). A recent pioneering study of the Stockholm Environment Institute (SEI) calculates that marine pollution – which is often ignored when policies are framed – will have serious long-term costs unless measures are taken to reduce greenhouse gas emissions (<http://www.sei-international.org/publications?pid=2064>).

6.6 Maritime economic activities that entail a high risk to sustainability are offshore oil and natural gas installations, aquaculture, coastal tourism and cruise tourism, carbon capture and storage, coastal shipping, as well as offshore extraction of fossil fuels, which is incompatible with any concept of sustainable development.

6.7 The scale and extent of the environmental impact are still unclear, especially in relation to blue renewable energy, marine mineral resources, aquaculture and blue biotechnology, while the available data do not explain the complex interdependencies at play in the oceans and deep seas.

6.8 The EESC believes that Maritime Spatial Planning (MSP) and Integrated Coastal Zone Management (ICZM), which are being promoted by the Commission as the main instruments for marine spatial and resource management, must be combined with other policy instruments (e.g. the Strategic Environmental Assessment, designation of protected areas, internalisation of environmental costs) in a management approach based on ecosystems and problem-free co-existence of the various intensive and competing types of activity.

6.9 The EESC recommends that the Commission be more vigilant regarding compliance with European environmental standards, and health and quality standards, especially for aquaculture products imported from outside the EU, so as to protect EU consumers and shield companies in the sector from any unfair competition.

7. Specific comments

7.1 The Committee notes that despite mentioning the importance of research in consolidating blue growth, especially for growth-stage and emerging sectors, the communication remains vague overall and its scope limited mainly to references to the forthcoming Horizon 2020 programme.

7.2 Europe is going through a period of public spending cuts, which means that the best possible results have to be achieved with limited means. The subsequent reduction in public funding for research, combined with lack of venture capital, is likely to undermine the vital role that SMEs play in the marine economy in developing new products and technologies.

7.3 The EESC points out that despite its strong knowledge base and research lead in new and traditional forms of energy and aquaculture, Europe lags behind in terms of actual innovations or commercialisation in new emerging sectors where European operators have so far been unable to compete against the innovative strength of other international players (as shown by the difference in the number of patents held compared with Asia and the USA in desalination, coastal protection, algae aquaculture and blue biotechnology).

⁽⁹⁾ OJ L 164, 25.6.2008, p. 19.

7.4 The EESC therefore recommends tackling as soon as possible the problem posed by the lack of targeted research and weak research profile, which are due in part to the broad mesh of research fields and activities relating to marine biotechnology and other new spheres.

7.5 The following measures could help to bridge the knowledge and technology transfer gap in all priority spheres: linking scientific research to industry and education; cooperation between industry and academia; improving the management of intellectual property; investing in demonstration programmes to establish commercial expedience; and securing large-scale public-private partnerships so as to create the necessary critical mass for blue growth.

7.6 The future of blue growth in the 21st century is closely linked to the potential for scientists to develop and take part in interdisciplinary programmes that integrate skills and ideas from different scientific fields. Training for the next generation of scientists must focus on interdisciplinary and comprehensive approaches so as to address the complex technological and competitive challenges inherent in research on marine organisms and the marine environment.

7.7 It is urgently necessary in the EESC's view to do something about the fragmentary nature of marine data,

which is scattered over hundreds of different bodies in Europe, making it difficult to access, use and aggregate. The Committee urges the Commission to work with the Member States to make this knowledge available and to determine the financial and other resources needed to create a favourable environment for pooling information, best practice and data with the aim of strengthening research and innovation and improving environmental protection.

7.8 The new digital seabed map of European waters must be interoperable and there should be no restrictions on its use; it must support research with data on the impact of human activities and with oceanographic forecasts so that the Member States can maximise the potential of their local marine observation, sampling and surveying programmes.

7.9 Protecting Europe's sea borders and effective marine surveillance⁽¹⁰⁾ present a challenge for the Member States when it comes to successfully promoting blue growth. Stepping up checks at the external Schengen borders and putting in place an information-sharing system will enable Member States' border control authorities to reduce deaths at sea and combat phenomena such as illegal immigration into the EU and maritime piracy⁽¹¹⁾.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

⁽¹⁰⁾ OJ C 44, 11.2.2011, p. 173.

⁽¹¹⁾ OJ C 76, 14.3.2013, p. 15.

Opinion of the European Economic and Social Committee on the 'Proposal for a directive of the European Parliament and of the Council on marine equipment and repealing Directive 96/98/EC'

COM(2012) 772 final — 2012/0358 (COD)

(2013/C 161/18)

Rapporteur: **Dr BREDIMA**

On 15 January 2013, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 100(2) and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a directive of the European Parliament and of the Council on marine equipment and repealing Directive 96/98/EC

COM(2012) 772 final — 2012/0358 (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 27 February 2013.

At its 488th plenary session, held on 20 and 21 March 2013 (meeting of 20 March), the European Economic and Social Committee adopted the following opinion by 113 votes to 1 with 1 abstention.

1. Conclusions

1.1 The Committee welcomes the Commission proposal for a new Directive on marine equipment (the "MED") and endorses its overarching purposes. The proposal ensures the harmonised implementation of the International Maritime Organization (IMO) standards on such equipment and guarantees the proper functioning of the internal market for marine equipment, thereby enhancing maritime safety and pollution prevention.

1.2 The EESC fully subscribes to the approach of the Directive that a) requires conformity of marine equipment to be placed on board EU flag ships with the standards of the IMO instruments; b) brings under its scope any other equipment that may fall within the scope of instruments of EU law; c) provides for mutual recognition of compliant equipment and acceptance of equivalent equipment; d) ensures the free movement of marine equipment within the EU and the elimination of technical barriers to trade within the internal market; and e) introduces a mechanism that simplifies and clarifies the transposition of amendments to IMO standards into the European and national legal frameworks.

1.3 The EESC believes that IMO develops standards and testing procedures for marine equipment well before its mandatory installation on board ships. The collective action of Member States to the IMO process will ensure that the objectives of the Directive are observed, without the need to resort to EU unilateral interim standards for equipment that eventually may not meet the IMO standards and may need to be replaced or "grandfathered". The persistence of regional standards based on a differing application of IMO standards may impair the competitiveness of the EU fleet and may lower safety and environmental protection levels.

1.4 The EESC believes that more clarity is needed regarding the scope and application of certain provisions of the Directive in connection with requirements regarding mutual recognition and acceptance of equipment, as contained in Regulation 613/91/EEC on the transfer of ships from one register to another within the Community, in Regulation on common rules and standards for ship inspection and survey organisations' and in the Agreement of 2004 on the mutual recognition of certificates of conformity for marine equipment between the United States of America and the EU.

2. The Commission proposal

2.1 The European Commission has identified four areas where Directive 96/98/EC on marine equipment does not fully meet its objectives. Stakeholders affected include European marine equipment manufacturers, including SMEs, shipyards, ship passengers, crews, and public administrations. The Commission sets out specific proposals to rectify its shortcomings and repeal it. The benefits of the proposed new Directive will be twofold: it will significantly improve the implementation of IMO standards within the EU, reduce safety risks and facilitate the smooth functioning of the internal market for marine equipment, by shortening and simplifying the procedures for transposition of amendments to those standards. In parallel, the Directive will simplify the regulatory environment and give a boost for the EU marine equipment industry.

3. General comments

3.1 The marine equipment industry is a high added value, leader industry and net exporter sector with high levels of investment in R&D, 5 000–6 000 companies and 300 000 jobs. The proposed Directive will mean improved safety for EU ships and crews and a boost for the marine equipment industry with the creation of jobs and growth.

3.2 Marine equipment refers to any equipment on board a ship which may be supplied in the process of shipbuilding or retrofitted on ships later. It also covers offshore activities and includes a wide range of products from navigational equipment, cargo equipment to firefighting and lifesaving equipment as well as specialised equipment for environmental purposes: e.g. ballast water management equipment or scrubbers for SO_x emissions. The value of marine equipment constitutes 40-80 % of the value of new ships. The proposal will reduce costs for business and strengthen the competitiveness of the EU industry.

3.3 The EESC recalls its opinion on the proposal for Directive 96/98/EC⁽¹⁾ on marine equipment which strongly supported the same underlying objectives of the present proposal.

3.4 The EESC fully subscribes to the approach of the proposed Directive and supports its objectives, which will strengthen the existing regulatory regime, and most importantly will facilitate the timely transposition of amendments to IMO standards into EU law.

3.5 The EESC appreciates the priority given to the international regulations of maritime safety, consistent with the global nature of shipping. The provisions empowering the Commission to adopt implementing acts for updating the EU legislation and to adopt common criteria and procedures for the application of these requirements and standards and to publish relevant information will further the objectives of the Directive.

4. Specific comments

4.1 Article 2 – Definitions

The EESC agrees with the inclusion in the list of international conventions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments (2004) that is expected to enter into force in the near future. It suggests the deletion from the list of the International Convention on Load Lines (1966) as there is no provision for equipment under it.

4.2 Article 3 – Scope

4.2.1 For the sake of legal clarity it would be appropriate to explicitly clarify that the Directive shall not apply to equipment which on the date of the entry into force of this Directive has already been placed on board a ship.

4.2.2 The EESC understands that the very helpful provision of paragraph 2 that marine equipment will be subject only to the new Directive refers to conformity aspects. It should be clarified whether this clear-cut statement also covers aspects of mutual recognition and acceptance of equipment under Regulation 613/91/EEC on the transfer of ships from one

register to another within the Community and under Regulation 391/2009/EC on common rules and standards for ship inspection and survey organisations.

4.3 Article 4 – Requirements for marine equipment

The provision for the automatic application of IMO Conventions and other instruments in their up-to-date version does not any more necessitate amendments to the Directive and the inclusion of lists with equipment as currently exist in Annexes A.I and A.II

4.4 Article 5 – Application

In order to avoid any misinterpretation of the expression "international instruments which are applicable to equipment already placed on board" it should be made clear that it refers to the requirements in force at the time of installation, unless requirements subsequently adopted by the IMO apply to equipment already placed on board ships.

4.5 Article 6 – Functioning of the internal market

This article provides the basis for the free movement of marine equipment within the EU, based on the concept of mutual recognition between Member States of equipment complying with the requirements laid down in the Directive. The article also refers to placing on board an EU ship of marine equipment, presumably also outside the EU. However, this concept may be weakened through the application of Articles 7.2 (referring to the replacement of non-equivalent equipment), Article 32.6 (giving the right to receiving states to repeat tests of innovative equipment), and Article 34.4 (opening the possibility of not accepting the replaced equivalent equipment outside EU).

4.6 Article 7 – Transfer of a ship to the register of a Member State

Paragraph 2 stipulates that if the equipment is not considered by the Administration to be equivalent, it shall be replaced. The EESC wonders whether in such cases – and taking into account IMO regulations on mutual acceptance of certificates – it would be reasonable for the receiving States to follow the procedure of Article 5 of Regulation 613/1991 (which requires prior notification to the Commission in cases of transfer of flags between member States).

4.7 Article 8 – Standards for marine equipment

The EESC wonders whether the EU and not its Member States should pursue the development of the IMO international standards. In any case, IMO develops standards and testing procedures for marine equipment well before its mandatory installation on board ships. The collective action of Member States to the IMO process will ensure that the objectives of the Directive are observed, without the need to resort to EU unilateral interim standards for equipment that eventually may not meet the IMO standards and may need to be replaced or "grandfathered".

⁽¹⁾ EESC opinion on the *Proposal for a Council Directive on marine equipment*, OJ C 97, 1.4.1996, p. 22; EESC opinion on *Transfer/ships register*, OJ C 80, 30.3.2004, pp. 88-91.

4.8 Articles 9 to 11 – *The wheel mark*

Approved marine equipment installed on board a ship will be able to circulate freely in all Member States because it will bear a Community mark – the wheel mark – demonstrating its compliance with the IMO/MED requirements. The EESC supports the possibility to supplement or replace the wheel mark with electronic tags which facilitate the inspection of ships calling at EU ports and helps combating counterfeiting.

4.9 Article 26 – *Coordination of notified bodies*

The EESC endorses the proposal for the establishment by "notified bodies" of a cooperative group, that may mirror the International Association of Classification Societies with its EU recognised organisations performing also the task of notified bodies.

Brussels, 20 March 2013.

The President
of the European Economic and Social Committee
Staffan NILSSON

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