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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

494TH PLENARY SESSION OF THE EESC ON 10 AND 11 DECEMBER 2013

Opinion of the European Economic and Social Committee on Towards an EU Macro-Regional Strategy to develop economic, social and territorial cohesion in the Mediterranean (own-initiative opinion)

(2014/C 170/01)

Rapporteur: **Mr MALLIA**Co-rapporteur: **Mr PALMIERI**

On 14 February 2013 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

Towards an EU Macro-Regional Strategy to develop economic, social and territorial cohesion in the Mediterranean.

The Section for Economic and Monetary Union Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 14 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 121 votes to 2 with 1 abstention.

Glossary

Acronym	
MMR	Mediterranean Macro Region
MMRS	Mediterranean Macro Regional Strategy
MCR	Mediterranean Coastal Region
EMMRF	Euro-Mediterranean Macro Regional Forum

1. Conclusions and recommendations

1.1 The EESC believes that the Mediterranean Region needs a Macro-Regional Strategy (EU MMRS) to help the regions face challenges that cannot be satisfactorily resolved by single regions or countries through the usual means. Such a strategy would help the regions concerned to address the causes of uncertainty that dominate the Mediterranean region by increasing the value-added of the positive achievements of the initiatives already launched and the Europe 2020 goals. The success of the MMRS will also have a positive effect on the EU as a whole.

1.2 The EU Mediterranean Coastal Regions (EU MCRs) are ideally suited to form a cooperation platform which could become strategically relevant in strengthening economic, social and political links between them and with those of Mediterranean non-Member Countries on specific topics (immigration, maritime transports, maritime safety, environmental protection, etc.). The MCRs have the potential of catalysing the process of economic growth and transformation in uniquely novel ways.

1.3 In view of the vastness of the area the EESC further proposes that the EU MMRS should be subdivided into three sub macro-regions identified on a geographical basis (regional proximity) and rendered operational through action plans based on a functional approach to address common challenges.

1.4 The EESC favours an EU MMRS based on the 'three yeses rule' (more complementary funding, more institutional coordination and more new projects) which strengthens synergies between different EU policies and coordinates the efforts of a wide range of stakeholders within the EU MCRs.

1.5 The EESC endorses the development of an EU MMRS — which incorporates all the goals of the EU 2020 strategy particularly those priorities defined as *Smart growth* (fostering a knowledge based economy supporting 'innovation' and new technologies), *Sustainable growth* (promoting a sustainable, greener and more competitive economy), *Inclusive growth* (promoting an economy with a strong emphasis on job creation and poverty reduction to support social and territorial cohesion).

1.6 The EESC identifies five *Drivers of change* which can contribute to the successful implementation of the European cohesion policies 2014-2020 in the Mediterranean area:

- promoting polycentric, balanced and integrated development;
- supporting territorial cooperation in the EU MCRs;
- ensuring the global competitiveness of the MCRs based on strong local economies;
- improving territorial connectivity for individuals, communities and enterprises;
- managing and connecting ecological, landscape and cultural values.

1.7 The EESC draws attention to the considerable importance of supporting the *Blue Growth* strategy, which has the potential of enhancing competitiveness in the Mediterranean area, facilitating the implementation of greener policies and the shift towards a low-carbon economy in all sectors. The Committee also endorses the principle of an EU MMRS, which also takes into account the *European disability strategy* ⁽¹⁾ and the *Strategy for equality between women and men* ⁽²⁾. These three strategies should be mutually reinforcing during the implementation process.

1.8 The EESC welcomes the European Commission's proposal for the Mediterranean in the context of the Integrated Maritime Policy. However, it wishes to propose a more ambitious approach consisting of a macro-regional strategy that incorporates the territorial and maritime pillars, taking account of the experiences in the Baltic and Danube regions as well as the European Parliament report on the evolution of EU macro-regional strategies in the Mediterranean and the European Commission report concerning the added value of macro-regional strategies.

1.9 The EESC notes that the governance structure of the EU MMRS should be based on a multilevel approach involving regional, national and European institutions and should not be seen as an additional activity or effort of the said institutions.

⁽¹⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*, COM(2010) 636 final.

⁽²⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strategy for equality*, COM(2010) 491 final.

1.10 The EESC believes that the fundamental principle of the implementation of the EU MMRS is the integrated approach which should firstly be defined by setting up round tables and subsequently strengthened by the establishment of a Euro-Mediterranean Macro Regional Forum (EMMRF) to promote the full involvement of all institutional actors and civil society (stakeholders) and to combine existing policies with functional objectives in order to shape a common and shared policy. The proposed EMMRF will harness the experience gained in drawing up, monitoring and assessing Mediterranean territorial and maritime affairs. The EMMRF shall become the macro-regional tool that establishes common strategic lines of action and shall take an active role in the identification of the priority projects for territorial cohesion in the Mediterranean regions.

1.11 In view of the support of the EESC and the Committee of the Regions for a strategy to develop cohesion in the Mediterranean, the EESC believes that it is strategically appropriate for these two institutions to host and provide leadership of the Mediterranean Macro Regional Forum. This will be achieved through the setting up of a leadership group consisting of the European Parliament, the Commission, the EESC and the CoR. This leadership group will provide systematic support during the design process of the strategy and future coordination.

1.12 The EESC endorses the view that the strategy is not to be considered as just a document. Above all it must be a process. This means that the strategy is to be implemented over time. The EESC hopes that the positive lessons learned from the implementation of Macro-regional Strategies in the Baltic and the Danube will be applied to the Mediterranean Region thus contributing to an effective and timely implementation of the new Mediterranean macro-regional strategy to bring concrete benefits to the citizens of the affected regions within a reasonable timeframe.

2. An EU Macro-Regional Strategy for the Mediterranean

2.1 It is important to establish a common definition of what constitutes a macro-region. Mostly, a macro-region is defined as 'an area including territory from a number of different countries or regions associated with one or more common features or challenges (...) of a geographical, cultural, economic or other nature' ⁽³⁾.

2.1.1 The Commission has established the framework of an MRS which encompasses the following three elements:

- 1) an integrated framework relating to Member States and third countries in the same geographical area;
- 2) addresses common challenges;
- 3) benefits from strengthened cooperation for economic, social and territorial cohesion.

2.2 Presently two MRS have been adopted by the EU, one for the Baltic Sea Region which was approved in 2009 and another for the Danube Region which was approved in 2011. An Adriatic — Ionian macro-regional strategy originally proposed by the Committee of the Regions (COR) in 2011 ⁽⁴⁾ is in the process of being approved while an Atlantic strategy based on a sea basin approach has already been approved.

2.2.1 The debate on MRS should be understood in relation to various developments in the EU policy framework: with the Lisbon Treaty, territorial cohesion has become a central objective of EU policy; with the Europe 2020 Strategy territorial governance is the key factor to support the achievement of the EU cohesion policy goals for the next programming period (Multiannual Financial Framework 2014-2020).

2.2.2 In 2012, the Commission published a communication in which it assessed the needs and potential of sea-related activities in the Adriatic and Ionian area, setting out a framework plan 'to move towards a coherent maritime strategy and corresponding Action Plan by 2013', adding that 'should the EU Member States decide to ask the Commission to prepare an EU Strategy for the Adriatic and Ionian region, this maritime strategy might constitute the first component of such an EU MRS covering additional fields' ⁽⁵⁾.

⁽³⁾ *Macro-regional strategies in the EU*, Discussion Paper presented by Commissioner Pawel Samecki in Stockholm (16.9.2009): http://ec.europa.eu/regional_policy/archive/cooperation/baltic/pdf/macoregional_strategies_2009.pdf.

⁽⁴⁾ Own-initiative opinion of the Committee of the Regions on *Territorial cooperation in the Mediterranean through the Adriatic-Ionian macro-region*, OJ C 9, 11.1.2012, p. 8.

⁽⁵⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social committee and the Committee of the Regions *A Maritime Strategy for the Adriatic and Ionian Seas*, COM(2012) 713 final, Brussels, 30.11.2012.

2.3 Given that the macro-regional approach is increasingly featuring in EU policy, the EESC feels that the term 'macro-region' itself needs a clearer definition. Furthermore the EESC — in line with the previous opinions ⁽⁶⁾ — supports this important political strategy as well as the European Parliament resolution on macro-regional perspectives in the Mediterranean Basin ⁽⁷⁾.

2.3.1 Two main objectives of macro-regional strategies are distinguished: the first deals with problems that cannot be satisfactorily addressed by regions or countries acting alone (for example environmental challenges); the second deals with cooperation which is beneficial to the regions and countries involved. This classification reflects the distinction between a transnational issue and a common issue (used in the debate on transnationality and subsidiarity of EU funding). The geographical, socio-economic and administrative features of the Mediterranean strongly indicate the first category of objectives as being the most relevant for the MRS.

2.4 The Mediterranean basin shares similar environmental, historic and cultural characteristics and for these reasons it could be considered as a single macro-region ⁽⁸⁾. The EESC is of the view that one single macro-regional strategy has to be implemented in the Mediterranean Basin between the 149 (including 7 from Croatia) EU Mediterranean Coastal Regions (MCRs) of Spain, France, Croatia, Italy, Malta, Slovenia, Greece and Cyprus defined at NUTS 3 ⁽⁹⁾.

2.5 In 2009 the active population resident in the EU MCR was 32,4 million people, of these approximately 41% women. On average this population is at a greater risk of unemployment with an average rate of unemployment in the EU MCR around 12,9% in 2009 (8,9% for the EU). In 2007, the gross domestic product (GDP) of the EU MCR was 1 715 billion PPS (purchasing power standard) or 13,9% of the EU's GDP. The average GDP per capita — in these regions — was 23 000 PPS per capita, lower than in the EU (24 000 PPS per capita) ⁽¹⁰⁾.

2.5.1 Given the extent of the area, the EESC is therefore of the view that the EU Mediterranean Macro-Region (EU MMR) should be subdivided into at least three sub macro-regions. Recent consultations carried out by the European Parliament (EP) on the evolution of macro-regions showed a point of view leaning towards retaining the option of three distinct Sub Macro-Regions (SMR): (i) one in the western Mediterranean, (ii) another in the central Mediterranean — implementing the Adriatic-Ionian macro-region — and (iii) the third in the eastern Mediterranean, with specific action plans coordinated with each other.

2.5.2 With regard to the sub macro-region for the central Mediterranean, and in line with the opinions of the European Parliament and the geographical distribution established by Eurostat, the EESC considers it essential to involve Sicily and Malta in the Adriatic-Ionian macro-region. More importantly, countries and regions situated on the imaginary borders of the sub-macro-regions should also be able to participate in more than one sub-macro region in order to ensure better coordination and to eliminate wasteful duplication and conflicts.

⁽⁶⁾ EESC exploratory opinion for the Cyprus Presidency on *A Macro-Regional Strategy in the Mediterranean*, OJ C 44, 15.2.2013, p. 1, EESC opinion on *Developing a Maritime Strategy for the Atlantic Ocean Area*, OJ C 229, 31.7.2012, p. 24.

⁽⁷⁾ Motion for a European Parliament Resolution on *The evolution of EU macro-regional strategies: present practice and future prospects, especially in the Mediterranean* — 2011/2179(INI), 27.6.2012.

⁽⁸⁾ 'The Mediterranean Sea area comprises all the Marine waters bounded to the west by the Strait of Gibraltar and to the East by the Marmara Sea, Marmara Sea excluded. 142 EU coastal regions border the Mediterranean Sea (NUTS3)'. EUROSTAT, 2011, Statistics in focus, *The Mediterranean and Black Sea basins*.

⁽⁹⁾ An EU coastal region is a statistical region defined at NUTS3 level, responding to one of the following criteria:
— Region with a sea border (372 correspond to this criterion);
— Region with more than half of its population within 50 km of the sea (73 regions correspond to this criterion);
— Hamburg, a German region, which does not correspond to the definition criteria, has been added to the EU coastal regions list, taking into account its strong maritime influence.
Source: EUROSTAT, 2011, Op.cit.

⁽¹⁰⁾ With the entry of Croatia the 7 Croatian MCR show 527 700 people belong active populations (44,7% female), the unemployment rate is at 17,8% and the average GDP is 20 785 PPS (Eurostat 2013). For the others countries: Eurostat, 2011, Op.cit.

3. What are the pre-conditions in place?

3.1 The Mediterranean as a whole has suffered from an on-off approach by the European Union with various initiatives and instruments being launched over the years. These initiatives have led to some positive achievements but they have failed to fully address the social, political and economic development goals that were initially set out. It is now time to complement what the EU is doing via the Union for the Mediterranean and its Neighbourhood Policy, as part of its external policies by launching a more integrated policy for its own Mediterranean regions.

3.1.1 Clear and shared strategies for the region as a whole as well as the sub-regions accompanied by the relevant action plan could help resolve some of the regional policy uncertainties which have arisen from the policy failures associated with the EU external policies in the region such as the Union for the Mediterranean and the EU Neighbourhood Policy. Such clear strategies can also help to incorporate and rescue some of the positive achievements and on-going projects of existing external EU policies.

3.2 The EESC favours a macro-regional approach, which strengthens synergies between different EU policies and coordinates the efforts of a wide range of stakeholders located within the EU MCR. Generally speaking a MRS should aim to provide value-added to actions already taking place within a macro-region to coordinate European, national and regional funds in the pursuit of shared objectives and targets, to create a sense of common achievement among the protagonists involved and to bring together organisations and authorities at any level around some key opportunities and challenges. More concretely, in this very particular period of huge fiscal constraints which are strongly impinging upon the private sector's ability to restart the economic motor, there is a vital need to achieve the strongest degree possible of Pareto efficiency in the use of available resources.

3.3 The current economic situation triggered by the 2008 global financial crisis calls for an on-going effort to encourage new growth areas that could help pull countries out of the economic crises and enable them to create much needed jobs. The coastal areas of the EU in southern Europe have the potential to become innovative centres of dynamic growth by exploiting their unique characteristics.

3.3.1 However this will require an unprecedented effort to coordinate all the work that is being carried out by key stakeholders in the region with the aim of achieving closer integration between the areas in question with the social partners and civil society playing a major role.

3.3.2 It is our view that there already exists a plethora of instruments and policies that could contribute in a significant manner towards the implementation of a MRS. Reference is made here to projects funded from the European Regional Development Fund (ERDF) and the European Social Fund (ESF), the so-called Structural Funds and funds disseminated under the Convergence Objective, Regional Competitiveness and Employment Objective, European Territorial Cooperation Objective, programmes to develop transport and territorial cohesion (earmarked for Europe 2020), particularly those with a specific maritime thrust such as the European Maritime and Fisheries Fund, the Connecting Europe Facility as well as European Investment Bank (EIB) and national funding.

3.3.2.1 In this regard it is pertinent to point out that all EU Member States (and more specifically the 163 regions within the Mediterranean) are currently drafting their individual Partnership Agreements which will set out how each Member State will make use of the CSF funds. Whilst admittedly there is an element of territorial cooperation within such Agreements the EESC feels that an opportunity for more coordination between countries and regions within the Mediterranean is being missed.

3.3.2.2 However, the EESC insists on interim arrangements to favour the implementation of a MRS and by the time of the mid-term review of the Partnership Agreements being concluded with the EU member states, such measures should be fully in place.

3.3.3 To ensure that these instruments are focused upon and optimised, there is a need for multilevel coordination between the institution(s) involved, to lead the process and to ensure that resources are used to the fullest and duplication is avoided. Inter-regional coordination has now become essential and urgent particularly since more needs to be achieved with the same level (or less) of funding. Hence the proper and effective instruments must be set up to ensure coordination and effectiveness.

3.3.3.1 In a competitive globalised world the 163 regions have to be able to compete with close and distant competitors, in view of which the need for leadership and timely decisions is paramount.

3.3.4 The peripheral and maritime regions that are members of the Conference of Peripheral and Maritime Regions (CPMR) and the CoR have repeatedly urged the European Commission to introduce a Territorial Pact so that the EU2020 strategy can be better taken on board by all economic groups in Europe's regions ⁽¹¹⁾.

3.4 What is required is the combination of salient policies with decentralised decision-making which would help ensure that resources are coordinated in such a manner as to be used where they are most likely to have maximum impact in terms of growth and jobs.

3.4.1 Only a well-thought out strategy that is kept simple and which is based on the broadest consensus possible can help to illuminate the paths and choices that confront the regions, towns, cities and ports of the EU MCRs.

3.4.2 It is also important to design a method of measuring policy effectiveness within the Mediterranean macro-region so that timely corrective action can be taken. In the past, the lack of a yardstick by which to accurately measure policy success/failure, coupled with the lack of coordination, duplication of effort and wastage, and a lack of accountability, prevented timely corrective action which ultimately magnified policy failures.

3.4.3 The strategy must be accompanied by an Action Plan which clearly identifies the projects which would mostly be chosen for their cross-regional impact and importance for economic growth, as well as the sources of finance to be mobilised for their implementation. This is essential and should preferably be completed within the first two years after launching the 2014-2020 MFF.

3.4.4 It is extremely important to reduce the bureaucratic demands of reporting and form filling on stakeholders and operators. NGOs, SMEs and regional authorities, particularly those of the smaller regions, are often discouraged from participating by the lack of capacity and the daunting task of keeping up with all the bureaucratic procedures. Whilst recognising the need for checks and balances it is crucial that project beneficiaries are able to dedicate their time and resources to delivering actual benefits to society and the economy at large.

3.4.5 The EESC believes that a failure to deliver on the Action Plans will prevent the regions from capitalising on an opportunity for growth creation. The opportunity cost of such a failure will be extremely high particularly in these times of crisis. The EESC firmly believes that through innovative collaboration there are significant efficiency gains that can be achieved in the utilisation of resources to achieve stronger growth. The risks of failure are also ominous for regional political leaders and their citizens. Growth prospects are not very good for the next two years for most of the regions involved and this drawback will be further compounded if the regions embark on paths that ignore the opportunities provided by an MRS and fail to use the regions' human and natural resources in an effective and sustainable manner ⁽¹²⁾.

3.4.6 The point of departure of this strategy should be to map out the main objectives and identify existing EU, national and regional programmes, as well as regional and local authorities and associations of civil society that can supply the required coordinating effort. There are several EU-funded projects within the EU MRS which, if properly coordinated, could magnify the value-added which they produce. These kinds of projects which are already in existence, at least on paper, and new ones which will no doubt be launched in the future, can be useful in achieving some of the aims of the EU MRS.

4. What should be the scope?

4.1 The main scope is to encourage the definition of a multi-level MMR accompanied by an MRS, in which activities are implemented by specific action plans based on the 'three yeses rule': more complementary funding, more institutional coordination and more new projects.

⁽¹¹⁾ Marseille, 27 November 2009, CPMR Seminar on *Leading Europe out of the Crisis: initial proposals from the Regions on the future of the EU budget and policies*. In the first Resolution (CdR 199/2010), the Committee of the Regions proposes to strongly support the proposal launched by the European Parliament to establish a 'Territorial pact of Regional and Local Authorities on the Europe 2020 strategy'.

⁽¹²⁾ *Scenarios for the Mediterranean* — World Economic Forum 2011.

4.2 The Mediterranean regions need a common commitment to work together with the strategy at all levels of action which will make it possible to capitalise on the Europe 2020 goals thus promoting integration between the EU's policies and funds (territorial cooperation). The MRS should be implemented in order to assist regions and territories to face challenges that cannot be resolved through national means alone.

4.3 The EESC is of the opinion that the development of an MRS for the Mediterranean should be based on three growth pillars:

— Smart growth (with a particular emphasis on Blue Growth)

Fostering a knowledge-based economy supporting innovation and new technologies;

— Sustainable growth

Promoting a sustainable, greener and more competitive economy;

— Inclusive growth

Promoting an economy with a strong emphasis on job creation and poverty reduction to support social and territorial cohesion.

4.3.1 *Smart growth* will be supported by taking into account the concept of *Blue growth*. On 13 September 2012, the European Commission published a Communication on Blue Growth in which it singled out five 'value chains' which have the potential to deliver sustainable growth and jobs in the blue economy. These are: blue energy, aquaculture, maritime, coastal and cruise tourism, marine mineral resources and blue biotechnology⁽¹³⁾.

4.3.1.1 *Blue growth* reflects the choices that have been made by maritime regions to enhance their competitiveness and economic growth by utilising their geographic position and particularities, namely marine and maritime activities — in short focusing on what they can do best.

4.3.1.2 The *Smart growth* challenge for the coastal regions of the EU MMR is twofold:

— that of creating enough economic activity, that will ultimately help lead Europe out of the current economic and social crises;

— that of undertaking the necessary investment in key infrastructure particularly ports, airports, railways, transport hubs and other facilities that will ensure that the EU MMR will be in a position to fully participate in the recovery once it begins.

4.3.1.3 The sustainable use of Mediterranean resources offers the opportunity to create wealth and jobs. Research into advanced environmental systems and technologies should be developed to support the traditional Mediterranean activities which are in decline, thus opening up new opportunities.

4.3.1.4 These challenges require the involvement of the scientific, technological and economic communities together with the social partners. Account should be taken of support activities in fields such as infrastructure, industry, training, R&D investment policies, cooperation between universities, and the creation of clusters.

4.3.1.5 The nautical sector is very strong and contributes to development strategies. Nautical tourism generates economic activity and jobs and also helps develop the Euro-Mediterranean identity.

4.3.2 The main thrusts of *Sustainable growth* and the sectors involved are all interconnected in many ways. The achievement of sustainability and the implementation of greener policies as well as the shift towards a low-carbon economy in all sectors contribute towards the achievement of climate change targets and climate change adaptation. Resources need to be used efficiently, synergies need to be strengthened, waste and duplication of effort need to be identified and discouraged. The key infrastructures including those of land and marine transport, energy transmission and IT networks need to be constantly upgraded to ensure that no stifling bottlenecks develop.

⁽¹³⁾ 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, Brussels, 13 September 2012.

4.3.2.1 Coastal and marine sustainability are interlinked and both are susceptible to pressure from human activity, including land pollution that eventually flows into the Mediterranean and CO₂ emissions from vessels⁽¹⁴⁾. Integrated management of coastal areas should not be restricted solely to coastal economic activity and pollution. Every incentive must be provided to encourage the maritime sector and ships plying the Mediterranean to switch to the most modern forms of 'green' technologies.

4.3.2.2 The European Union and eight of its member states are parties to the 1975 Barcelona Convention for the Protection of the Mediterranean Sea against pollution and its protocols concluded under the auspices of UNEP. By a Council Act approved at the end of 2012, the EU became party to the Offshore Protocol of this Convention to protect Mediterranean coastal areas from pollution generated by offshore activity. The EU Mediterranean regions stand to gain considerably from this Convention and should give it a lot of attention also within the context of their objective of achieving 'blue growth'.

4.3.2.3 The Mediterranean's renewable energy potential offers a massive source of clean power which remains untapped. In line with the Europe 2020 targets, measures for adaptation and prevention of climate change should be included in the EU MRS.

4.3.2.4 The EU MRS needs actions on sustainable transport to reduce carbon dioxide emissions. Road transport traffic should be transferred to maritime transport⁽¹⁵⁾. On the other hand maritime transport needs to continue on its path towards the use of cleaner fuel. Maritime safety and cooperation in disaster prevention and response should be included.

4.3.3 The EU MRS should include a strong social dimension to support *Inclusive growth* in the EU MCRs. Economic development and the creation of new jobs should make it easier for the inhabitants of regions to enjoy a better quality of life. The regional authorities should promote social dialogue and the involvement of social and civil society partners. Based on an integrated approach to territorial cohesion, account should be taken of the 'inclusive' situation of cities and metropolitan areas, rural areas, small coastal towns and islands. The infrastructure, technologies and services' accessibility to persons with disabilities should be interlinked to sustainable development as a basic prerequisite of Inclusive Growth.

4.3.3.1 Information technologies have to be developed, particularly in the peripheral areas through better connectivity, to support overall territorial and social cohesion of the Mediterranean regions through a cross-thematic approach. The development of ICT should be fostered.

4.3.3.2 It is also important to emphasise the need of developing further airports and air services in the MMR in order to strengthen regional economic integration. Air services and air transport infrastructure still have a lot of untapped potential and are in need of more investment.

4.3.3.3 The educational and training institutions have a key role in supporting *Inclusive growth* in the Mediterranean area. Common EU MMR-wide educational objectives need to be identified.

4.3.3.4 The EESC feels that the dialogue between social and civil partners and educational/training institutions needs to be strengthened. priority must be attached to training in maritime and nautical subjects, and cooperation between universities and training centres.

4.3.3.5 The EU MCR's unemployed need also to be heard in the formulation of a future strategy that seeks to provide them with the opportunities to re-enter the labour market. It is also vital that real, tangible efforts are made to involve leaders of 'excluded' social groups such as migrant communities, persons with disabilities and women's organisations. The EESC fully supports EU policies aimed at preventing discrimination on grounds of racial or ethnic origin, disability, age, sexual orientation or gender.

⁽¹⁴⁾ COM(2013) 480 final — 2013/0224 (COD).

⁽¹⁵⁾ Ibidem.

4.3.3.6 Considering the European perspectives for demographic ageing, a specific action to support healthy and active ageing in the EU MCRs should be included. The Mediterranean regions also need to launch a viable long-term plan of controlled immigration and seasonal workers to fill the gaps left by ageing populations and address the widening dependency ratio. The EESC is in favour of more strenuous efforts on the part of the EU to help the Mediterranean regions cope with the challenge of migration and to integrate migrants in society.

4.3.3.7 The EESC believes it is essential to develop the EU MMRS taking into account the European priorities aimed at improving social inclusion, well-being and full respect for the rights of disabled people, as well as to promote gender equality in the Mediterranean area. Therefore it is pivotal to secure individual autonomy, dignity and freedom of the disabled and to empower the role of women in the Mediterranean labour market, in society and in decision-making positions.

5. What benefits can be expected?

5.1 The implementation of a Mediterranean MRS offers many opportunities, principally by providing a reference framework relevant to cohesion policy and encouraging inter-sectorial cooperation in a common area of services labour. This framework can steer investment towards more complementarity and can influence the respective priorities of each regional development plan for a European macro-region, ensuring an overview and genuine synergies within an integrated approach.

5.2 An EU MRS would ensure greater involvement and better cooperation between the EU's various intervention mechanisms, going beyond the appropriations allocated to cohesion policy, pooling the resources of regions and Member States through multilevel governance. This represents a 'win-win' strategy for all local stakeholders.

5.3 The benefits of the Mediterranean MRS derive, to a large extent, from its highly comprehensive and multilevel integrative approach, which is capable of promoting synergies between EU policies and programmes, as well as funding complementarities.

5.4 The implementation of the Mediterranean MRS will foster the realisation of strategic activities in the coastal and insular zones, as well as increase cooperation between Mediterranean administrations, regions, cities, ports and, where the need arises, between national authorities.

5.5 Activities linked to the Integrated Maritime Policy and to *Blue growth* will be pursued, stressing the interdependencies and synergies that exist between activities seemingly unconnected to the maritime sector.

5.6 The proposed actions will address the three growth pillars previously identified. In choosing the proposed actions, each must satisfy the following criteria:

- they must have an impact on the macro-region and bring concrete benefits to the citizens of the EU MMR within a reasonable timeframe;
- they must be coherent with the principle of sustainable development and thus be aimed at creating economic growth whilst minimising the environmental negatives;
- they can be executed in the short to medium term (maximum 7 years);
- they are likely to attract private sector funding which would complement public (EU and government) funding.

6. The Drivers of change

6.1 The EESC believes that the challenges for social and economic development in the Mediterranean area need common and joint efforts to handle and utilise the territorial potentials. The EESC identifies five *Drivers of change* which can contribute to the successful implementation of the European cohesion policies 2014-2020 in the EU MCR.

6.1.1 *Promoting polycentric, balanced and integrated development*

Balanced territorial development is strategic to support social and economic cohesion in the EU MCRs. The EU MCRs have to cooperate in creating innovative networks in order to reduce the territorial polarisation of economic performance, regional disparities and gear economic prosperity towards the sustainable development of the Mediterranean area.

6.1.2 *Supporting territorial cooperation in the EU MCRs*

Territorial cooperation is an important factor in strengthening the competitiveness of the Mediterranean and, at the same time, in minimising economic, social and ecological fragmentation. It is important to strengthen coordination between the authorities handling cross-border and transnational programmes, integrating the priorities identified with the strategies at national, regional and local levels to support the development of interventions coherent with the Europe 2020 strategy and cohesion policies 2014-2020.

6.1.3 *Ensuring the global competitiveness of the EU MCRs based on strong local economies*

The global competitiveness and the cohesion of the EU MCRs can be achieved by encouraging people to learn, study and update their skills, valorising a market-driven innovation to create new products/services that generate growth and jobs, whilst at the same time assisting local communities to face social challenges. Strengthening use of information and communication technologies and the creation of a single digital market based on fast/ultrafast internet and interoperable applications is strategic to developing strong local economies.

6.1.4 *Improving territorial connectivity for individuals, communities and enterprises*

Affordable accessibility to services of general interest such as information, knowledge and mobility, as well as effective inter-modal transport solutions and environment-friendly production systems are essential priorities for Mediterranean cohesion. Strengthening links between the main centres of the EU MCRs with the intercontinental transport nodes through developing the highways of the seas, strengthening Trans-European networks (TEN-T) and developing secondary systems networks at regional and local level to overcome territorial barriers such as those of the Mediterranean islands is of strategic importance for the strengthening the competitiveness and cohesion of the Mediterranean Basin.

6.1.5 *Managing and connecting ecological, landscape and cultural values*

The protection and enhancement of cultural and natural heritage is an important condition for the development of EU MCRs. It is important to support the full integration of protected areas with local communities and economies. The high value of Mediterranean landscapes should be developed in qualitative terms and areas rich in natural and cultural resources have to be accorded their proper value in order to make best use of these assets. It is therefore important to develop the regional and local identity whilst strengthening the awareness and responsibility of these Mediterranean communities in relation to their environments, landscapes, cultures and other unique values.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on Statistical tools for measuring volunteering (own-initiative opinion)

(2014/C 170/02)

Rapporteur: **Krzysztof PATER**

On 14 February 2013 the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

Statistical tools for measuring volunteering

(own-initiative opinion).

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 14 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December 2013), the European Economic and Social Committee adopted the following opinion by 109 votes to 1 with 5 abstentions.

1. Conclusions and recommendations

1.1 Taking into account that volunteering is:

1.1.1 an important driver of inclusive growth, which contributes to both social and human capital, and fosters intergenerational solidarity, while also offering significant economic value,

1.1.2 a key factor in many social policies and an indicator of public policy impact, which should be measured effectively and monitored to offer proper knowledge to decision-makers,

1.1.3 a research subject, which is currently insufficiently measured because of inconsistent and overly restrictive surveys, leaving aside such issues as voluntary help provided directly to people outside any organisational structures as well as neglecting the economic value of the volunteer work,

1.2 The Committee calls on the European Commission:

1.2.1 to put in place the conditions to start methodological work and pilot research, aimed at defining the principles underpinning research into volunteer work by national statistical offices from the EU Member States. In so doing, use should be made of the International Labour Organization's Manual on the Measurement of Volunteer Work and the past experience of countries which have already undertaken research using the solutions recommended in this manual.

1.2.2 over the next few years, to work on a standardised methodology for research into volunteer work and to ensure its adoption via an appropriate European Commission regulation for the purpose of regular research conducted by the Member States.

1.2.3 to take steps to encourage the Member States' statistical offices to become involved in research into volunteer work before the regulation is introduced.

1.2.4 to gather and make available consistent information resulting from research into volunteering conducted in individual countries or at EU level.

1.2.5 to introduce legal measures binding at the EU and Member States level which would enable the non-profit sector to co-finance public grants with the economic value of volunteer work estimated on the basis of solid statistical data produced with the statistical tools developed in accordance with this opinion.

1.3 In addition, the EESC uses this opportunity to reiterate the need for a favourable environment and support for voluntary activities. Exact suggestions for the favourable environment for volunteering were developed within the framework of the European Year of Volunteering 2011, and this includes sustainable support for voluntary activities, which significantly contribute to the common good⁽¹⁾.

⁽¹⁾ OJ C 181, 21.6.2012, p. 150.

2. Background

2.1 According to the widely used (in EU institutions) definition of the term, 'volunteering' refers to all forms of voluntary activity, whether formal or informal, undertaken of a person's own free will, choice and motivation, without concern for financial gain.

2.2 Consistent with this understanding of volunteering, although more precise, is the definition of volunteer work in the International Labour Organization's Manual on the Measurement of Volunteer Work, used as a conceptual framework for measuring formal and informal volunteering in various cultural and legal settings. According to this definition, volunteer work means 'unpaid non-compulsory work; that is, time individuals give without pay to activities performed either through an organisation or directly for others outside their own household' ⁽²⁾. This definition, which precisely spells out the features of volunteering, should be used in international comparative research. This stems from the need to take account of all the important characteristics of volunteer work in the definitions used in individual countries, thus ensuring that the area of study is uniformly defined, regardless of local circumstances.

2.3 In recent years, especially in connection with the 2011 European Year of Volunteering, many documents of the EC, EP and Council, as well as the EESC, CoR and the European civil society organisations, have pointed out that volunteering is associated with key EU values such as civic participation and solidarity with those in need. It has been stressed that volunteering makes a major contribution to that part of social welfare that is not measured by GDP, and has a major influence on the quality of peoples' lives. From a systemic point of view, volunteer work helps create social capital, building and consolidating bonds of trust and cooperation, while cultivating widely accepted social norms and values. Informal volunteering is an important form of investment in human capital, e.g. through informal care and education of children and young people, while formal volunteering plays a key role, among other things, in the development of transversal skills and the acquisition of new vocational skills. Also the voluntary care provided to older people as well as by older people, is of utmost importance for the greying European societies. All these characteristics, which point to the role of volunteering in building social cohesion and facilitating employment, mean that it is regarded as an important element of inclusive growth, forming one of the three pillars of the EU's development strategy — Europe 2020.

2.4 A key element of the debate was recommendations highlighting the need to collect comparable data illustrating both the social and economic importance of volunteering. Reference was made in this connection to the methodology proposed in the ILO Manual as an appropriate model for conducting statistical research in this field ⁽³⁾.

2.5 These recommendations were clearly linked to the finding that not enough data was available on volunteering, an assessment which still holds true.

2.6 There has been some research into volunteering carried out in individual countries covering many key aspects of volunteering (not only the level of participation in volunteering and the demographic profile of people involved in this work but also their motivation, for example). One obstacle to the use of this research for analysis conducted on an EU-wide basis is the lack of consistency as regards the scope of the definition of volunteering and the means of defining it, as well as other methodological differences (e.g. the period covered by the research, inconsistencies in the age categories used for the populations surveyed, different research methods, accuracy of the results), together with differences in research dates. As highlighted in the report carried out at the request of the European Commission by the consultancy firm GHK, the differences in results can often be as much as 30-40 percentage points ⁽⁴⁾.

⁽²⁾ Manual on the Measurement of Volunteer Work, International Labour Organization, Geneva, 2011.

⁽³⁾ (1) Communication on EU Policies and Volunteering: Recognising and Promoting Cross-border Voluntary Activities in the EU, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2011) 568 final); (2) The role of voluntary activities in social policy, — Council Conclusions — Council of the European Union, 2011; (3) OJ C 181, 21.6.2012, p.150.

⁽⁴⁾ GHK report *Volunteering in the European Union*, GHK 2010.

2.7 Regularly collected and internationally comparable data on volunteering is quite limited in scope, relating mainly to the prevalence of engagement in voluntary work (with its various definitions) carried out through organisations (formal volunteering), and the demographic profile of the people involved in such activity. Sometimes the research addresses other questions, such as the frequency of volunteering⁽⁵⁾. Some of these studies are not limited to a general question about volunteering, defined in one way or another, but rather focus on multiple (up to a dozen or so) types of organisation or activity to which people devoted their free time⁽⁶⁾. Comparatively speaking, the question addressed with the least frequency is the number of hours worked by volunteers⁽⁷⁾.

2.8 Despite major differences in the results of individual international studies, as well as between national and international results, it is still possible to say that volunteering — even if only formal volunteering is taken into account — is very widespread. Estimates of the number of volunteers in the EU over the age of 15 vary between 92 and 150 million, which would mean that between 22 and 36% of adults across all EU countries are involved in voluntary, unpaid work in various kinds of organisation⁽⁸⁾. The positions adopted by the main EU institutions on volunteering are based on a relatively low estimate of the number of volunteers, no more than 100 million⁽⁹⁾.

2.9 On the basis of the data on volunteering currently available, it is not possible to carry out the analysis called for in the documents of the EC, the Parliament, the European Council or the EESC. At present, it is impossible to monitor reliably the economic importance of volunteering or its contribution to EU-level policies. It is not possible to determine the total amount of time devoted to volunteer work or its monetary value, and thus to assess how extensive it is in terms of universal economic indicators such as national employment (the number of people working in the national economy) or GDP. The only current available data, which however is limited to formal volunteering carried out in non-profit organisations and assessed on the basis of methods which are not very consistent, comes from the international Comparative Nonprofit Sector Project, coordinated by the Johns Hopkins University. This data established the proportion of volunteer work carried out in non-profit bodies relative to GDP and the labour potential of the economically active population in only three EU countries: the Czech Republic (0,2% GDP, 0,5% of the economically active population), France (1,4%, 3,2%) and Belgium (0,7%, no data available)⁽¹⁰⁾.

⁽⁵⁾ For example, in the framework of the European Social Survey (ESS 2002-2010), every two years data is collected on prevalence of engagement in the work of political parties or other organisations or associations, motivated by a desire to do good or prevent bad things from happening. However, in the survey for 2006 and 2012, people were also asked how often over the past 12 months they had been involved in work for a community or charitable organisation.

⁽⁶⁾ The European Values Study (EVS), and some surveys carried out in the framework of the Eurobarometer Survey — coordinated by DG Communication (Eurobarometer 66.3/2006, 73.4/2010, 75.2/2011).

⁽⁷⁾ European Quality of Life Survey (EQLS 2003, 2007), Eurobarometer 60.3 (2003/2004). The most comprehensive data on the time devoted to unpaid work in the framework of organisations, informal assistance for other households or participation in the meetings of organisations, groups or communities, also taking account of seasonal differences over the course of the year — the data is collected in the framework of the Time Use Survey.

⁽⁸⁾ The above estimates come from the GHK report *Volunteering in the European Union*, 2010.

⁽⁹⁾ The figure of 100m volunteers was included in the *Report on the role of volunteering in contributing to economic and social cohesion*, European Parliament, Committee on Regional Development (2008) (2007/2149 (INI) document A6- 0070/2008.

⁽¹⁰⁾ These results are based on studies of non-profit organisations. The research involved calculating the total number of hours of volunteer work in the non-profit sector (which was converted into full-time job equivalents) in order to then be able to make a comparison with the number of professionally active people in the given country. The value of volunteer work was then established by multiplying the number of these jobs equivalents by the average salaries earned in the non-profit sector. This method may lead to lower estimates of the amount and value of volunteer work than the method described in the ILO manual, since organisations generally do not keep records of the number of hours of volunteer work carried out and have a tendency not to take account of volunteer work carried out on an occasional basis. In addition, the results obtained concern the non-profit sector only while the ILO methodology allows all formal volunteering to be measured for all institutional sectors. The results mentioned in this paragraph come from the following publication: Salamon, L. M., Sokolowski, S. W., Haddock, M. A., Tice, H.S, *The State of Global Civil Society and Volunteering*. Latest findings from the implementation of the UN Nonprofit Handbook, Center for Civil Society Studies — Johns Hopkins University, 2013.

2.10 On the basis of the methodological principles set out in the ILO Manual, national statistical offices in three EU countries (Poland, Hungary and Italy) have already carried out surveys on the extent and value of volunteer work while in some other countries they prepare to do so⁽¹¹⁾. The 2011 data for Poland is currently available. It shows that, overall, formal and informal volunteering constituted the equivalent of the work of 9,6% of those working in the extended national economy (including volunteer work) and 2,8% of the broadly defined GDP. In Poland, where extended family ties are particularly strong, volunteer work mainly comprised informal volunteering — its share of the number of people working in the national economy, which also includes volunteering, amounted to 8% and its contribution to broadly defined GDP was 2,2%. Formal volunteering represented 1,6% and 0,6% of the above-mentioned categories respectively⁽¹²⁾.

3. The ILO Manual as a comprehensive and universal approach to research into volunteering

3.1 As mentioned above, the manual on measuring volunteer work published under the auspices of the ILO is mentioned in nearly all EU documents on volunteering as a suitable model for conducting statistical research in this area. The methodological solutions included in this manual were also highlighted by the International Conference of Labour Statisticians as an appropriate basis for research into volunteer work. It is proposed that volunteer work be included in official labour statistics⁽¹³⁾. The solutions proposed in the manual have also garnered support from third-sector stakeholders, with many NGOs promoting its model for conducting research into volunteering⁽¹⁴⁾.

3.2 The methodological approach proposed in the ILO Manual is also a response to the lack, or inconsistency, of the available data on volunteering in the third sector, a problem pinpointed by the Comparative Nonprofit Sector Project, and later highlighted as a serious obstacle to the drawing-up of accurate statistics for national accounts and the satellite account of the non-profit sector⁽¹⁵⁾.

3.3 The methodological approach is based on an operational definition of the phenomenon referred to as 'volunteer work' in the manual. This is not based on a specific term or terms uniformly used for research in the countries surveyed, but is, rather, a descriptive definition which highlights three fundamental features. Volunteer work is defined as actions which:

- a) involve productive work,
- b) are unpaid,
- c) are non-compulsory, and
- d) are not for use by own household.

The ILO Manual contains many additional explanations, which help resolve any potential doubts over the interpretation of the criteria⁽¹⁶⁾.

⁽¹¹⁾ Public statistics of Portugal has already carried out a pilot module to the Labour Force Survey according to ILO Manual; willingness to start similar studies has been expressed also by public statistics of Ireland and Spain.

⁽¹²⁾ Nałęcz, S., Goś-Wójcicka, K., (eds.) Volunteering through organisations and other forms of volunteer work outside own household — 2011. Central Statistical Office of Poland, Warsaw, 2012.

⁽¹³⁾ In accordance with the resolution adopted on 11 October 2013 by the 19th International Conference of Labour Statisticians, the statistical definition of work includes volunteer work. As a result it is proposed that it be subject to regular statistical observation.

⁽¹⁴⁾ For example, the EYV 2011 Alliance, European Volunteer Centre (CEV), Johns Hopkins Center for Civil Society Studies (CCSS), and Associazione Promozione e Solidarietà (SPES).

⁽¹⁵⁾ Handbook on non-profit institutions in the System of National Accounts, United Nations Statistics Division, New York, 2003.

⁽¹⁶⁾ Official translations of the Manual are available in French, Spanish, Italian and Montenegrin and can be downloaded from www.ilo.org and www.evmp.eu.

3.4 The broad scope mapped out for research in the manual makes it possible to meet the information needs of many stakeholders. The manual's key definition of volunteer work implies a broad range of research, including both formal volunteering (called by ILO as indirect volunteer work) and informal volunteering (called by ILO as direct volunteer work). Furthermore, the focus is not limited to a single sector, but includes both volunteering in the third sector and in public sector institutions, and calls for the separation of data by field and institutional sector, for example. Data gathered are both clearly defined and flexible for users.

3.5 The research model proposed in the ILO Manual is based on a number of general principles which ensure consistency, irrespective of the type of survey on which the research is based:

- a) the widest possible population coverage, so as to capture all relevant components of the population;
- b) the use of the definition of 'volunteer work' adopted in the manual and of the terminology used to depict it;
- c) coverage of all forms of volunteering (i.e. volunteer work done for or through organisations and volunteer work done directly for individuals outside the household or for communities);
- d) coverage of the variables included in the recommended survey module: amount of volunteer time (hours actually worked), type of work activity (occupation), field in which volunteering occurs (industry or institutional sector);
- e) the capability to translate volunteer activities into standard occupational (ISCO) and industrial (standard classification NACE or the ICNPO classification geared towards the activities of the non-profit sector) codes to allow for additional analysis of the labour market, including the assignment of an economic value to volunteer work⁽¹⁷⁾.

3.6 The proposed methodology makes it possible to focus research efforts primarily on acquiring the data needed to quantify the volume and value of volunteer work in standard economic units, permitting comparison with national employment or GDP. The data collected can be used to determine the amount and value of various kinds of volunteer work by institutional and economic sector, form of activity, region, level of urbanisation, etc.

3.7 On the basis of the data gathered using the volunteer work module, it is also possible to carry out numerous analyses of a social nature. It is possible to analyse the extent and degree of intensity of volunteer work, the forms that it takes (for people or organisations — in the case of formal structures, it is possible to specify the area of activity or sector). This analysis may take account of the various characteristics of volunteers: demographic characteristics (e.g. age, sex, family status), location (e.g. region, size of locality) and professional, educational and material status. By adding supplementary questions to the volunteer work module, it is also possible to analyse the motivation of volunteers, reasons for not getting involved in volunteering, etc.

3.8 Given the fact that respondents are usually able to provide detailed and reliable data only in relation to the recent past, the manual adopts a four-week reference period for questions on volunteer work. This is dictated by the need to determine the number of hours dedicated to volunteering as accurately as possible. At the same time, the four-week period is significantly shorter than the typical 12-month time frame for most research into volunteering. The shorter reference period translates into lower figures for the extent of volunteer work (number of volunteers), and creates the risk of obtaining results which have been skewed by seasonal fluctuations. The recommendation therefore is to stick to the four-week period for comparability reasons, while finding also methods to balance seasonality and to secure suitable sample size to provide enough volunteers in the survey for further estimations on number of hours in different groupings.

⁽¹⁷⁾ Abridged and modified version of the provisions set out in the Manual on the Measurement of Volunteer Work (p. 10). ISCO — International Standard Classification of Occupations, NACE — Statistical Classification of Economic Activities in the EU; ICNPO — International Classification of Nonprofit Organizations.

3.9 The guide's recommended method for research into volunteer work is in the form of a Labour Force Survey (LFS) or other household survey module. Using LFS as a platform provides a series of benefits:

- (a) full comparability and reliability of results obtained on the basis of research using a large representative sample and universal methodology (LFS),
- (b) minimisation of the burden on the official statistics system and respondents,
- (c) possibility to analyse data on volunteer work in connection with data specifying demographic, social and professional situation, obtained in the framework of LFS,
- (d) low cost of reaching respondents,
- (e) possibility to make use of interviewers with experience of encoding various forms of work with the help of classifications used by official statistics, especially the classification of occupations (ISCO),
- (f) appropriate cognitive context for research (questions about unpaid work naturally complement questions about paid work).

3.10 Research into volunteering using an LFS module also involves certain limitations and problems which are solved in accordance with local conditions or on the basis of an overarching approach:

- (a) use of the telephone method for conducting research, which is increasingly common in LFS, instead of direct interviews increases the pressure on interview time and, as a result, may lead to a lower volunteering rate, especially in countries where there is little awareness of volunteering and it does not form an integral part of everyday language. Interviews therefore require time for additional explanations or examples ⁽¹⁸⁾.
- (b) the above-mentioned problem may be solved by including questions from the module for measuring volunteer work in wide-ranging surveys carried out by means of direct contact between the interviewer and the respondent (*face-to-face method*) ⁽¹⁹⁾.
- (c) the authors of the ILO Manual recommend universal solutions to some of the problems identified above concerning implementation of the module for research into volunteer work. For example, given the finding that information obtained from proxy respondents is of a poorer quality, it is recommended that interviews be carried out only with those people who are concerned by the survey, instead of using information about someone's volunteer work which has been obtained from a spouse or other members of the household. In case of difficulties applying complex universal classifications, such as NACE, the authors provide for the possibility of using simpler classifications such as ICNPO ⁽²⁰⁾.

3.11 The Manual on the measurement of volunteer work is comprehensive, including guidelines on organising and conducting research as well as recommendations on drawing up and presenting results. When assessing the value of volunteer work, the manual recommends the full replacement cost approach, using the average wage in the national economy for the type of activity (vocation) and the economic and institutional sector to which the body, for which the voluntary work is performed, belongs.

3.12 Independently of the overarching approach of the proposed solutions and the solid justification for them, the ILO Manual retains considerable flexibility on many questions which may be dealt with by individual countries in the light of local conditions. This concerns issues such as adapting the phrasing to the local circumstances, and the more or less detailed way of calculating the value of the volunteer work (some other examples are given in point 3.10). On the other hand to ensure international comparability of the data, the key elements of the definitions of volunteer work should be used.

⁽¹⁸⁾ Nałęcz, S., *Sharing the Experience of Volunteer Work Measurement. Lessons from pioneer implementation of the ILO methodology by the Central Statistical Office of Poland*, <http://evmp.eu/wp-content/uploads/Lessons-Podgorica-GUSISP.pdf>.

⁽¹⁹⁾ Cappadozzi, T., *Sharing the Italian experience on the project of measurement of unpaid volunteer work*. http://evmp.eu/wp-content/uploads/Cappadozzi_Presentation_EVMP-Conference_Madrid_3.28.2012.pdf.

⁽²⁰⁾ Simplified classifications were applied in all three countries which have so far measured volunteer work in accordance with the ILO Manual.

3.13 The manual's flexibility stems from a desire to make it universal and to ensure its broad application, regardless of significant cultural and societal differences at global level. In the EU, these differences are relatively small, which makes it possible to develop a more uniform methodology and, consequently, to obtain more comparable data.

4. What should be done?

4.1 Given the considerable need for data on volunteering, stemming from its key role in generating inclusive growth and strengthening social cohesion, social and human capital, informal education, integration into the labour market and intergenerational solidarity, there is a need at EU level to ensure conditions supporting systematic, comparable research into volunteering in the Member States. The EESC understands that all new activities taken up by the EU institutions and Member States have to get proper financing stability and therefore declares its will to explore all possible means of supporting and financing research on measuring volunteering, including the proposal pointed out in point 4.2.

4.2 Following the recommendations in EU documents which call on Member States to develop research into volunteering on the basis of the ILO Manual, the EESC urges the European Commission, over the next few years, to work on a standardised methodology for research into volunteer work and to ensure its adoption via an appropriate regulation for the purpose of regular research conducted by the Member States.

4.3 Before the regulation is adopted, the EC should take steps to support methodological work and pilot studies, with a view to establishing consistent principles for research into volunteer work by national statistical offices, making use of the main principles of the ILO Manual and the experience of countries which have already undertaken research using the solutions described in it. When working out the details of the regulation, steps should be taken to minimise costs and red tape. To this end, the best approach would be to combine research into volunteer work with one of the other areas of research currently carried out by the national statistical offices of the Member States.

4.4 Given the considerable need for data on the extent of formal and informal volunteering and its impact on the general level of wellbeing and on selected areas of public life in individual countries and across the EU, conditions should be put in place to ensure that the European Commission gathers and makes available suitably harmonised data from studies carried out in the Member States and at EU level. One possibility for conducting research into the effects of volunteering could be, for example, the Adult Education Survey, through which data could be gathered and analysed on the impact of volunteer work on acquiring skills useful for obtaining a desired job.

4.5 The economic value of volunteer work must be recognised and valued by public authorities. The European Commission and the Member States should introduce rules allowing the economic value of volunteer work to be one means of co-financing publicly funded projects. Experience and data acquired during research into the economic value of volunteering, carried out on the basis of a single methodology across the EU, will be very helpful in devising practical solutions.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on social impact measurement (own-initiative opinion)

(2014/C 170/03)

Rapporteur: **Ariane ROBERT**

On 19 September 2013, 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

Social impact measurement

(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 13 November 2013.

At its 494th plenary session held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 146 votes to five with three abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the debate on social impact measurements for social enterprises but stresses the importance to give more time to this complex topic. A first step is for the Commission to initiate data collection for a comparable analysis of social impact measurement in the Member States, but also explore this subject further in the context of the social dimension of Europe.

1.2 The EESC feels that an incorrect or rushed approach may counter-act the EU Institutions' aim to support the development and growth of the social enterprise sector. With low awareness of this sector in many Member States, the EESC urges the Commission to prioritise further awareness raising and full implementation of the Social Business Initiative agenda.

1.3 Social impact measurement aims to measure the social outcomes and impact created by specified activities of a social enterprise and not the enterprises itself, even if the structures of social economy enterprises themselves contribute to social value creation. It is an on-going process and integral part of the enterprise's activity and an important strategic planning tool.

1.4 It is difficult to advocate one single method, which is why the EESC recommends that, rather than developing a new method, the Commission build awareness of the most commonly used principles. What these have in common is that they are bottom-up initiatives designed to capture the social change based on a real need and real activities.

1.5 Any measurement method must be developed from the core outcomes of the social enterprise, be supportive of its activities, proportionate and not stifle social innovation. The method should seek a balance between qualitative and quantitative data, realising that the 'story' is central to measuring success. It must also be noted that the difficulties in translating the results of measuring social impact at micro level to macro level (within the EU) needs to be explored further.

1.6 Realising the need for social impact measurement methods specifically for the EuSEF⁽¹⁾ and PESI⁽²⁾ regulations, the EESC recommends that the methods developed for these regulations be piloted, closely monitored and revised if needed. This to ensure they do not hinder social enterprises' access to finance through these instruments. This would allow the Commission to draw up common guidelines and principles of what to measure rather than how to measure.

1.7 The EESC will continue to explore this subject and will closely follow the Commission's work in implementing a method to ensure it does not stifle social enterprise development in Europe. In addition it will continue to engage in a wider discussion on how social impact in time may be considered for other spheres.

⁽¹⁾ European Funds for Social Entrepreneurship, COM(2011) 862 final.

⁽²⁾ Programme for Employment and Social Innovation, COM(2011) 609 final.

2. Introduction

2.1 The Commission Communication on the Single Market Act II — Together for new growth⁽³⁾ highlights the need to develop methods for measuring the social and economic benefits generated by social enterprises in the implementation of the EuSEF and the PESI.

2.2 In response, a subgroup⁽⁴⁾ of the Commission's consultative multi-stakeholder group on social enterprise (GECES) has been tasked with giving the Commission guidelines on how social enterprise can measure their social impact.

2.3 This opinion describes the perspective of social enterprises in the development of a EU social impact measurement method primarily in the context of the EuSEF and PESI. However, since this is an important subject the EESC underlines that, ideally, measuring social impact should subsequently be considered for other spheres, to avoid a piecemeal approach.

2.4 Social enterprise is highlighted in several recent EU initiatives. In addition the EESC has done significant work on this topic⁽⁵⁾ such as touching on the challenges with EuSEF and social enterprises⁽⁶⁾. One central element is the launch of the Commission's Social Business Initiative (SBI)⁽⁷⁾, which aims to promote the development and growth of social entrepreneurship and social enterprise in the EU.

2.5 Social enterprises are created for a social purpose and operate in the social economy. To safeguard this model, the EESC stresses that the SBI description of social enterprises should be the basis for any derived regulation, standard or programmes, since it captures social enterprises in a wide context that fits the various models in the Member States.

2.6 It is important to point out that the intention of this opinion is not to put forward arguments for measuring the social impact of businesses generally. Nor should the issue be confused with initiatives relating to corporate social responsibility (CSR) or the obligation, as for all employers, to provide decent working conditions and to comply with any collective agreements that exist. Further it should be noted that effective social performance and infrastructure remain Member State responsibilities.

2.7 Even if this opinion only considers the social impact of the outcomes of social enterprises' activities and not the social enterprises themselves, their structure and operating models themselves are key components in creating social impact, through internalising social costs and generating positive externalities.

3. Social impact in a societal context

3.1 Economic outcomes have for a long time been the main indicator to measure the development of organisations and countries, regardless of whether economic or social progress is the main motivation. For a sustainable world, a more holistic perspective considering social, environmental and economic consequences must come to the fore.

3.2 Awareness of this has increased in recent years. In 2008 the EESC adopted an own-initiative opinion entitled *Beyond GDP — measurements for sustainable development*⁽⁸⁾, which highlighted the need for new methods of measuring sustainability and wellbeing to meet social challenges. The Commission followed up on this with a report in 2009 entitled *GDP and beyond — Measuring progress in a changing world*⁽⁹⁾, which drew attention to the need for new instruments to monitor and measure social development. In addition, other actors have also taken steps to introduce new instruments, e.g. the OECD with its *Better Life Index*⁽¹⁰⁾.

3.3 For Europe, in the midst of a crisis with changing welfare models, it is now more important than ever to focus on real value creation. Most recently this has been stressed in the initiatives promoting a social dimension of the EMU⁽¹¹⁾, proposing social indicators and actions to complement the economic reporting. This line of reasoning now appears in many EU documents, where measurement and monitoring of social added value, change and impact are prerequisites for the effective implementation of directives, programmes or activities.

⁽³⁾ COM(2012) 573 final.

⁽⁴⁾ http://ec.europa.eu/internal_market/social_business/expert-group/social_impact/index_en.htm.

⁽⁵⁾ OJ C 318, 23.12.2009, p. 22; OJ C 24, 28.1.2012, p. 1; OJ C 229, 31.7.2012, p. 44.

⁽⁶⁾ OJ C 229, 31.07.2012, p. 55.

⁽⁷⁾ COM(2011) 682 final.

⁽⁸⁾ OJ C 100, 30.4.2009, p. 53.

⁽⁹⁾ COM(2009) 433 final.

⁽¹⁰⁾ www.betterlifeindex.org.

⁽¹¹⁾ http://ec.europa.eu/commission_2010-2014/president/news/archives/2013/10/pdf/20131002_1-emu_en.pdf.

3.4 Social impact measurement is an important topic and central for re-building the social dimension in Europe. The EESC therefore questions the Commission's very rushed approach in this area and urges that more time be allowed to thoroughly discuss the wider topic to ensure the most suitable forms of methodologies. In this context it must be mentioned that since the overarching objective is to support social enterprises to fulfil their mission, the Commission must tread carefully in developing instruments that may result in an opposite effect.

3.5 This is further supported by the very low awareness and recognition of social enterprise and the social economy in many Member States. Starting the debate from the perspective of social impact rather than fostering an enabling environment for the development of social enterprises may be detrimental to developing this sector. The EESC therefore urges the Commission to prioritise the full implementation of the SBI to ensure fair and transparent conditions for social enterprises in all Member States prior to launching a social impact measurement initiative.

4. Describing social impact

4.1 Measuring social impact is beneficial to all sectors in society. For a social enterprise, achieving a positive social impact is its core purpose and is often an on-going and integral part of the enterprise's activity. It is important to separate social results from business results; it is the social impact that is to be measured, not the organisation.

4.2 There are similarities in how stakeholders describe social impact, but there are also differences. The EESC stresses the importance of a common understanding and suggests that it be described as the social outcomes and impact created by specified activities of a social enterprise.

4.3 It is also important to note that impact measurement is about measuring not only the intended outcomes, but also the overall outcomes (intended and unintended) and their impact.

4.4 Assessing social impact is challenging since the links between the activity and outcome can be hard to demonstrate. Positive effects are often qualitative and are sometimes only evident over longer timeframes. Trying to capture an activity in figures carries a considerable risk that the information yielded will not measure what was intended, or in the right way. Social enterprises must therefore not be pressured to equate measurement with quantification by only focusing on activities that are easily measured, quantified or externally recognised.

4.5 Quantification should rather be seen as one way of measuring, alongside qualitative approaches such as narrative methods. This alternative, or complementary, approach of gathering information-rich stories from the beneficiary's perspective is crucial in evaluating the 'added value' of the social enterprise's activities. In addition it should be pointed out that measuring value creation does not necessarily have to result in a final figure but could rather be a combination of figures and text.

4.6 To explore this complexity further the EESC recommends the Commission to initiate data collection of existing methods as a starting point for comparable analysis between Member States.

5. Key players and concepts

5.1 A pre-requisite for an EU method of measuring social impact in the current EU context (EuSEF and PESI), is stakeholder participation which primarily include social enterprises, users, policy-makers, finance providers as well as social service providers, public authorities and social partners where appropriate. This stakeholder approach provides a trust-building process to share a common view of the desired impact.

5.2 A pre-condition for this stakeholder approach is a common understanding of the basic concepts for social impact measurements. Terms such as *input*, *output*, *outcome* and *impact* are often defined differently in different contexts. It is important that the stakeholders share the same view of these terms.

5.3 Only looking at the output (e.g. the number of people taking part in training), neglects measuring the real impact of the activity. It is therefore important to recognise that social impact measurement is a move from measuring outputs to measuring impact. This way real added value can be captured, still bearing in mind the complexity and multidisciplinary state of measuring social impact.

5.4 It must be noted that specifically the difficulties in translating the results of measuring social impact at micro level to macro level (within the EU) needs to be explored further, as does how measurement methods respect the rights and needs of the individuals and the enterprises.

6. Methods and instruments

6.1 Social impact is measured in many different ways, which makes it difficult to advocate a single method or even to compare different methods⁽¹²⁾. A multitude of methods have been developed, many initiated through different EQUAL projects⁽¹³⁾. What they have in common is that they are bottom-up initiatives designed to achieve a desired social change and based on a real need and real activities.

6.2 The best-known methods are *social return on investment (SROI)*, which is an outcome-based concept designed to show an organisation's social, environmental and economic value creation, and *social accounting*, which is a method for planning, measuring and evaluating the social goals of an organisation⁽¹⁴⁾. An example of a more general method for establishing social added value is the *Global Reporting Index (GRI)*, a sustainability reporting system that provides a framework for social, environmental and economic reporting. But many other methods are also available⁽¹⁵⁾.

6.3 What these methods have in common is that they are designed from the perspective of the social enterprise's purpose in its activities, rather than models from other sectors. Rather than only measuring outputs between two points in time, these approaches often embrace a wider non-linear process such as Theory of Change⁽¹⁶⁾ which, in simplified terms, involves defining, quantifying and tracking. By using such approaches, the measuring process is itself incorporated into the enterprise's business planning and an important tool for internal improvement.

6.4 When designing social impact methods they must be kept proportional and be designed to support the social enterprise. Many social enterprises are small and new, with limited resources to apply complicated methods. Therefore the EESC recommends that, to ensure that bureaucratic burdens are limited and proportionate, other stakeholders (EU, fund managers) rather than the social enterprises should bear the cost of impact measurement.

6.5 If considering indicators the EESC suggests that they are chosen by the social enterprises through interviews with users and stakeholders. For example indicators could be 'avoided costs for society' or 'caused impact' of the social enterprise but also consider the enterprise's advocacy work and their structure and operating models.

6.6 On the basis of the existing methods the Commission should consider developing an EU framework in accordance with the EESC recommendations that fits in with the specific regulations that exist in some Member States and their models of welfare organizations and social enterprises themselves.

7. Other comments

7.1 Since it is extremely difficult to advocate a single method or standard indicators for measuring social impact, the Commission's first step is to build awareness of the most commonly used principles and methods that exist and encourage the enterprises to use them. From these experiences the Commission can draw up common guidelines for measuring social outcomes rather than outputs to establish a framework of principles of what to measure instead of trying to define how to measure social impact.

7.2 Due to the complexity of this subject, the EESC recommends that the methods developed for the EuSEF and PESI as a first step are piloted. This would allow for the Commission to closely monitor the impact of applying these methods and allow for revision if necessary. All data collection should be gender disaggregated so that the role of women in social entrepreneurship can be acknowledged and so as to ensure transparency in the allocation of funding. This helps to ensure that the methods used do not limit access to funding for the intended targets.

⁽¹²⁾ Bouchard, M (ed) (2009): *The worth of social economy*, Peterlang, Bruxelles.

⁽¹³⁾ http://ec.europa.eu/employment_social/equal_consolidated.

⁽¹⁴⁾ <http://www.thesroinetwork.org/what-is-sroi>, <http://www.socialauditnetwork.org.uk/getting-started/what-is-social-accounting-and-audit>.

⁽¹⁵⁾ e.g. PQASSO (Practical Quality Assurance System for Small Organisations), SIMPLE (Simple Impact Measurement for Local Economies), Volunteering Impact Assessment Toolkit, The Big Picture, Impact Framework, Logic Model Builder, Measuring Impact Framework, Outcome Mapping, Outcome-Based Evaluation, Social Impact Assessment (SIA), the Shujog Impact Framework and Assessment.

⁽¹⁶⁾ <http://www.theoryofchange.org>.

7.3 When structuring these pilot projects the Commission also needs to consider aspects such as the competence and objective of the 'audit' function/stakeholder. This is closely related to added costs and motives of these actors. The EESC urges the Commission to make efforts in minimising these costs when designing the measurement requirements as well, to avoid creating unnecessary red tape or distort social development.

7.4 There is a risk that the measurement method designed specifically for EuSEF and PESI will take precedence when implementing other instruments and rules relating to social enterprise at national, regional and local level. Inadequate or incorrect application of social impact measurement may hamper social innovation and experimentation. To limit this risk the Commission should offer awareness raising and training programmes in the Member States.

7.5 This opinion is a first step in the EESC work on social impact measurement. It is a response to the current Commission work on the subject. However, the EESC deems it vital to continue and expand this discussion and will therefore monitor the Commission's work and continue to work on this subject within other areas of its policy work.

Brussels, 10 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on European minimum income and poverty indicators (own-initiative opinion)

(2014/C 170/04)

Rapporteur: **Mr DASSIS**

Co-rapporteur: **Mr BOLAND**

On 14 February 2013, 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

European minimum income and poverty indicators

(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 20 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 155 votes to 93 with 12 abstentions.

1. Conclusions and recommendations

1.1 The negative social and economic impact of the crisis and a lack of structural reforms which is fuelling poverty and exclusion in Europe against the backdrop of an ageing population, increased migration flows and growing Euroscepticism, means that the need for a political paradigm that can reinforce solidarity and the fundamental values of Europe's acquired social rights is now a matter of extreme urgency.

In this context, the EESC:

1.2 considers that, at such a critical juncture, establishing a European minimum income will help to ensure economic and territorial cohesion, protect the fundamental rights of the individual, guarantee a balance between economic and social objectives and redistribute wealth and income fairly;

1.3 points out that there was an important discussion at the level of the EESC's bodies and stresses the urgent need to guarantee an adequate minimum income in the European Union under a framework directive, with the aim of effectively combating poverty by facilitating labour market inclusion, as called for by the Committee of the Regions⁽¹⁾ and a range of anti-poverty organisations⁽²⁾, and calls on the Commission to undertake concerted action in response to the resolution adopted by the European Parliament in 2011⁽³⁾;

1.4 calls on the Commission to examine funding possibilities for a European minimum income focusing in particular on the prospect of setting up an appropriate European Fund;

1.5 calls for further measures to be taken to ensure that the objectives of the Europe 2020 strategy concerning employment, poverty and social exclusion are actually achieved. Such measures should include (1) continuing to pursue horizontal employment targets, (2) setting targets for percentage reductions in the three indicators that make up the composite poverty and social exclusion indicator, (3) setting European and national level sub-targets for groups presenting a higher risk of poverty than the population as a whole, such as children and single-parent families, and for the working poor, (4) a review of how Member States calculate poverty levels and set their national targets, and (5) ensuring that the Member States renew their commitment to make sure that the combined efforts of each of them enable the overall European Union objective to be achieved;

1.6 calls for an effective assessment of the social impact of the measures contained in the National Reform Programmes (NRPs) and National Social Reports (NSRs), as well as of the financial consolidation packages, in order to prevent them from worsening poverty or social exclusion and to secure greater civil society participation in drawing up NRPs and NSRs;

⁽¹⁾ Opinion of the Committee of the Regions on *The European Platform against Poverty and Social Exclusion*, OJ C 166, 7.6.2011, p. 18. See p. 19, point 7.

⁽²⁾ ATD Fourth World, the European Anti-Poverty Network (EAPN), the European Federation of National Organisations working with the Homeless (FEANTSA), the European section of Emmaus, etc.

⁽³⁾ Resolution of the European Parliament of 15 November 2011 on the European Platform against poverty and social exclusion (2011/2052/INI) OJ C 153E, 31.5.2013, pp. 57-78.

1.7 calls for closer monitoring of worsening poverty and social exclusion and calls on the Commission to put forward specific social inclusion recommendations for each country whenever needed, as part of its assessment of national reform programmes and national social reports. Such recommendations should also be made for countries covered by special assistance programmes from the European Commission, the European Central Bank or the International Monetary Fund;

1.8 stresses that to have a decent job is the best guarantee against poverty and social exclusion and urges the Commission in cooperation with the Member States to implement measures of the Growth and Jobs Pact to boost growth, competitiveness and job creation; welcomes the intention of Commissioner Tajani to set-up an industrial compact to strengthen industry in the EU and its potential to create jobs;

1.9 particularly stresses the importance of increasing participation in lifelong learning by workers, the unemployed and all vulnerable social groups and improving the level of professional qualifications and acquisition of new skills, which may lead to faster integration in the labour market, increase productivity and help people to find a better job.

2. Background

2.1 The Guaranteed Minimum Income (GMI) is income support that is not linked to payment of contributions and that provides a safety net for those not eligible for social security benefits⁽⁴⁾. As the last defence against poverty, it is inextricably linked to the right to a decent life for people who have no other means of ensuring an income and for their dependants⁽⁵⁾. The concept of 'guaranteed minimum income' is not to be confused with that of a 'minimum wage', fixed by collective agreement or by legislation.

2.2 Article 10(2) of the Community Charter of the Fundamental Social Rights of Workers (1989)⁽⁶⁾ establishes the right to 'sufficient resources and social assistance' for people outside the labour market without adequate means of subsistence.

2.3 The Charter of Fundamental Rights of the EU (2000), legally binding as part of the new Reform Treaty stipulates that 'human dignity is inviolable. It must be protected and respected' (Article 1) and that 'to combat social exclusion and poverty the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources' (Article 34(3)).

2.4 The Treaty on the Functioning of the European Union (Article 53(1)(h)) allows the Union to adopt legislation to support and complement the activities of the Member States in the field of integration of persons excluded from the labour market. Among the requirements that the Union must take into account in defining and implementing its policies and actions, its horizontal social clause (Article 9) mentions in particular high employment levels, adequate social protection and combating social exclusion.

2.5 Council Recommendation 92/441/EEC⁽⁷⁾ invites Member States to 'recognise the basic right of a person to sufficient resources and social assistance' that is also reliable, to 'adapt their social protection systems' and to set common criteria of implementation without, however, specifying a minimum threshold at EU level.

2.6 The 2008 Commission Recommendation⁽⁸⁾ recognises adequate income support as one of the three pillars of active inclusion emphasising that beneficiaries should be available for employment, training or other social inclusion measures.

⁽⁴⁾ Other policies in this category are: a) a universal basic income or basic income guarantee, a permanent, single flat-rate benefit paid at set intervals adult citizens regardless of their economic/social situation or availability for work, and b) a negative income tax, based on the concept of a marginal tax rate.

⁽⁵⁾ Hugh Frazer and Eric Marlier, *Minimum Income Schemes Across EU Member States. Synthesis Report*, EU Network of National Independent Experts on Social Inclusion, European Commission, DG Employment, Social Affairs and Equal Opportunities, October 2009.

⁽⁶⁾ Commission of the European Communities, *Charter of the Fundamental Social Rights of Workers*, Luxembourg: Office of Official Publications of the European Communities, 1990.

⁽⁷⁾ Council Recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in social protection systems, OJ L 245, 26.8.1992, pp. 46–48.

⁽⁸⁾ Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market (notified under document number C(2008) 5737), OJ L 307, 18.11.2008, pp. 11–14.

2.7 Combating poverty and social exclusion is a headline target of the Europe 2020 strategy that established the European Platform against Poverty and Social Exclusion⁽⁹⁾. It sets for the first time a target of reducing poverty and social exclusion by at least 20 million people by 2020 based on a combination of three indicators: risk of poverty (defined as the percentage of people below 60% of national median income), severe material deprivation (a lack of resources based on a specified list of items), and very low work intensity (the fact of living in a jobless household)⁽¹⁰⁾. The EESC welcomed this commitment and emphasised that EU policies should not increase the risk of poverty⁽¹¹⁾.

2.8 The main objective set by the Europe 2020 strategy with regard to reducing poverty and social exclusion hinges on a reduction target for a specified number of people, thereby differing from the approach taken to the strategy's other headline targets⁽¹²⁾: these are set in percentage terms, making it easier for the Member States to reach the same percentage targets.

2.9 It is up to Member States to decide how to define their national targets and what approaches should be adopted to achieve them. However, all the national targets combined fall well short of the Europe 2020 target of 20 million people: a gap of between 5 and 8 million is reckoned to exist between the Europe 2020 strategy headline target and the sum of the national targets⁽¹³⁾. Furthermore, many NRPs lack clarity on how the poverty target will be achieved and lack adequate social inclusion measures⁽¹⁴⁾. Countries receiving special assistance from the European Commission, the European Central Bank or the International Monetary Fund are not required to submit specific NRPs⁽¹⁵⁾: they are answerable only under the terms of each memorandum of understanding — these, however, contain no poverty or social exclusion reduction measures.

2.10 The European Parliament's 2010 resolution⁽¹⁶⁾ invites Member States to introduce minimum income schemes equivalent to 60% of national median income and asks for stronger EU recommendations, while the 2011 resolution⁽¹⁷⁾, urges the Commission to launch a consultation on the possibility of a legislative initiative for a sensible minimum income.

3. Poverty, social exclusion and unemployment in the EU

3.1 The EESC recognises that poverty constitutes a human rights violation, making further efforts to achieve the aims set out in Article 3(3) of the Treaty on European Union all the more necessary, and considers overcoming poverty as a Europe-wide challenge.

⁽⁹⁾ Europe 2020 — A strategy for smart, sustainable and inclusive growth — [COM\(2010\) 2020 final](#), Brussels, 3.3.2010.

⁽¹⁰⁾ Combined, these three indicators identify an overall target group 'at risk of poverty or exclusion' meaning that meeting any of the criteria will suffice — a person is counted if they come within any of the three indicators and is only counted once.

⁽¹¹⁾ Opinion of the European Economic and Social Committee on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Platform against Poverty and Social Exclusion — A European framework for social and territorial cohesion* COM(2010) 758 final, OJ C 248, 25.8.2011, pp. 130–134.

⁽¹²⁾ In the areas of employment, education, climate change and R+D targets are set as percentages, enabling Member States to set comparable national percentage targets.

⁽¹³⁾ European Commission, *Employment and Social Developments in Europe*, 2012.

⁽¹⁴⁾ Hugh Frazer and Eric Marlier, 2011. *Assessment of progress towards the Europe 2020 social inclusion objectives: Main findings and suggestions on the way forward*, EU Network of Independent Experts on Social Inclusion, Brussels, European Commission.

⁽¹⁵⁾ European Commission, *Guidance for the National Reform Programmes*, 18 January 2012.

⁽¹⁶⁾ Resolution of the European Parliament of 20 October 2010 on the role of minimum income in combating poverty and promoting an inclusive society in Europe. 2010/2039(INI), OJ C 70E, 8.3.2012, pp. 8–18.

⁽¹⁷⁾ See footnote 3.

3.2 The crisis and the lack of structural reforms have increased the risks of poverty and social and labour market exclusion in many countries⁽¹⁸⁾ since 2008. The most recent Eurostat figures⁽¹⁹⁾ confirm that 24,2% of the European Union population — 119,7 million people — are at risk of poverty or social exclusion⁽²⁰⁾. The rate rose in 19 Member States in 2011 and, between 2008 and 2011, the number of people experiencing poverty or social exclusion rose by 4 million. The three indicators that constitute 'risk of poverty or social exclusion' have also worsened since 2008, standing at 17% for risk of poverty, 9% for severe material deprivation, and 10% for people in households with very low work intensity. In many countries the poor are getting poorer⁽²¹⁾.

3.3 Children (under 18) are among the groups more at risk of poverty or social exclusion than the overall population, with a rate of 27,1%⁽²²⁾. The risk of poverty rate is, meanwhile, relatively high for people over 65 in some countries⁽²³⁾.

3.4 Income disparities and social inequalities are growing within each Member State and between countries and regions, and have worsened seriously with the crisis⁽²⁴⁾. What is more, population groups who were already disadvantaged before the crisis are becoming even more so⁽²⁵⁾.

3.5 The crisis is revealing new forms of poverty such as homelessness, fuel poverty, financial exclusion (lack of access to basic banking services and credit) and household over-indebtedness, while exposure to social risks is higher for women than men. At the same time, the most vulnerable groups, such as elderly people (particularly the very elderly, and elderly women), disabled people, the long-term seriously ill, single-parent families, low-income families, as well as migrants, and certain national minorities such as the Roma, are disproportionately affected by multiple forms of deprivation.

3.6 Employment and the social situation in the European Union are at critical levels. Unemployment continues to rise unabated, affecting, in January 2013, 26,2 million people or 10,8% of the active population (19 million or 11,9% in the euro area), while the financial situation of households is alarming⁽²⁶⁾. Youth unemployment is at record levels throughout the European Union: 23,6% of young people of working age are unemployed and are tending to remain so for increasingly lengthy periods.

3.7 The EESC is gravely concerned by the growing number of working poor stemming, inter alia, from the spread of precarious jobs and low wages. In 2011, 8,9% of those in employment were living under the poverty line and they accounted for one third of all adults of working age at risk of poverty⁽²⁷⁾.

4. General comments

4.1 The EESC has issued a number of opinions⁽²⁸⁾ on issues that directly or indirectly concern minimum income and poverty, making appropriate recommendations. The comments and recommendations it made in 1989⁽²⁹⁾ are even more urgent today, under the harmful effect of the crisis. In particular, it supports the European Platform against Poverty and Social Exclusion, considering that the open method of coordination (OMC) together with the horizontal social clause can contribute to the drive for a minimum income and to combat poverty and social exclusion.

⁽¹⁸⁾ Commission staff working document, *Evidence on Demographic and Social Trends. Social Policies' Contribution to Inclusion, Employment and the Economy*, SWD(2013) 38 final, part 1.

⁽¹⁹⁾ Eurostat, 2013. Headline Indicators t2020_50, t2020_51, t2020_52, t2020_53, updated 3 October 2013.

⁽²⁰⁾ The highest rates are seen in Bulgaria (49%), Romania and Latvia (both at 40%), Lithuania (33%), Greece and Hungary (both at 31%) and Italy (28,2%).

⁽²¹⁾ European Commission, *Social Europe: Current Challenges and the Way Forward, Annual Report of the Social Protection Committee* (2012).

⁽²²⁾ See footnote 18.

⁽²³⁾ Ibid.

⁽²⁴⁾ European Trade Union Confederation (ETUC) and European Trade Union Institute (ETUI), *Benchmarking Working Europe 2013*, 2013.

⁽²⁵⁾ Eurofound, *Quality of Life in Europe: Impacts of the Crisis, 3rd European Quality of Life Survey*, Luxembourg, 2012.

⁽²⁶⁾ European Commission, *EU Employment and Social Situation Quarterly Review* — March 2013.

⁽²⁷⁾ See footnote 21.

⁽²⁸⁾ See OJ C 44, 11.2.2011, pp. 23-27; OJ C 166, 7.6.2011, pp. 18-22; OJ C 24, 28.1.2012, pp. 35-39; OJ C 318, 23.12.2009, pp. 52-56; OJ C 48, 15.2.2011, pp. 57-64; OJ C 44, 11.2.2011, pp. 90-98; OJ C 44, 11.2.2011, pp. 34-39; OJ C 318, 29.10.2011, pp. 43-49; OJ C 132, 3.5.2011, pp. 26-38; OJ C 128, 18.5.2010, pp. 10-17.

⁽²⁹⁾ OJ C 221, 28.8.1989, pp. 10-15.

4.2 The urgent need for a minimum income scheme was underlined at the public hearing⁽³⁰⁾ held by the EESC when preparing its opinion and which brought together experts and activists to discuss how to measure poverty more effectively and to review the challenges to be overcome in order to adopt a European minimum income scheme.

4.3 The multidimensional nature of poverty⁽³¹⁾ and social exclusion requires a reinforced social dimension in European governance: socially sustainable macroeconomic policies are a precondition for exiting the crisis and for securing social cohesion. Persistent poverty and exclusion are detrimental to the economy as they deplete disposable income and demand, undermine competitiveness and constrain national budgets.

4.4 In this regard, the EESC is convinced of the need to re-evaluate priorities and policies, in particular monetary policies, including the Stability and Growth Pact, competition and external trade policies as well as financial and fiscal policies.

4.5 The EESC welcomes the updated Social Investment Package of 20 February 2013⁽³²⁾ that calls on the Member States to design efficient and adequate income support considering local, regional and national social needs to establish reference budgets containing a list of goods and services that a family of a specific size and composition needs in order to be able to live at a designated level of well-being, along with the estimated associated monthly or annual costs.

4.6 The EESC strongly urges the Commission to act faster into putting into practice the promise it made⁽³³⁾ to support Member States by monitoring reforms towards active inclusion, developing a methodology for reference budgets and monitoring the adequacy of income support, using these budgets once they are developed together with the Member States.

4.7 The EESC is strongly convinced that the best way to reduce poverty and avoid social exclusion is to re-start growth, to boost competitiveness and to create favourable framework conditions for European companies (including e.g. avoiding excessive administrative burdens, as well as ensuring access to finance), in order to allow them to expand and to create jobs for people with the adequate skills.

4.8 The Committee highlights the need to attach particular importance to lifelong learning programmes as a basic tool for combating poverty and social exclusion, boosting employability and access to knowledge and the labour market. It is important to increase the participation in lifelong learning by workers, the unemployed and all vulnerable social groups and improve the level of professional qualifications and acquisition of new skills, which may lead to faster integration in the labour market, increase productivity and help people to find a better job.

4.9 The EESC supports a comprehensive approach to social entrepreneurship, with increased funding for the Social Entrepreneurship Fund and an improved legal and administrative environment to foster social economy enterprises that can combat poverty, as drivers of growth, innovation and employment.

4.10 The EESC welcomes the recent recommendation on child poverty⁽³⁴⁾, but regrets that the on-going exposure of so many children to the risk of poverty passed on between generations reveals shortcomings in existing policies.

⁽³⁰⁾ 28 May 2013, <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-european-minimum-income>.

⁽³¹⁾ The indicator for risk of poverty or social exclusion comprises three elements: risk of poverty, severe material deprivation, and very low work intensity.

⁽³²⁾ Communication from the Commission *Towards Social Investment for Growth and Cohesion — including implementing the European Social Fund 2014-2020*, COM(2013) 83 final. The Social Investment Package also contains a recommendation on *Investing in children: breaking the cycle of disadvantage* (C (2013) 778 final), working documents on *Long-term care in ageing societies — Challenges and policy options*, *Investing in Health*, *Follow-up on the implementation by the Member States of the 2008 European Commission recommendation on active inclusion of people excluded from the labour market*, and the *3rd Biennial Report on Social Services of General Interest*.

⁽³³⁾ Communication COM(2013) 83 final, point 2.2.

⁽³⁴⁾ Commission Recommendation of 20 February 2013 on *Investing in children: breaking the cycle of disadvantage*, OJ L 59, 2.3.2013, pp. 5–16.

4.11 The EESC is concerned to see that the poverty and social exclusion target set by the Europe 2020 strategy (20 million fewer people in poverty in the European Union in 2020) will not be met.

4.12 The EESC has already noted that levels of civil society involvement in preparing NRPs differ significantly between Member States with little provision made in some to include them ⁽³⁵⁾.

4.13 The lack of up-to-date figures on income and living conditions is an obstacle to the implementation of the Europe 2020 strategy.

5. The role of minimum income in combating poverty and in social inclusion

5.1 The EESC is aware that framing a specific central role for the EU in minimum income protection would be an exceptionally complex policy operation, given the economic differentiation between the Member States, diversity of minimum income schemes ⁽³⁶⁾ and social protection structures, subsidiarity, the mesh of rights and obligations linked to minimum income protection, the complex interplay between, on the one hand, existing policies and their results and, on the other, the concept of 'solidarity' in the Union.

5.2 The EESC, nonetheless, sees the need for introducing and strengthening minimum income schemes, as 22 years after Recommendation 92/441/EEC, all Member States do not yet have them, accessibility and adequacy are not guaranteed everywhere, and the cumulative objectives of the Member States to reduce poverty and social exclusion fall well short of the Europe 2020 target ⁽³⁷⁾.

5.3 Considering the dynamics between poverty and the economy, the EESC underlines the stabilising potential of minimum income schemes that can both mitigate the social impact of the crisis and have a counter-cyclical impact by providing further resources to boost demand in the internal market.

5.4 The EESC fears that minimum income schemes, which vary widely in most Member States in terms of coverage, comprehensiveness and effectiveness, fall short of alleviating poverty and is concerned that non-take-up of such schemes tests their effectiveness still further ⁽³⁸⁾.

5.5 The EESC welcomes the some positive results of the social OMC, but regrets that the existing instruments and structures have not been fully explored and that progress in the fight against poverty and social exclusion was limited.

5.6 To complement the social OMC, the EESC supports the introduction of a European directive that would extend minimum income schemes to all Member States, improve the adequacy of existing schemes, taking into account different national contexts, and thus send a strong message regarding the EU social pillar.

5.7 The proposed directive should set common standards and indicators, provide methods to monitor its implementation and allow for the involvement of social partners, beneficiaries and other stakeholders when establishing or revising national minimum income schemes.

5.8 The EESC takes the view that as a prerequisite for reinforcing solidarity and social cohesion **within and among Member States**, budgetary and macro-economic policies should also serve the social investment goals of Europe 2020 in implementing existing strategies and using existing instruments and structures.

5.9 The EESC believes that the European Union's efforts to upgrade minimum income protection must consist of helping Member States, particularly those in acute need, to open up markets and implement efficient macro-economic policies, as well as using the available funds in a more efficient and targeted way and examining without delay the possibilities of extending the required funds.

⁽³⁵⁾ EESC: *Civil Society Involvement in the National Reform Programmes*, Summary Report. Brussels, 28 February 2011.

⁽³⁶⁾ For an all-round view, see Frazer and Marlier, op. cit., 2009.

⁽³⁷⁾ Social Protection Committee, op. cit.

⁽³⁸⁾ SWD(2013) 39 final.

5.10 The EESC would point out that, while minimum income schemes are directly linked to social protection and assistance systems, they should not generate dependency, and it would reiterate the conditions it set as early as 1989⁽³⁹⁾. To this end, minimum income schemes should be flanked by general policies and targeted measures such as active labour market policies (ALMPs) to help the unemployed back to work, employment services, and benefits and programme management that is geared to the employment market, including training and job-creation backed by appropriate implementation strategies, to ensure that jobseekers have a greater chance of finding work. Effective labour market institutions, health care, housing policies and affordable, accessible public services of high quality are also essential.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽³⁹⁾ See opinion cited in footnote 29.

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendments were rejected, although they did receive at least a quarter of the votes cast:

Point 1.4

Amend:

calls on the Commission to examine existing best practices ~~funding possibilities~~ to assist Member States to develop active inclusion strategies encompassing sufficient and adequate income support, activation measures and measures to tackle poverty, respecting their primary responsibility in the light of subsidiarity and national practices whilst, at the same time, examining funding possibilities and their efficient and targeted use for a European minimum income focusing in particular on the prospect of ~~setting up an appropriate European Fund~~;

Voting

For: 112
Against: 134
Abstentions: 10

Point 4.2

Amend:

The ~~urgent~~ need to address for a minimum income scheme was underlined at the public hearing³⁰ held by the EESC when preparing its opinion and which brought together experts and activists to discuss how to measure poverty more effectively and to review the challenges to ~~be~~ overcome in order to adopt a ~~European~~ minimum income scheme at the national level.

Voting

For: 110
Against: 132
Abstentions: 13

Point 5.3

Amend:

Considering the dynamics between poverty and the economy, the EESC notes ~~underlines~~ the stabilising potential of minimum income schemes that could ~~can~~ both mitigate the social impact of the crisis and have a counter-cyclical impact by providing ~~further resources to boost demand in the internal market~~.

Voting

For: 110
Against: 139
Abstentions: 8

Point 5.6

Amend:

~~To complement the social OMC, the~~The EESC calls for an exchange of best practices from minimum income schemes and guidelines at the national level to support Member States to establish minimum income schemes and make them properly focussed and efficient ~~supports the introduction of a European directive that would extend minimum income schemes to all Member States, improve the adequacy of existing schemes, taking into account different national contexts, and thus send a strong message regarding the EU social pillar. Moreover the newly introduced social scoreboard can help to prevent potential disparities.~~

Voting

For: 115

Against: 138

Abstentions: 9

Point 5.7

Amend:

~~The proposed measures~~directive should set guiding common standards and indicators, provide methods to monitor ~~is~~ their implementation and allow for the involvement of social partners, beneficiaries and other stakeholders when establishing or revising national minimum income schemes.

Voting

For: 115

Against: 139

Abstentions: 5

Opinion of the European Economic and Social Committee on The challenges of the European engineering industry (mechanical, electrical, electronic and 'metalworking') in a changing global economy (own initiative opinion)

(2014/C 170/05)

Rapporteur: Ms **STUDNIČNÁ**

Co-rapporteur: Mr **ATANASOV**

On 14 February 2013 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 challenges of the European engineering industry (mechanical, electrical, electronic and metalworking) in a changing global economy

(own-initiative opinion).

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 11 December 2013), the European Economic and Social Committee adopted the following opinion by 167 votes to 1 with 4 abstentions.

1. Conclusions and recommendations

1.1. The European engineering industry ⁽¹⁾ (EI) plays a vital role in the economic recovery of Europe and the ambitious goal to increase the industrial output by 2020 to more than 20 % of the GDP. However, more investment of companies is necessary to generate such growth, to reverse the current trend and to get people out of unemployment.

1.2. To reach this, Europe must develop a clear vision and target for industry. This must lead to a coordinated policy with a clear focus on the competitiveness of the European industry that includes the other policy fields and makes Europe a more attractive place to set up business.

1.3. Europe must develop a more positive approach towards change in industry, especially with regard to the successful transition of the CEECs.

1.4. Europe should become more aware of its assets, develop and strengthen them — well-skilled and motivated workers, a diverse education landscape, enormous scientific knowledge, many globally leading regional clusters, well-integrated chains of suppliers and services, well-developed transport infrastructure and a huge internal market with more than 500 million consumers and solid cooperation of social partners.

1.5. In order to generate new investments Europe must follow a strategy that keeps its industry at the forefront of technological innovation and at the same time, in order to reach the necessary volume of output and employment as a main tool of strengthening competitiveness, be more attractive for companies manufacturing mass production goods, both in the high and in the low and medium-tech ranges. The EESC calls upon the European Commission to launch a strategy on how Europe can attract more investments in high tech companies — including modern factories resulting from the 4th industrial revolution — and highly skilled competences fostering innovation throughout the value chain.

1.6. European research funding should be linked more to the industrial needs, involving companies at an early stage of the innovative process and supporting the creative engineering in SMEs in order to bring easier and faster new ideas to new products. Clusters joining manufacturing companies and research structures should be promoted and supported.

1.7. The EC should increase its efforts to make the life of European companies easier, especially for SMEs. New technical and administrative legislation should only be considered if its targets cannot be achieved otherwise. The EC should put a stronger focus on a coherent application of existing rules among all Member States, harmonising and strengthening the Market Surveillance. EC should also promote balanced application of such approach globally towards other world's regions.

⁽¹⁾ See 2. Introduction.

1.8. Disadvantages, such as difficult access to finance, high energy costs or costs resulting from administrative burdens and legislation should be reduced by adopting a more consistent and predictable legislation.

1.9. High employment in Europe can only be maintained if workers are better educated and trained than in competing economies. Measures should be taken to attract the youth — both males and females — in technological professions with increasingly sophisticated machinery and services. Cooperation of companies with universities and schools, training and lifelong learning has to be encouraged.

2. Introduction

2.1. The **EI** in Europe is a very wide and diverse sector, covering NACE codes 25, 26, 27, 28, 29.3, 32.11 and 33 with the exemption of 33.15 to 33.17. The **EI** traditionally is presented by: Mechanical and Electrical engineering and machinery; Electronics; Metal articles and metalwork.

2.2. The entire **EI** in Europe consists of some 130 000 companies, employing > 10,3 m people with high qualification and skill level, generating an annual output of some EUR 1 840 bn and about 1/3 of all exports of the EU.

2.3. Producing a variety of final products and delivering to other sectors components, parts, tools, machinery, installations, systems, technologies, etc., this industry plays a key role for the technology level of a large number of other sectors and defines the development of the society on energy efficiency, health, mobility, communications and security.

2.4. Due to its enormous volume, high employment and strong export orientation, the **EI** plays a vital role in the economic recovery of Europe and the ambitious goal outlined in the Communication of the EC 'A Stronger European Industry for Growth and Economic Recovery' to reverse the current trend and to increase the industrial output by 2020 to more than 20 % of the GDP.

2.5. The European engineering industries must be seen and analysed in the context of the EU economic development, and these industries are integral and essential links of the respective value chains. Seen from this point of view, they suffer from essentially the same problems as their chain counterparts (steel industry, power sector ...).

3. Challenges of the European EI

3.1. *International competition*

3.1.1. The European **EIs** export a considerable part of their output. In recent years investments have lagged behind other regions in the world. This entails a dangerous de-localisation of value chains away from Europe and European **EIs** are facing increasing global competition.

3.1.2. North America has adopted a strategy that aims at re-industrialisation, based in particular on low energy costs and lower labour costs in the NAFTA. China and several countries in South East Asia have attracted considerable investment, especially in the electric and electronic sectors, recently also in machinery. With state-backed development plans, these industries not only compete with lower wages but will soon produce goods with higher added value. Japan is gaining competitiveness due to the recent devaluation of the Yen by around 30 %. Finally, Africa and the Middle East have succeeded in recent years to attract manufacturing investments.

3.1.3. The target of 20 % share of industry in GDP, necessitates the creation of at least 400 000 new jobs/year. Only if Europe can attract more investments, enough jobs and wealth will be created so that the high social standards in Europe can be maintained and the Europe 2020 goals can be reached. And investments will only be made in Europe if it is competitive.

3.1.4. It is evident that such a high number (> 10m) of predominantly well-paid jobs cannot be maintained if Europe concentrates only on the upper market end of engineering. While high tech companies play a decisive role in the technological lead and foster innovation throughout the value chain, it is crucial Europe to remain a production place for all kinds of engineering products and commodities, also in the low- and medium-tech sector. Besides creating employment, this is decisive for the integrated network of suppliers, which is one of the biggest assets for producers in Europe, and allows fast exchange of knowledge, quick adoption of production and benefits from regional clusters.

3.2. *Technological challenges*

3.2.1. It is in particular the engineering sector that is at the forefront of the transformation to a green and low carbon economy through the products, systems and technologies its companies are producing. The industry is moving very fast towards the fourth industrial revolution ⁽²⁾ which will provide the jump to mass customisation, enabling industry to answer societal challenges with tailor made solutions.

3.2.2. Europe has the necessary scientific knowledge and research competence for the change to a greener economy, but the path to innovative products requires more than that. Europe has in many technologies a clear scientific advantage, but the industries profiting from this research settled abroad, i.e. Europe is not attractive enough as a production place to bring such innovations to the market and the outflow of knowledge to rival economies becomes a real menace.

4. **What can Europe do?**

4.1. *Strategic aspects*

4.1.1. Assessing the chances of the EU in pursuing the really needed industrial policy one arrives in grave inherent problems that would affect the required transition. First of all, unfortunately, the EU lacks vision and leadership, which lead towards too many incoherent initiatives and acute incoherence of the regulatory framework. Second, sustainability concept, which could be such an integration strategy, should give the same importance to all 3 pillars (environmental, social and economic).

4.1.2. The current decline of investor's confidence ⁽³⁾ in the EU economy is alarming; it is crucial to win it back. Real implementation of the EU 2020 Strategy and stimulating and motivating business environment could be the way out of current decline.

4.1.3. Much more investments and growth is needed to reverse the continued decline of industry in Europe. The 20 % target and creation of new jobs won't happen unless Europe develops a clear vision and agenda for industry. This should lead to a coordinated policy with a clear focus on the competitiveness of the European industry that includes the other policy fields and makes Europe an attractive place to set up business.

4.1.4. Engineering companies suffer from too much regulation, at times inappropriate, and many national laws overlapping the EU law. Especially SMEs are not able to cope with them. The main task for engineering companies should be to find technical solutions and not to spend a considerable part of their resources to deal with the latest regulations. The direct approach to get relief from this problem is to reduce the amount of new legislation.

4.1.5. As an example for unnecessary new legislation, it has become a habit that most proposed recasts of existing regulations and directives are followed by amendments. Often better application of existing rules would solve a problem better than creating new provisions. New rules should therefore be the ultima ratio.

4.1.6. The European legislator often tries to regulate a certain area in a too detailed manner. While this makes sense in certain technical regulations, it might be inappropriate in other areas, for example, rules on electromagnetic fields are too difficult to comply with for SMEs. The ECs 2013-2020 health and safety strategy must secure an adequate level of protection at the workplaces but should at the same time be consistent, short and easy to apply.

⁽²⁾ 1st (end of 18th c) Mechanical manufacturing systems; 2nd (beginning of 20th c) Mass production, labour division; 3rd (since the mid-1970s) Automation, electronics and IT; 4th internet into production processes, networking those processes.

⁽³⁾ See attached Eurostat document.

4.1.7. European legislation must become more predictable. This entails — with regard to the investment cycles of companies — that methodologies shall not be altered once established and targets shall be heightened predictably and in a long-term perspective. One example, where the originally holistic approach of the Commission is getting lost, is the Eco Design Directive. The initial focus has been on energy and the robust methodology used (MEErP) should be maintained. Particular problem results from frequent recasts. For some products the changes in legislation happen roughly in 5 year interval, which is particularly devastating for the engineering sector, where the investment horizon stretches from 10 to 30 years.

4.1.8. Unfortunately, impact assessments of the EC do not include sufficiently the costs of new legislation for companies, especially for SMEs. The biggest cost of additional legislation actually not taken into consideration is in the investments and new companies that Europe loses and that are instead established outside EU.

4.1.9. In a similar way, rules for public tenders should be easy to understand. Otherwise, SMEs are no longer capable to make bids, competition gets less, the decisions in the procurement process get more difficult to be verified and public procurement becomes more vulnerable to fraud. Therefore, the focus should be laid on simplification and transparency.

4.1.10. Energy costs in Europe are much higher than in competing economies. The most urgent measure to make energy more affordable is the creation of a real European energy market. Additionally, it is important to abstain from introducing legislation that results in additional price increases. Decarbonisation must be affordable, technology-neutral and based on market laws.

4.2. *Internal market and market surveillance*

4.2.1. Protection against non-conforming dangerous products and counterfeiting is a precondition for fair competition. Currently, less than 1 % of all manufactured goods imported via the big European harbours are checked on their arrival on conformity with EU provisions and many dangerous or counterfeit products, especially electrical, enter the internal market.

4.2.2. Control and surveillance bodies in individual EU Member States differ largely. In some Member States, the system provides mechanism for necessary protection of businesses, in other countries these bodies are rare, not complete and insufficient or legislation is applied differently. The EU should improve and enhance coordination between these bodies with the aim to come to an appropriate and uniform European system.

4.3. *Standards*

4.3.1. Standardisation in Europe has become a decisive part for the success of the single market. Standardisation helps making products exchangeable and thus tradable all over the world and along long value chains. However, in recent years many SMEs complain about the amount of standardisation mandates by the EC and the fact that standardisation has gone beyond technical requirements. SMEs should be encouraged and supported to participate in the standardisation process.

4.3.2. As SMEs are increasingly involved in value chains, they should be given the possibility to adequately contribute to the making of standards. Practical measures have to be taken in order to establish equality between stakeholders i.e. better support on national level for the participation of SMEs with less financial resources.

4.4. *Technology and research*

4.4.1. The companies of the engineering industry are key drivers at the forefront of innovation when it comes to manufacturing the equipment necessary to make the green revolution happen. Energy effectiveness, CO₂ reduction and climate-friendliness are positively influencing the sustainable development of the sector. Besides creating new products, the innovations of engineering companies often lead to new ways of production, even more environmentally progressive goods and systems, at the same time more productive and affordable for customers.

4.4.2. Europe has reached a high level of research and research results. In 2012, there were more than 250 000 patent filings in Europe. However, the pathway from research to innovative products requires more than knowledge and research competence. Europe possessed for a long time a clear scientific advantage in many technologies, but in the end the industries profiting from this research often settled outside Europe. Such weak industrial exploitation of existing knowledge in Europe can only be overcome by industry participation in research programmes at an early stage and an appropriate framework that allows them to exploit the gained knowledge timely. New structures joining industry and research — clusters, technology parks, technological exchange centres — should be promoted through public funds.

4.4.3. To improve the industrial uptake of new scientific findings, research and innovation funding should be better targeted towards industrial needs and be carried out as a Public Private Partnership, such as the 'Factories of the Future' programme. In order to boost participation of companies, especially SMEs, the guidelines and provisions for participation and approval of projects should become simpler. Measures should be taken to promote establishing of modern factories resulting from the 4th industrial revolution.

4.5. *Labour market instruments*

4.5.1. The sheer number of jobs in this industry shows that it plays a key role in overcoming the currently high unemployment in the EU and has big potential for new jobs, if Europe can generate the investments for the next economic upswing. Creating these jobs the unacceptable high youth unemployment could be overcome. The current endeavouring by the EU to create a 'youth guarantee' seems a good measure during the current crisis. However, on the long run, sustainable employment can only come from sound companies which invest here.

4.5.2. Many manufacturing sectors face shortage of young professionals. Education and vocational systems shall be much more oriented on the needs and future needs of companies. Measures should be taken by both the administrations and industry itself to attract young people into this sector and improve at the same time the image of the sector. Especially the lack of professionals in science, technology, engineering and mathematics in some regions of Europe must be solved, e. g. by supporting the mobility of these professionals throughout Europe.

4.5.3. Still too few young women aim at a career in engineering. In many European countries the **EI** has already started campaigns focused on attracting young women for apprenticeships and the European Social Fund has supported projects aiming at lowering the emotional barrier of young women towards engineering careers. Still, more has to be done. At schools, technics and engineering should be taught in a more inspiring way.

4.5.4. One of the decisive strengths why many European companies passed well through the current crisis was their excellent workforce. Due to the apprenticeship system, their workers have a comprehensive knowledge of the theoretical basis and the actual production process. They have capabilities to integrate innovation quickly at different stages of the value chain. The European Employment Policy should encourage countries to adopt such apprenticeship systems at company level. Cooperation of companies with schools and universities, start-job exchanges and traineeships should be encouraged.

4.5.5. Industry associations and trade unions can take initiatives supported by their Governments to evaluate industry education and improve pathways that can help to fill a gap in labour qualification for an industry that provides increasingly sophisticated machinery and technical service, requiring new skills.

4.5.6. Lifelong learning should be a common duty of employers and employees. Workers who lose their jobs must have sufficient access to quickly updating their qualifications. Active labour market policies should be intensified and the exchange of good practices, such as those co-funded by the ESF and EFRD, accelerated.

4.5.7. Industrial sectors are subjects to a permanent change. There is a continuous creation of jobs and products, while others get redundant. Necessary restructuring must be organised in an anticipatory process. All social partners — trade unions and employers — as well as governments and EU institutions must be integrated in a dialogue to develop a more flexible and positive approach towards change in industry. As a priority redundancies have to be avoided to keep skilled and qualified workforce in the companies. Unavoidable job losses should be organised and cushioned in a social acceptable way. In some CEECs we can find examples of modernising the economy that is more productive, cleaner and creates new well-paid jobs.

4.5.8. Government, industry associations and trade unions must find solutions to comply with cyclical fluctuations of business activity. Speedy and efficient deployment of qualified staff is vital if European manufacturing companies are to respond to the increasing pressures of global competition. Employment legislation must admit work arrangements, both externally and internally, which consider the need of efficiency in the production process, as well as health and safety issues and work-life balance. Instruments of necessary flexibilisation must not be used to lower existing social standards in Europe.

4.5.9. National social partners have a high responsibility in collective bargaining. Competing successfully with present levels of labour cost is challenging and wage earners purchasing power must be maintained. European companies must not strengthen their competitiveness by lowering wages. Efforts must be focused on non-price competitiveness and controlling production costs to preserve and improve employment. Productivity gains should be shared between increased wages, investment and rewarding shareholders.

4.6. *Internationalisation of SMEs*

4.6.1. In recent years, the EC has recognised that helping SMEs to export is a key to a more powerful economy. For many SMEs, the first step is to export to another EU country. That is why the competition of the internal market is so important, as experiences gained there might motivate companies to export overseas. As the latter is difficult for SMEs, it is important that they are not left alone on those markets. Additionally, the access to export financing instruments should be improved for SMEs.

4.7. *Energy policy and future investments*

4.7.1. Even though public budgets remain constrained, the necessary investments in energy infrastructure should not be delayed, as this would hamper the competitiveness of Europe.

4.7.2. Most investments in energy and resource efficiency are made today only if the break-even is reached in less than 3 years, which leaves a lot of possible gains missed. Many private investments are not conducted even though they would be useful because their break-even would be usually reached in 3 to 5 years. This dilemma could be overcome if the future gains from such investments would create a cash flow already at the time when the investment must be made. Therefore, funds could be established at the EIB or national funding banks that provide credits to companies and households for such investments in exchange for the profits generated by the resultant saving until the credit is paid back. This model makes such investments possible without any public subsidies.

4.8. *Access to raw materials*

4.8.1. European manufacturers have profited from endeavours made previously to better recycle waste during the current phase of high raw material prices. Most metals, the base for most goods, are recycled today. Still, the access to raw materials that must be imported remains crucial for the competitiveness of the engineering industries. Therefore, the EU must insist that raw-material trade is not hindered by WTO-incompatible restrictions, especially rare earth. Thereby has to be taken into account, that ethic, social and ecologic standards have to be respected.

4.9. *Using potential of new/accessing EU Member States*

4.9.1. European companies should explore and use much better the potential of the new EU Member States. This approach could transform the problems with the excessive economic differences between the European regions in a European advantage.

4.9.2. EESC urges the EC to monitor the situation in international trade of critical raw materials. EESC recommends preparing several plausible scenarios, with the worst case one, to describe the threats and potential solutions. Cooperation with other countries in the similar situation (US, Japan, South Korea) should be enhanced.

Brussels, 11 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on The European ship maintenance, repair and conversion sector: a resilient industry, competitive in the world and committed to EU policies for sustainable growth (own-initiative opinion)

(2014/C 170/06)

Rapporteur: **Marian KRZAKLEWSKI**

Co-rapporteur: **Enrique CALVET CHAMBÓN**

On 14 February 2013 the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

The European ship maintenance, repair and conversion sector: a resilient industry, competitive in the world and committed to EU policies for sustainable growth.

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2013. The rapporteur was Mr Krzaklewski and the co-rapporteur was Mr Calvet Chambón.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 163 votes in favour, 3 against and 4 abstentions.

1. Conclusions and recommendations

1.1 The ship maintenance, repair and conversion sector (SMRC) is strategically important to Europe and its sustainable development, since it plays a key role in areas such as environmental protection, transport, security and energy efficiency.

1.2 The EESC believes that, on account of its advanced technical know-how, the current network of SMRC shipyards in the EU is well prepared and capable of meeting the growing demand for sustainable development, technology, innovation, workers' skills and shipyard equipment.

1.3 According to the Committee, opportunities for the sector are emerging despite the difficult economic climate. These relate to the enlargement of the world fleet and the increasing proportion of older ships, and in particular to the growing demand for conversion and modernisation due to environmental, energy and climate requirements. In the immediate term, this involves the growing demand for energy-efficient vessels, the operation and development of offshore wind energy facilities and extraction of natural resources from the sea.

1.4 In the medium to long term, the opening up of Arctic sea routes and deep-sea mining provide further opportunities for the sector.

1.5 The Committee points out that despite these promising opportunities, the on-going crisis means that shipowners and SMRC shipyards are still facing financing bottlenecks, for example, access to credit and thus difficult business conditions for companies. A further challenge is maintaining a critical mass for the sector.

1.6 In order to address this, the SMRC sub-sector should work closely with the maritime value chain with the aim of raising its profile and obtaining support from the EU, the Member States and regions, given the existence of ever greater competition from third countries.

1.6.1 The Committee believes that the following will be beneficial and useful for this sector:

— A broader and more active role for the EIB in the sector within the framework of EIB objectives to support European industrial policy: this also concerns SMEs from the SMRC sector, where the EIB and the EIF have significant indirect scope for action;

- The organisation of workshops with the participation of the EIB, the European Commission and industry stakeholders (these workshops are proposed in the LeaderSHIP 2020 initiative), and measures to explore EIB financing opportunities;

- The possible use of the Europe 2020 Project Bond Initiative in areas relating to transport and energy; the allocation of regional funding (including funding relating to 'smart specialisation') to the maritime sector; decision by the Commission — which must be taken by the end of 2013 — on extending the framework on authorised State aid for the shipbuilding sector until the proposal and entry into force of new rules on both the general RDI framework and regional aid, which taken together should play the role of the current framework in future; steps should be taken to ensure that the expiry of the framework and its replacement with new rules does not produce new financial bottlenecks and every effort should be made to compensate the SMRC sector for the economic damage this may cause;

- The prioritisation of EU RDI funding under Horizon 2020 (which is to be a continuation of the Waterborne technology platform) for focused maritime projects with demonstration elements and innovation potential (including PPP for research purposes).

1.7 The EESC points out that although workers in the EU's SMRC sector have adequate skills, they should be continually assessed and updated. These measures should be supported as a matter of priority, for example within the framework of the LeaderSHIP 2020 initiative. There is a real risk of a loss of critical mass in this sector, given the ageing skilled workforce.

1.8 According to the EESC, generating interest in the sector among new and younger workers should be a main concern and this should be linked to measures aimed at improving the sector's image. This should be associated with financial support for schools and universities with specialisations covering SMRC.

1.9 The Committee believes that the Commission, together with the social partners and other stakeholders (using the concept of the sector council on skills, for example), should draw up a plan for the continual adaptation of skills to the new tasks of the SMRC sector, covering among other things off-shore facilities (platforms, wind farms, etc.), harbours, new technical floating units, facilities and ships for LNG bunkering, etc. This requires monitoring of skills, the permanent advancement of training and promotion of mobility within Europe.

1.10 A comprehensive set of principles and rules (environmental protection, security, ports, rules on transport, assembly, recycling) has a crucial impact on the way in which the sector functions and on demand for its services. In light of this, the EESC believes that the SMRC and newbuilding industry should carry out frequent and systematic consultations together with EMSA, with a view to ensuring that ships are safer and more environmentally-friendly and that they are monitored effectively.

1.11 According to the EESC, the collection of new rules and requirements relating to advanced technologies should not be regarded as harmful or problematic for the sector, but rather as an opportunity. In this regard, SMRC and newbuilding yards and the steel manufacturing sector should work together more closely to achieve better results. The Committee calls for DG MOVE to take into account the SMRC sector in its strategic policy developments (including on the matter of short-sea shipping).

The EESC believes that, in accordance with medium-term (3 year) forecasts pointing to strong demand for ship recycling carried out in Europe, the SMRC sector has the facilities to carry out such projects. It also has the human capital to meet requirements for recycling of ships that is not harmful to humans or the environment. At the same time, account is being taken in the sector of the fact that this is a new and different form of activity, with sensitive aspects and requiring a careful approach. The Committee believes that ship recycling will be an increasingly strategic activity for European industry.

1.12 According to the Committee, the key short-term objectives, which require public support with a view to financing conversions in the EU's SMRC sector, are the installation of cleaners and systems for the treatment of ballast water (this may affect up to 65 000 ships around the world according to the Lloyd's Register), and conversions associated with energy efficiency (including installation of LNG-powered engines, installation of facilities for LNG bunkering at sea and heat recovery systems as well as modernisation units for slow steaming, etc.).

1.13 The Committee firmly believes that the SMRC industry is of huge importance to the respective European naval fleets and that this subject should be included in other EESC opinions on the armaments sector.

1.14 The EESC believes that putting IMO rules in practice, particularly the Ballast Water Management Convention, is of key importance for the sector. This convention should therefore be implemented in a proper and efficient way with clear expectations.

2. Introduction

The European ship maintenance, modernisation and repair industry — SMRC

2.1 Shipbuilding encompasses all enterprises involved in the construction, maintenance, conversion and repair of all types of ships and other relevant maritime structures. The abbreviated name for maintenance, repair and conversion yards is SMRC. Classification surveys also come under this area of activity. Such shipyards exist in 16 EU countries and employ around 50 to 55 thousand people (the average figure for the 2007-2011 period).

2.2 The SMRC sector is a specific segment of the shipbuilding industry. This sector is growing in importance with the expansion of the global fleet and maritime (and inland waterway) transport, and with the development of ship technologies and increased requirements for water transport in the area of sustainable development.

2.3 The EU currently enjoys a strong position in this sector. Its current share of the global market is around 35%, which shows that the sector is strategic for Europe. This position should be maintained and even enhanced with a view to ensuring a high level of safety in maritime transport and establishing rigorous environmental and energy efficiency standards.

Profile of the SMRC sector

2.4 The SMRC sector differs from the newbuilding sector in many respects. SMRC is divided into the following sub-sectors: ship repair, maintenance and modernisation as well as conversion.

2.5 Maintenance and repair is usually a short-term operation. A ship is in a dry dock for most of the time and on average remains there for around 10 to 12 days.

2.6 The planning of repair work is relatively straightforward and shipyards can influence the shipowner's choice of shipyard. Unplanned repairs which take place following system, mechanical or structural failure must be carried out by the closest possible shipyard. In such cases, it is difficult to influence the shipowner's decision.

2.7 According to a 2008 OECD report ⁽¹⁾, choosing the appropriate ship repair yard has become crucially important for shipowners, who often have to decide between a financially attractive low-cost option and the need to ensure reliability and technological sophistication. The most important factors for deciding where a ship will be repaired are usually: cost, length of time for repairs (including deviation cost) and, to a lesser extent, the type of technology used.

⁽¹⁾ *The interaction between the ship repair, ship conversion and shipbuilding industries report*, C/WP6(2008)6c.

2.8 In order to achieve economies of scale, newbuilding and ship repair are being linked-up in various locations around the world. Countries which are leaders in the shipbuilding industry usually separate the activities of newbuilding and SMRC yards in order to strengthen the concentration of the workforce and boost productivity.

In some EU countries (e.g. Poland, Germany, the Netherlands) and in India there are functional and corporate links between newbuilding and SMRC yards. This model appears to function effectively in these countries through the use of joint departments and facilities (and other organisational units⁽²⁾) for both types of shipyard, while at the same time taking advantage of the diverse portfolio of products and orders and minimising the risks resulting from the economic slowdown.

2.9 The market realities of the sector

2.10 In recent decades, the term 'always young' has been used in literature to describe the development of the SMRC sector. Strong growth of the international fleet from 660m DWT in 1990 to 1 468m DWT in 2011 has been a source of parallel growth in opportunities for the SMRC industry. World annual turnover in this sector was estimated to be around USD 12bn at the end of 2010⁽³⁾.

2.11 Turnover in the European ship repair sector amounted to EUR 3,16bn in 2010 (peaking at EUR 4bn in 2008). Appendix 1 shows ship repair yard turnover in various European countries between 2006 and 2010.

2.12 The European SMRC sector was doing quite well before the crisis. Since 2010, shipowners have cut expenditure or postponed orders in an attempt to lower their costs. In the second half of 2010, they managed to make up for losses, as evidenced by the fact that waiting times for repair work went up again (from one week to three weeks).

2.13 There are SMRC yards all around the world. Although Asian shipyards carry out ship repairs at a lower cost (on account of low labour costs), many shipowners choose more expensive shipyards because they are able to offer shorter lead times (thereby avoiding deviation costs) and more sophisticated know-how.

Conversion and Modernisation in SMRC yards

2.14 In some respects, the conversion and modernisation process is more similar to newbuilding than to repair and maintenance work. Ship conversion usually takes longer than conventional repair work. The actions involved in ship conversion can be described as a production process.

2.15 According to Sea Europe⁽⁴⁾, ship conversion is closer to the activities of newbuilding yards in terms of timescales, but conversion requires a completely different approach that involves flexibility. This ensures that changes can be made to the work plan in accordance with the client's requirements, and the specific nature of the ship earmarked for conversion.

2.16 Shortly before the crisis, the market for shipyards carrying out conversion work was very good. However, the number of orders began falling in 2009, with the biggest drop occurring in early 2010. At that time, most order books for conversion work were empty. The situation improved somewhat in the second half of 2010. At present, however, many ship owners are restricting orders for conversion because of financial challenges.

2.17 Recently, repairs, conversions and the modernisation of off-shore auxiliary vessels and floating facilities (including drilling platforms) have played an increasingly important role. Given the high costs of new vessels of this kind (and off-shore floating facilities) and long waiting times for their delivery (even up to four years), ship owners are opting to convert existing off-shore units and floating facilities. In Europe, however, there is a strong temptation to use cheaper foreign shipyards to carry out such conversions.

⁽²⁾ See footnote 1.

⁽³⁾ CESA *Annual Report* 2010–2011.

⁽⁴⁾ Since 2012, the Community for European Shipyards Associations (CESA) and the European Marine Equipment Council (EMEC) have formed a European Ships and Maritime Equipment Association called SEA Europe.

3. Analysis of the competitiveness of the European SMRC sector

3.1 Research and analysis of the competitiveness of the SMRC sector in the EU was recently carried out under the ECO REFITEC⁽⁵⁾ research programme, within the framework of the Seventh Research Framework Programme. The results of this research can be found in appendix 2.

4. European and international legislation with an impact on the SMRC sector (source material⁽⁶⁾ ⁽⁷⁾ ⁽⁸⁾)

4.1 At international level, there have been no discussions on multilateral agreements on competitiveness (under the auspices of the WTO), which could have an impact on the SMRC sector. The chances of reaching such an agreement in the short term are rather slim.

4.2 At bilateral level, the EU has negotiated trade agreements, which have an indirect impact on competitiveness, with the USA, Canada, Japan and South Korea, but their impact on the SMRC sector is rather minimal.

At European level, EU legislation includes the Framework on State aid to Shipbuilding. Under this framework, the Commission may authorise innovation and regional aid for shipyards or, in the case of export credits, aid to shipowners. Regarding the SMCR sector, this framework concerns the aid for ship repair and conversion in the case of regional and innovation aid and aid for ship conversion exclusively in the case of export credits.

4.2.1 The current framework has been in force since 1 January 2012 and is valid for two years. The Commission predicts that, after this period, it will be possible to integrate the shipbuilding framework into the future version of the EU guidelines for State aid for research and innovation and for regional aid, because currently both the general EU framework and the more specific newbuilding framework are being reviewed.

4.3 Existing rules ratified by IMO members which are creating fresh opportunities for the SMRC sector

4.4 The Ballast Water Management Convention

4.4.1 The Ballast Water Management Convention solves the problem of the transfer of invasive marine species between different maritime areas through the release of ballast water transported by ships. The entry into force of the convention was planned for early 2014.

4.4.2 The impact of the convention on the SMRC sector will be very significant because many ships will need to be modernised and/or converted, which may affect up to 65 000 vessels around the world according to the Lloyd's Register.

4.4.3 Other potential effects of this convention for SMRC shipyards are, first and foremost, the risks arising from the use and storage of new chemicals and increased legal requirements concerning their use.

4.5 MARPOL convention (Annex VI) — prevention of air pollution from ships

4.5.1 This convention, which entered into force in 2013, seeks to reduce air pollution from ships, in particular SO_x and NO_x.

⁽⁵⁾ *Eco innovative refitting technologies and processes for shipbuilding industry promoted by European Repair Shipyards* — Project co-funded by the European Commission within the Seventh Framework Programme (2007-2013).

⁽⁶⁾ See footnote 5.

⁽⁷⁾ See footnote 3.

⁽⁸⁾ See footnote 1.

4.5.2 In order to avoid unnecessary restrictions on the maritime industry, Annex VI to the convention stipulated that emissions may be lowered by using alternative fuels or by adopting gas cleaning technologies.

4.5.3 The convention creates opportunities for SMRC shipyards, since technologies limiting emissions will need to be installed on board ships included in existing fleets. Potential risks for shipyards installing environmentally-friendly devices include a growing dependence on the suppliers of devices and the need for certain investments in shipyards.

4.6 Ship recycling convention

4.6.1 This convention seeks to ensure that the risk to the environment, health and safety during the recycling of ships is kept at an acceptable level.

4.6.2 As a result of the provisions in the convention, ship owners must be fully informed about all materials which are used during maintenance, repair and conversion and make sure that unwanted materials are never used in shipyards. This can create additional opportunities to secure new specialised orders for EU shipyards with a high level of know-how.

4.7 Ship recycling will become an increasingly strategic activity geared towards providing and supplying, for example, scrap and other raw materials for manufacturing sectors in the EU (steel, aluminium, copper), with a view to reducing both the direct and indirect environmental impact and preventing unacceptable working and social conditions.

5. Proposals and guidelines for the SMRC sector in the LeaderSHIP 2020 initiative and in the current work of the shipbuilding industry sectoral dialogue committee

5.1 The SMRC sector and related industries should take account of the opportunities and possibilities for EIB financing through increased loan activities by the bank. EIB measures should be promoted and examined, mainly for projects relating to 'green shipping', renewable offshore energy and conversions. It is proposed that DG ENT organise 'workshops' as a matter of priority, in order to explore the prospect of EIB support in greater detail.

5.2 The Member States and coastal regions should examine the possibility of allocating Structural Funds to diversify technology in the maritime industry, in connection with new market sectors. This particularly relates to regional strategies for smart specialisation.

5.3 As regards potential long-term EU financing, the European Commission should examine the possibility of measures to finance the construction and modernisation of ships. The Member States, financial operators, the maritime technology industry and other stakeholders should review the availability of market guarantees.

5.4 The shipbuilding industry (including SMRC), in cooperation with the European Commission, the Member States or regions should be included in research activities, through the use of public-private-partnerships (PPP) among other things, taking full account of the structure of maritime sectors and relevant State aid principles.

5.4.1 The EESC agrees with the basic point of the LeaderSHIP 2020 initiative that in order to meet the general PPP objectives for the shipbuilding sector, there needs to be a strong commitment to research programmes. As regards short-term goals, the SMRC sector's sustainable competitiveness should without question be underpinned by appropriate measures to promote innovation in businesses.

5.5 The EESC supports the inclusion of the shipbuilding industry sectoral dialogue committee in the work on defining and implementing policies under the LeaderSHIP 2020 initiative. Currently, the special role of the committee should involve implementing that part of the initiative relating to the better identification and comparability of qualifications and skills with a view to ensuring the sector's long-term prosperity.

5.6 The EESC looks forward to seeing positive progress by the dialogue committee in connection with social standards in the European newbuilding and SMRC sector.

Brussels, 10 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

494TH PLENARY SESSION OF THE EESC ON 10 AND 11 DECEMBER 2013

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund

COM(2013) 522 final — 2013/0248 (COD)

(2014/C 170/07)

Rapporteur: **Mr Dimitriadis**

On 5 September and 10 September 2013, respectively, the European Commission and the European Parliament decided to consult the European Economic and Social Committee, under Article 175 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund

COM(2013) 522 final — 2013/0248 (COD).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 14 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 153 votes to 3 with 4 abstentions.

1. Conclusions

1.1 In principle, the EESC approves of the way the European Union Solidarity Fund (EUSF) ⁽¹⁾, has functioned to date, noting that it supported its establishment from the outset ⁽²⁾.

1.2 The EESC sees a need for the immediate amendment of Regulation 2012/2002 on the functioning of the EU Solidarity Fund, as it has already been delayed ⁽³⁾, and supports the Commission's efforts even though the new proposal is rather conservative, a view shared by the European Parliament ⁽⁴⁾.

⁽¹⁾ Council Regulation (EC) No 2012/2002 of 11 November 2002, OJ L 311, 14.11.2002.

⁽²⁾ EESC opinion on the *Proposal for a Council Regulation establishing the European Union Solidarity Fund*, OJ C 61, 14.3.2003, p. 187-188.

⁽³⁾ EESC opinion on the *Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Solidarity Fund*, OJ C 28, 3.2.2006, p. 69.

⁽⁴⁾ European Parliament report on the European Union Solidarity Fund, implementation and application, C2012/2075, A7-0398/2012/20.12.2012.

1.3 The EESC considers that the rejection by the Council of the Commission's 2005 proposal ⁽⁵⁾ represented a missed opportunity to lay new foundations for the running of the fund.

1.4 The EESC believes that all appropriate measures should be taken to cut red tape in the functioning of the EUSF and to accelerate its procedures ⁽⁶⁾.

1.5 The EESC agrees with the changes put forward in the new proposal for a regulation ⁽⁷⁾ concerning the introduction of advance payments, a clearer definition of what constitute 'major disasters' and 'extraordinary regional disasters' and the measures to be taken regarding Member States that fail to focus adequately on disaster prevention.

1.6 The EESC considers that in spite of the particularly difficult financial period the EU is experiencing, greater budget resources should be allocated to the functioning of the EUSF to provide for the unfortunate eventuality of a particularly severe major disaster.

1.7 The EESC is of the view that the EUSF's operating conditions should be entirely transparent so as not to give rise to groundless expectations or become a tool for political manoeuvring, and so as not to create disillusionment among populations experiencing severe hardship.

1.8 The EESC considers that tools such as the EUSF provide the EU with an ideal opportunity to display unity and solidarity, provided that they are used in an appropriate way and that European initiatives and support are made known to EU citizens.

1.9 In the EESC's view, the Fund's activities should include disasters that occur suddenly as a result of the greenhouse effect of climate change in general and also disasters caused by terrorist acts.

1.10 The EESC wonders why the thresholds for declaring a disaster to be 'major' remain so high; this obliges the EUSF to use its resources only exceptionally and only by applying derogation clauses. It considers the threshold values mentioned regarding the extent of recorded damage to be particularly high, and these should be lowered.

1.11 The subsidiarity clause, applied strictly by the Council, has a deterrent effect and complicates the Commission's efforts significantly. The EESC calls for more flexibility in applying this clause.

1.12 It is convinced that in many cases, major disasters could have been and could still be avoided by using existing European mechanisms and funds as well as existing know-how.

1.13 The EESC endorses the polluter pays principle.

1.14 It would point out that the number of major disasters in Europe has unfortunately increased significantly in recent years.

1.15 The EESC calls upon the Member States to improve their internal procedures and mechanisms in order to facilitate the Commission's work, by providing it in good time with reliable, valid and well-grounded information.

1.16 It believes that the 9-12 month period for paying aid is excessively long and fails to meet the aim of providing urgent and immediate help.

1.17 The EESC considers that rules should be drawn up on how to publicise and promote the Fund in order to familiarise the public with its work.

⁽⁵⁾ Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Solidarity Fund, COM(2005) 108 final of 6.4.2005.

⁽⁶⁾ EESC Opinion on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the future of the European Union Solidarity Fund*, OJ C 181, 21.6.2012, p. 52.

⁽⁷⁾ Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 establishing the European Union Solidarity Fund, COM(2013) 522 final, 25.7.2013.

2. Introduction

2.1 The EUSF was set up in 2002 following the catastrophic floods that hit central and northern Europe, with the purpose of providing Member States and candidate countries affected by major natural disasters with subsidiary support in restoring economic and social activity in the regions concerned.

2.2 The EUSF was set up under urgent procedures when the EU discovered that it had considerable sums available for coping with natural disasters throughout the world, but that it did not have appropriate tools for tackling similar disasters within its own territory or that of the candidate countries.

2.3 Since its establishment, the EUSF has worked satisfactorily in many situations, but there have been a number of instances of organisational and administrative malfunction. The Commission attempted to resolve these with its 2005 proposal for a regulation, which, although welcomed by the European Parliament, was rejected by the Council.

2.4 The Fund's annual budget is capped at EUR 1 billion, an amount that has so far proved adequate.

3. The regulation currently in force

3.1 The main provisions of the current regulation establishing the EUSF are the following:

3.1.1 It was set up in order to assist Member States and candidate countries in the wake of natural disasters and to enable the EU to act swiftly and efficiently.

3.1.2 It covers the Member States and the countries which have opened accession negotiations.

3.1.3 It is a supplementary instrument providing subsidiary financial support for urgently needed action.

3.1.4 It states that the main aspects of major disasters to be focused on are living conditions, the natural environment and the economy.

3.1.5 A 'major disaster' is defined as one that causes severe damage expressed in financial terms or as a percentage of gross national income (GNI) ⁽⁸⁾.

3.1.6 It stipulates that the EUSF should function with particularly swift procedures and take rapid decisions.

3.1.7 The beneficiary countries always retain responsibility for implementing the assistance.

3.2 The regulation states that maximum transparency and prudent financial management are required.

3.3 It also introduces exceptions in view of the high level of the amounts set for 'major disasters', concerning 'extraordinary regional disasters' and disasters in a 'neighbouring country', but subject to particularly strict criteria and to a maximum of EUR 75 million. These exceptions have eventually become the rule for EUSF intervention, given the particularly high thresholds initially set for major disasters.

3.4 Under the regulation, the main priorities of the EUSF concerning major disasters are:

3.4.1 immediate restoration to working order of infrastructure and plant in the fields of energy, water supply and waste water management, telecommunications, transport and education;

3.4.2 provision of temporary accommodation and funding for rescue services;

3.4.3 measures for protecting cultural heritage;

3.4.4 the immediate cleaning up of disaster-stricken areas.

⁽⁸⁾ The amount at which a disaster is considered to be 'major' is set at EUR 3 billion at 2002 prices, or more than 0,6% of the GNI of the country concerned.

3.5 The country affected must, as quickly as possible and at the latest within ten weeks of the beginning of the disaster, submit an application for assistance to the Commission, specifying the scale of the disaster.

4. Proposal to amend the regulation

4.1 The proposal under discussion amending Regulation 2012/2002, which governs the functioning of the EUSF, suggests the changes set out below.

4.1.1 It builds the functioning of the EUSF into the new Multiannual Financial Framework 2014-2020.

4.1.2 It provides a clear definition of the scope of the EUSF, limiting it to natural disasters, also including man-made disasters.

4.1.3 It sets a threshold of 1,5% of regional GDP at NUTS 2 level (population between 800 000 and 3 million) for 'regional disasters'.

4.1.4 It allows for rapid advance payments at the request of the affected Member State, limited to 10% of the expected amount of the financial aid, and capped at EUR 30 million.

4.1.5 It makes provision, for the first time, for slowly unfolding disasters such as drought.

4.1.6 It introduces provisions encouraging more effective disaster prevention, and encourages the use of EU legislation on prevention, at the same time allowing the Commission to reject applications in the event of serious negligence on the part of Member States or if a similar disaster reoccurs.

4.1.7 It includes new provisions on the eligibility of VAT and the exclusion of technical assistance.

4.1.8 Under exceptional conditions, it permits derogation from certain provisions of the Financial Regulation.

4.1.9 For a disaster to be defined as major, it sets an amount of EUR 3 billion or 0,6% of gross national income.

5. The EESC's view

5.1 The EESC has expressed its agreement on the need to amend Regulation 2012/2002 on the functioning of the EUSF, so that it:

5.1.1 becomes a more efficient support mechanism for the Member States, candidate countries and neighbouring countries in the event of natural disaster;

5.1.2 acquires competences to intervene also in disasters resulting from industrial or technological accidents.

5.2 The EESC considers that the amounts foreseen are inadequate in the event of mass disasters that could affect large parts of the EU such as, for example, nuclear accidents, pandemics, etc., and urges the Commission to pay special attention to this aspect.

5.3 It fully backs the Commission's efforts to speed up the EUSF's operating procedures, ensuring in all cases that these procedures are reliable and that their operating rules are entirely clear and straightforward.

5.4 It calls on the Member States to make use of the Fund with discretion, in order to avoid casting the EU in an unjustly poor light.

5.5 The EESC endorses the advance payments procedure, and the application of the 'slowly unfolding damage' clause, e. g. for drought. It also considers that reforestation should be included as part of recovery projects following natural disasters.

5.6 It believes that the Commission should be particularly strict if Member States, in spite of the existence of EU legislation and special European funding, display negligence that leads to serious disasters.

5.7 The EESC is of the view that climate change will lead to even more natural disasters in the future, and consequently calls on the Commission to include such disasters in the regulation under review.

5.8 The EESC considers that civil society always plays a special role during major disasters, and calls on the Commission to introduce into the amended regulation the possibility of funding specialised, licensed organisations of this kind that have the structures and know-how with which they can contribute their services.

5.9 It considers that the efficient functioning of mechanisms such as the EUSF enable the EU to demonstrate solidarity in practical and effective terms, and urges the Commission to take all the measures needed for the European public to be aware of the role played by the Union.

5.10 The EESC believes that EUSF financing should be included in the EU's general budget in order to reduce the delays caused by the slow and bureaucratic procedures involving the Council, Parliament and Commission. At the same time, there should also be a mechanism to supplement funding in the event of an exceptionally large disaster requiring increased assistance.

5.11 The EESC agrees with the European Parliament that the threshold of 1,5% of regional GDP at NUTS2 level is too high, excluding many serious disasters from the Fund, leading to public disillusionment. It therefore proposes reducing it to 1% so that it primarily covers countries with low population figures.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on Money Market Funds

COM(2013) 615 final — 2013/0306 (COD)

(2014/C 170/08)

Rapporteur: **Mr LOZIA**

On 12 September and 19 September 2013 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 114 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on Money Market Funds

COM(2013) 615 final — 2013/0306 (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 13 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 149 votes to 2 with 5 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) is pleased that the European Commission has finally submitted the long-awaited and oft-announced proposal for a regulation of the European Parliament and of the Council on money market funds.

1.2 The market in shadow banking is huge: the Financial Stability Board (FSB) puts its global value at around EUR 51 trillion, equal to 25-30% of the entire financial system. In Europe, the bulk of money market funds (MMFs) (around 80% of the total volume and 60% of funds) operate under Directive 2009/65/EC (UCITS). Since July 2013, the remaining MMFs have operated on the basis of the rules laid down by Directive 2011/61/EU on Alternative Investment Fund Managers.

1.3 There are two main reasons why shadow banking needed to be regulated: first, the possibility that it might be used to get around regulation, particularly capital requirements, or to perform activities that could be managed within the traditional, regulated system, thus increasing the probability of a systemic event; and second, the fact that shadow banks' financial activities have considerable leverage; like traditional banks, they can thus expose the financial sector to panic and systemic risk.

1.4 The EESC endorses the Commission's decision to use a regulation rather than a directive to regulate this sector. Given the characteristics of MMFs which operate at global level but are essentially based in three countries (France, Ireland and Luxembourg), uniform and immediately applicable rules are crucial. The Commission's choice of instrument complies fully with the principles of proportionality and subsidiarity.

1.5 Commissioned by the FSB, in October 2012 the International Organisation of Securities Commissions prepared an initial set of recommendations to steer regulators towards intervening in MMF markets. In November 2012, the Financial Stability Board itself published regulatory guidelines intended to reduce MMFs' vulnerability to divestment rushes and on 20 November 2012 the EP issued its own guidelines. Lastly, in December 2012⁽¹⁾, the European Systemic Risk Board (ESRB) issued its recommendation.

⁽¹⁾ OJ C 146, 25.5.2013, p. 1.

1.6 In the United States, the Securities and Exchange Commission issued rule 2-a7 which has addressed this issue since 2010. On 19 November 2012 ⁽²⁾, the Financial Stability Oversight Council (FSOC), the United States' regulatory authority, began to revise the rules in force, putting forward proposals very similar to those issued by the Commission: the requirement to establish a capital buffer, to move to variable net asset value MMFs, to carry out very short term investments and to disclose the contents of investment portfolios more frequently. Given the high degree of market integration, the EESC recommends that uniform and effective rules be applied jointly with US authorities.

1.7 The EESC agrees with the statement in the ESRB's recommendation: 'Although MMFs did not cause the financial crisis of 2007 to 2008, their performance during the financial turmoil highlighted their potential to spread, or even amplify, a crisis. The experience from the 2007 to 2008 crisis has shown that MMFs may be susceptible to investor runs and may need the support of sponsor companies, in particular to maintain their constant net asset value.'

1.8 The EESC reiterates: 'Although the financial system's need for liquidity — which, since before the financial crisis, has depended to a large extent on the shadow banking system — is unquestionable, the lesson to be drawn from the crisis is that the regulatory process should give priority to the stability of the financial system, which is indispensable.' Indeed, 'there should be no such thing as "shadow" activities: the shadow banking system should be subject to the same regulatory and prudential requirements as the financial system as a whole'. 'The new rules should also have as an objective a high level of protection of European consumers.'

1.9 In line with the FSB's recommendations, the EESC has been calling for some time for the regulation to be issued swiftly ⁽³⁾. The Parliament and the Council must come to an agreement as soon as possible so that this regulation can be adopted, taking account of the EESC's proposed changes. There is a real danger that the regulation may be postponed for months, given the institutional deadlines of the Parliament and the Commission.

1.10 The EESC considers that the best and most appropriate recommendation is that issued by the FSB and the ESRB ⁽⁴⁾ on the dangers of constant net asset value (CNAV) funds, which should be converted into variable net asset value (VNAV) funds. The 3% capital buffer seems insufficient — given that the biggest possible risk faced was over 6% — to cope with liquidity demands at a time when all operators must anticipate considerable turmoil in the market and may rush to withdraw their investments.

2. Gist of the proposal for a regulation

2.1 The proposal for a regulation follows up on last year's green paper on shadow banking (see IP/12/253 and MEMO/12/191). It recapitulates the work carried out to date and provides a roadmap for possible further regulation in this key sector.

2.2 The events which occurred during the financial crisis have shed light on many aspects of MMFs which have made them vulnerable in the event of difficulties in the financial market, and they can spread or amplify risks through the markets.

2.3 One year on, the guidelines adopted by the ESRB to establish some degree of common ground have been applied by only twelve Member States, demonstrating the persistence of national rules. Timely and decisive action is needed.

2.4 MMFs will not be able to operate with derivatives outside the usual safeguards against exchange and interest risks.

2.5 MMFs will also have to reduce counterparty risk by diversifying their investments: 20% will be the limit for a repurchase agreement with the same counterparty.

⁽²⁾ Federal Register, Vol. 77, No. 223, November 19, 2012, Notices 69455.

⁽³⁾ OJ C 146, 25.5.2013, p. 39.

⁽⁴⁾ Recommendation A — OJ C 146, 25.5.2013, p. 1.

2.6 Managers will have to refrain from asking specialist external agencies for their opinion; they will also have to apply regular stress tests to MMFs to assess their resilience.

2.7 The proposal for a regulation aims to ensure greater transparency by means of:

- the collection of detailed data,
- legislation on financial instruments and risks associated with securities-based financing operations,
- the establishment of a framework governing interaction with banks.

2.8 The proposal for a regulation also proposes a clamp-down on money market funds, calling for stricter liquidity requirements. The Commission considers that this will guarantee that the funds will be able to reimburse capital should investors decide to withdraw, without repercussions for the system.

2.9 Specifically, the funds must ensure that their portfolios contain at least 10% of daily maturing assets and a further 20% of weekly maturing assets, while their exposure to a single issuer cannot exceed 5%. A 3% capital buffer must also be guaranteed for constant net asset value funds.

3. General comments

3.1 Shadow banking plays an important role in financing the real economy. 'The shadow banking system contributed to the financialisation of the economy and to the property bubble which from 2007 affected various developed countries, bringing their economies to the brink of collapse. As a result, it can be considered fundamentally, even if not exclusively, responsible for the major recession which has affected the United States and several EU countries. The financial system as a whole must serve the real economy.'⁽⁵⁾ SMEs in particular are facing major problems in terms of reduced credit. The banking system seems to be unable to fulfil its primary role of supporting the real economy.

3.2 MMFs bring supply and demand for liquid assets together for a short period of time.

3.3 As noted by the Financial Stability Board and other major institutions such as the International Organisation of Securities Commissions and the European Systemic Risk Board, MMFs are not sufficiently regulated despite the fact that their systemic importance is recognised. The EESC supports this view.

3.4 Conversely, the European Banking Federation is concerned about the impact of the proposals regarding money market funds, deeming them to be restrictive and difficult to implement, while the funds' resources can be used by banks to support lending to the real economy.

3.5 Meanwhile, the G20 is also active in this area. Its focus is the sector's activities rather than the players. Comments by G20 countries show a desire for soft regulation of the sector to avoid excessive repercussions on global financial flows, given the key role played by shadow banking in providing the banking sector with liquidity.

3.6 As regards the institutions and activities involved, in 2011 the Financial Stability Board estimated that the global value of shadow banking was around EUR 51 trillion, equal to 25-30% of the entire financial system and half of banking activities (euro area: nearly 17 trillion, United Kingdom: nearly 7 trillion, United States: 17,5 trillion⁽⁶⁾).

⁽⁵⁾ OJ C 11, 15.1.2013, p. 42.

⁽⁶⁾ By way of comparison, the entire euro area banking system manages around EUR 27 trillion worth of assets.

3.7 There are a number of intermediaries in this system, but MMFs are systemically important and a considerable source of short-term financing for financial institutions, businesses and governments. For this reason, the functioning of money market funds is central to the international regulatory activity under discussion.

3.8 In Europe, MMFs hold around 22% of short-term debt securities issued by governments or the corporate sector and 38% of short-term debt issued by the banking sector, equal to around EUR 1 trillion.

3.9 In terms of overall geographic distribution in the EU, MMFs are based chiefly in France, Ireland and Luxembourg and are used heavily, mainly by companies in Germany and the United Kingdom; this applies to constant net asset value funds.

4. Specific comments

4.1 The MMF sector is closely interlinked with the banks, which often manage the funds and even draw on the funds to finance themselves. According to the Commission, the majority of MMFs are supported by banks: nine out of ten of the largest MMF managers are financed by commercial banks. This illustrates the high degree of interplay not just between these two sectors, but also between MMFs, corporate financing and governments.

4.2 For companies, MMFs represent an alternative, short-term means of investing their cash resources. Using these instruments, companies can invest their capital and earn a better return rather than depositing it in a bank. While acknowledging the potential validity of this method of investing money, the EESC would highlight the inherent risks. Unlike banks, in the event of problems, the funds do not have access to any support from central banks.

4.3 There is no deposit guarantee system for MMFs. Shadow banking intermediaries (hedge funds, MMFs or structured investment vehicles) provide credit.

4.4 Under current operating procedures, MMFs can lend all the money collected from individuals or companies. The EESC notes that an MMF could collapse should one or two borrowers be unable to repay their debts, because if several depositors/investors also wish to withdraw their money at the same time, the fund will be unable to honour their requests. Unless prudential rules are introduced, these procedures could trigger another crisis.

4.5 In light of these observations and considering that, as already noted, the MMFs' largest providers of funds/sponsors are in fact banks, the EESC firmly believes that the MMF industry should be subject to rules and controls similar to those already in place for the banking system.

4.6 The EESC considers that the Commission's proposal to avert this danger by imposing a compulsory 3% liquidity buffer will not be enough to cover the risks arising from constant net asset value MMFs, given that there have been cases of risks exceeding 6%.

4.7 The Commission's provisions also fall short in respect of the recommendations of the FSB and the ESRB. Both these boards, with a view to prudential safeguards within the system, have suggested that the Commission adopt a mechanism for evaluating the funds based on variable net asset value, so that the fund's value adapts to price fluctuations. The regulation, however, has maintained the initially planned mechanism of constant net asset value, merely adding a liquidity buffer to deal with any negative variations in value. The EESC considers that the recommendations of the two market regulators adhere more closely to the principle of safeguarding the stability of the financial system, as illustrated by the table below.

Money market funds (MMFs) with Constant Net Asset Value (CNAV) (Article 25)

Commission proposal (4 September 2013)	Recommendations of the European Systemic Risk Board (ESRB)	Recommendations of the Financial Stability Board (FSB)
Article 30: Each CNAV MMF shall establish and maintain a NAV buffer amounting at all times to at least 3% of the total value of the CNAV MMF's assets	Requires MMFs to have a fluctuating NAV, General use of fair valuation (recommendation A, point 2, page 3)	MMFs that offer stable or constant NAV should be converted into floating NAV where workable (recommendation point 2.2, page 3)
Article 31: The NAV buffer shall only be used in case of subscriptions and redemptions to equalise the difference between the constant NAV per unit or share and the NAV per unit or share	The use of amortised cost accounting is strongly restricted to a limited number of predefined circumstances (recommendation A, point 2, page 3)	

Table comparing recommendations ⁽⁷⁾

With regard to the products on offer, the EESC would draw attention to the fact that products already in circulation in the traditional banking system, and thus regulated, have shifted to the parallel banking system in order to avoid the stricter controls which come with bank oversight.

4.8 The EESC is deeply concerned that these risks may be reproduced by the shadow banking system in order to escape scrutiny. It therefore believes that the principle of 'same activities = same rules' should apply.

4.9 The EESC proposes a tried and tested principle: a proper level of transparency and oversight would guarantee that the financial system operates in the interests of the economy, with consequent gains in terms of trust, effectiveness and efficiency.

The proposal for a regulation also bans external ratings of money market funds. This measure aims to prevent potential downgrades sparking panic on the markets. Although this measure runs counter to the principle of transparency and efficiency and could harm full information symmetry, the EESC considers that the MMF market is used by professional operators and that rating agencies can trigger panic among investors simply by changing their opinion. Internal rating measures, stronger risk management procedures and safeguards and more rigorous, stricter oversight will help safeguard the quality of benchmark assets and the funds' collateral quite effectively.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽⁷⁾ Prepared by Sven Giegold MEP.

Opinion of the European Economic and Social Committee Communication from the Commission to the Council and the European Parliament — Shadow Banking — Addressing New Sources of Risk in the Financial Sector

COM(2013) 614 final

(2014/C 170/09)

Rapporteur: Mr POLYZOGOPOULOS

On 18 April 2013, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the EU, on the

Communication from the Commission to the Council and the European Parliament — Shadow Banking — Addressing New Sources of Risk in the Financial Sector

COM(2013) 614 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 13 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 153 votes to 2 with 5 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the communication as a coherent contribution to on-going efforts to reform financial services with a view to restoring harmony and stability to this key sector and minimising systemic risk.

1.2 The EESC believes that the new financial market regulations will make a positive contribution towards a sound economy and it is profoundly convinced that a stable financial sector and the success of the reforms are preconditions for sustainable economic development, employment and the completion of the EU's internal market.

1.3 The EESC considers that the roadmap setting out measures already taken and those for the future marks a step in the right direction. It recognises the progress already made but would note, nevertheless, the urgent need to accelerate work in a number of areas and to carry through those legislative initiatives that are pending. Following its assessment of the five priority areas for future action⁽¹⁾, the EESC would make the following remarks:

1.4 The Committee considers that addressing arbitrage is of key importance to financial services reform⁽²⁾, and therefore welcomes the detailed package of measures⁽³⁾ and, more specifically, the strengthening of the prudential banking framework for limiting contagion and arbitrage risks.

1.5 The Committee welcomes the efforts to boost transparency and in particular the specific measures aimed at providing a monitoring framework for shadow banking risks in the EU, the development of central repositories for derivatives under EMIR⁽⁴⁾ (the European Market Infrastructure Regulation), the review of the Markets in Financial Instruments Directive (MiFID)⁽⁵⁾, the implementation of the Legal Entity Identifier (LEI) and the increased transparency of securities financing transactions.

1.6 The Committee recognises that progress has been made towards establishing a stronger regulatory framework for certain investment funds focusing on improving liquidity and stability particularly for money market funds (MMFs) that are based or sold in Europe.

⁽¹⁾ See point 3.2 of this opinion.

⁽²⁾ OJ C 11, 15.1.2013, p. 39.

⁽³⁾ COM(2013) 614 final, Point 3.4.

⁽⁴⁾ OTC derivatives, central counterparties and trade repositories.

⁽⁵⁾ See: http://ec.europa.eu/internal_market/securities/isd/mifid_en.htm.

1.7 The Committee considers that with regard to the priority area entitled 'reducing the risks associated with securities financing transactions' the communication limits itself to general observations that may reflect a certain reality but omit a number of key circumstances. The EESC recommends stepping up the pace and focusing work on legislation on transferable securities, as securities financing transactions — especially repurchase agreements and securities lending transactions — play a central role when it comes to excessive indebtedness in the financial sector.

1.8 Similarly, it notes delay and recommends intensifying and accelerating action to clarify the crucial issue of strengthening oversight of the shadow banking sector, where mention is simply made of a few issues and the only future measure referred to is the review of the European System of Financial Supervisors (ESFS), to be performed by the Commission in 2013.

1.9 Given that the main unintended victims of the financial and economic crisis are the public as taxpayers, workers, depositors and consumers, the EESC would recommend bolstering the regulatory initiatives regarding the protection of citizens by means of transparency, proper information, social responsibility on the part of the financial sector, and protection for consumers and small investors. It also recalls its own important comments on civil society involvement in the regulation of the financial markets ⁽⁶⁾.

1.10 The Committee considers it important that in its Communication the Commission points out that the shadow banking sector should not be seen solely in terms of the risks that it poses. It also constitutes an additional alternative financing channel that can be useful for the real economy.

2. Definitions, scope and background

2.1 The shadow banking system is defined as 'a system of credit intermediation that involves entities and activities outside the regular banking system' ⁽⁷⁾ composed of two inter-related groups. The first includes entities that are involved mainly in activities such as raising funding with deposit-like characteristics, transforming maturity and/or liquidity, transferring credit risk and using direct or indirect financial leverage. The second includes activities including securitisation, securities lending and repurchase transactions (repos) that are an important potential source of finance for financial non-banking entities.

2.2 Special purpose vehicles are securitisation vehicles such as ABCP conduits, special investment vehicles (SIV) and other special purpose vehicles (SPV), money market funds (MMF) and other types of investment fund/products with deposit-like characteristics, which are susceptible to massive redemptions (runs), investment funds, including Exchange Traded Funds, that provide credit or are leveraged, finance companies and securities entities providing unregulated credit or credit guarantees, or performing liquidity and/or maturity transformation, like banks, and insurance and reinsurance undertakings that issue or guarantee credit products.

2.3 The origins of shadow banking activities lie in the deregulation of the financial system in the 1980s in the United Kingdom, which continued in the US and elsewhere in the 1990s ⁽⁸⁾. The role of the early Basel Accords was important as speculative activities were treated as off-balance sheet while bank balance sheets were subject to strict regulations ⁽⁹⁾.

2.4 The repeal/relaxation of rules and provisions ⁽¹⁰⁾ enabled financial bodies to extend their activities into new areas and complex models, while the promise of high returns had an impact on millions of people around the world with little knowledge of the products and workings of the shadow banking system.

⁽⁶⁾ OJ C 143, 22.5.2013, p. 3.

⁽⁷⁾ COM(2013) 614 final, p. 3.

⁽⁸⁾ Nicholas Gregory Mankiw and Mark Taylor, *Economics: Special Edition with Global Economic Watch* (UK: Cengage Learning EMEA, 2010).

⁽⁹⁾ OJ C 11, 15.1.2013, p. 39 — Green Paper: Shadow Banking.

⁽¹⁰⁾ In the US, the Gramm-Leach-Bliley (1999) law did away with the differences between commercial banks and mortgage banks, insurance and stock broking companies.

2.5 In 2007, the G20 decided to adopt a package of regulatory measures to promote the security and viability of the financial system, while the serious social and economic impact of the 2008 crisis revealed the risks associated with shadow banking activities and the shortcomings, regulatory loopholes, inadequate supervision, lack of transparency in the markets and excessively complex products, emphasising the role of the Financial Stability Board (FSB).

2.6 The European Union is playing a leading role in the international effort within the G20 and the FSB, and has pointed to major progress in implementing the commitments set out in the roadmap for financial sector reform and in establishing new supervisory structures. A number of reforms have already been written into legislation, for instance regarding over-the-counter derivatives, to name just one example.

2.7 The FSB report of October 2011 represents the first comprehensive international endeavour to step up supervision of the shadow banking system and focuses on: a) defining principles for monitoring and regulating the shadow banking system; b) mapping and assessing systemic risks; and c) identifying the scope for regulatory measures within five workstreams⁽¹¹⁾. The European Commission meanwhile issued its green paper, focusing on the potential dangers of the shadow banking system in the EU and on tackling them by means of regulatory provisions.

3. Gist of the communication

3.1 The communication first examines the measures that have already been taken in two areas. The measures for financial entities focus on reinforcing the requirements imposed on banks and on insurance companies in their dealings with the shadow banking system and on designing a harmonised framework for alternative investment fund managers. The market integrity measures focus on risk transfer instruments, stronger provisions to govern securitisation, and a more sturdy framework for rating agencies.

3.2 It also sets out the five priority areas in which the Commission intends to take additional measures:

- 1) increasing transparency in shadow banking,
- 2) providing an enhanced framework for funds, particularly money market funds (MMF),
- 3) developing securities law to limit the risks associated with securities financing transactions,
- 4) strengthening prudential arrangements in the banking sector, and
- 5) improving supervision of shadow banking.

More specific comments follow:

3.2.1 With regard to the transparency of the shadow banking system, efforts regarding the collection and sharing of reliable and complete data are complemented by initiatives to develop a monitoring framework for shadow banking risks and central repositories for derivatives under EMIR⁽¹²⁾ (the European Market Infrastructure Regulation), to review the Markets in Financial Instruments Directive (MiFID)⁽¹³⁾, to implement the Legal Entity Identifier (LEI) and to enhance the transparency of securities financing transactions.

3.2.2 For certain investment funds and principally for money market funds (MMFs) that are established or sold in Europe, new rules have been proposed to improve liquidity and stability alongside reform of the rules for undertakings for collective investment in transferable securities (UCITS).

⁽¹¹⁾ The interaction between banks and shadow banking entities (the Basel Committee on Banking Supervision — BCBS); systemic risks of Money Market Funds (International Organisation of Securities Commissions — IOSCO); securitisation requirements (IOSCO and BCBS); other shadow banking entities (FSB); securities lending and repos (FSB).

⁽¹²⁾ OTC derivatives, central counterparties and trade repositories.

⁽¹³⁾ See: http://ec.europa.eu/internal_market/securities/isd/mifid_en.htm.

3.2.3 When it comes to reducing the risks associated with securities financing transactions reference is made to the in-depth work that has been carried out in order to improve understanding of the problems and learn from them and to the fact that the Commission is considering a legislative proposal regarding securities law with a view to resolving these issues.

3.2.4 Prudential supervision in the banking sector is to be strengthened with a view to reducing the risks of contagion and arbitrage by establishing stiffer rules that step up banks' capital requirements when dealing with unregulated entities, and introduce stricter regulations regarding solvency and new rules on liquidity by means principally of the application as of 1 January 2014 of the Capital Requirements Regulation (CRR) ⁽¹⁴⁾ and Directive (CRD IV) ⁽¹⁵⁾. There are also plans regarding the possible extension of the scope of application of prudential rules to reduce arbitrage risks.

3.2.5 Regarding the need for greater supervision, emphasis is placed on the diffuse, multifaceted and dynamic nature of the shadow banking sector and the challenges inherent in prudential supervision (the cross-border circumventing of rules for instance). At European level, preliminary work is under way in relation to the European Systemic Risk Board (ESRB) and European supervisory authorities. These aspects, the need to address arbitrage and the possible need to clarify the institutional role of each authority, will be tackled by the review of the European System of Financial Supervisors (ESFS), to be performed in 2013.

4. Comments

4.1 Since the onset of the financial crisis, the EESC has expressed the views of civil society in a series of opinions ⁽¹⁶⁾ on a wide range of subjects relating to the functioning of the financial system and has made important comments and recommendations, both of a general nature, and more specifically on the recovery and reform of credit institutions ⁽¹⁷⁾.

4.1.1 The EESC welcomed the green paper on shadow banking ⁽¹⁸⁾, considering it an important step towards dealing with existing problems, emphasising, among other things, that there should be no such thing as 'shadow' activities and that these activities should be subject to the same regulatory and prudential requirements as the financial system as a whole.

4.2 The EESC endorses a world-wide approach to prudential requirements with the aim of extending regulation and oversight to all systemically important financial institutions, instruments and markets ⁽¹⁹⁾. It welcomes the adoption of the recommendations made by the FSB at the recent G20 summit ⁽²⁰⁾, which are fully in line with the present communication.

4.3 It calls on the Commission to specify and lay down a timeframe for increased oversight of the shadow banking system by implementing a cohesive supervisory mechanism, accelerating clarification of the institutional role of the supervisory authorities as part of the review of the European System of Financial Supervisors (ESFS).

⁽¹⁴⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p.1).

⁽¹⁵⁾ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p.338).

⁽¹⁶⁾ These include: OJ C 11, 15.1.2013, p. 59; OJ C 299, 4.10.2012, p. 76; OJ C 191, 29.6.2012, p. 80; OJ C 181, 21.6.2012, p. 64; OJ C 181, 21.6.2012, p. 68. These opinions can be found on the EESC website at the following address: <http://www.eesc.europa.eu/?i=portal.en.financial-markets-opinions>.

⁽¹⁷⁾ OJ C 44, 15.2.2013, p. 68.

⁽¹⁸⁾ OJ C 11, 15.1.2013, p. 39.

⁽¹⁹⁾ See G20 summit communiqué, 2 April 2009, London.

⁽²⁰⁾ 5 and 6 September 2013, Saint Petersburg.

4.4 Given that, depending on the country, certain shadow banking activities and entities may or may not be subject to a regulatory regime, it is especially important that there be a level playing field for competition between countries and between the banking sector and shadow banking system entities, by means of appropriate regulations to prevent regulatory arbitrage, which would lead to distorted regulatory incentives.

4.5 The EESC notes in particular the need for regulatory authorities analysing data to adopt a common global approach, with common frames of reference and open industry standards, to enable the rapid exchange of data and effective and timely action to avert systemic risks and preserve financial stability.

4.6 The EESC believes the scale and rate of growth of the shadow banking system to be another significant factor for systemic risk; according to the FSB (2012) ⁽²¹⁾ it had reached USD 67 trillion in 2011 (up from USD 26 trillion in 2002), equivalent to 111% of cumulative GDP for the countries studied by the FSB.

4.7 The Committee also considers that careful analysis of the issue would be useful regarding activities beyond entities in the shadow banking sector, since supervision and checking of such activities is key to the success of the measures.

4.8 The EESC considers that the issue of scale and of distorted practices is not the sole preserve of the shadow banking system. The oversized banking model, combined with lack of transparency, demonstrably brings with it the risk of economic instability, resulting in the costs of rescuing institutions that are 'too big and interconnected to fail' being passed on to society.

4.9 The EESC holds that in order to boost the competitiveness and stability of the European financial sector while reforming the shadow banking system, it is necessary to address the issue of the size of banks rendering their failure prohibitive, by increasing transparency, rationalising the scale of activity of mega-groups and reducing interdependence within groups.

4.10 Along with the supervisory measures and structural reform, the EESC therefore considers it essential that effective action be taken to combat all distortions of the financial sector, and urges the Commission to speed up procedures for introducing a single reform mechanism, taking account of the recommendations of the Liikanen report and the recent report by the European Parliament's Committee on Economic and Monetary Affairs on structural reform of the EU's banking sector ⁽²²⁾.

4.11 Since the diffuse, multifaceted and adaptable nature of the shadow banking system makes effective supervision complex and difficult, the EESC urges the Commission to act quickly to clarify questions as to whether the relevant national and European supervisory authorities, including the single supervisory mechanism (SSM), are equipped with sufficient resources, supervisory tools and powers.

4.12 The EESC believes that successful oversight must go hand-in-hand with effective, dissuasive and proportionate arrangements for enforcing sanctions, publicising the level of sanctions and information relevant to those who infringe the rules, and points to the issue of non-compliance with European rules on the part of third country natural and legal persons.

4.13 The EESC highlights the need to protect consumers of financial products from unfair practices, misleading and worthless products or services, as well as from any unfair contractual terms. It would also repeat its call for the establishment of a European agency for consumer financial protection, in order to strengthen consumer protection and transparency and ensure disputes are settled effectively.

4.14 User-friendly websites and other up-to-date information tools can enable consumers to compare and choose products and services, while boosting competition and self-regulation on the financial market.

⁽²¹⁾ Financial Stability Board, *Global Shadow Banking Monitoring Report 2012* (FSB, 2012).

⁽²²⁾ 2013/2021(INI).

4.15 The EESC strongly urges the Commission to accelerate the completion of the impact studies so that the new liquidity rules can be finalised and a cost-benefit analysis carried out concerning the efficiency and proportionality of the numerous legislative practices adopted since the beginning of the financial crisis, the purpose being for an overall evaluation to be made of the impact of legislation on the EU financial market.

4.16 The EESC also points to the need for regulatory efforts to be bolstered by advanced expertise and scientific research into questions relating to the collection and exchange of data. There is also a broader need to monitor the on-going development of the shadow banking system more comprehensively and to identify those aspects of benefit to the real economy as well as those that may generate new sources of vulnerability and systemic risk.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Innovation investment package

COM(2013) 494 final

COM(2013) 493 final — 2013/0232 (COD)

COM(2013) 495 final — 2013/0240 (NLE)

COM(2013) 496 final — 2013/0241 (NLE)

COM(2013) 497 final — 2013/0242 (COD)

COM(2013) 498 final — 2013/0243 (COD)

COM(2013) 500 final — 2013/0233 (COD)

COM(2013) 501 final — 2013/0234 (NLE)

COM(2013) 503 final — 2013/0237 (NLE)

COM(2013) 505 final — 2013/0244 (NLE)

COM(2013) 506 final — 2013/0245 (NLE)

(2014/C 170/10)

Rapporteur: **Mr PEZZINI**Co-rapporteur: **Ms BATUT**

On 29 July 2013 the European Commission decided to consult the European Economic and Social Committee, under Article 304(1) 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 — Public-private partnerships in Horizon 2020: a powerful tool to deliver on innovation and growth in Europe

COM(2013) 494 final.

On 10 September 2013 the European Parliament and, on 3 September 2013, the Council, decided to consult the European Economic and Social Committee, under Articles 185 and 188(2) 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 the participation of the Union in a Research and Development Programme jointly undertaken by several Member States aimed at supporting research performing small and medium-sized enterprises

COM(2013) 493 final — 2013/0232 (COD);

on the *Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in a European Metrology Programme for Innovation and Research jointly undertaken by several Member States*

COM(2013) 497 final — 2013/0242 (COD);

on the *Decision of the European Parliament and of the Council on the participation of the European Union in a second European and Developing Countries Clinical Trials Partnership Programme jointly undertaken by several Member States*

COM(2013) 498 final — 2013/0243 (COD);

and on the *Proposal for a Decision of the European Parliament and of the Council on the participation of the Union in the Active and Assisted Living Research and Development Programme jointly undertaken by several Member States*

COM(2013) 500 final — 2013/0233 (COD).

On 2 September 2013 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 on the Innovative Medicines Initiative 2 Joint Undertaking

COM(2013) 495 final — 2013/0240 (NLE);

on the *Proposal for a Council Regulation on the Bio-Based Industries Joint Undertaking*

COM(2013) 496 final — 2013/0241 (NLE);

on the *Proposal for a Council Regulation on the ECSEL Joint Undertaking*

COM(2013) 501 final — 2013/0234 (NLE);

on the *Proposal for a Council Regulation on the Clean Sky 2 Joint Undertaking*

COM(2013) 505 final — 2013/0244 (NLE);

and on the *Proposal for a Council Regulation on the Fuel Cells and Hydrogen 2 Joint Undertaking*

COM(2013) 506 final — 2013/0245 (NLE).

On 2 September 2013 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 219/2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2024

COM(2013) 503 final — 2013/0237 (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 13 November 2013.

At its 494th plenary session, held on 10 and 11 December (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 105 votes in favour with one abstention.

1. Conclusions and Recommendations

1.1 The European Economic and Social Committee (EESC) agrees that partnerships offer a range of advantages for developing innovation and that they still have untapped potential.

1.2 The EESC considers it important to fine-tune and synergise the 10 proposed initiatives with financial support from Horizon 2020 (H2020), inasmuch as they are different from other types of partnership in terms of instruments, form and substance.

1.3 The EESC calls for long-term financial certainty for the initiatives and a stable regulatory framework to reduce the high-risk aspects that set them apart and to help achieve the EU's general objectives: sustainable development, jobs and skilling of new professional profiles.

1.4 The EESC considers that these instruments are important means of boosting funding for investment in research and innovation, provided they are flexible, simple, non-bureaucratic, open and transparent, with a leverage effect on additional funding, and that they secure increasing participation by small businesses, especially in disadvantaged regions.

1.5 The EESC believes that the objectives must be measurable and targeted towards innovation and its translation into industrial goals and new jobs, and be anchored in a shared medium-to-long-term vision, within the context of a balanced, transparent system of governance with clear scientific, technical and socioeconomic performance indicators.

1.6 With regard to institutional public-private partnerships (PPP), the Committee calls for greater attention to be given to mechanisms to impede insider trading, for more to be made of the leverage effect, for more room to be given, in programmes and projects, to all forms of small business including the social economy, and for a strong communication policy to be put in place with a proactive role for stakeholder forums in all joint undertakings.

1.7 With regard to public-public partnerships (P2P), the Committee considers that it would be helpful if the European R&I budget contributed to bringing about a more balanced distribution of EU resources, with a greater focus on technology-intensive SMEs and to clinical, medical and technological innovations that promote the well-being of all, especially as regards active ageing and assistance to the elderly.

1.8 The EESC calls for a proactive communication policy on developments in the 10 new initiatives, and recommends that annual conferences be organised with all interested parties from organised civil society, during which annual reports on results achieved and future strategies would be presented. It also calls for multilingual handbooks for smart participation in the various forms of partnership that exist at EU level.

1.9 The EESC recommends that the Commission develop that proactive policy, perhaps by including the establishment of EESC prizes for economic and social innovation. This concerns three main target sectors: interested scientists and industrialists; users of innovative solutions on the market; and the European public as a whole, to satisfy society's needs, especially in terms of employment and training. The EESC advocates establishing a 'European innovation prize' to reward innovative applications in the industrial, economic and social sectors, and to give prominence to European added value.

2. Background to the partnerships

2.1 Horizon 2020 provides for the establishment of public-private partnerships in key sectors, in which research and innovation could help with:

- achieving European competitiveness goals;
- tackling societal challenges;
- harmonising EU support for research and innovation more effectively; and
- attracting more industrial investment to research and innovation.

2.2 It is worth pointing out that there are various forms of research and innovation partnership:

- **Institutional PPPs** within the meaning of TFEU Article 187 (ex Article 171 TEC) on autonomous Joint Undertakings (JUs): innovative medicines, fuel cells and hydrogen, clean skies, bio-industries, electronic components and systems, air traffic management;
- **Contractual PPPs**, established by memoranda of understanding that set out strategic objectives, indicative budgets and consultative mechanisms: Factories of the Future, energy-efficient buildings, green vehicles, Future Internet, sustainable industrial processes, robotics, photonics, high-performance computers
- **European Technology Platforms**, which contribute to the definition of European innovation partnerships, European Technology Initiatives, public-private and public-public partnerships, ERANETs, Knowledge and Innovation Communities;
- **Public-Public Partnerships (P2P)**, within the meaning of Article 185; these involve participation in joint programmes between Member States and the EU, which funds its share from H2020: health development cooperation, metrology, SMEs, Active and Assisted Living.
- **European Innovation Partnership — EIP**, introduced under the Europe 2020 strategy's Innovation Union flagship initiative: common cooperation platform, led by a steering group chaired by the European Commissioner(s) responsible for the relevant areas. There are three of these: raw materials; agricultural productivity and sustainability; active and healthy ageing.
- **Knowledge and Innovation Communities — KIC**, established under the auspices of the European Institute of Technology (EIT), networks of excellence, set up around integrated partnerships between various sectors: academia, technology, research, industry and enterprise. Three KICs have been formed: *Climate KIC*, *KIC InnoEnergy*, *EIT ICT labs*. Thematic areas identified: manufacturing industry, future food, innovation for a healthy life and active ageing, raw materials, safe and intelligent societies, urban mobility.
- **Smart Specialisation Partnerships (RIS3)**, in the context of EU regional policy, in particular the Regional Innovation Strategy in the area of research, innovation (including social and technological innovation), technology transfer and development of information technology, in line with the new cohesion guidelines for the period 2014-2020.

2.3 The experience with institutional PPPs as EU bodies under Article 185 of Regulation (EC, Euratom) No 1605/2002 has demonstrated that more categories should be added in order to increase the choice of instruments that are more flexible and accessible for private partners than those applicable to the EU institutions.

2.4 H2020 PPPs can be considered to be innovative financial instruments, identified and implemented openly and transparently, on the basis of an assessment carried out by independent experts. They have the following characteristics:

- intrinsic, European added value;
- an impact on industrial competitiveness and sustainable growth;
- the quality of the specified socio-economic objectives, particularly in terms of jobs and training;
- a balanced contribution from all the partners on the basis of a shared vision;
- clearly defined roles for each partner;
- key performance indicators;
- consistency with the EU's strategic agenda for research and innovation;
- a system of sound financial management;
- the ability to leverage new investment;
- an open, transparent and participatory governance framework, also involving smaller businesses.

2.5 Joint Technology Initiatives (JTI) are a tried and tested form of public-private cooperation in the area of R&D.

2.6 JTIs stem predominantly from the European Technology Platforms (ETP), on which the EESC previously issued an opinion⁽¹⁾ and, in particular, those ETPs for which the usual instruments for supporting R&D activities would be insufficient when it comes to achieving the objectives set by the strategic agendas.

2.7 The EESC agrees that partnerships offer a range of advantages and still have untapped potential. For this reason, it has welcomed 'the Commission's initiative to establish and promote European innovation partnerships (EIP) under the Innovation Union flagship initiative'.

2.8 The EESC has also highlighted 'the crucial importance of innovation to the Europe 2020 strategy' and reiterated that 'innovations are not necessarily the outcome of a linear sequence..., but derive in a complex process...' ⁽²⁾.

2.9 Whilst there is a high level of interdependency between research and innovation, 'innovation must not be subsumed to research, nor may research be subsumed to innovation. That would constitute a cultural impoverishment of fundamental European values.' ⁽³⁾

2.10 The EESC reiterates its support for promoting social innovation, in particular in the context of European funding programmes such as the Structural Funds or the Programme for Social Change and Innovation, as a means of facilitating additional support for capacity building for social enterprise funding ⁽⁴⁾.

2.11 Furthermore, the EESC emphasises the importance of partnering in increasing Europe's attractiveness as a global partner in R&I.

⁽¹⁾ OJ C 299, 4.10.2012, p. 12.

⁽²⁾ OJ C 318, 29.10.2011, p. 121.

⁽³⁾ See footnote 2.

⁽⁴⁾ OJ C 143, 22.5.2012, p. 17.

2.12 The EESC has repeatedly expressed support for the role of partnerships in bringing together European and national stakeholders from the public sector in P2P and PPP⁽⁵⁾, in order to meet the major challenges facing society and to strengthen Europe's competitive position. By analysing the following aspects:

- the models of partnership used in the Seventh Framework Programme;
- the Competitiveness and Innovation Programme (CIP);
- the European Research Area (ERA);
- the Innovation Union policy framework;
- the pilot partnership on active and healthy ageing (AHA);

it has been possible to draw out many positive points in this area⁽⁶⁾.

2.13 The EESC supports the method by which the 10 proposals under the Innovation Investment Package have been developed by the Commission, on the basis of the results of public consultations, impact assessments and various road maps.

2.14 For its part, the EESC held a hearing on the proposed package of initiatives on 31 October 2013, which was attended by a large group of interested representatives of civil society, of senior management of various existing joint undertakings, and of the Commission itself.

3. General comments

3.1 The EESC wholeheartedly supports the Commission's package of initiatives and considers that both the proposals on PPP within the meaning of Article 187 TFEU and those on P2P within the meaning of Article 185 TFEU can be powerful instruments in tackling the big challenges affecting Europe's competitiveness and its sustainable economic and social development.

3.2 The EESC considers it important to define the **10 proposed initiatives with H2020 financial support** inasmuch as their instruments, form and substance set them apart from other types of partnership. Although the objectives sometimes dovetail, duplication, overlap and potential conflict must be avoided, instead emphasising synergies and complementarity with other initiatives. Under no circumstance are the Member States released from their responsibilities in the areas concerned by these partnership initiatives.

3.3 The Committee highlights the importance of the EU securing financial certainty in the area of R&I and a stable, simplified regulatory framework, and of ensuring, on the part of business, initiatives to reduce the high-risk aspects that set them apart. It also considers that the distribution of financial support ought to be better balanced between initiatives, with more emphasis on technologies for ambient assisted living and the programme for high-tech SMEs.

3.4 As to the instruments themselves, these are important means of securing greater funding for investment in research and innovation, provided they are flexible, simple, non-bureaucratic, open and transparent, and provided ways are found to resolve problems relating to the balance and/or possible conflict between upholding competition rules while promoting innovation, protecting intellectual property and disseminating and promoting open access to results. The ultimate aim is that the service offered to citizen-taxpayers and consumers should improve.

3.5 In particular, the EESC recalls that 'researcher authorship and intellectual property must continue to be safeguarded...' and that 'open access to an appropriate selection of data underlying figures in openly accessible publications could be useful — especially if there is global symmetry between Europe and countries outside Europe...' (7).

3.6 The EESC believes that the objectives must be measurable and closely linked not only to the sectoral industrial strategy but also to addressing society's problems and sustainable economic and social development issues, especially in terms of employment. They must also be anchored in a shared medium-to-long-term vision, within the context of a balanced, transparent system of governance with clear, explicit scientific, technical and socio-economic performance indicators.

(5) Examples of P2P partnerships include ERA-NET and ERA-NET Plus, Article 185-based initiatives and Joint Programming (JP). Examples of R&I PPPs include the JTI and Future Internet.

(6) OJ C 229, 31.7.2012, p. 39.

(7) OJ C 76, 14.3.2013, p. 48.

3.7 Whilst the EESC takes a positive view of the experience of PPPs as a means of combining different sources of finance, it favours radically simplified cost-funding models to improve the reliability of the model, reduce the risk of irregularities in beneficiaries' declarations of expenditure, make project accounting less complex, eliminate verification steps that are not strictly necessary, and thus facilitate and speed up the application process.

3.8 The EESC therefore considers it necessary, in order to guarantee fair conditions to all businesses operating in the single market, that H2020 funding for PPP and P2P be designed, on the one hand, so as to comply with the rules on state aid in order to ensure that public money is spent effectively and avoid market distortions and, on the other, complies with all ethical requirements.

3.9 In particular, the EESC considers that the creation of public-private partnerships should be subject to conditions aimed at ensuring an effective competitive environment is maintained and allowing new entrants to come in at any time, and indeed the systematic involvement of groups of end users in the programmes and projects.

3.10 The EESC considers that the importance of intellectual property rights must be recognised. In particular, patent-sharing agreements should be encouraged to enable the sharing of scientific data and enhance cooperation and research efforts in specific areas of technology, thus avoiding 'patent thickets' ⁽⁸⁾.

3.11 The EESC recommends that an 'instruction manual' be drawn up for end users of the various EU instruments for innovation, and the various forms of partnership, joint initiatives, flagship initiatives, knowledge communities, platforms and other similar Community actions in the area of R&I. The introduction of a cross-cutting approach would also boost investment (e.g. in nanotechnologies and assisted ageing) and would make greater involvement of all the different types of business possible.

3.12 The EESC considers it essential to make the complex system of EU measures, synergies and policies involved, which range from R&I policy to regional and cohesion policy to industrial policy, more user-friendly and transparent, especially for SMEs and small social economy organisations.

3.13 Similarly, the EESC considers it important to ensure that the whole package and related initiatives and instruments have a high profile and are transparent and well-publicised (in multilingual form) by means of a proactive communication policy and annual conferences involving all interested parties from organised civil society, during which periodic reports on results achieved and future strategies could be presented.

3.14 Given the scale of resources involved and the diversity of the situations and real needs in the Member States, the EESC recommends that a communication policy be developed, targeted at four types of audience:

- scientific communities and the world of business, in its various forms and dimensions;
- the world of small and medium-sized enterprises and the social economy;
- end users, via structured dialogue with their representatives, in the various sectors with which the EESC could usefully be associated;
- all citizens and taxpayers, to inform them of the results and the possible innovative applications of EU R&I.

3.15 The EESC considers that an EESC Prize for economic and social innovation could be launched so as to recognise the results achieved by the ten proposed partnerships in the various disciplines in the 28 Member States, with the involvement of Stakeholder Forums provided for in the joint undertakings statute. The EESC calls on the Commission, meanwhile, to work on a wide-reaching campaign to raise awareness and develop training in the area of PPPs.

4. Specific comments

4.1 The EESC is pleased that there is a clear trend towards increasing the use of PPP in the areas of public health and clean skies, aerospace management, electronics and computing, and fuel cells and hydrogen. However, it warns of the need for synergies with various other existing partnerships and initiatives under other EU policies.

⁽⁸⁾ OJ C 68, 6.3.2012, p. 28.

4.2 With regard to the Innovative Medicines Initiative, the Committee recommends that more room be given to the development of affordable medicines for the poorest sections of society for long-term use and for rare diseases. The EESC also recommends that priorities include the marketing in the EU of the products of European research and the establishment of rules on the price per gram of active ingredient that take account of the difficulties of Member States' budgets and social systems.

4.3 With regard to the FCH 2 initiative (Fuel Cells and Hydrogen), the EESC considers it especially important that the development of CO₂-free technologies for hydrogen generation be included among the objectives.

4.4 With regard to the Clean Sky initiative, more emphasis should be placed on the impact of the results, even *in itinere*, of the demonstration projects, and of the management of safety and environmental risks in the Single Sky PPP.

4.5 With regard to the bio-based industries initiative, it is important to ensure that those technologies (dealing with biological and bio-agricultural materials and biomaterials) fully respect the biosphere, the environment and the sustainability of the agri-food sector in accordance with the precautionary principle. The EESC hopes that this initiative will achieve positive, tangible and visible results.

4.6 The significant commitment, not least financial, to the ECSEL initiative for digital technologies and nanotechnologies, which is already mentioned in the thematic parts of H2020, should be matched by tangible benefits for citizens and taxpayers in terms of more user-friendly and cost-free access to such technologies ⁽⁹⁾.

4.7 The EESC also wholeheartedly supports the four P2P initiatives, but stresses the importance of two of them, which should be strengthened, not least in terms of the resources allocated to them:

- the Eurostar initiative, for the positive results it has demonstrated in supporting access to RDT&I among SMEs within the European Research Area (ERA);
- the European programme for technologies for ambient assisted living, (AAL) which responds to a major need for healthy development for individuals and for European society as a whole.

4.8 More specifically, with respect to AAL, the EESC recommends that account be taken of the different situations in Member States, not least with regard to the likelihood of these issues becoming more acute given demographic trends to 2024 and beyond. The level of funding offered by the EU needs to be increased considerably compared with that under FP7 and take account of the future opinions of the various representative categories of civil society by creating an ad hoc committee.

4.9 The EESC recommends, for the sake of faster development and enhancing the opportunities for job creation and for more skilled professional profiles, that these institutional partnerships be developed in close synergy and coordination with other comparable ones that exist within the context of the industrial policy and smart specialisation flagship initiatives, cohesion policy and the regional innovation strategies.

4.10 With regard to participation in the metrology programme, the EESC refers to its opinion on the matter ⁽¹⁰⁾ and recommends that the support, including funding, for participation by small businesses and user groups be increased. As regards the Europe — Developing Countries Partnership, it refers to the EU-Africa opinion ⁽¹¹⁾ with a specific recommendation not to ignore the issue of the return to Europe of illnesses that are covered by the research and to monitor full compliance with ethical principles in the protocols.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽⁹⁾ See opinion CESE 4345/2013, 24.10.2013.

⁽¹⁰⁾ OJ C 228, 22.9.2009, p. 69.

⁽¹¹⁾ OJ C 77, 31.3.2009, p. 148.

Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Towards a European Horizontal Framework for Collective Redress

COM(2013) 401 final

(2014/C 170/11)

Rapporteur: **Mr Frank VON FÜRSTENWERTH**

On 11 June 2013, 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 –Towards a European Horizontal Framework for Collective Redress

COM(2013) 401 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 13 November 2013.

At its 494th plenary session on 10 and 11 December (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 161 votes to 2 with 7 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee has been calling for more than twenty years now for collective legal protection instruments at EU level that would provide effective legal protection in the event of violations of collective rights. Collective redress measures should cover all areas in which EU law protects citizens' rights, while at the same time duly respecting the Member States' different legal traditions.

1.2 The EESC welcomes the fact that the European Commission has finally seized the initiative and called upon the Member States to introduce national collective redress systems underpinned by shared European principles. This initiative was long overdue. Collective legal protection instruments are in the interest of both the Union's citizens and of companies that operate fairly and within the law. They protect industry from unfair competition and strengthen the public's trust in it.

1.3 The Committee regrets that the Commission has not issued a proposal for a directive. A mere communication and recommendation are not enough to ensure the necessary uniform implementation in the Member States. The EESC therefore calls on the Commission to present a proposal for a directive. Collective redress is the only procedure that can ensure a comprehensively effective remedy in the European Union.

1.4 The EESC recognises the efforts the Commission has made to take a balanced approach intended to guarantee the fundamental procedural rights of the parties and prevent abuse. It also endorses the Commission's desire to provide for both injunctive and compensatory collective actions. The possibility of extending the types of action should be examined.

1.5 The EESC welcomes the Commission's rejection of a US-style class action. This is precisely the form that collective redress within European law must not take. The Commission's safeguards to this end are sufficient and appropriate. Contingency fees for lawyers that create an incentive for litigation, as well as punitive damages, are quite rightly rejected. The rules on the certification of claimants and payment of costs must be re-written to accommodate access-to-justice considerations.

1.6 The EESC endorses the Commission's view that individuals should have the right to opt in to a group action. However, the Committee can also envisage circumstances in which an opt-out procedure would have its advantages. Particularly where a large number of injured parties have suffered very minor harm, it might make sense to extend the action to all potential injured parties. It is not clear whether the Commission considers an opt-out procedure in such cases as legally safe. The EESC therefore calls on the Commission to clarify its proposal. The Committee also recommends a central European register of actions to provide information for potential claimants.

1.7 The EESC has always highlighted the potential of out-of-court dispute resolution. For this reason, it welcomes the approach chosen by the Commission of providing for this procedure as a complementary instrument that parties can opt for and of giving the judge a remit to encourage out-of-court settlement.

1.8 The EESC recommends that specific conflict rules be instituted for collective redress actions. The provisions regarding the funding of collective legal protection should be expanded. The financial risk for non-profit organisations must be made clear. There are rules on this in the Member States.

2. Gist of the Commission communication and recommendation

2.1 The Commission summarises in its communication the conclusions of the consultation exercise carried out in 2011 entitled 'Towards a coherent European approach to collective redress' ⁽¹⁾. It also states its case on the central issues in such redress. In the recommendation ⁽²⁾ published in tandem, the Commission proposes to the Member States the introduction of national systems for collective redress based on common European principles. Member States are expected to incorporate these principles into their domestic systems within two years. After four years the Commission will weigh up whether further legislation should be proposed.

2.2 National redress procedures should be available in areas in which EU law guarantees the rights of individuals and businesses. The Commission wishes to improve access to justice, but at the same time to prevent, through appropriate measures, improper litigation.

3. General comments

3.1 In over twenty years of — at times — very controversial debate, the EESC has championed collective redress instruments at Community level as the only effective guarantee of legal protection for collective rights ⁽³⁾. Access to effective judicial protection is a fundamental right and a citizens' right laid down in the European Charter of Fundamental Rights. For EU citizens, though also for SMEs, collective law enforcement procedures are needed where mass and low-value damage occurs in which the cost risk may outweigh the harm suffered. This covers a broad spectrum, including consumer protection, competition, and environmental and data protection. Only in this way can the right enshrined in Article 47(1) of the Charter of Fundamental Rights be enforced.

3.2 In the light of the foregoing, the EESC welcomes the initiative the Commission has now seized, although it would have wished decidedly swifter, earlier and — where the choice of legal instrument is concerned — more targeted action. The matter of collective judicial redress has been under discussion at European level since 1985 and so it was high time decisions were taken ⁽⁴⁾.

3.3 The EESC notes with regret that the Commission has chosen the instrument of a directive only for the sphere of competition law ⁽⁵⁾. The EESC has always maintained that a recommendation is not the right instrument to guarantee the necessary effective and uniform implementation in the Member States ⁽⁶⁾. Given that the procedures in the Member States differ widely, only a directive would ensure a solid core of harmonisation while at the same time giving the Member States enough leeway for accommodating the particularities of their national legal systems. The EESC calls on the Commission to propose a directive as quickly as possible.

3.4 One good point is that the Commission has taken a cross-cutting approach. The EESC has already noted that policy areas such as consumer protection, the single market and competition policy are tightly interwoven ⁽⁷⁾. Initiatives to give easier access to means of redress must be coordinated across a broad spectrum to avoid duplication of legislation. For this reason, the EESC is pleased that the Commission sees the recommendation and the proposal for a directive in the competition law sphere as a single package ⁽⁸⁾.

⁽¹⁾ COM(2010) 135 final, 31.3.2010.

⁽²⁾ Commission Recommendation on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law, OJ L 201, 26.7.2013, p. 60.

⁽³⁾ See on this: OJ C 162, 25.6.2008, p. 1; OJ C 128, 18.5.2010, p. 97; OJ C 181, 21.6.2012, p. 89, point 3.30.

⁽⁴⁾ See: OJ C 162, 25.6.2008, p. 1, point 3.6 et seq. and point 7 et seq.; OJ C 128 18.5.2010, p. 97.

⁽⁵⁾ COM(2013) 404 final, 11.6.2013.

⁽⁶⁾ OJ C 162, 25.6.2008, p. 1, point 8.1.

⁽⁷⁾ OJ C 228, 22.9.2009, p. 40, point 4.2.1.

⁽⁸⁾ See COM(2013) 401 final, footnote 10.

3.5 The EESC acknowledges the Commission's balanced approach, which, while recognising the different legal traditions, guarantees the fundamental procedural rights of the parties and at the same time prevents improper claims.

3.6 The EESC has always urged effective protection against improper practices. It therefore emphatically welcomes the Commission's rejection of a US-style class action. The Committee has always stressed that a class action in the US manner must not be the form of collective redress adopted on the basis of European law⁽⁹⁾. For this reason, it has also insisted that contingency fees and provisions that include economic incentives for third parties be avoided⁽¹⁰⁾. These calls are incorporated in the recommendations.

3.7 The Commission also quite rightly points out that compensatory collective actions should be geared to compensating for harm demonstrably caused by an infringement of Union law. The punishment and deterrence functions should be exercised by the public authorities.

3.8 The EESC regrets, however, that the Commission has not made any specific proposals regarding jurisdiction and applicable law. In the case of cross-border actions, this could result in courts applying different compensation rules. Overlapping jurisdictions and an attendant danger of forum-shopping are also not excluded.

4. Specific comments

4.1 Injunctive and compensatory redress actions

4.1.1 The EESC welcomes the fact that the proposals cover both injunctive and compensatory collective actions in mass harm situations. Another positive aspect to highlight in this connection is that the Commission's approach is evidently meant to apply to both small and large amounts.

4.1.2 Irrespective of this, it could also be appropriate from the consumer protection point of view to reconsider the restriction to injunctive and compensatory collective redress. It might make sense to provide for further collective legal protection elements for situations in which two or more persons are affected by one and the same infringement of EU law. This could be relevant, for example, to declaratory relief, avoidance of contracts on the grounds of a mistake, or claims against warranty. The Commission should take this into consideration.

4.2 The role of the court

4.2.1 The EESC has already highlighted in earlier opinions the key role of judges in collective legal protection⁽¹¹⁾. Happily, the Commission has taken these calls on board. A timely assessment by the judge of whether an action is patently unfounded is an important element in protecting against the abuse of compensatory collective actions.

4.2.2 In so far as the authorities are empowered to determine an infringement of EU law, it should be possible to initiate a private action before, and not only after, the conclusion of these proceedings. Lengthy proceedings can result in a denial of legal protection. The role of the judge can be reinforced here — if he were empowered, for example, to suspend proceedings.

4.3 **Right to bring an action.** To prevent improper litigation, unequivocal and clear criteria should be set out for the right of representative organisations to bring actions. The EESC also therefore welcomes the minimum requirements laid down by the Commission for entities seeking to represent claimants. It is right that these should be non-profit and that no conflicts of interest arise. It is excessive and unacceptable, however, that these minimum requirements should include sufficient financial and personnel resources and legal expertise, since this raises the question of what standards will actually be used to decide on this matter in individual cases. This needs to be given further thought, with recent legislative procedures in the Member States possibly providing some useful ideas.

⁽⁹⁾ OJ C 162, 25.6.2008, p. 1, point 7.1.2; OJ C 128, 18.5.2010, p. 97, point 5.2.3.

⁽¹⁰⁾ OJ C 162, 25.6.2008, p. 1, point 7.1.2; OJ C 128, 18.5.2010, p. 97, point 5.2.3.

⁽¹¹⁾ OJ C 162, 25.6.2008, p. 1, point 7.3 et seq.; OJ C 128, 18.5.2010, p. 97, point 5.2.3.

4.4 **Effective compensation for damage.** It is of primordial importance that claimants receive full compensation for the harm they have suffered ⁽¹²⁾. The Commission's recommendations embody this principle. It is also to be welcomed here that contingency fees for lawyers paid out of claimants' compensation are not to be permitted ⁽¹³⁾.

4.5 **Opt-in or opt-out procedure**

4.5.1 The EESC exhaustively examined the pros and cons of opt-in and opt-out collective actions in its opinion of 14 February 2008 ⁽¹⁴⁾. In this and following opinions it upheld the idea of a hybrid system that combined the benefits of both ⁽¹⁵⁾.

4.5.2 Individuals should have the right to opt in to a collective action rather than simply to assume that they are a party to the action unless they declare otherwise (opt out) ⁽¹⁶⁾. However, the Committee can also envisage circumstances in which an opt-out procedure would have its advantages. Particularly where a large number of injured parties have suffered very minor harm, it might make sense to extend the action to all potential injured parties ⁽¹⁷⁾.

4.5.3 In these cases the claimant should be a qualified representative entity as described in the Commission recommendation.

4.5.4 It is not clear whether the Commission considers an opt-out procedure in such cases as legally safe. It restricts itself instead to the blanket statement that any exception to the opt-in principle can (only) be justified on the grounds of sound administration of justice. Unfortunately, it does not explain when such grounds arise. The EESC therefore calls on the Commission to clarify its proposal ⁽¹⁸⁾.

4.6 **Information on a collective redress action.** The EESC regrets that the recommendation does not provide for an electronic register of actions at European level to inform and include potential claimants. Such a register, which could be consulted by those suffering harm throughout the European Union, would be cheap and efficient to run ⁽¹⁹⁾ and would help the public and businesses to exercise their rights.

4.7 **Collective alternative dispute resolution.** Collective alternative dispute resolution mechanisms can be a useful adjunct for dispute resolution ⁽²⁰⁾. The EESC has always highlighted the potential of such procedures ⁽²¹⁾. Accordingly, it welcomes the approach chosen of providing for this procedure as a complementary instrument that is voluntary for the parties. Moreover, it is essential that limitation or prescription periods do not run while out-of-court dispute resolution procedures are underway. As in the case of collective follow-on actions, this should be clarified by the Commission.

4.8 **Collective follow-on actions.** In areas where public law enforcement is applicable, such as competition law, effective prosecution by the authorities must be guaranteed and at the same time the compensation claims of victims of infringements of Union law must be facilitated ⁽²²⁾. The Commission's proposal on this is balanced, since any limitation or prescription periods detrimental to those harmed are not to begin to run until official procedures have been concluded.

4.9 **Funding of compensatory collective redress**

4.9.1 Justified compensation actions must be enabled and not deterred by the high costs of going to court. The EESC therefore welcomes the Commission's call to the Member States for collective redress proceedings not to be excessively costly.

⁽¹²⁾ OJ C 128, 18.5.2010, p. 97, point 5.2.3.

⁽¹³⁾ OJ C 228, 22.9.2009, p. 40, point 4.8.4.

⁽¹⁴⁾ OJ C 162, 25.6.2008, p. 1, point 7.2 et seq.

⁽¹⁵⁾ OJ C 162, 25.6.2008, p. 1, point 7.2.3.1; OJ C 128, 18.5.2010, p. 97, point 5.2.3; OJ C 228, 22.9.2009, p. 40, points 4.4.1 and 4.4.2.

⁽¹⁶⁾ OJ C 128, 18.5.2010, p. 97, point 5.2.3.

⁽¹⁷⁾ OJ C 162, 25.6.2008, p. 1, point 7.2.3.1; OJ C 128, 18.5.2010, p. 97, point 5.2.3; OJ C 228, 22.9.2009, p. 40, points 4.4.1 and 4.4.2.

⁽¹⁸⁾ The European Commission should also make it clear in this connection when and on what conditions the opt-out procedure is compatible with the right to be heard laid down in Articles 41(2) and 47(2) of the Charter of Fundamental Rights of the European Union. This is also particularly important for those Member States, such as Germany, in which the right to be heard is protected by the Constitution.

⁽¹⁹⁾ OJ C 228, 22.9.2009, p. 40, p. 4.8.5.

⁽²⁰⁾ OJ C 128, 18.5.2010, p. 97, point 5.3.5.

⁽²¹⁾ OJ C 181, 21.6.2012, p. 93.

⁽²²⁾ OJ C 228, 22.9.2009, p. 40, point 3.6.1.

4.9.2 However, the Commission should further clarify its thinking on this. Court costs and lawyers' fees can be an insurmountable hurdle for non-profit representative bodies, especially if they are to be saddled with crippling expert's fees if they lose. For this reason, consideration should be given — by analogy with the labour and social law provisions in some Member States — to capping legal costs for such non-profit organisations. There is much to be said (where there has been financial gain) for considering using proceeds from a system of profit confiscation for the benefit of non-profit organisations.

4.9.3 The EESC also supports the decision to permit third-party funding under certain conditions. The conditions listed by the Commission, such as transparency in the origin of funds, are appropriate and sufficient to prevent improper litigation.

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC

COM(2013) 512 final — 2013/0246 (COD)

(2014/C 170/12)

Rapporteur-General: **Ms Darmanin**

On 6 September 2013 and on 10 September 2013 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a Directive of the European Parliament and of the Council on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC

COM(2013) 512 final– 2013/0246 (COD).

On 12 November 2013 the Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Ms Darmanin as rapporteur-general at its 494th plenary session, held on 10 and 11 December 2013 (meeting of 11 December), and adopted the following opinion by 96 votes to one with three abstentions.

1. Recommendations

1.1 The EESC welcomes the Proposal for a Directive on package travel and assisted travel arrangements. It acknowledges that the scope and definitions set out in the directive constitute a core component of the proposal, and therefore recommends that:

- business travel, or a combination of business and pleasure not purchased under a framework contract which takes the form of package travel or assisted travel arrangements, clearly fall within the scope of the proposal;
- occasional travel organisers should also fall within the scope of this directive to ensure a level playing field and also adequate consumer protection. Hence the removal of 'occasionally organised travel' from point 19 of the proposal;
- packages and assisted travel arrangements lasting less than 24 hours should be included in the scope of the proposal. As the duration is limited, the risk for the trader is lower and consumers may be confronted with as many problems as with any other package. In addition, in some countries, this limit does not exist;
- booking particulars as referred to in the definition of assisted travel arrangement (Article 3(2)(v) should be any particular of the client being transferred and not merely credit card information as outlined in point 18 of the recital of the proposal;
- the last sentence of article 3(2)(b)(v) 'at the latest when the booking of the first service is confirmed', should be deleted as a reference to a specific time frame is problematic and creates confusion;
- the references to 'the same' and 'separate' booking processes in articles 3(2)(b)(i) and 3(5)(a) respectively, should be deleted.

1.2 The EESC applauds the move towards more transparency. However the methodology for such transparency should be clear and practicable for ease of reference and not left entirely into the retailers' discretion.

1.3 Whereas the EESC supports the dissemination of information by digital means, the EESC points out that there are still a number of European consumers who do not have this facility, either by choice or because of limited access, and that they should not be discriminated against when it comes to access to information on their travel packages or updating this information.

1.4 The EESC recommends that 'reasonable' fees for cancellation be more clearly defined, and strongly emphasises that EUR 100 compensation is insufficient and reduces current consumer rights.

1.5 The EESC believes it is possible to amend Directive 90/314/EEC, adapting it to new technologies without having to decrease the level of consumer protection.

2. Background

2.1 The Directive on package travel and assisted travel arrangements is a long awaited update of the 1990 Package Travel Directive. This updated directive includes the new digital media as a tool enabling consumers to book their holidays and eliminates some outdated elements.

2.2 The Commission began work on the revision of this directive in 2007, going through impact assessments, the consultation process and specific stakeholder meetings.

3. Definition

3.1 A core element of the updated directive is the scope of the directive and the definitions it provides. The scope covers a wider range of travel and includes:

- pre-arranged packages, from a retailer or online provider;
- the new category of customised packages contracted from an online provider or high street retailer;
- other customised travel arrangements (assisted travel arrangements), where a retailer or online travel service provider acts as intermediary.

3.2 The scope of the directive does not cover independent travel arrangements or business travel arrangements and defines other areas excluded in Article 2. In this regard the EESC emphasises that the exclusion under Article 2(2)(c) should in no way effect the entrepreneur or one of their employees who takes up an assisted travel arrangement or package travel for the purpose of work, or a combination of work and pleasure, which do not fall under a framework contract. Hence, to all intents and purposes such travel would fall within the definition of travel package and/or assisted travel arrangements.

3.3 This new definition ensures that package travel has a broader scope than simply the traditional package holiday; it also includes more modern trends in holiday-making, thus covering an additional 23% of holiday-makers. It is expected that nearly half of holiday-makers will be covered by this new directive (46%) ⁽¹⁾. Whereas 7 out of 10 traditional travel packages are purchased at a physical travel agent, a number of consumers purchase such traditional packages online, and increasing use is also being made of the Internet for tailor made packages ⁽²⁾.

3.4 The EESC welcomes this new broader definition of package travel, which clearly addresses issues raised by customised travel packages which were not covered by the 1990 directive, despite the fact that consumers were generally under the impression that they were protected. In the EESC's view, package travel does not necessarily combine transport and accommodation: instead, it is a combination of at least two different components, whether car rental or excursions, transport, accommodation, sports or any other component pertaining to one's holiday.

3.5 The definition of package under Article 3(2) defines a wide range of aspects of package travel. The EESC is satisfied with the definition but points out that 'particulars' as stipulated in point 2(b)(v) of this article should be any booking particulars of the client that are transferred and not merely credit card information as pointed out in the Explanatory Memorandum (point 18) of the directive. The EESC therefore recommends that the last two sentences of point 18 of the recital be deleted. Furthermore, the EESC stresses that such transfers of particulars should not be tied to a specific moment in time and therefore recommends that the wording in recital 18 and Article 3(2)(b)(v) 'at the latest when the booking of the first service is confirmed' be deleted altogether.

⁽¹⁾ Data derived from the EC Impact Assessment SWD(2013) 263 final.

⁽²⁾ Survey carried out by BEUC and its members on 'Holiday and Travel'.

3.6 The EESC points out that the directive should also apply to occasional organisers of travel packages, whose responsibilities and obligations should also be covered. This would ensure that a consumer is protected irrespective of the organiser of the travel and also ensure a level playing field for organisers of travel packages. Hence, the EESC recommends that the phrase 'occasionally organised packages' should be deleted from point 19 of the Explanatory Memorandum to the directive.

3.7 Packages and assisted travel arrangements lasting less than 24 hours should be included in the scope of the proposal. As the duration is limited, the risk for the trader is lower and consumers may be confronted with as many problems as with any other package. In addition, in some countries, this limit does not exist⁽³⁾.

4. Transparency

4.1 The proposal aims to secure greater transparency for consumers, ensuring that consumers are informed of the kind of contract they are entering into and their respective rights. This aims to avoid the recurrence of past instances when consumers may have been misled in believing that they were protected.

4.2 The EESC is in favour of clear and more information for consumers on what they are agreeing to. However, putting this transparency into practice may not be as straightforward as it seems, given that the methodology for implementing it is left up to the retailer.

4.3 Responsibility should lie with both the organiser and the retailer, not just the organiser. Consumers are often confused as to who is who in the contractual chain and very often identify the retailer as the contractual counterpart. Furthermore, consumers should not be left to rely on the retailer's goodwill to transfer complaints, hence the proper implementation of article 13 is paramount.

5. Special rules on publication

5.1 The requirement to reprint brochures stipulated in the 1990 directive has been repealed since the Internet has heralded a new era of information for consumers. Removing this requirement will save the industry EUR390 million per year⁽⁴⁾. However, the new proposal still requires that the consumer be given all information at the contract stage and informed in writing of any changes.

5.2 The EESC welcomes the savings for the industry, and strongly advocates that this saving be channelled into innovation, employment and growth. However, the EESC believes that consumers who refrain from using the Internet, out of choice or lack of resources, should not be disadvantaged in terms of access to correct information.

6. Pre-contractual information and changes to the contract

6.1 The EESC emphasises the need that pre contractual information should be provided in a durable form so that consumers can read it at any time.

6.2 Furthermore, the EESC accepts that information, either pre contractual or contractual, provided to the traveller can be changed, but information related to the name and the address of the provider are too important to be changed, and should therefore not be subject to change.

6.3 Significant changes to the contract should only be possible if they do not entail inconvenience for the passenger. Moreover, the acceptance of the changes by the consumer should be explicit, not tacit as is being proposed in Article 9.2 (b).

6.4 The right of the organiser to cancel the package if the minimum number of persons required is not reached should be deleted. Although this possibility already exists in the current directive it can no longer be justified, as technology now allows traders to easily foresee and manage the risks involved in their offers and operations.

⁽³⁾ In Hungary and Austria for instance journeys of less than 24 hours are covered. Already in some countries (ex. Spain) it is increasingly frequent to offer combinations consisting of transport + dinner + tickets to attend a show or a sporting event, the whole service being performed in less than 24 hours without accommodation.

⁽⁴⁾ Data derived from the EC Impact Assessment SWD(2013) 263 final.

6.5 The contracts should be in the consumer's language.

7. Cancellation rights

7.1 Consumers will not only retain the right to transfer a contract to a third person but also to cancel a contract under the new rules. Should they do so, they will be obliged to pay a reasonable fee to the organiser to cover costs incurred.

7.2 The EESC supports the extension of the consumer's right to cancel before departure. However, it questions the real value of 'reasonable' fees in case of termination by the consumer. The directive should set up general principles or rules on how to calculate the compensation due by the consumer. The fees should not be disproportionate or excessive.

7.3 Moreover, the consumer should be able to cancel the contract for reasons that are unforeseen and beyond one's control, such as illness or a death in the family, without paying compensation, this being a corollary of the proposed right of the organiser to cancel in cases of force majeure without paying compensation.

8. Liability for non-performance

8.1 The compensation of up to EUR 100 and three nights per traveller is completely unacceptable to the EESC. It contradicts the general liability of the organiser to perform the package as agreed with the consumer. Furthermore it is against the principle of 'full compensation' for damages, which is a general principle of law in all EU Member States. The price limit should never be applied for persons with reduced mobility (PRMs).

8.2 The EESC is glad to note that the proposed directive specifically includes the rights of disabled persons, for example in Chapter 4.

8.3 The EESC recommends to the Commission that the recital of the Proposed Directive should include references to certification of accessibility and the standardisation thereof, as this would provide invaluable information to the travel agent.

8.4 The EESC agrees that the principle of placing responsibility on the traveller to notify the organiser of 'their (the traveller's) particular needs at least 48 hours before the start of the package' should also apply to people with disabilities. However, the Committee points out that often the traveller would like to do this but cannot find a way of communicating this information to the organiser. Hence, it is important that the methods for communicating such information be made clear to the traveller (these might, for instance, include a specific field in the online application form).

9. An improved system of redress

9.1 Redress is a crucial aspect for consumer protection. Until now, consumers were sometimes faced with a situation in which the burden of responsibility shifted from one service provider to another, leaving the consumer in an exasperating situation. The proposal outlines the need for a single point of contact in case something goes wrong.

9.2 The EESC is in favour of simplifying redress for consumers by having one single point of contact for when something goes wrong in customised package travel. This single point of contact should be made clear from the very start of discussions on a contract for a package holiday.

9.3 Consumers should have reasonable time to lodge their complaint and not be compelled to do immediately; in this way they will not be denied their right to redress after the travel period.

10. Impact of the proposal

10.1 The EESC recognises the significant impact of this new proposal, both on consumers and on business. There are a number of benefits for both parties, as outlined in the Commission press releases on this subject.

10.2 The revised proposal will result in stronger consumer protection in certain areas and savings for the industry. Despite this, the EESC is still concerned about the proper implementation of information that shall be passed on to the consumer and clear responsibilities from the industry.

10.3 Furthermore, although individual travel arrangements are not covered by this directive, they should not involve any lesser degree of consumer protection.

11. Consolidation of legal provisions

11.1 The EESC notes that there is a problem with legal fragmentation in travel and holiday rights and that a more harmonised approach is required. Travel and holidays are not covered under General Consumer Rights legislation, as from the Consumers Rights Directive 2011/83. This exclusion gives rise to the fragmentation and weak protection for European consumers when travelling. Furthermore, whereas individual travel is covered in a different way under other directives and is accorded specific by these directives, the variety and range of rights in the different directives do create further confusion for the traveller.

12. Insolvency

12.1 The protection of consumers against insolvency contained in the proposal is positive, to avoid situations of helpless consumers trying to cope with insolvency situations when enjoying their vacation. However, administrative cooperation should be ensured and contact points provided should be operate quickly.

13. Review

13.1 The EESC is pleased to note that within 5 years the Commission aims to submit a review to the Council and the Parliament on the application of this proposal, and also to make legislative proposals. The EESC emphasises that such a review should start immediately the directive comes into force; this will ensure that a clear picture of the implementation is available in the early stages and legislative proposals will not require an exorbitant amount of time to be adopted.

14. Harmonisation and relationship with general contract law

14.1 The full harmonisation proposed by the Commission should not lead to a fall in the current level of consumer protection. Member States should have the freedom to supplement the rules of the directive and maintain existing rules at national level.

14.2 The EESC stresses that the system of specific remedies in case of non-performance or bad performance by the trader has implications for general contract law in the Member States and that consequently the relationship between the proposal and general contract law needs to be clarified.

15. Other Points

15.1 Vague terms in the Commission's proposal, such as significant part (Article 2(2)(d)), reasonable time limit (Article 9 (2)(b) and disproportionate (Article 11)(2), should be more clearly defined.

15.2 Points 2(b)(i) and 5(a) of Article 3 are contradictory and therefore need clarification.

15.3 The Commission should produce a non-exhaustive indicative list for other tourist services (Article 3(1)(d)), in addition to the fees and the time limits referred in Article 10(1) and the extraordinary circumstances referred in Article 12 (3)(iii).

Brussels, 11 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions

COM(2013) 550 final — 2013/0265 (COD)

Proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC

COM(2013) 547 final — 2013/0264 (COD)

(2014/C 170/13)

Rapporteur: **Mr FARRUGIA**

On 8 October 2013 and on 31 October 2013 respectively, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions

COM(2013) 550 final — 2013/0265 (COD)

and the

Proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC

COM(2013) 547 final — 2013/0264 (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 13 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 11 December), the European Economic and Social Committee adopted the following opinion by 176 votes to 22 with 12 abstentions.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the two legislative initiatives, in the Commission's payments package published on 24 July 2013: the proposed revised Directive on payment services (PSD II) and the proposal for a Regulation on interchange fees (IF Regulation).

1.2 The EESC stresses the need to see these proposals through their regulatory process as a matter of urgency to combat the lack of transparency on the real costs of card payments and the barriers to entry in the payments market — including the multilateral interchange fee. The EESC notes that the payments market still lacks a regulatory framework based on empirical evidence which would lead to full SEPA harmonisation. In addition, the legal framework must allow free and open competition to promote consumer welfare and the smooth functioning of the free market. The European payments market must evolve to cater for new payment models and developments in technology.

1.3 The EESC generally supports the caps proposed by the Commission in the IF Regulation, but recommends that caps for both credit and debit electronic payments should be lower than those currently proposed. A debit system which does not operate using an interchange system would give Europe a truly low-cost, easy and efficient electronic alternative to cash and would open up greater opportunities for the e-commerce market both nationally and cross-border. In tandem, a lower cost system for credit card transactions would bring greater benefits to consumers and the economy.

1.4 The EESC also believes that these measures are of such importance that there should be as little delay as possible in their implementation. Caps should be introduced at national level if possible within six months from the adoption of the Regulation, but by one year at the latest.

1.5 The EESC recommends that an option be found to limit the fees imposed under the 3-party business model also. In the impact assessment published with the proposals, the Commission states that the 3-party model, as is has limited market share and is generally confined to business use, can be exempted from the proposed caps. Given the rapid development of new business models and cloud-based systems, the EESC does not entirely share the Commission's confidence that this will remain the case.

1.6 The EESC considers that commercial cards should be included within the caps at the same level as those proposed for consumer cards. There must be provision to prevent any push by card schemes towards more commercial card usage.

1.7 The EESC recommends more clarity in the PSD II on possible charges from banks to third party providers (TPPs) for accessing consumer account information. The EESC understands that the Commission does not consider banks should charge such fees and recommends this should be made clear in the text of the Directive.

1.8 In addition to these proposals, the EESC stresses the need for fully interoperable standards for payments across all markets in Europe. More work is needed to encompass new technologies and provide certainty. Also it is essential that all relevant players are consulted and adhere to the same standards. This will need centralised European leadership and a robust governance structure.

2. Comments and observations

2.1 In 2011, the European Commission issued a green paper 'Towards an integrated European market for card, internet and mobile payments' ⁽¹⁾ and the payments package is the outcome of the consultation which arose. The EESC refers to its opinion ⁽²⁾ in which it noted the need for clarity and certainty on the rules concerning multilateral interchange fees (MIFs) and the business rules associated with card payments. This need was echoed by many in response to the consultation. The EESC welcomes the proposed IF regulation, which will address these very issues. The Regulation, as well as applying to transactions made using current plastic cards, would also apply to any e- or m-payments made with applications which use the same business model.

2.2 The EESC notes that according to ECB figures, the total societal cost of retail payments is EUR 130 billion or 1% of GDP and that the cost of interchange fees represent 10 billion ⁽³⁾. The retail banking market, the extent of its development and the maturity of electronic and card payments varies significantly from member state to member state. In much of Europe and in certain member states in particular, it is characterised by too little competition, thus keeping prices high and innovation low.

2.3 The EESC notes that cash withdrawals at ATMs are not included in the proposed legislation. A lower use of cash may create an increase in electronic payments, creating benefits for all merchants and consumers. The ECB and the Commission recognise that cash has a high private cost and may encourage the shadow economy and tax evasion, given that cash payments have poor traceability and transparency.

2.4 E-payment usage, both over the internet and mobile phone, is increasing rapidly. It is essential that Europe's regulatory landscape is fit to encompass these changes. The EESC notes the danger, also noted by the Commission, that the draw-backs of the interchange system and other types of cost should not be allowed to 'spill-over' into these new mobile technologies.

⁽¹⁾ COM(2011) 941 final.

⁽²⁾ OJ C 351, 15.11.2012, p. 52.

⁽³⁾ ECB Report, 'The Social and Private Costs of Retail Payments Instruments', Occasional Paper 137, September 2012.

2.5 The EESC supports the Commission's proposed Directive on access to payment accounts⁽⁴⁾, which should go some way to stimulate competition in this area. It is also desirable that this Directive provides the necessary transparency and information on all other costs paid by consumers, information which is not currently known and makes provision to enable consumers to switch banks more easily to find the most cost-effective solution. It intends to give every citizen in Europe the right to open a bank account with certain minimum features free of charge or at 'reasonable' cost. The payments package, in combination with this proposal should have as overall aim that all EU citizens should be able to make basic electronic payments over the internet both nationally and cross-border cheaply and easily.

2.6 The EESC further notes the lack of available data on the true costs of electronic payment methods and the lack of transparency around this issue. Further data is required to permit a full analysis of these problems to establish who amongst the parties involved is paying what. Care must also be taken to avoid any unintended consequences i.e. that lowering fees on one side of the market may result in increased costs in another area of the system.

2.7 The EESC notes that the Commission has commissioned a study to ascertain the impact on merchants of the MIFs vis-à-vis cash using the merchant indifference test⁽⁵⁾. The EESC considers there is a need for similar studies on the perceptions and the attitudes of consumers to the cost of different payment instruments since there is currently little empirical data. The study on the impact of the PSD I and the cross-border payments Regulation, prepared by London Economics gives some information⁽⁶⁾. Also, a recent study⁽⁷⁾ showed that surcharging had the greatest impact on consumer behaviour when choosing methods of payment. However, the EESC notes that further studies are required to ascertain the effects on consumer behaviour when the true costs of different payment models are made transparent.

2.8 The multilateral interchange fee (MIF) based card-scheme model was first designed to stimulate card usage and it operated well for many years. However, in today's saturated market, it has become outdated. It is standing in the way of innovation and competition to the detriment of Europe's economy as a whole.

2.9 The MIF is charged by a cardholder's bank (issuing bank) to a merchant's bank (acquiring bank) on each sales transaction made with a payment card. The fee is passed on by the acquiring bank to the retailer by way of a reduction from the payment of the transaction price. Interchange fees are a major source of revenue for issuing banks from cards (others include annual fees, interests for the use of a credit facility, late payment fees, currency exchange fees, etc.).

2.10 The current electronic payment market in Europe is dominated by cards, owned by just two major schemes and run under the MIF model. This business model distorts competition in a number of ways. Competition between the card schemes for issuing bank custom forces fees even higher, while competition for card-holder custom produces new products with greater 'free benefits' attached. It is therefore necessary to increase competition amongst payment service providers.

2.11 In 2007, the Commission reached a decision finding that MasterCard's MIF model was an anticompetitive agreement, contrary to section 101 of the EU Treaty. MasterCard appealed the decision but, in May 2012, the EU General Court fully upheld the Commission decision and affirmed that the MIF applied by MasterCard was anti-competitive and not necessary for the proper functioning of the card system. MasterCard has appealed the judgment.

2.12 The IF Regulation proposes to address these issues by setting caps on interchange fees at certain levels on certain types of card, the caps to be imposed after specific time periods. It also seeks to address and to remove some of the contractual rules which have bound the users of card systems and which, it has been argued, are anti-competitive in their impact.

⁽⁴⁾ COM(2013) 266 final, EESC opinion OJ C 341, 21.11.2013, p. 40.

⁽⁵⁾ The Commission has appointed Deloitte to carry out a study on the costs of acceptance of payment means.

⁽⁶⁾ See Study on the Impact of Directive 2007/64/EC and on the application of Regulation 924/2009 at http://ec.europa.eu/internal_market/payments/docs/framework/130724_study-impact-psd_en.pdf.

⁽⁷⁾ Elke Himmelsbach and Nico Siegel, of TNS in Germany, 'Hidden fees for card payments: Will transparency change consumer behaviour?'

2.13 The Regulation only proposes to set caps on card transactions within the four-party payment schemes which are widely used by consumers; caps would not apply to commercial cards, or to three-party card schemes (e.g. Amex, Diners). However, where three party schemes issue or acquire card transactions through a licensee bank — as is done by AMEX in some Member States — they are considered four-party schemes.

2.14 The proposed caps would only apply to consumer card transactions and would be set at a maximum level of 0,2% for debit cards and 0,3% for credit cards. The EESC has no knowledge of any definitive data on which these cap levels are based. They are the same as those adopted by commitments offered by MasterCard in 2009, following the competition action. Also in 2010, Visa Europe undertook commitments for 0,2% on debit cards. Visa Europe has also subsequently offered to commit to a level of 0,3% for credit cards.

2.15 The cap levels therefore reflect the competition commitments accepted by the Commission on the basis of the merchant indifference test. However, the EESC notes that the Commission is yet to complete the study mentioned at 2.7 above. The figures originally were suggested by the card schemes themselves, using data provided by a number of central banks ⁽⁸⁾. The EESC emphasises that all necessary safeguards should be introduced in the proposed legislation to ensure that direct costs to consumers which may be imposed by banks (such as commissions, card and account fees) will not be increased to circumvent the lowering of the MIF.

2.16 However, the explanatory memo to the Regulation itself notes that currently in eight Member States, no or very low interchange fees apply to debt card transactions with no appreciable negative effects on card issuing and card usage. Also, the Commission impact assessment gives substantial backing for the view that consumer debit cards should carry no interchange fee ⁽⁹⁾. The EESC contends that a more detailed analysis should be carried out to ascertain the real costs of the MIF to consumers whether in surcharging or in direct increases in pricing.

2.17 The EESC is of the view that the levels of caps proposed in the IF Regulation should be more deeply considered. The debit card market in almost all Member States in Europe is highly developed and there is no need to incentivise the use of these cards through marketing funded by the interchange fees. In addition, lower MIFs would bring increased card-acceptance, therefore increased card usage and so banks would overall suffer little or no revenue loss.

2.18 The EESC would propose that the current proposal should be amended to set a no-MIF system for debit cards, taking the most efficient current national schemes as a basis. In conjunction, the cap for credit, set at 0,3%, should be reviewed with a view to setting it at a lower level proportionate to the lower debit level. The measures should be reviewed and their impact on businesses and consumers should be assessed.

2.19 The IF Regulation would bring the caps into force in two stages: cross-border transactions, to be subject to the cap two months after entry into force and domestic transactions two years after entry into force. The EESC questions the need for such a long transition period for domestic MIFs. Most payments are made locally and the cross-border payments market is very small in comparison. It is on the domestic market that IF levels are the greatest burden for merchants and consequently for consumers. Such a long transition period for the domestic market could severely delay the real benefits of the Regulation.

2.20 The EESC also welcomes changes in rules on cross-border acquiring but insists that this should not result in the creation of new barriers between big and small merchants. The proposal would allow cross-border acquiring on consumer cards at the capped rate from its entry into force. If national implementation is not brought in as soon as possible (as advised under 1.4 above), this might mean that only large retailers could benefit from the caps immediately by shifting their acquiring operations to cross-border, while SMEs operations, which do not have this possibility, would be left paying high domestic rates. It cannot be assumed that domestic banks would voluntarily lower rates in order to counteract the shift of business to cross-border acquirers. We also consider that commercial cards should be included in the rules on cross-border acquiring by stating that the interchange fee to be applied should be that of the country where the acquirer operates.

⁽⁸⁾ See European Commission MEMO 13/719, 24 July 2013.

⁽⁹⁾ On page 193 it states: 'The option of banning interchange fees for debit cards which would generate potentially higher benefits to merchants and consumers deserves further examination. This is to ensure that the maturity of markets in the EEA, in particular as regards debit cards issuance and usage, is such that there is no need for charging interchange fees to incentivise debit card payments. A review to this effect could therefore be conducted shortly after a legislative action on interchange fees has been taken.'

2.21 The EESC supports the removal of the rules relating to honour all cards. If commercial cards are not included in the caps, retailers could refuse them. They would also, under the PSD II proposal, be able to surcharge commercial cards. This will allow merchants to steer consumers away from higher-fee cards.

2.22 However the EESC is not at all clear that the exclusion of three-party schemes from the Regulation is a good option and is not convinced by the Commission's reasoning that such cards will continue to focus on wealthy consumers⁽¹⁰⁾. There may be a danger that banks might seek to shift their clients to the three party systems, or indeed towards using commercial cards which are not covered by the regulation.

2.23 The EESC also notes that the rules as to when commercial cards should or must be issued are not clear. In many Member States all one-man businesses are automatically issued with a commercial card if they open a business account. We are not clear how such rules are set and whether it is open to a small business to request a non-commercial card. In addition, many companies issue their employees with 'business' cards which may also be used for non-business purposes.

2.24 The EESC welcomes the rules on choice of payment application at the terminal. The regulation specifies that, where two or more payment brands are contained in one device or card, the bank cannot build in a default choice when the card is issued: the choice must be made at the point of sale by the consumer. This gives the consumer additional freedom to choose the best payment method for his economic profile. The regulation also removes the non-discrimination rule and so relaxes the information merchants can and cannot give concerning the MIFs they pay.

2.25 The Regulation seeks to prevent the raising of scheme fees to compensate for the lowering of MIFs through its Article 5 which would treat as an interchange fee any net compensation received by an issuing bank from a payment card scheme in relation to payment transactions or related activities. However, it is not clear that the Regulation pays enough attention to the level of fees imposed on merchants by their own acquiring banks which may be very high, particularly for small businesses which have little negotiating power.

2.26 The EESC welcomes the provision which will separate the payment cards scheme from any processing entity. This will prevent the 'bundling' of cards scheme and processing services into one contractual offer and merchants will therefore be able to freely choose their processing option. This will increase competition and allow new entrants into the market, bringing down prices in its turn.

2.27 In relation to the PSD II, the EESC welcomes the opening of the market this will allow. It will align legal rules and remove national divergences which resulted from the optional nature of some current PSD provisions. It will create legal clarity as to the status of new payment models by bringing them all under the same regulatory regime. It will thus create more competition among providers, allow new entrants into the market and help improve efficiency and decrease costs. By doing this, it will promote the development of new payment models for e-commerce. It also will provide security, transparency, and adequate information for payment users.

2.28 PSD II will also include third party payment providers within its scope of regulation and alter the definition of payment services to make it technologically neutral, thus promoting the development of new technologies. In addition it will open the way for new payment models by allowing third party payment providers (TPPs) access to consumer account information. Such TPPs will therefore be able to check whether a consumer seeking to make an online payment has sufficient funds in his account and transfer an authorisation from that consumer to make a payment to the consumers own bank. Safeguards are provided for consumers to ensure that they have given informed consent to the TPP to do this.

2.29 One element, however, on which the PSD II is silent is whether a bank will be able to charge a fee to the TPP (and therefore to the consumer) for carrying out this service. If such fees were to be widespread and high, this would be likely to destroy any benefit to the TPP business model. We therefore urge the regulators to stipulate that this service should be provided free, i.e. as part of the normal service provided under the account holder's contract.

⁽¹⁰⁾ See European Commission MEMO 13/719, 24 July 2013.

2.30 In relation to clearing and settlement, the PSD II would make some changes. Under the Settlement Finality Directive, payment institutions may not participate directly in clearing and settlement mechanisms (CSM). They must access CSMs indirectly through the large banks. PSD II would not change this situation radically: there is no across the board direct access to clearing and settlement systems for PIs. Under PSD II, rules for indirect access must be the same for all types of payment institution (within the need to safeguard from settlement risk).

2.31 A further point for consideration is the need for real-time or close to real-time clearing and settlement in Europe. Some jurisdictions already have such a system and others are looking at it. The US Federal Reserve Bank issued a consultation paper on this in September this year. Regulators should consider whether to enforce a shift to clearing and settlement processes operating in real time through a future regulatory initiative.

2.32 The EESC hopes that the PSD II will result in new entrants to the payments market which will offer payment solutions using the SEPA credit transfer and SEPA direct debit systems. Such innovative payment products would greatly reduce the costs of e-commerce payments and open them up to a wider market. It could also arguably be more secure since far less sensitive information will be passed. Online payments made with cards require the entry of much sensitive data and are therefore highly susceptible to fraud. Current security methods (3-D secure etc.) try to overcome this, but they are cumbersome and inadequate.

Brussels, 11 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

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

Point 2.18

Amend as follows:

The EESC would propose that the current proposal should be amended to set a ~~no-MIF~~ system for debit cards, taking the most efficient current national schemes as a basis. In conjunction, the cap for credit, set at 0,3%, should be reviewed with a view to setting it at ~~a lower~~ an appropriate level ~~proportionate to the lower debit level~~. The measures should be reviewed and their impact on businesses and consumers should be assessed.

Outcome of the vote

For	49
Against	108
Abstentions	20

Point 2.19

Amend as follows:

The IF Regulation would bring the caps into force in two stages: cross-border transactions, to be subject to the cap two months after entry into force and domestic transactions two years after entry into force. The EESC calls on the Commission to analyse rigorously the impact of this first measure on the interested parties (consumers, merchants, employers and employees of this payment system, etc.) before applying the second phase ~~questions the need for such a long transition period for domestic MIFs. Most payments are made locally and the cross border payments market is very small in comparison. It is on the domestic market that IF levels are the greatest burden for merchants and consequently for consumers. Such a long transition period for the domestic market could severely delay the real benefits of the Regulation.~~

Outcome of the vote

For	48
Against	121
Abstentions	22

**Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation
on the establishment of the European Public Prosecutor's Office**

COM(2013) 534 final

(2014/C 170/14)

Rapporteur: **Mr Lucan**

On 17 July 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

Proposal for a Council regulation on the establishment of the European Public Prosecutor's Office

COM(2013) 534 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 November 2013.

At its 494th plenary session, held on 10 and 11 December (meeting of 11 December), the European Economic and Social Committee adopted the following opinion by 176 votes to 7 with 13 abstentions.

1. Conclusions and recommendations

1.1 The Committee welcomes the Commission's initiative. The establishment of a European Public Prosecutor's Office is an important step in creating new legal mechanisms to protect both the EU's financial interests and Europeans' financial contributions to the EU budget.

1.2 While the Committee considers that the EU's financial interests should be defended, the consistency of the EU criminal law system would be better ensured if the regulation defined⁽¹⁾ with accuracy and precision not only the terminology used but especially the offences in question that affect the EU's financial interests and which are to be subject to prosecution in the Member States. These definitions should either be incorporated into the regulation or be included by reference to an appendix drawn up along the lines of the Eurojust Regulation⁽²⁾, and possibly supplemented by a directive. Establishing these definitions could provide an additional regulatory framework for the offences affecting the EU's financial interests and would ensure compliance with the principle *nullum crimen sine lege*.

1.3 The Committee believes that the remit of the new European Public Prosecutor's Office should remain within the limits of the provisions of Article 86(2). In the absence of an impact assessment on cross-border crime, extending the powers of the Office in accordance with Article 86(4) would be premature.

1.4 In proceedings and disputes involving the European Public Prosecutor's Office, the Committee recommends applying procedural safeguards for suspects in line with the relevant standards under the regulation, in particular the Charter of Fundamental Rights of the European Union, especially the right to a fair trial and the rights of defence, which provide a higher level of protection compared to national legislation. The Committee understands 'rights of defence' to include ensuring that the principle of 'equality of arms' between the prosecution and the defence is also upheld.

1.5 The Committee proposes extending the remit of the EESC Follow-up committee for the European Instrument for Democracy and Human Rights (EIDHR) to include new competences with regard to monitoring the safeguarding of human rights and fundamental freedoms, particularly in the context of setting up the European Public Prosecutor's Office, and respecting the rights of persons in criminal proceedings. This committee would cooperate with all of the EESC sections and the other relevant EU and national institutions. The EIDHR committee⁽³⁾ would work to ensure the monitoring and assessment of respect for human rights in both EU-Member State and EU-third country relations.

⁽¹⁾ See Articles 2(b), 4(1) and 12 of COM(2013) 534 final, and the explanations given in section 4.1 below: 'Subject matter, definitions and remit'.

⁽²⁾ COM(2013) 535 final, Article 3(1): 'Eurojust's competence shall cover the forms of crime listed in Annex 1'.

⁽³⁾ This committee is attached to the REX section. The remit of the SOC section includes active citizenship and the protection of human rights.

1.6 As regards the pre-selection procedure for appointing the European Public Prosecutor, the Committee considers that the panel of experts that is to give an advisory opinion to the Commission should include one representative from each of the following bodies: the EESC, the Committee of the Regions, the EU's Fundamental Rights Agency, the European Court of Auditors and the Council of Bars and Law Societies of Europe (CCBE). This advisory panel should comprise at least 11 experts.

1.7 The Committee feels that legality and hierarchical subordination should be included among the basic principles underpinning the functioning of the European Public Prosecutor's Office; these are not mentioned explicitly in the regulation.

1.8 The Committee believes that additional safeguards should be established by the regulation in respect of the exercise of rights and duties of European prosecutors as well as their liability in cases of abuse and serious professional misconduct.

1.9 The Committee would point out that as regards the admissibility of evidence collected and presented by the European Public Prosecutor's Office in trial courts, where such evidence is admitted without any validation, this may create situations of inequality and violate the 'equality of arms' principle. Given that Article 32(5) of the regulation states that people involved '[...] shall have all the procedural rights available to them under the applicable national law', and that this clearly includes procedures for admissibility of evidence, the provisions of this regulation are contradictory, and may lead to violation of the rights of accused persons in criminal proceedings.

1.10 The collection and processing of personal data should be limited to people in respect of whom there are serious grounds for suspecting that a criminal offence affecting the EU's financial interests has been committed. If that is not the case, this could constitute a serious and disproportionate interference in the privacy of those concerned.

1.11 The Committee believes that setting up the European Public Prosecutor's Office would help safeguard the financial contributions of Europeans to the EU budget. Harmonised definitions of the offences affecting the EU's financial interests should be set out in both the proposed regulation and the proposed directive.

2. Background and general comments

2.1 Discussions on setting up a European Public Prosecutor's Office date back more than a decade⁽⁴⁾. In May 2011, the Commission adopted the *Communication on the protection of the financial interests of the European Union by criminal law and by administrative investigations*⁽⁵⁾ which contained proposals to improve the protection of EU financial interests.

2.2 An average of around EUR 500 million of suspected fraud was committed in the Member States in each of the last three years, but the actual amount of fraud is estimated to be significantly higher. Only a very small part of the total amount of fraud is ever recovered from offenders: below 10%⁽⁶⁾. It is estimated that in the year 2010, 46% of notifications of offences against the EU's financial interests (at Member State level) stemmed from the public sector and 52% from the private sector. The figures on the areas affected by fraud are as follows: agriculture — 17%; tobacco — 1%; customs — 6%; direct expenditure/purchasing — 11%; EU institutions — 27%; external aid — 19%; Structural Funds — 19%. These figures generally stay the same in the years 2011 and 2012, according to OLAF reports. Such an approach requires specific solutions and measures at the level of EU criminal law policy.

2.3 In July 2012, the Commission proposed a *Directive on the fight against fraud to the Union's financial interests by means of criminal law*. This included common definitions of offences against the EU budget, harmonised minimum sanctions (including imprisonment in serious cases) and common statutes of limitation.

⁽⁴⁾ Green Paper on criminal-law protection of the financial interests of the Community and the establishment of a European Prosecutor, 11 December 2001, COM(2001) 715 final.

⁽⁵⁾ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0293:FIN:EN:PDF>.

⁽⁶⁾ Summary of the impact assessment, SWD(2013) 275 final, p. 2, point 1.2.

2.4 Throughout 2012 and at the beginning of 2013, a number of discussions and meetings took place at European level⁽⁷⁾ with regard to establishing the European Public Prosecutor's Office. In his State of the Union address in September 2012, Mr Barroso reiterated the Commission's commitment to making the Office a reality.

2.5 On 17 July 2013, the Commission launched a package of regulations aimed at reforming the structure of Eurojust, enhancing the governance of OLAF and establishing a European Public Prosecutor's Office.

2.6 The main task of the European Public Prosecutor's Office will be to combat crimes affecting the financial interests of the EU. The Office is to be responsible for investigating such offences and bringing prosecutions of suspects before the competent courts of the Member States.

3. Presentation of the proposed Regulation on the establishment of the European Public Prosecutor's Office

3.1 The setting-up of a European Public Prosecutor's Office is not an obligation, but a possibility. Under the Treaty on the Functioning of the European Union (TFEU), the Council 'may establish' the office acting unanimously and after obtaining the consent of the EP. The legal basis and the rules for the setting-up of the European Public Prosecutor's Office are laid down in Article 86 of the TFEU, which states: 'In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulation adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust.'

3.2 Under Article 86(4) TFEU, the European Council may extend the powers of the Prosecutor's Office to include serious crime with a cross-border dimension.

3.3 The provisions of the *Regulation on the establishment of the European Public Prosecutor's Office* cover: the subject matter and definitions; general rules (status and organisation of the Prosecutor's Office, appointment and dismissal, principles) competence; rules of procedure on investigations, prosecutions and trial proceedings; procedural safeguards; judicial review; data protection; relations of the European Public Prosecutor's Office with the EU institutions; and budgetary implications.

3.4 The judicial review of procedural measures taken by the European Public Prosecutor's Office is a matter for the national courts.

3.5 In accordance with the EU Treaties⁽⁸⁾, Denmark is not taking part in the European Public Prosecutor's Office.

3.6 The United Kingdom and Ireland have a so-called 'opt-out' from justice and home affairs policies which means they will not participate — unless they voluntarily and explicitly decide to do so (opt in).

4. Specific comments

4.1 Subject matter, definitions and remit

4.1.1 Although this regulation, in Article 1, 'establishes' the new European Public Prosecutor's Office, its functioning and operation will depend solely on the way in which the *Directive on the fight against fraud to the Union's financial interests*⁽⁹⁾ — which defines the offences and illegal activities affecting the Union's financial interests — is implemented over time. The setting-up of a European Public Prosecutor's Office is useful for protecting the financial contributions of Europeans to the EU budget.

4.1.2 The criminal offences affecting the financial interests of the Union, as covered by the proposed Directive on the fight against fraud to the Union's financial interests⁽¹⁰⁾, are as follows:

- i. fraud affecting the Union's financial interests (Article 3);
- ii. fraud-related criminal offences affecting the Union's financial interests (Article 4): the provision of information, or failure to provide information, money laundering, promising or accepting undue advantages on the part of European officials;

⁽⁷⁾ COM(2013) 534 final, p. 3 and 4.

⁽⁸⁾ Articles 1 and 2 of Protocol No 22, TFEU.

⁽⁹⁾ Referred to in Article 2(b) of the regulation as 'Directive 2013/xx/EU'.

⁽¹⁰⁾ Referred to in COM(2013) 534 final as 'Directive 2013/xx/EU'.

iii. incitement, aiding and abetting, attempt (Article 5 of the directive specifies only that such action is punishable, without providing definitions).

4.1.3 The Committee considers that it is necessary to legally define these offences expressly and explicitly, and that this could be done by including a paragraph clearly specifying the offences to be investigated by the European Public Prosecutor's Office. It also believes that minor offences (below a certain amount of damage, for example EUR 10 000) should be excluded from the competence of the European Public Prosecutor's Office. The Committee believes that all of the definitions included in the directive should be fleshed out and should also appear in the regulation, including the definition of a 'public official' ⁽¹¹⁾ (which extends the definition from the public sector to the private sector). All of the definitions in the proposed regulation and directive should be clearly explained, detailed, harmonised and unified.

4.1.4 In the Committee's view, another solution to clearly establishing the subject matter, definitions and remit would be to amend certain articles defining the scope of the European Public Prosecutor's Office ⁽¹²⁾, by referring to an appendix drawn up along the lines of the Eurojust Regulation ⁽¹³⁾. This appendix could be supplemented and harmonised by the proposed directive.

4.1.5 The remit of the European Public Prosecutor's Office should be clear and indisputable. Although the criminal offences that fall within the material competence of the European Public Prosecutor's Office are to be clarified by reference to the national legislation implementing the relevant EU legislation (Directive 2013/xx/EU), certain conditions governing the existence of these offences established by the regulation (for example, a cross-border dimension, the fact that the EU's interests are affected, the involvement of EU officials, etc.) would ensure a consistent criminal law policy, in which all types of offences affecting the financial interests of the EU would be dealt with in the same way.

4.1.6 However, the regulation should not include within the remit of the European Public Prosecutor's Office offences that are subject to criminal investigations by national prosecutors. Furthermore, the regulation should specify the criteria determining 'preponderance' (prevalence) where the European Public Prosecutor's Office has ancillary competence; otherwise, this could lead to different legal interpretations and practices across the Member States.

4.1.7 In the case of cross-border investigations, there may be situations in which certain Member States do not cooperate with the investigation system of the European Public Prosecutor's Office. Relations between the European Public Prosecutor and the European delegated prosecutors could prevent the same criminal investigation being launched in several Member States. A simple rule could be established regarding the jurisdiction first notified, whereby the investigation is initiated in the Member State in which the judicial authorities were first notified.

4.2 Rules governing the establishment of the European Public Prosecutor's Office

4.2.1 Although the European Public Prosecutor is to be appointed by the Council with the consent of the European Parliament, the Commission is nevertheless to play an important role in pre-selecting the candidates: it is to 'submit a shortlist [... after] seek[ing] the opinion of a panel set up by it' ⁽¹⁴⁾. As regards the procedure for selecting the European Public Prosecutor, the Committee recommends that the Commission increase the number of experts on the panel during the consultation phase from 7 to 11, specify how many members will be chosen respectively from the Court of Justice, national supreme courts, national public prosecution services and among other highly qualified and experienced lawyers, and include one representative from each of the following bodies: the EESC, the Committee of the Regions, the EU's Fundamental Rights Agency, the European Court of Auditors and the Council of Bars and Law Societies of Europe (CCBE).

4.2.2 The Committee feels that another appropriate legislative approach would be to establish specific safeguards regarding judges and prosecutors, to ensure their independence, fairness and impartiality, as well as for the purposes of protection and stability. In this regard, the Committee points out that security of tenure for European prosecutors is absolutely necessary, especially where there are complaints against them.

4.2.3 The European Public Prosecutor or his/her deputies may be dismissed by the Court of Justice of the European Union, on application by the European Parliament, the Council, or the Commission. The Court of Justice is to have jurisdiction regarding damage to citizens caused by a European delegated prosecutor, the European Public Prosecutor, or his/her deputies. The Court of Justice is to analyse and resolve damages claims. In disputes relating to compensation, the Committee considers that decisions of the Court of Justice need to be communicated to the European Parliament, the Council and the Commission.

⁽¹¹⁾ COM(2012) 363 final, Article 4(5).

⁽¹²⁾ See Articles 1(b), 4(1) and 12 of COM(2013) 534 final.

⁽¹³⁾ COM(2013) 535 final, Article 3: 'Eurojust's competence shall cover the forms of crime listed in Annex 1'.

⁽¹⁴⁾ COM(2013) 534 final, Article 8(3).

4.2.4 Legality and hierarchical subordination should be included among the basic principles underpinning the functioning of the European Public Prosecutor's Office; these are not mentioned explicitly in the regulation. It should be possible for a matter to be brought before the European Public Prosecutor's Office *ex officio*. The European system of criminal investigation would gain coherence and consistency if the European Public Prosecutor's Office could issue guidance and binding instructions to OLAF.

4.2.5 Through decisions on internal operations, effective communication arrangements should be established that ensure the independence of the Office, the European Public Prosecutor, and his/her deputies and staff from any outside influence.

4.2.6 The regulation distinguishes between two categories of offences, the first of which falls automatically within the competence of the European Public Prosecutor's Office (Article 12) while the second (Article 13) involves offences that have certain links with offences of the first category (related facts). The Committee believes, however, that as long as there is no clear set of definitions of the offences themselves and the offences based on identical facts the remit of the Office should not include offences that are subject to criminal investigations by national prosecutors (closely related to offences affecting the EU's financial interests). The sole connecting factors mentioned in the regulation are defined by the terms 'preponderant' ⁽¹⁵⁾ and 'offences based on identical facts', which creates unpredictability in the absence of clear definitions of the offences concerned (preponderant from what perspective(?): the people involved, the articles of law breached, the financial impact, etc.?).

4.3 *Rules of procedure on investigations, prosecutions and trial proceedings*

4.3.1 The investigative measures provided for by the regulation, which establishes the types of measures that can be used by the European Public Prosecutor's Office and the conditions to which they are subject, should be carried out only in relation to criminal offences that fall within the material competence of the European Public Prosecutor's Office. The various types of decisions that may be made by the European Public Prosecutor's Office following an investigation, and especially certain specific outcomes, including the decision to prosecute or not to prosecute, should be harmonised at EU level.

4.3.2 The admissibility of evidence collected and presented by the European Public Prosecutor's Office in trial courts, where such evidence is admitted without any validation, may create situations of inequality and violate the 'equality of arms' principle for the defence. Given that the European Public Prosecutor's Office is supported through institutional cooperation from all structures, bodies, offices and agencies of the EU, and by the Member State authorities, the suspect and the defence will not have similar resources for proving innocence and the 'equality of arms' principle will be violated.

4.3.3 Concluding a transaction in the interests of the proper administration of justice may be incompatible with certain national systems and judicial review should not be excluded. The Committee recommends that the Commission define in the regulation what is meant by 'transaction' as well as the conditions governing its implementation (including in the case of offences for which the ancillary competence of the European Public Prosecutor's Office is established).

4.3.4 The procedural safeguards that — in accordance with the relevant standards, in particular the Charter of Fundamental Rights of the European Union — are accorded to suspects and other persons involved in the proceedings of the European Public Prosecutor's Office, may autonomously establish certain rights (the right to remain silent, the right to legal aid) which have not yet been regulated in EU legislation. These rights should also apply to witnesses, and not just to 'suspects'.

4.4 *Judicial review*

4.4.1 When adopting procedural measures, the European Public Prosecutor's Office is to be considered as a national authority for the purpose of judicial review. In the Committee's view, judicial review at EU level of the internal measures of the European Public Prosecutor's Office should also be possible.

4.4.2 The internal rules of procedure (internal operating rules) of the European Public Prosecutor's Office should govern not only the allocation of cases, but also many other (including substantial) aspects, such as hierarchy, structure and management, specific functions, etc. Although these internal rules are not enforceable but have only an inter-institutional value, for reasons of legal certainty they may be considered as a creator of law and, as such, it should be possible for EU citizens to cite them in criminal proceedings. This option is also in line with Article 86(3) of the Treaty, which prescribes the EU legislator to determine the rules applicable to the judicial review of procedural measures taken by the European Public Prosecutor's Office in the performance of its functions.

⁽¹⁵⁾ COM(2013) 534 final, Article 13(1) Ancillary competence.

4.5 *Protection of personal data*

4.5.1 In the specific context of the European Public Prosecutor's Office, the regulation sets out rules governing the data protection regime, which clarify and complement the EU legislation applicable to processing of personal data by EU bodies⁽¹⁶⁾. The communication of such data to third countries may only take place where there is an agreement in this regard. This data transfer may only take place if it is absolutely necessary for a specific prosecution and the third country assures and complies with the same level of data protection as the EU through an agreement. The supervision of all personal data processing in the context of the activities of the European Public Prosecutor's Office should be entrusted to both the European Data Protection Supervisor (EDPS) and the relevant national authorities.

4.5.2 The processing of personal data should be limited to people in respect of whom there are serious grounds for suspecting that a criminal offence affecting the EU's financial interests has been committed. If that is not the case, this could constitute a serious and disproportionate interference in the privacy of those concerned and a violation of the EU Charter of Fundamental Rights.

4.5.3 The Committee considers that an imperative need must exist to warrant the collection of certain data (as set out in Article 37(4)) and that there must be a strong causal and material link with the matters under investigation. The collection of certain additional personal data, as detailed in Article 37(4), should be justified on the basis of being strictly necessary for the investigation and in compliance with the EU Charter of Fundamental Rights, the European Convention on Human Rights, and all the better data protection rules in the Member States.

4.5.4 Where such personal data is not strictly necessary, and in all cases where the person is not prosecuted, the Committee believes that this data should be deleted from the documentation and logs.

Brussels, 11 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽¹⁶⁾ In particular Regulation (EC) 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Opinion of the European Economic and Social Committee on the Action Plan for the European Steel Industry

COM(2013) 407 final

(2014/C 170/15)

Rapporteur: **Mr Rolin**

Co-rapporteur: **Mr Kotowski**

On 3 July 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

Action Plan for the European Steel Industry

COM(2013) 407 final.

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 11 December 2013), the European Economic and Social Committee adopted the following opinion by 156 votes to 5 with 9 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Action Plan for the European Steel Industry unveiled by the European Commission on 11 June. The EESC considers the Steel Action Plan as a first step forward, recognising the steel sector as a strategically important sector for Europe and a motor for growth. However, its success will depend on how these statements are translated into reality.

1.2 The Action Plan is a specific proposal but it will take many months or even years to implement. However, given the speed of the fall in production and revenues this year, 'just-in-time' actions are required to help workers affected by the crisis and bring back a positive investment climate in the sector and its downstream chains. Failure to take this kind of action may result in further closures and more job losses. In this context, the EESC calls on the European Commission to publish as soon as possible a roadmap with precise timelines for the implementation of the Action Plan. The roadmap should be discussed with the social partners at the next meeting of the High Level Group.

1.3 The action plan is rather vague regarding the concrete action to be taken and does not adequately address the cyclical dimension of the crisis. To ensure that the sector remains strategic for the European manufacturing industry and employment and to prevent it from shrinking further, the EESC calls on the European Commission to take urgent measures including:

- Undertaking a detailed evaluation of existing capacity, with the involvement of the social partners;
- Taking measures to facilitate the use and transport of scrap and to prevent illegal exports;
- Deploying the EU structural funds on a massive scale, as well as ensuring that a sufficiently sectoral focus is taken when allocating them;
- Developing temporary measures (for instance like the 'kurzarbeit' in Germany) with public support and/or strengthening existing measures to ensure that workers are retained in the steel industry;
- Boosting demand in steel downstream sectors, inter alia by immediately implementing the proposed measures for the car and construction industries. In general, the right balance must be struck between fiscal consolidation — austerity measures — and active industrial policies which generate investments and jobs⁽¹⁾. Relying on the automotive and construction sectors will not be sufficient to boost steel demand;
- Providing much more support, including public support, for investment in developing new technologies and processes to trigger further upgrading of installations and plant;

⁽¹⁾ CESE 1094/2013- CCMI/108.

- Introducing a sustainable model of steel production to underpin the European steel industry. European sustainability standards such as the Steel Construction Products Mark (SustSteel) should be developed and promoted as a matter of urgency;
- The European Globalisation Adjustment Fund should not offer ex-post measures but concentrate on anticipating change, for instance by facilitating the introduction of new technologies and helping workers to adjust to new technologies.

1.4 Immediate focus must also be put on achieving sustainable European climate, energy and trade policies allowing the transition of the sector to a low carbon/energy- and resource-efficient economy without the cost burden being borne by the EU steel industry alone. This will be also achieved by promoting ambitious RD&I policies e.g. in the framework of Horizon 2020 and by actively supporting the deployment of new cleaner, resource- and energy-efficient technologies.

1.5 The EESC supports the general objective of combating climate change and supports action by the EU in this respect. However, careful consideration must be given to special features of the sector, in particular those relating to technological limitations, as well as to the efforts that have already been made. Targets for the steel industry need to be technically and economically feasible. They must be set in such a way that, as a minimum, the best performers in the EU have no additional costs resulting from EU climate policies, notably the EU ETS, at least until a comprehensive international agreement on climate change is reached with the same objectives and measures for the steel industry worldwide.

1.6 Temporary compensatory measures to offset ETS-related increases in electricity prices across the EU should be maximised throughout Europe during and beyond the third trading period. The EESC calls on the EU Commission to investigate this matter further and to take appropriate measures rapidly.

1.7 The EESC supports the idea of setting up a European scheme to finance the deployment of new and innovative technologies in energy-intensive industries, to be funded by earmarked revenue from the sale of ETS allowances.

1.8 The introduction of breakthrough technologies such as ULCOS should continue to be promoted. For the EESC, it is very important to closely monitor data on CO₂ emissions and the energy efficiency of steel plants.

1.9 Reciprocity and creating a level playing field globally must be a priority for the EU Commission. Given the absence of a level playing field and the proliferation of protectionist trends in emerging economies, the EESC calls on the EU Commission to take more robust measures to defend the European steel industry, including the use of trade defence instruments, in a targeted and rapid manner.

1.10 The EESC welcomes the adoption of a quality framework for anticipation of change and restructuring, setting out the best practices in this field. It believes that this framework should be used by the different stakeholders as a European minimum standard to anticipate and manage change in a socially responsible manner by promoting training, upgrading skills and supporting retraining when necessary. It also has to be an opportunity to make the European steel sector more attractive for young and highly qualified people. Moreover, long-term solutions should be developed to respond to the generational change. The social partners at all levels can play a proactive role in this respect.

1.11 In order to manage the transition towards a more competitive EU steel industry in a socially responsible way, the EESC believes that the steel sector should have the same access as other sectors to available European, national and regional funds.

2. Introduction

2.1 As highlighted by the European Commission in its action plan for a competitive and sustainable steel industry in Europe, 'the EU is the second largest producer of steel in the world, with an output of over 177 million tonnes of steel a year, accounting for 11% of global output'. The industry is widely spread across Europe, with at least 500 production sites in 24 Member States.

2.2 The EESC reiterates that the European steel industry is the backbone of Europe's prosperity and an indispensable part of the European supply chain, developing and manufacturing thousands of different, innovative steel solutions in Europe and thus providing direct and indirect employment and a living for millions of European citizens.

2.3 Unfortunately, it is now clear that this industry is being hit extremely hard by the economic crisis which is currently affecting all European countries. The steel industry is reliant on sectors such as the automobile and construction sectors, which have experienced a sharp drop in activity since 2008. This in turn has led to a decrease in demand for steel in Europe.

2.4 The decline in demand for steel in Europe has become apparent through the temporary or permanent closure of production facilities and the loss of over 60 000 jobs in the sector.

2.5 It is vital for Europe to take swift action in order to rein in the current crisis which is affecting the steel industry. It is for this reason that the EESC welcomes the European Commission's recent initiative to take action to support the European steel industry.

2.6 This is the first time that the Commission has proposed a comprehensive action plan for steel, eleven years after the expiry of the European Coal and Steel Community (ECSC) Treaty in 2002. This is the result of common efforts made by the Commission and the social partners to push forward the issue of industrial policy both in general and with regard to the main manufacturing sectors. It is also the first step towards a real industrial policy integrating policies such as trade, R&D, environment, climate and energy.

2.7 The plan puts forward a series of measures and recommendations in the fields of demand, energy and energy efficiency, climate policy, competition, trade, raw materials, research and innovation and social aspects such as access to the European structural funds to alleviate the social cost of anticipation and management of change and promotion of youth employment to boost the sector's competitiveness.

2.8 The social partners in the steel sector have contributed to this long-term strategy in the framework of the EU Social Dialogue Committee by developing a comprehensive view of the challenges facing the European steel industry. This common analysis served as a basis for the High Level Roundtable, initiated by the EU Commission with a view to developing the Action Plan for a competitive and sustainable steel industry in Europe.

2.9 Steel is the strategic backbone of European manufacturing industry and remains a driver of technological innovation which is vital for value creation in downstream sectors such as the automotive industry, construction, aerospace and energy, etc. It is vitally important for Europe to have a robust steel sector if it is to achieve its target for industry to account for 20% of GDP compared with the current 15,2%⁽²⁾.

2.10 The European steel industry has many assets in the form of modern plant, advanced products, demanding clients forcing constant product innovation, an important domestic market and a skilled workforce. However, today it faces major challenges: low demand, increasing energy costs, reliance on imported raw materials and often unfair competition.

2.11 The action plan is a document containing the most important items relating to the steel sector with particular emphasis on a list of possible actions to be implemented at the various institutional levels and by the main stakeholders.

2.12 As foreseen by the EU Commission, a formal High Level Group will oversee the implementation of the plan and its impact on the sector's competitiveness, sustainability and employment situation.

3. Comments of the European Economic and Social Committee

3.1 The EESC is pleased to note that the alarming situation faced by the European steel sector is on the agenda of the EU Commission. A consultation of the social partners and Member States has given them the opportunity to express their views on the sector and its shortcomings, as well as to propose possible solutions to maintain a robust steel sector in Europe. These consultations culminated in the drafting of the Action Plan for a competitive and sustainable steel industry in Europe.

⁽²⁾ COM (2012) 582 final.

3.2 The plan is the first step towards helping the steel sector to confront today's main economic, social and environmental challenges, creating a 'new' industrial policy framework to preserve a competitive steel industry and maintain its workforce in Europe. The statements made in the Action Plan are optimistic, but ultimately its success will depend on how these statements are translated into practice. Unless it is based on a clear short, medium and long term strategy and is provided with the necessary legal, financial and logistical instruments, its potential impact will not be realised.

3.3 From the EESC's point of view, the implementation of the plan should make it possible to:

- Create the framework conditions to maintain international competitiveness and sustainable development of the European steel industry in the short and long term. The ability of the industry to respond to changed economic circumstances is influenced by policies on research and innovation, environment, energy, trade, competition and consumer needs. The plan should aim at shaping these policies so that they adequately address the challenges facing the steel industry.
- Support the steel industry — which has been and continues to be severely affected by the economic crisis — in order to deal with the economic downturn. Since the crisis began the steel industry has reacted decisively to the drop in demand for steel by introducing permanent and temporary cuts in production capacity. 15,5% of jobs in the steel industry have been shed since 2008 (source: EUROFER).
- Ensure that the future of the steel industry in Europe is not threatened. Production facilities which have been stopped and blast furnaces that have been left idle may very well not be replaced or put back into operation. The EESC believes that, once demand picks up, the EU economy faces the very real risk of becoming a structural steel importer.
- Improve the business environment and regulatory conditions for steelmaking in Europe. Raw materials, energy prices and regulatory costs in Europe are amongst the highest worldwide. Gas prices in the EU are three to four times higher than and electricity prices are double those in the US. The gap is forecast to widen if no measures are taken.
- Support the workers and regions which have also been hit hard by the crisis but also improve the way in which change is planned and managed by promoting training, upgrading skills and supporting retraining when necessary. Thousands of jobs have been shed and many more are still under threat. In addition, there has been a general increase in the number of temporary jobs, making it more difficult to transfer essential skills and know-how. In some cases this may affect production quality or put the safety of workers at risk.

General

3.4 One of the main objectives of the Commission's industrial policy communication is to ensure that the industrial sector accounts for 20% of EU GDP by 2020. The EESC supports this objective as it would also benefit the steel sector. However, this objective is likely to be very difficult to achieve without easier access to financial institutions such as the European Investment Bank and the European Bank for Reconstruction and Development.

3.5 The market situation will force steel producers to continue carrying out difficult structural changes (the possibility of mergers, takeovers and bankruptcies cannot be excluded). Costly investment in innovation, innovative steel grades, improving the range of finished goods offered, further reductions in costs by type, and the introduction of services using steel from own production are essential but difficult or impossible for many steelmakers to finance at the current time.

The right regulatory framework

3.6 According to a recent study commissioned by the Commission on the assessment of cumulative cost for the EU steel industry regulatory, costs in normal times are not the main drivers of the gap in cost competitiveness. However in times of crisis EU regulatory costs may have a significant impact on the competitiveness of the steel industry⁽³⁾. The regulatory framework should be assessed both in terms of costs as well as benefits.

3.7 The social partners in the steel sector must be closely involved in the assessment of the regulatory framework.

Boosting demand for steel

3.8 As highlighted by the EU Commission, 'in the EU, steel demand depends on the economic and financial status of a few key steel using industries — for example the construction and the automotive sectors'⁽⁴⁾. Unfortunately, the current economic crisis is putting a real strain on demand from these sectors and is therefore causing a drop in gross demand for steel.

3.9 The EU Commission is relying on its 'CARS 2020'⁽⁵⁾ plan and on the initiative to support sustainable construction⁽⁶⁾ in order to stimulate European demand for steel. Given the urgency of the current situation within the steel industry, these plans are not concrete enough and will not be sufficient to have a short-term impact on the steel sector.

3.10 Demand for steel can be also boosted by facilitating the launch of major future-oriented infrastructure and improving the purchasing power of European citizens, with the aim of triggering a recovery in the domestic market.

A level playing field at international level

3.11 Over the last decade, the EU steel industry has been increasingly penalised by unfair trade practices, third country protectionism and over-concentration of raw material producers. It is therefore urgent to assess the possibility of tackling all of the unfair practices to which the European steel industry has fallen victim in a targeted and rapid manner. It is all the more urgent that this be done given the surplus capacity of the sector on a global scale, leading some third countries to use unfair commercial practices to export their surplus produce.

Energy, climate, resource and energy efficiency policies to boost competitiveness

3.12 The European steel industry will only have a future if companies are at the forefront of worldwide technological developments, especially the application of the latest production technologies relating to CO₂ reduction and energy efficiency, if economically viable.

3.13 The steel industry is an energy-intensive industry which is currently faced with high energy prices compared to most of its international competitors. As a highly capital-intensive industry, the stability, predictability and global competitiveness of energy prices are key for the long-term development of the sector.

3.14 The action plan rightly focuses on the contribution of steel products/materials to CO₂ reduction. As far as production processes are concerned, with current technologies the industry is close to its limits and therefore cannot reach the milestone targets proposed by the Commission up to 2050. Significant improvements can only be reached with breakthrough technologies. RD&I and resources to finance R&D are therefore of paramount importance. In this context, the EESC welcomes the Commission proposal to support, in the framework of Horizon 2020, R&D and demonstration and pilot projects for new technologies for cleaner, more resource- and energy-efficient technologies.

3.15 Although with current technologies the industry is close to its limits, not all plants have exhausted their potential for energy- or resource-efficiency improvements based on existing technologies. Companies should be encouraged to invest in Best Available Technologies.

⁽³⁾ Centre for European Policy Studies, *Assessment of Cumulative Cost Impact for the Steel Industry*, 2013.

⁽⁴⁾ COM (2013) 407.

⁽⁵⁾ COM (2012) 636 final.

⁽⁶⁾ COM (2012) 433 final.

3.16 Resources and energy prices are currently driving trends in innovation. While the chief responsibility for investing in RD&I lies with the steel industry itself, stronger support for R&D, pilot and demonstration projects and the deployment of new technologies is necessary. As raw materials and energy represent the main burden in terms of costs, the challenge is to lower the cost gap with the EU's main competitors.

3.17 The crisis and severe budget constraints have seriously jeopardised the possibility of compensating steelmakers in some Member States, which is likely to create an unfair situation across Europe.

Innovation

3.18 During the last few decades, the European steel industry has maintained a competitive advantage over its competitors, due to efficiency improvements, product innovation and substantial labour productivity gains. However, in the current situation additional gains in this area are difficult to achieve as long as the market situation and regulatory business environment does not improve.

3.19 The development of new economically viable technologies needs to go hand-in-hand with an improvement in competitiveness of European steel companies vis-à-vis their global competitors. Less intensive production in terms of energy and raw materials will lead to a decrease in costs, thereby making the European steel industry more competitive.

The social dimension: restructuring and skill needs

3.20 The plan identifies the problem of future skills shortages mainly as a result of the age pyramid, but does not take into sufficient account the 'loss' of know-how and skills due to restructuring. Furthermore, the generational change will require systematic solutions, notably in view of the sharp rise in unemployment among young people.

3.21 The promotion of temporary measures to support workers is essential to deal with the economic downturn and retain the workforce and skills vital for the future of the steel industry.

The High Level Group

3.22 Given the urgency of the situation faced by the European steel sector, it is disappointing to note that the Commission is only planning one meeting of the High Level Group per year. Due to the current volatility of the sector, constant updates will be needed in order for informed decisions to be made.

3.23 Finally, within the 12 months that follow the adoption of the action plan, an assessment of the impact of this plan on competitiveness in the European steel industry needs to be carried out. In order to ensure the most precise and objective assessment possible, it is crucial to include the social partners in discussions. There is a need for greater cooperation between employers' and workers' representatives at European, national, local and company levels to commit to implementing the plan.

Brussels, 11 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

APPENDIX

to the opinion of the European Economic and Social Committee

The following amendment, which received at least a quarter of the votes cast was rejected during the plenary session (Rule 54(3) of the Rules of Procedure):

Point 1.11

Delete further specification of the funds as follows:

1.11 In order to manage the transition towards a more competitive EU steel industry in a socially responsible way, the EESC believes that the steel sector should have the same access as other sectors to available European ~~national and regional~~ funds.

Reason

The shortened wording avoids more detailed specification of the funds and provides sufficient flexibility for the operators without introducing potential market distortions in the sector.

Outcome of the vote:

Votes in favour	70
Votes against	77
Abstentions	12

Opinion of the European Economic and Social Committee on the European Year of Development (2015)

(2014/C 170/16)

Rapporteur working alone: **Andris Gobiņš**

On 18 September 2013 the European Parliament decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

European Year of Development (2015).

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 144 votes to 2 with 1 abstention.

1. Conclusions and recommendations

1.1 The European Economic and Social Committee (EESC) welcomes the fact that the European Commission has responded to the joint initiative by civil society and the EESC to nominate 2015 as the European Year of Development.

1.2 The Committee strongly supports the amendments to the European Commission draft proposal on the European Year of Development⁽¹⁾ suggested by the Confederation for Relief and Development (CONCORD)⁽²⁾ and the draft amendments from the European Parliament⁽³⁾. The Committee points out that most of these ideas have been discussed in the informal task force for the Year and have been mentioned in part in other EESC opinions and on the EESC debate page on the Year.

1.3 The European Year of Development will be the first European Year with a strong global and rights-based dimension. The EESC calls on the EU institutions to do their utmost to reach the goals as stated by CONCORD: this Year is 'a unique opportunity for a broad public discussion and meaningful civic engagement on the vision of Europe on Global Development, within Europe as well as for other continents, with its dimensions of Human Rights, environmental sustainability and social cohesion'⁽⁴⁾

1.4 The Committee calls on its partners in other regions of the world to advocate for a world-wide Year for Development 2015 in other regions of the world inasmuch as there is sufficient time left for preparation.

1.5 The main emphasis must be placed on the most sustainable and relevant aspects of development cooperation such as global solidarity and justice, policy coherence for development, sustainable development goals, global public goods and challenges and European citizens' role as consumers and actors in a global economy. Narrow and donor-recipient related issues should not be the priority.

1.6 Emphasis should also be placed on the role of the private sector in development⁽⁵⁾ as developing countries do not usually have development strategies for small and medium-sized enterprises (SME), which include cooperatives. Such development strategies can contribute to eradicating poverty and facilitating inclusive growth. European experience with policy to support SMEs, in collaboration with the social partners and interested NGOs, should be transferred in a targeted and relevant way to developing countries with the aim of achieving sustainable growth in all its three pillars — economic, social and environmental.

⁽¹⁾ Proposal for a decision of the European Parliament and of the Council on the European Year of Development (2015), COM(2013) 509 final.

⁽²⁾ CONCORD Reaction to the European Commission proposal on European Year of Development 2015.

⁽³⁾ Draft report on the proposal for a decision of the European Parliament and of the Council on the European Year of Development (2015), Rapporteur Charles Goerens, 2013/0238(COD).

⁽⁴⁾ CONCORD Reaction to the European Commission proposal on European Year of Development 2015..'

⁽⁵⁾ EESC opinion on *Involvement of the private sector in the post 2015 development framework*, , OJ C 67, 6.3.2014, p. 1–5

1.7 The EESC reiterates that the key for success in previous European Years has been the close cooperation between EU institutions and bodies and civil society, both at national and EU level. Thus the Committee calls for immediate action — setting up multi-stakeholder task forces to secure timely and properly structured cooperation. Therefore the EESC strongly supports the establishment of a civil society organisations' (CSO) Alliance.

1.8 The multilevel activities implemented by the CSOs (their activities at national, EU and partner state level) play the key role in shaping political processes — thus the CSOs and their activities should be the absolute priority during the Year and receive a majority of the funding. For better results in the short- and long-term of the European Year of Development, it is crucial to avoid spending money on cost-intensive campaigns run by public relations (PR) agencies, or else such services should be reduced to an absolute minimum (as stated in 3.6 in this opinion).

1.9 The Committee calls on the EU institutions to use the Trialogue debates to concentrate the focus on sustainable results and participation instead of campaigns or information delivery activities. In order to achieve this, several parts of some Articles of the European Commission's proposal need to be amended, as indicated in part 3 and 4 of this opinion, and changes are needed in the Recital and the Annexes which, due to limited space, cannot be covered by this opinion.

1.10 A decentralised approach, as described in 3.5 in this opinion, could produce the best results, as the traditions and history in development cooperation are very diverse, and no single formula for wording, activities etc. could be found. Several suggestions for a grassroots-based Year are suggested in parts 3 and 4 of this opinion and should be taken on board in preparations for the Year.

2. General comments

2.1 The European Year plays a special role in the communication and active involvement of citizens and allows joint EU, national and regional/local level events, organised by both the institutional players and a growing number of civil society organisations.

2.2 2015 is the year by which the Millennium Development Goals are to be met. It should culminate with an evaluation of the results attained and the adoption of a new strategy or paradigm for the decade to come. The EU has played a key role in development issues and in setting up the Millennium Development Goals. Although development cooperation is much more than Development Aid, it should be noted that most of the total Official Development Aid (60%) comes from the EU and its Member States. The EU and its citizens, together with its partners in the developing countries, should play a leading role in the post 2015 debates.

2.3 According to Eurobarometer data ⁽⁶⁾, approximately 20 million people in the EU are personally involved in non-governmental development organisations (including volunteers), approximately 130 million EU citizens donate to an organisation helping developing countries and a total of 72% of EU citizens personally support the idea of helping countries with low development indicators.

2.4 A growing number of people do understand that development starts within our own countries and within our own lives, with fair trade, environmental protection, participation in political processes etc.

2.5 A fast-growing, wide and inclusive coalition of supporters, with strong support from the EU Commissioner for Development, Andris Piebalgs, and his team, under the leadership of CSOs from national and EU level — the European Movement — Latvia, the Latvian Platform for Development Cooperation (LAPAS) and the Confederation for Relief and Development (CONCORD), and the EESC ⁽⁷⁾ have brought together key stakeholders including a wide range of CSOs, the Committee of the Regions and the European Parliament. From the outset, the partners have worked towards a successful and ambitious Year with concrete results.

⁽⁶⁾ Special Eurobarometer Nr 352, June 2010 http://ec.europa.eu/public_opinion/archives/ebs/ebs_352_en.pdf.

⁽⁷⁾ The initiative was first presented and discussed at the CONCORD General Assembly 22 June 2011 by Andris Gobiņš (European Movement — Latvia and European Economic and Social Committee) and Māra Šimane (Latvian Platform for Development Cooperation (LAPAS)). An informal task force was established and an official vote in the EESC Plenary on 7 December 2011 on the EESC opinion *Trade, Growth and World Affairs: Trade Policy as a core component of the EU's 2020 strategy* included the request for the European Year of Development and Cooperation.

3. Specific comments

3.1 The EESC calls on the EU institutions to use the Trialogue discussions for enriching the Year with **more substance and measures to ensure better and more sustainable outcomes** (e.g. via political processes, commitments, improvement of horizontal and structural dialogue etc.).

3.2 **The EESC recalls its original suggestion for the content of the Year:** ‘The EESC calls for greater attention to be paid to development cooperation, global solidarity and the discussion of the Millennium Development Goals. It suggests dedicating 2015 to the issue of “development and cooperation” (provisional title). Since the EU and its Member States are also determined to reach these goals by 2015, the Committee proposes taking advantage of this European Year to raise awareness at the individual, civil society and national and European levels and promote an attitude of joint responsibility for achieving the goals that have already been set and the new goals to be set post 2015’⁽⁸⁾.

3.3 **Engaging and involving European citizens and civil society organisations and their partners throughout the world** in development and in a political dialogue on global development and global justice is the key to the success of the Year and development as such. CSOs play a key role not only in fund raising and implementing development activities, but also in political processes. This is especially true for the younger generation, who tend to be more connected to the world at large through social and other media and more aware of the pressing issues that they — as our future leaders — will need to resolve. Therefore, the meaningful and direct involvement of children and youth, especially girls, in the debates of the European Year is of crucial importance. There also has to be a meaningful and direct involvement of citizens with various interests, social backgrounds etc. The aforementioned aspects should be duly reflected in the preparation and implementation of the Year, in its content and finances.

3.4 **The Committee supports a decentralised approach for the European Year.** Task forces at national level should establish a national motto, slogan or invitation for the Year which best reflects the situation within the Member State. Task forces at EU and national level should be set up no later than 2 months after the adoption of the proposal and have access to the funding allocated for the Year. The work of the task forces and support for their work should be continued beyond the Year. Organised civil society should play the key role in the task forces.

3.5 The EESC applauds the Commission, for its plan to **invest a significant amount of funding** to ensure that the Year is a success. At the same time, the Committee expresses its concern that at this stage only a very small percentage of that funding is earmarked for civil society engagement and activities, although this would ensure the best sustainability and results for the Year. Using funds for existing or new PR contracts/tenders should be avoided or reduced to an absolute minimum, as in some cases the work might even be counterproductive to the Year’s goals.

3.6 Based on good practice in the past European Years, the Committee expresses its support for the establishment of a **wide and inclusive CSO Alliance**, which as in past years should play the leading role in the planning and implementation of the European Year. The EESC suggests paying special attention to a close cooperation with EESC members and bodies and other stakeholders and with members of the Alliance at EU and national levels.

3.7 The good practice of **appointing ‘Ambassadors for the Year’** should also be continued in the Year 2015. It offers major opportunities for raising public awareness of and support for the Year’s objectives.

3.8 The Committee is committed to developing **cooperation mechanisms** at all relevant levels in order to ensure the best possible cooperation and synergies between the EU institutions and bodies. Cooperation with the United Nations during the Year should be initiated.

⁽⁸⁾ EESC opinion on *Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU’s 2020 Strategy*, OJ C 43, 15.2.2012, p. 73–78.

3.9 The Committee strongly supports the suggestions for the Year discussed in the informal task force for the Year and in the EESC webpage online discussions. The ideas expressed by the CSOs and partners have been raised by CONCORD ⁽⁹⁾. **The EU institutions should do their utmost to ensure that the Year is:**

- **Inspiring:** it should be a process in which all actors discuss and develop together new thinking and new practices on development and establish a consensus on ‘what does global justice mean for Europe and its citizens?’
- **Participative:** making citizens and their views on global justice the focus and making them the principal actors in the debate. This requires equal opportunity for them to voice their ideas and those of their organisations. It means going from ‘informing citizens to raise their awareness’ to a ‘joint discussion on their views of a just global development’.
- **Coherent:** Development policy should be coherent and during the Year, other European Commissions’ policies beyond development (trade, finance, agriculture etc.) should be discussed from this perspective.
- **Development education and awareness-raising process:** The Year should be perceived as a participative development education and awareness-raising process, based on the pedagogical principles and values of the European Development Education Consensus.
- **Global:** Any discussion needs to be on an equal footing with partners from outside Europe.

3.10 The Committee also strongly supports the following suggestions presented by the rapporteur of the European Parliament ⁽¹⁰⁾:

- **Changing the name of the year** — European Year ~~for~~ **of** Development;
- Special attention to citizens living in **Member States without a long-standing tradition in development cooperation** ⁽¹¹⁾, whilst the EESC suggests to find special solutions in these states to avoid widespread co-financing problems;
- To increase Union citizens’ awareness of their stake in, and contributions to, global development and of possibilities for a more equitable global development and **to make development an integral part of national education programmes** ⁽¹²⁾;
- To ensure the involvement of partners from development countries ⁽¹³⁾;
- ‘To raise awareness and foster debate about the impact **which individual, local, regional, national and European decisions and choices** may have on global development and on people living in developing countries, so as to achieve a broader understanding of Policy’ ⁽¹⁴⁾;
- ‘The Commission shall invite to those [coordination] meetings, as observers, representatives of **civil society** and representatives of the European Parliament’ ⁽¹⁵⁾.

4. Additional recommendations for amendments to the proposal presented by the European Commission ⁽¹⁶⁾

4.1 Article 1 (additional sentence). A national sub-title would make it possible to reflect the differences in traditions, challenges and potential in each Member State more effectively: ‘2015 shall be designated the “European Year ~~for~~ Development” [...] A sub-title and motto, slogan or invitation for the year should be established at Member State level.’

⁽⁹⁾ See CONCORD Reaction to the European Commission proposal on *European Year of Development 2015*, September 2013.

⁽¹⁰⁾ Draft report on the proposal for a decision of the European Parliament and of the Council on the *European Year of Development (2015)*, Rapporteur Charles Goerens, 2013/0238(COD).

⁽¹¹⁾ Same source: amendments 14 and 31.

⁽¹²⁾ Same source, adaptation of Amendment 17.

⁽¹³⁾ Same source, amendments 18, 19, 21, 28 and 30.

⁽¹⁴⁾ Same source, amendment 20.

⁽¹⁵⁾ Same source, amendment 27.

⁽¹⁶⁾ Proposal for a decision of the European Parliament and of the Council on the *European Year of Development (2015)*, COM(2013) 509 final.

4.2 Article 2 (first part) — A stronger focus on engagement might be useful, all stakeholders shall be mentioned as equal players: — ‘to inform EU citizens about EU development cooperation, and involve them in discussions on highlighting what the European Union can already achieve as a global development partner the biggest aid donor in the world and agree on how it could do even more with greater coherence and better coordination with the combined strength of its Member States, its institutions and other players.’

4.3 Article 2 (second part) — Following the EESC opinion on *Trade, Growth and World Affairs: Trade Policy as a Core Component of the EU's 2020 Strategy*: — ‘to stimulate ~~the~~ active and meaningful interest and participation of European citizens in development cooperation and foster a sense of responsibility and opportunity as regards individual decisions and national and international commitments (incl. the post 2015 agenda) and ~~it~~ participation in policy formulation and implementation; and’

4.4 Article 2 (third part) —The text is based too much on aid and donor thinking and creates a focus which is very narrow: — ‘to raise awareness of the role of EU development cooperation, which brings a wide range of benefits for all players involved in the EU and its partner states recipients but also for EU citizens, in a changing and increasingly interdependent world;’

4.5 Article 2 (new part) — Sustainable outcomes in political processes at EU and national levels are of key importance and a missing piece in the current proposal: - ‘to achieve sustainable results and improvements, where necessary (e.g. in the internal and external political agenda and in development policies, coherence, efficiency, rights-based approach, empowering women, sustainable development, securitability/human security, participation and exchange, tools and structures for civil society, including business organisations and trade unions etc.).’

4.6 Article 3 (part 1 first indent) — Communication has to be a two-way process, recent European Year campaigns have received strong criticism from different sides: — ‘communication activities campaigns to discuss and agree on key issues disseminate key messages targeted at the general public and more specific audiences, including through social media;’

4.7 Article 3 (part 1 second indent) — Successful task forces at national and EU level have proved to be one of the key elements for the success of a European Year. To be transparent, the discussions have to lead to concrete and measurable results: — ‘the organisation of an open and inclusive political process, steered by a multi-stakeholder task force, including conferences, events and initiatives with all relevant stakeholders, to promote active participation and debate, and to raise awareness at European level and secure results and improvements, where necessary;’

4.8 Article 3 (part 1 new indent) — A year ‘about’ development without the direct involvement of stakeholders in and from development countries is inconceivable: - ‘activities in and reaching out beyond the EU borders to partner states, its people and organisations;’

4.9 Article 3 (part 1 new indent) — The EESC and the European Commission in their working document indicate that timely preparation and follow-up activities can ensure better results for the Year, as can links between thematic years: - activities preparing for and follow-up of the Year at national and EU levels;

4.10 Article 4 (part 2) — As explained in 4.7.: ‘The national coordinators shall, in close coordination with the Commission, ~~consult and cooperate~~ set up a national task force/steering group composed of a wide range of relevant stakeholders, including civil society [...].’

4.11 Annex: Details of the measures referred to in Article 3, Part A. Direct Union Initiatives (first paragraph) —A decentralised approach should be supported to reflect the realities in the different Member States, CSOs should not be excluded from implementing their proposals: ‘Financing will generally take the form of the direct purchase of goods and services under tenders open to CSO, and private sector and others existing framework contracts. [...]’

4.12 Annex: Details of the measures referred to in Article 3, Part A. Direct Union Initiatives (new point) — Based on the best practice of the previous Years: In 2013 more than 60 EU-wide CSO networks are participating in the coordination and implementation of the Year with activities at EU and national level, appropriate support for the work of the Alliance is crucial: ‘- supporting civil society coordination on the established “European Year Alliance” model.’

Brussels, 10 December 2013

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on Animal Health

COM(2013) 260 final — 2013/0136 (COD)

Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law)

COM(2013) 262 final — 2013/0137 (COD)

Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants

COM(2013) 267 final — 2013/0141 (COD)

(2014/C 170/17)

Rapporteur: Mr Krauze

On 23 May 2013, the European Parliament and, on 31 May and 7 June 2013, the Council decided to consult the European Economic and Social Committee, under Articles 43(2), 114(3), 168(4)(b) and 304 of the Treaty on the Functioning of the European Union, on the following proposals:

Proposal for a Regulation of the European Parliament and of the Council on Animal Health

COM(2013) 260 final - 2013/0136 COD

Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law)

COM(2013) 262 final — 2013/0137 (COD)

Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants

COM(2013) 267 final — 2013/0141 (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 6 November 2013:

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 146 votes to one with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes and broadly supports the Commission proposal on regulations of the Parliament and the Council on animal health, plant health and the quality of plant reproductive material. It considers that the existence of consistent, transparent rules, provided they are properly implemented in all the EU's Member States, is an essential prerequisite for ensuring fair competition among all market operators in Europe.

1.2 However, the EESC recommends that some drafting changes be made to the proposal on animal health to make the text of the regulation easier to understand.

1.3 The EESC calls on the Commission to introduce all necessary safety measures into legislation and to provide for sufficient EU funding to stave off the dangers associated with wild animals which, migrating from third countries and crossing the EU's external land borders, could spread dangerous infectious diseases in the EU.

1.4 The EESC points out that EU legislative acts, particularly in the area of plant health, must be consistent with the positions the EU has adopted in the past at international level and notes that, for the time being, the Commission proposal relating to the process for establishing international plant health standards is not in line with the point of view previously expressed by the Union as regards the inclusion of invasive species in the measures on plant health.

1.5 The EESC welcomes the new possibility of compensation to the operators concerned for the value of destroyed plants, plant products or other objects subject to eradication or containment measures, introduced in the new plant health law.

1.6 The EESC expresses concern that, given the changes the Commission is proposing to make to the plant health regime, the EU risks losing its good record on plant health to an extent that may be detrimental to the export potential of its Member States and may mean producers having to spend more to combat diseases and pests.

1.7 The EESC is sceptical about the category of forest reproductive material being included in the draft regulation, as the Commission has not put forward convincing arguments as to the advantages that may arise for the forestry sector.

2. General information about the legislative initiatives

2.1 In each of the three areas concerned, i.e. animal health, plant health and the movement of plant reproductive material, there are all sorts of stumbling blocks at EU level. These cause difficulties for market operators, so it is very important to amend the legislation so as to reduce the administrative burden that affects producers, service providers, consumers and service users alike, and to improve the business environment.

2.2 With regard to animal health, there are a number of problems with the laws currently in force: the policy in this area is complicated, there is a regrettable lack of an overall strategy, and insufficient attention is paid to the prevention of disease, which should focus on the need to establish and apply stricter biosecurity rules for places where animals are kept.

2.3 The Commission proposal with regard to animal health places more emphasis on preventive measures, the monitoring of diseases, inspections and research, the aim being to reduce the frequency of such diseases and to reduce the impact of outbreaks when they occur; similarly, there are provisions relating to terrestrial and to aquatic animals.

2.4 Plant health is also crucial to the protection of biodiversity and ecosystem services. Pests from other continents are especially dangerous. When they are introduced into the EU, these alien species cause significant economic damage. If they become established in our territory, these new pests can cause non-EU countries to adopt trade restrictions, thus harming our exports.

2.5 With regard to plant health, the Commission proposal suggests defining the concept of quarantine pests and dividing these into categories, these criteria then being used to determine that a harmful organism is designated as a quarantine pest. The Commission is authorised to adopt, using implementing acts, lists of specific plants, plant products and other items that are subject to prohibitions and specific rules regarding their import into and circulation within the EU, as well as rules governing the introduction and movement of plants, plant products and other items into protected areas.

2.6 With regard to plant reproductive material, the Commission proposal seeks to complement legislation in the area of the marketing of seeds and other plant-propagating materials, taking account of the technical progress made in plant selection, the rapid development of the international market, and the need to support plant biodiversity and reduce administrative costs and burdens both for competent authorities and for market operators.

3. Background and gist of the Commission proposal

3.1 On 6 May 2013, the European Commission adopted and published for public scrutiny reviews relating to animal health, the health of plants and the quality of plant reproductive material.

Animal health

3.2 The legal framework on animal health currently in force in the European Union currently consists of some 50 directives and regulations and 400 pieces of secondary legislation. In 2004 the Commission undertook an assessment of legislative texts in the policy area of animal health. Following that assessment, a new animal health strategy was drawn up in 2007. In its communication dated 6 May 2013, the Commission sets out the legal framework based on that EU animal health strategy, as published in 2007.

3.3 The Commission proposes a simplification of the legal framework based on good governance, compliant with international standards, focusing on long-term preventive measures and establishing cooperation with all interested parties.

3.4 The Commission proposal suggests that provision be made for effective mechanisms for a rapid response to disease events, not least in the light of new challenges such as those that are now emerging; that clear, balanced roles be assigned to the competent authorities, the European Union institutions, the farming sector and animal owners and that the division of their respective responsibilities be defined; and that the duties of different stakeholders such as operators, veterinarians, pet owners and animal professionals be defined, as all these matters are crucial to maintaining animal health.

3.5 It is important for the Commission to have the willingness to reduce disturbances in trade, to take account of the particularities of small livestock farms and micro-enterprises, and to put in place simplified procedures in order to avoid undue red tape and disproportionately high costs whilst ensuring strict application of high animal health standards.

3.6 It is important to reduce as far as possible the repercussions of animal diseases on animal and public health, animal welfare, the economy and society by boosting awareness of diseases, the preparatory measures for responding to them, monitoring and rapid response measures at national and EU level.

3.7 One of the most important aims of the Commission proposal is to ensure the proper functioning of the single market in animals and animal products whilst ensuring a high level of protection of animal and public health, and supporting the objectives of the Europe 2020 strategy.

Plant health

3.8 The Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants, which includes provisions on the identification of plant health risks arising from these organisms and the reduction of those risks to acceptable levels, was drawn up on the basis of the Commission's 2008 proposal suggesting a revision of Directive 2000/29/EC on plant health. The proposal repeals several control directives relating to the management of certain quarantine pests known to be present in the EU.

3.9 With regard to the import of plants, the Commission proposal establishes a new framework which brings its competences into play in the form of the adoption of implementing acts aimed at combating the risks posed by different plant species that come from non-EU countries and require precautionary measures. It contains additional conditions imposed on quarantine stations and stipulates that, for regulated plants brought into the EU in passenger luggage, there will be no more derogations. Their import via this route will therefore require a plant health certificate in future.

3.10 With regard to the movement of plant products within the EU, the Commission proposal divides operators into categories depending on whether or not they are professional, and establishes their responsibilities and duties arising from the rules on such movement of plants, plant products and other regulated items. Provision is made for mandatory registration of professional operators in a register that will also include those required to register under the terms of the draft regulation on plant reproductive material and will thus reduce the burden of administrative formalities.

3.11 The proposal includes plans for an electronic reporting system so that Member States can report quickly and uniformly that a pest has appeared on their territory; similarly, there are plans to raise public awareness, increase the number of reports, statements and other programmes, and to carry out simulations of emergency situations.

Plant reproductive material

3.12 In the area of plant reproductive material, the Commission has adopted a proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law), which codifies and amends the legislation on the marketing of such material. It repeals and replaces twelve Council Directives.

3.13 The legislation on plant reproductive material needs revising as the directives mentioned in the proposal are outdated, have been amended several times, and are inconsistent in their reasoning and their approach: they are confused and Member States regularly encounter difficulties understanding them with a view to their transposition, which results in this in turn creating distortions between market operators as they affect the conditions in which they work. Moreover, given the large number of directives governing the area, they are not very well coordinated with other legislation relating to plant health or market control.

3.14 The draft regulation on plant reproductive material covers seeds for agricultural varieties, propagating material for cultivated plants (vegetables, fruit trees, berry bushes and decorative plants) and forest reproductive material. Accordingly, it introduces the generic phrase 'plant reproductive material' which applies both to seeds and to propagating material.

3.15 The only cases to which the draft regulation will not apply relate to the movement of plant reproductive material intended for testing and scientific purposes and intended for breeding (selection) purposes or for storage in a gene bank, and to material exchanged in kind between persons other than professional operators.

3.16 The provisions contained in the draft regulation relating to forest reproductive material specify that Member States may stipulate stricter requirements for material available to final users. In the case of such forest reproductive material, the new draft regulation imposes excessive additional administrative formalities on the authorities, which may lead to an increased administrative burden to the operators.

4. General and specific comments

Animal health

4.1 The EESC has reservations about the Commission's power to adopt delegated acts and implementing acts under the Lisbon Treaty. Its concerns relate in particular to sensitive issues for Member States in that they will not be able, in the case of delegated acts, to ensure that specific national or regional circumstances are taken into account.

4.2 The EESC draws attention to the fact that near the EU's external land borders there is an increased danger of wild animals spreading infectious animal diseases in the Member States. However, the proposal attempts to widen the potential scope of disease control measures which can now be applied more coherently to wild animals and provides for a number of biosecurity and other preventive measures that can be taken at EU borders. In this respect, the EESC calls on the Commission to provide for all necessary safety measures and sufficient European funding to stave off this danger.

4.3 The range of people who are required to report their suspicions relating to an outbreak of animal disease needs to be specified. The owners of animals have a duty to monitor the health of the animals they own.

4.4 The EESC notes inconsistencies in the use of the terms 'operator' and 'animal professionals', and suggests that an explanation of these terms be given so as to specify that the right of ownership belongs to the 'operator'. It points out that the role attributed to 'animal professionals' is not made clear anywhere in the text of the proposal.

4.5 The EESC calls on the European Commission to publish, as soon as possible, a structured list of animal diseases so that the measures for preventing and controlling them can be evaluated. It is important to adopt a flexible approach so that it can be updated where necessary. It should be drawn up in close cooperation with Member States and other interested parties.

4.6 The EESC wishes to point out that there is an inconsistency in terminology between the Regulation of the European Parliament and of the Council on the non-commercial movement of pet animals (hereinafter the 'pets regulation') on the one hand, and the Commission proposal being discussed here, on the other. This needs to be put right. It is difficult to understand the legal relationship between the natural person (keeper) and the owner of the animals, although the pets regulation defines an 'authorised person' as 'any natural person who has authorisation in writing from the owner to carry out the non-commercial movement of the pet animal on behalf of the owner'.

4.7 In order to avoid having to use interpretative standards, the EESC suggests that it be specified that the Commission is drawing up a delegated act on the acquisition of basic skills by operators and animal professionals.

4.8 With regard to health examinations for certain sectors, such as aquaculture and beekeeping, it recommends that only properly trained and accredited specialists be authorised to perform veterinary tasks.

4.9 The EESC calls on the Commission to ensure that the mechanisms for compensating livestock owners in the event of the spread of dangerous infectious disease are identified clearly and comprehensibly in legislation.

4.10 The EESC recommends including sectors like poultry in the rural development programmes for the funding of farm investments required to comply with the new rules on animal health.

Plant health

4.11 With regard to quarantine, the draft text on plant health contains streamlined provisions and procedures: it provides for a simplified plant health regime for sales in limited quantities. However, small quantities of infected or infested plants or plant products could have a major impact on the EU's situation in plant health terms.

4.12 For the purposes of defining pests, the proposal uses criteria that are not in line with the principles of the International Plant Protection Convention (hereinafter IPPC). It also uses terms and definitions that deviate substantially from the terminology and meanings used in that convention and in standards for plant health measures. These discrepancies could lead to misunderstandings with third countries and, as a result, create difficulties for exports of plants and plant products.

4.13 The EESC welcomes the new possibility of compensation to the operators concerned for the value of destroyed plants, plant products or other objects subject to eradication or containment measures, introduced in the new plant health law. A similar approach is already in place for animals within the EU Veterinary Fund. The compensation for the value of destroyed plants, etc. will be legally implemented after the adoption of the plant health law. It would be desirable to ensure this already from the beginning of the Multiannual Financial Framework 2014-2020, without further delay.

4.14 Given that the EU, along with each of its Member States, has signed the International Plant Protection Convention and the Agreement on the Application of Sanitary and Phytosanitary Measures, it may be expected that the changes made to definitions will result in the principles of that convention and the international agreement not being applied.

4.15 The EESC has reservations about the changes to the requirements relating to the implementation of the plant passport for plants and plant products intended for planting in protected areas, given that the proposal provides that this will no longer be a requirement for end users, as the risk of dissemination of new plants that constitute quarantine pests will be increased as a result.

4.16 The EESC cannot support the proposal to require operators and particularly farmers, in the event of quarantine pests being detected, to rapidly apply all plant quarantine measures necessary to remove these pests, as guaranteeing long-term plant health is a task and economic investment for the competent authority and additional costs would weaken operators' competitiveness.

4.17 Whilst welcoming the Commission's approach to exports to non-EU countries and the possibility of receiving a pre-export certificate, the EESC fears that this new legislation will not resolve problems that currently exist as regards the certification of exportable goods when their country of origin is not the certifying state. Similarly, it remains concerned about the duplicate examinations and inspections to which European business will continue to be subject at their expense.

Plant reproductive material

4.18 According to the draft regulation under discussion, the definition of 'operator' does not include private individuals. A 'professional operator' is defined as any natural or legal person carrying out, as a profession, at least one of the following activities with regard to plant reproductive material: producing, breeding, maintaining, providing services, storing, or making available on the market. To make inspections easier, these professional operators are required to register.

4.19 The wording of the new provision relating to professional operators needs to be clarified, as it is difficult to understand its scope: specifically, does it relate only to them or does it also apply to non-professionals?

4.20 The draft regulation proposed by the Commission contains many other grey areas, for example regarding the way in which the provisions of that regulation are to apply to the production of forest reproductive material and the monitoring of its sale, which differ from those applicable to propagating material of agricultural crops as regards the system of classification, definitions and indeed the fundamental principles for inspection and supervision, which it would be helpful not to change. Moreover, the measures in place to produce and certify such forest reproductive material are compliant with the OECD framework.

4.21 The EESC cannot accept that the producer be required to cover all the costs connected with raw materials used for the production of forest reproductive material, given that such a provision is likely to reduce the interest in registering new material of high genetic quality of this type, which could have a negative impact on new plantations in the EU. Making such raw material for the production of forest reproductive material is a long term endeavour, which provides a return on investment only after several decades.

4.22 The EESC welcomes the fact that plant reproductive material exchanged in kind between two people other than professional operators is to be excluded from the scope of the regulation, which must be drawn up in such a way as to allow collectors or neighbours to exchange seeds or plants without having to worry that they might be breaking the law by doing so.

Brussels, 10 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

COM/2013/0521 final — 2013/0247 (COD)

(2014/C 170/18)

Rapporteur: **Mr Boland**

On 10 and 17 September 2013, the European Parliament and the European Council decided respectively to consult the European Economic and Social Committee, under Articles 43(2) and 207(2) of the Treaty on the Functioning of the European Union, on the

Proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

COM/2013/0521 final — 2013/0247 (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 6 November.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 142 votes to 2 with 2 abstentions.

1. Conclusions and recommendations

1.1 The EESC strongly welcomes the European Commission proposal to amend Article 70(4c) of Regulation (EC) No 1698/2005 on the extension of derogation for those Member States threatened with serious difficulties with respect to their financial stability to use increased co-financing rates so that rural development programmes are delivered in full.

1.2 The EESC supports the proposal, so long as it applies to the end of the current programme 2007-2013 as well as the next programme.

1.3 The EESC recommends that Member States who, in the lifetime of the programme 2013-2020, are still part of financial stability programmes, should benefit from these co-financing arrangements.

1.4 The EESC notes that the overall budget will remain the same, but welcomes the observation that the need of payment appropriations in budget 2014 may be increased by EUR 90 million in case Member States continue applying the increased co-financing rates.

1.5 The EESC recommends, in line with its previous opinions on support to Member States affected by financial instability, that continuity in terms of fairness is maintained.

2. Explanation and background

2.1 The European Commission is committed to ensuring that the rural development programme under the Common Agricultural Policy is implemented fully and will give maximum benefits to all rural communities in all Member States, in particular states affected by the financial crisis.

2.2 Because of the financial crisis and the fact that many countries must implement strong fiscal consolidation measures, it is clear that difficulties with regard to co-financing of programmes will arise.

2.3 In some cases these difficulties may reduce the overall level of assistance to beneficiaries, which will in turn disadvantage rural people.

2.4 It is noted that there are seven countries immediately affected. These are Cyprus, Greece, Hungary, Ireland, Latvia, Portugal and Romania, also known as programme countries. It is also noted that Hungary, Romania and Latvia are no longer under an adjustment programme.

2.5 The proposal seeks to allow these Member States and others to fully implement the rural development programme so that projects can continue without loss of support.

3. Gist of the Commission proposal

3.1 The proposal contains provisions that would allow these Member States to use increased co-financing rates, without modifying their overall allocation under rural development policy for the period 2007-2013. This will provide additional financial resources to the Member States at a critical juncture and will facilitate the continued implementation of programmes on the ground.

3.2 There is no impact on commitment appropriations since no modification is proposed to the maximum amounts of EAFRD financing provided for in the operational programmes for the programming period 2007-2013. However, the need of payment appropriations in budget 2014 may be increased by EUR 90 million in case Member States continue applying the increased co-financing rates.

3.3 In the light of Member States requests to benefit from this action and taking account of the evolution of the submission of interim payments, the Commission will review the situation and if necessary consider relevant actions.

3.4 The EESC has already produced similar opinions which recognise the co-financing difficulties faced by Member States who are in financial stability programmes. These include NAT/613, 'Fiscal consolidation/European Fisheries Fund', and ECO/352, 'Financial management and decommitment rules for Member States facing serious difficulties'.

4. General comments

4.1 The importance of the rural development programme in social and economic value to all Member States is well documented. The programme allows rural regions to maintain their populations by allowing them to compete in business terms with companies closer to the centre and in social terms adds value to the quality of life for people living in the more isolated rural areas.

4.2 The current financial crisis has seriously damaged economic growth and financial stability in certain Member States and has also contributed to depressed growth in the EU in general.

4.3 In the Member States involved in severe fiscal rectitude, with strict spending targets imposed by outside bodies such as the International Monetary Fund, The European Central Bank or others, it is clear that they will be in no position to guarantee any obligations on the co-financing of the rural development programmes as stipulated by the EU.

4.4 It is important that the EESC recognise that the financial crisis has had an impact on co-financing of the current programme 2007-2013. This will have serious effects on projects coming to their end or scheduled to continue until the end of 2015.

4.5 In order to correct this problem, which could disadvantage certain rural areas, it is possible to ensure the maximum use of the EAFRD funds available as per article 70(4c) of Council Regulation (EC) No 1698/2005 by extending its applicability until the final date of eligibility of expenditure for the 2007-2013 programming period, on 31 December 2015.

4.6 There are time limits to interim payments and payments of final balance, based on the period in which the Member State is in receipt of financial assistance in accordance with Regulation (EU) No 407/2010, Regulation (EC) No 332/2002 or the Treaty establishing the European Stability Mechanism. Unfortunately, Member States are likely to continue to face financial difficulties after that period and will be constrained in terms of their ability to co-finance these programmes.

4.7 In line with the European Council conclusions of 7–8 February 2013 and as foreseen in Article 22 of the Common Provisions Regulation, the co-financing rate increased by 10 percentage points. This will apply with regard to the 2014-2020 programming period until 30 June 2016 when the possibility of the increase will be reviewed. Since the 2007-2013 and 2014-2020 programming periods overlap, it should be necessary to ensure coherent and uniform treatment of Member States receiving financial assistance under the two periods. Therefore, the Member States receiving financial assistance should be able to benefit from the increase of the co-financing rate until the end of the eligibility period and to claim it in their requests for final balance even if the financial assistance is not anymore provided.

4.8 The possibility for interim payments and payments of final balance to be increased above the normal co-financing rate should not be limited to the time period during which the Member State receives financial assistance in accordance with Regulation (EU) No 407/2010, Regulation (EC) No 332/2002 or the Treaty establishing the European Stability Mechanism because the Member State continues to face serious difficulties in ensuring co-financing from the national budget even after the financial assistance has been completed.

4.9 It is envisaged that the modification of the relevant regulation 1698/2005 will not have any financial impact. That is because the global envelope for rural development will remain unchanged. However the Commission may review payments made to the Member States nearer to the end of the overall programme.

Brussels, 10 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1013/2006 on shipments of waste

COM(2013) 516 final — 2013/0239 (COD)

(2014/C 170/19)

Rapporteur-General: **Stéphane Buffetaut**

On 27 September and 8 October 2013, respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 192 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1013/2006 on shipments of waste

COM(2013) 516 final — 2013/0239 (COD).

On 17 September 2013, the Bureau of the European Economic and Social Committee instructed the Section for Agriculture, Rural Development and the Environment to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Buffetaut as rapporteur-general at its 494th plenary session, held on 10 and 11 December 2013 (meeting of 10 December), and adopted the following opinion by 121 votes in favour with 1 abstention.

1. Conclusions

1.1 The proposed amendment to the regulation, which is fully justified in principle, should make it possible to tackle the practice of illegal waste shipments and their sub-standard treatment more effectively. In laying down a clear and uniform framework for carrying out checks, the new legislation actually provides methodological support for the Member States and should encourage them to carry out more effective checks, especially as the plans will be re-examined each year and adapted if needed.

1.2 As regards exports, the fact that the competent authorities are authorised to request proof that the transfer meets legal requirements in terms of methods, technologies and standards of waste treatment used by recovery facilities in the countries of destination should make it possible to tackle illegal exports more effectively, which, unfortunately, are known to have fallen into the hands of organised crime.

1.3 The introduction of effective and uniform checks should also make it possible to deal with situations of unfair competition in which ultimately the businesses which respect the rules and act honestly and transparently are at a disadvantage compared to those which disregard their legal obligations, circumventing them or deliberately infringing them.

1.4 Both for reasons of protecting public health and the environment, and for reasons of maintaining healthy competition in the sector and tackling Mafia-like practices, better organisation of check plans is desirable. Nevertheless, it should be borne in mind that taking additional practical measures inevitably generates costs and requires the Member States to define public spending priorities.

2. Background

2.1 Eight years after its implementation, the Commission wishes to improve the operative part of Regulation No 1013/2006 by drawing conclusions from the experience acquired. It wishes to make amendments aimed at, on the one hand, simplifying procedures and, on the other, making controls more effective in order to prevent illegal shipments of hazardous waste in particular.

2.2 The regulation's aim was to incorporate OECD rules and provisions from the Basel convention on waste shipments into Community law, to address the difficulties of implementing the 1993 regulation, to promote harmonisation of rules at international level on cross-border waste shipments and to simplify and clarify the text.

2.3 While the question of conformity of European legislation with international conventions has been settled, improvements still need to be made with regard to inspections, with priority given to hazardous waste and waste which is illegally sent for dumping or treated in a sub-standard way. In practice, it is question of ensuring that checks are targeted more effectively at the most problematic waste.

2.4 It should be pointed out that within the EU, all shipments of waste for recovery will be entitled to free movement. For non-hazardous waste, such shipments are not subject to any prior notification and only have to fulfil general information provisions. Shipments of hazardous waste for recovery and shipments of waste for disposal are subject to prior written notification and consent.

2.5 The implementation of this legislation assumes that its application will be monitored. It is therefore expected that Member States will have to organise inspections of businesses in line with the framework-directive on waste, as well as checks on shipments, whether these be by road, in ports or by any other means of transport. The checks may also be carried out at the end of the chain in recovery or disposal facilities.

2.6 The Member States carry out these checks in the way they consider appropriate. The regulation on the shipment of waste does not specify any particular way of carrying them out. In practice, the latitude given to the Member States has given rise to major disparities among them. Some countries have put in place effective mechanisms, others much less, mainly because they do not have adequate resources to do so. This situation has resulted in exporters of illegal waste choosing to send their waste from those Member States whose control systems are inadequate.

2.7 It goes without saying that the most serious problems of illegal waste concern hazardous waste as well as waste sent for dumping or treated inadequately without respecting current rules. The consequences can be serious for both human health and the environment.

2.8 Another undesirable consequence of the scale of illegal shipments is that broad discrepancies between the way in which the Member States carry out checks is distorting competition. For example, businesses which respect the legislation are put at a disadvantage to the benefit of those which can operate in countries where implementation of rules is rarely or poorly checked.

2.9 The Commission is proposing to review the regulation in order to tackle these illegal and hazardous actions. The review is aimed at supporting and guiding the Member States' inspections in order to better target the high-risk waste streams.

3. Content of the proposal

3.1 The Commission adds a definition of the 're-use' of products that are not waste and wishes to be empowered to adopt delegated acts concerning technical and organisational requirements for data and information interchange, but the essence of the proposal lies in the amendment to Article 50 of the regulation.

3.2 The aim of these amendments is to:

3.2.1 encourage the Member States to organise checks on businesses and to introduce spot checks on shipments, but also to put in place recovery and disposal procedures;

3.2.2 ensure that the Member States draw up plans for inspections of shipments, including inspections of establishments, undertakings and transport (road, railway transport, ports).

3.3 The Commission sets out the various key elements of these plans and lists seven points which the Member States must adhere to and take into account.

3.4 These include the strategy pursued, referring to the resources used, the risk assessment of waste streams, the priorities defined, information on the numbers and types of planned inspections concerning waste sites and transport, assignment of tasks to each authority involved, means of cooperation between different authorities and an assessment of the need for training of inspectors. The plans are to be reviewed annually.

3.5 It also introduces provisions on the adequate protection of waste shipments and the implementation of recovery operations in accordance with the legislation.

4. General comments

4.1 The situation described by the Commission, the scale of illegal shipments and disparities in checks and the implementation of the legislation, justify the intention to take steps to tackle these illegal shipments and reduce the ensuing health and environmental risks, and to deal with the unfavourable situation facing businesses which apply the rules correctly.

4.2 However, it is essential that the new legislation does not take the form of purely formal administrative measures in order to comply with newly issued rules, without taking any practical steps, something which will require the use of new financial resources — a sensitive exercise for impecunious Member States confronted with the need to rectify public spending.

4.3 The planned procedures must therefore be simple in order to encourage those Member States, which do not do so correctly today, to introduce or even improve the necessary checks. The fear of being brought before the Court of Justice for failing to meet treaty obligations could possibly act as an incentive for Member States which are faltering, as could measures taken by ordinary people with a legitimate interest to act.

Brussels, 10 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and the Proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Accelerating the implementation of the Single European Sky

COM(2013) 408 final — COM(2013) 409 final — 2013/0187 (COD) and COM(2013) 410 final — 2013/0186 (COD)

(2014/C 170/20)

Rapporteur: **Mr McDonogh**

On 1 July 2013 the European Parliament and on 17 July 2013 the Council of the European Union decided to consult the European Economic and Social Committee, under Articles 100 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and the Proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Accelerating the implementation of the Single European Sky

COM(2013) 408 final — COM(2013) 409 final — 2013/0187 (COD) and COM(2013) 410 final — 2013/0186 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 11 December), the European Economic and Social Committee adopted the following opinion by 180 votes to 1 with 2 abstentions.

1. Conclusions and recommendations

1.1 Achieving the Single European Sky (SES) remains a key priority in European aviation policy, with the as yet unrealised potential to deliver savings and improvements in quality, safety, environmental impact and capacity for the aviation sector and indeed the European Economy as a whole. The European Economic and Social Committee (EESC) has continuously raised the voice of civil society in the debate on SES over the past years and has adopted several thematic opinions⁽¹⁾ to which the broad range of aviation stakeholders have substantially contributed. In all of these opinions, the EESC has given strong support to the SES project.

1.2 The legislative proposals represent evolution, not revolution, and build on, and do not supplant, previous reforms. But they should significantly contribute to turning the European ATM system into a more efficient, integrated operating airspace in the coming years, building upon the results already achieved since 2004.

1.3 The EESC calls upon Member States to show courage and political will for rapidly creating the SES, and upon the European Commission to assume full leadership of the implementation process.

⁽¹⁾ OJ C 182, 4.8.2009, pp. 50-55; OJ C 376, 22.12.2011, pp. 38-43; OJ C 198, 10.7.2013, pp. 9-13.

1.4 Key to driving the essential and long-overdue reform of European airspace is a comprehensive Performance Scheme. The under-delivery of the cost-effectiveness targets in the first reference period (RP1) makes it the more vital that the targets set for RP2 have the effect of driving the formation of real, functioning Functional Airspace Blocks (FABs), realising synergies as well as eliminating the current areas of duplication between the 37 separate Air Navigation Service Providers (ANSPs).

1.5 The realisation of a true SES, while presenting initial challenges, will drive the continued growth of European air traffic, creating significant new opportunities for employment and the prospect of a European career structure for controllers.

1.6 Full-scale social dialogue has to be put in practice without further delay. Only a comprehensive HR partnership in European aviation can ensure the necessary uniform commitment on all sides and a harmonised approach to the realisation of a true SES, to the benefit of employment in all parts of the aviation value chain, the environment and, not least, European consumers.

1.7 The amalgamation and consolidation of FABs and the reduction in numbers should be processed as soon as possible. The concept of the virtual centres represents a technical innovation compatible with SESAR and at the same time makes an ongoing and socially acceptable transition possible. To this end, the introduction of SESAR will need ATM reform. The standardisation of ATM equipment across the EU should be pursued.

1.8 The boundaries of the FABs should also be reviewed to ensure that they are of the right shape and size to serve the purpose they are set up for. Traffic flows, service provision synergies and potential performance improvements should be the proper determinant of FAB composition rather than mere geographic proximity or political/cultural affiliation.

1.9 The proposed strengthening of the Network Manager function, giving precedence to the European network benefit over the narrower national interest is strongly welcomed.

1.10 The Committee acknowledges the initiative to unbundle ancillary ATM services, thereby opening them up to greater competition. It insists that before such measures are applied the Commission organises without any further delay the preparation of an independent impact study about the effects, in particular relating to social and employment aspects, of these ⁽²⁾.

1.11 Defining objectives that enhance efficiency while maintaining the quality of working conditions and improving aviation safety.

1.12 The airspace users need to be more involved in policy formulation.

2. Introduction

2.1 The European aviation industry plays a vital role in the European economy, by promoting trade and tourism and acting as a vehicle for employment growth. Air traffic control is a key factor in the value chain of the aviation industry. It should ensure the safe, expeditious and cost-efficient flow of air traffic, thereby minimising fuel usage, carbon emissions and flying times.

2.2 However, European air navigation services have historically evolved primarily within national borders, with each Member State establishing its own ATM system, leading to the costly and inefficient structural fragmentation of Europe's airspace and a persistent lack of responsiveness to the requirements of its users — the airlines, and ultimately, the paying customers.

⁽²⁾ Cf. OJ C 198, 10.7.2013, pp. 9-13 (point 4.7).

2.3 The implementation of the SES and the associated reform of the European ATM system must be accelerated, helping our airspace users in a tough global competitive environment, which includes emerging aviation powers such as Ukraine and Turkey in the immediate neighbourhood of the EU⁽³⁾ and facilitating future economic growth. The SES I and SES II legislative packages having yielded disappointing results to date, the Commission is proposing a carefully-targeted further legislative proposal⁽⁴⁾ to facilitate an early implementation of the SES. This latest legislative package, SES II+, consists of the recast of the four regulations that created the Single European Sky⁽⁵⁾ and the amendment of the regulation establishing the European Aviation Safety Agency⁽⁶⁾.

3. General comments

3.1 The SES initiative aims to improve the overall efficiency of the way in which the European airspace is organised and managed.

3.2 Based on analysis contained in the present Communication⁽⁷⁾ and the associated impact assessment⁽⁸⁾, the Commission proposes a legislative package (SES2+)⁽⁹⁾ to consolidate and, where possible, accelerate the process of reform of Air Traffic Management (ATM) in Europe, by further improving quality, efficiencies, safety and environmental impact in the provision of Air Navigation Services (ANS) and by continuing to drive towards the consolidation of the European ATM system. Eurocontrol's Performance Review Unit reports showed that these inefficiencies and the fragmentation of the system were responsible for over EUR 4 billion of avoidable cost in 2010 alone.

3.3 The first problem area addressed in the SES2+ impact assessment is the lack of efficiency and cost-effectiveness in the ANS provision in Europe. It remains very inefficient in terms of cost- and flight efficiency as well as capacity. The extent of this is clear when compared with the United States, which covers airspace of a similar size. In the US, the airspace is controlled by a single service provider, as opposed to 38 en-route service providers in Europe. The US service provider controls almost 70% more flights with 38% fewer staff. The main causes for this difference in efficiency and productivity are the resistance by EU Member States to sufficiently stretching cost-effectiveness targets in RP1 of the performance scheme, the under-delivery of even those modest targets, ineffective oversight and enforcement by supervisory authorities and the disproportionately high number of support staff working for the service providers.

3.4 60% of total ATM charges in Europe are generated by 5 providers⁽¹⁰⁾. The key question is to examine why these big operators with economies of scale represent double and occasionally quadruple the cost of their smaller counterparts. This is the case despite all economic theories saying the opposite. The overall value at issue, from direct and indirect costs for the reference period 2015-2019 is estimated by Eurocontrol's Performance Review Unit to be in excess of EUR 70 billion.

With the SES Performance Scheme setting EU-level targets for RP2, to which individual EU Member States' national plans must make commensurate contribution, it is clear that the achievement of overall EU cost-effectiveness targets is critically dependent on the countries that generate most charges, delivering their share of the improvement required. This was not forthcoming from them in RP1.

⁽³⁾ OJ C 198, 10.7.2013, pp. 51-55.

⁽⁴⁾ Idem.

⁽⁵⁾ COM(2013) 410 final.

⁽⁶⁾ COM(2013) 409 final.

⁽⁷⁾ COM(2013) 408 final.

⁽⁸⁾ SWD(2013) 206 final.

⁽⁹⁾ COM(2013) 409 and 410 final.

⁽¹⁰⁾ See for reference: Overview table 'Calculation of 2014 Unit Rates — Adjustments and revenues'; in: Information Paper 'Initial Estimates of the Route Charges Cost-Bases and Unit Rates' issued by the Enlarged Committee for Route Charges of Eurocontrol on 16 July 2013 (page 6); http://www.eurocontrol.int/sites/default/files/content/documents/route-charges/operation-reports/cer-99-2013-3452-fin_item_2-en.pdf.

3.5 The second key problem to be addressed is that of a fragmented ATM system. The European ATM system consists of 28 national authorities overseeing over a hundred ANSPs, each overseen by a separate national regulator, with the expected differences in systems, rules and procedures. There are many additional costs, caused by Europe having a large number of service providers, each deciding on its own capital investment programme, separately procuring and maintaining their respective systems, which are often not compatible with those of other ANSP⁽¹¹⁾. The problems are compounded by separate training of staff, the creation of distinct operating procedures, and service provision being limited to a small airspace. Collectively the 38 major national ANSPs disbursed some EUR 1 billion each year in capital equipment, none of which has been coordinated or scrutinised for fit for total network benefit.

3.6 The SES 2+ initiative aims to bring about greater coordination of such currently-separate decision-making and foster greater network benefit and cooperation.

4. Evolution of the performance of air navigation services

4.1 At the end of the 1990s, Europe faced major delay and inefficiency in the provision of air traffic control services. More than a decade later, fragmentation of the European airspace remains high.

4.2 In 2011, the total direct and indirect costs for air traffic control in Europe amounted to some EUR 14 billion. The direct costs alone (levied in the form of user charges) account for more than 20% of the total operating costs, excluding fuel, of the most efficient airlines. Unlike other transport modes, all of this cost is recovered from users, therefore consumers.

4.3 While productivity (measured in air traffic controller-hours) has increased by some 18% in the last decade, the overall employment costs for air traffic controllers have risen faster (by almost 40%). Controllers, however, remain only a third of total staff employed by ANSPs, indicating a very high number of support staff (around 30 000 in 2011).

5. Enhancing the efficiency of SES

5.1 Experience shows that Member States that are either sole or majority owners of service providers have a strong tendency to focus on healthy revenue streams from the user-financed system of air traffic control services. They can be reluctant, therefore, to endorse fundamental change towards a more integrated operating airspace which could impose restrictions on current routings through national airspace, preferred by states/ANSPs, possibly with a view to revenue generation.

5.2 A more cohesive network approach to route planning could reduce average flight lengths through European airspace by some 10 minutes, reducing fuel burn and resultant emissions of CO₂. While the current inefficiency has no real downside for ANSPs or states, the cost burden is borne by the airline customers and, inevitably, passed through to consumers.

5.3 Under the current system, Member States in the Single Sky Committee (SSC) have the ultimate say on targets, the adoption of performance plans and the acceptance of corrective measures in the event targets are not reached. As indicated in an earlier opinion of the EESC⁽¹²⁾, users and ANSPs should be able to attend meetings of the SSC, if necessary, as observers. The Committee acknowledges that the Commission has made some efforts for a better consultation of non-state SES stakeholders, namely by establishing a separate Industry Consultation Body⁽¹³⁾, but considers that efficient SES implementation requires meaningful dialogue between and full participation of all stakeholders and states.

⁽¹¹⁾ Cf. EUROCONTROL report on U.S./Europe Comparison of ATM-Related Operational Performance, 2010.

⁽¹²⁾ OJ C 198, 10.7.2013, p. 9.

⁽¹³⁾ The Industry Consultation Body (ICB) first met in 2004. According to the Commission website, it provides the 'opportunity for all parts of industry to tell the European Commission what they expect from the Single European Sky and to give their views on options and timetables. The Commission intends to use the advice of the ICB to steer not only the legislative initiatives, but also the standardisation, research and infrastructure investments of the Commission.' (http://ec.europa.eu/transport/modes/air/single_european_sky/consultation_body_en.htm).

5.4 In its new legislative package, the Commission is proposing to strengthen control and sanction mechanisms. The Commission being the custodian of, and bearing ultimate responsibility for the Performance Scheme, the EESC strongly supports the Commission's proposal that members of the Performance Review Body be directly nominated by the Commission to safeguard independence.

6. Specific comments

6.1 The best regulator is competition, but this is totally absent in the provision of core ATM service. Realistically, it would not be feasible to consider introducing competition in all ATM services in the short to medium term. The Commission's analysis indicates that the core air traffic control services are natural monopolies at least under current technology. With the absence of competition, it is the more vital that there be strong and effective economic regulation of such monopoly providers, to serve as a proxy for competition. The EESC therefore supports the proposal, implicit in SES II +, that the Commission be the effective European Economic Regulator of ATM.

6.2 The first SES package of 2004 aimed to introduce market mechanisms for the provision of support services, in order to improve their efficiency. Little in practice has been achieved although in the two cases where such measures have been taken — in Sweden and the UK — the results have been positive (one of the ANSPs estimated the saving to be around 50% compared to the internalised provision of support services).

6.3 Support services, such as meteorology, aeronautical information, communication, navigation or surveillance services are more practical propositions. There are many companies inside and outside the ATM world who could offer such services. Their provision could be shared between several providers to maximise competition, or — as recently suggested by Eurocontrol in its analysis of the concept of 'centralised services' — attributed to a single provider or a grouping of service providers that could support several core providers.

6.4 The Commission is of the opinion that market mechanisms should be introduced to increase efficiency in the provision of support services. In its legislative package the Commission proposes to pursue the separation and market opening of certain of these support services mentioned above. Most of the areas proposed in the initial list of candidate centralised services, proposed by Eurocontrol and revolving around data management, could be provided by parties from outside the world of ATM. Consideration should therefore be given to inviting tenders also from other than existing ANSPs in order to introduce some element of competition, in particular more competitive tendering.

6.5 A number of difficulties in the implementation of SES can be attributed to the difficulties encountered by the National Supervisory Authorities (NSAs): inadequate resources, a lack of expertise and of independence from both Governments and ANSPs. Failing to address these shortcomings will significantly put at risk the implementation of the SES. The multiplicity of national NSAs in Europe contrasts with the US, where there is a single Regulator. EU regulation on ATM — perhaps on a FAB basis — would improve both the consistency and the enforcement of SES implementation and would help reduce the cost of oversight, which is borne by the users, ultimately the consumers.

7. Removing the fragmentation of the European ATM System

7.1 The re-design of the Functional Airspace Blocks (FABs) is intended to combat the fragmentation of the airspace by establishing co-operation between ANSPs, optimising the organisation and use of airspace and of routes over larger areas, thus achieving overall synergies through economies of scale.

7.2 Whilst a lot of work by the Member States and their ANSPs has been done towards the creation of FABs, substantive progress has been disappointing. Nine FABs have been announced, but none of them are fully operational, and most seem intended to fulfil formal requirements, rather than developing synergies or economies of scale.

7.3 Real — as opposed to merely institutional — FAB developments have often been blocked, because of fears that the revenue stream from air navigation charges would fall, in some cases by over 30%, if these developments were to be implemented and services would be rationalised by e.g. shortening routes. Strong opposition from staff, defending their current staffing levels has been an additional issue for Member States to confront in that respect. While this insecurity is understandable, it is without foundation. More efficient Air Traffic Management through the creation of the Single European Sky in more than name, together with rapid advances in technology, will make the continued growth of air traffic in Europe more assured, safeguarding employment and conferring greater responsibility on controllers in a more managerial, overseeing role.

7.4 Furthermore, claims of national sovereignty problems have been used to protect existing monopolies, in the name of protection of military infrastructure, objectives and operations in European airspace. While genuine military needs are justifiably protected under the SES, the precise line between those valid needs and undue protection of national interests has often become blurred. Examples of delegated airspace exist and have not given rise to real sovereignty issues.

Within the domain of aviation, key national airports have been successfully privatised, with cross-border ownership. ATM is essentially an infrastructure service and there are many examples in Europe of existing or planned cross-border privatisations of key infrastructure services in the area of energy, including the sensitive area of nuclear power generation, telecommunications, water etc. One part-privatised European ANSP is, in fact, partly-owned by non-national interests.

7.5 The EESC acknowledges the Commission's intent to continue to pursue infringement cases against Member States in relation to the FABs, particularly those where progress towards reform is not demonstrated clearly in the coming months. While the coordinated SES implementation by all Member States under the leadership of the Commission is by far the preferred option, infringement proceedings need to be used firmly as a last resort against non-compliance with the rules. The Commission is also right to maintain its commitment to the adoption by FABs of organisational models suitable for a more integrated European network of operating airspace.

7.6 The EESC supports the Commission's proposal in this legislative package to further develop the FAB concept so that it becomes a more performance-driven and flexible tool for ANSPs, based on industrial partnerships, fit to achieve the targets set by the SES performance scheme.

8. The role of Eurocontrol

8.1 Eurocontrol continues to have a significant role to play in the implementation of the SES. Originally established to provide a collective air traffic control system in six European countries, it has taken on a host of other tasks over the years. With the advent of a Single European Sky, Eurocontrol should refocus on its core task of coordination of service provision.

8.2 To better coordinate their activities, the EU and Eurocontrol signed a high-level agreement⁽¹⁴⁾ in 2012 which recognises the contribution that Eurocontrol can make to the establishment of an efficient European ATM system by supporting the single EU-designated European regulator of ATM namely the Commission. In this respect Eurocontrol will continue to support & assist the Commission and EASA in the drafting of relevant rules and regulations.

8.3 Significant steps have already been taken, and the final part of the process of the reform of Eurocontrol has begun in 2013. It remains an intergovernmental organisation and its Constitution and decision-making bodies (such as the Provisional Council) do not yet reflect the outcome of recent reform changes. The Commission supports the on-going reform of Eurocontrol that will focus on the management and operation of the European ATM network. The particular importance of this role has already been recognised by the EU through a mandate to Eurocontrol to deliver the Network Management functions set up under SES legislation. This development should be promoted, in full consistency with the SES legal framework and SESAR deployment. Moreover, it cannot materialise without a shift in the governance of this organisation towards a more industry-led environment.

8.4 The Performance Scheme being pivotal to achievement of the SES, the responsibility for the review of the EU Member States' traffic and unit rate forecasts should pass from the Eurocontrol Enlarged Committee to the Performance Review Body, which should scrutinise these on behalf of the Commission. As the Enlarged Committee reports to the Eurocontrol Provisional Council, thus the EU Member States, the proposed transfer of the review of EU Member States' forecasts of traffic and unit rates to the Performance Review Body would be more logical in the context of the Performance Scheme and consistent with the Commission's proposed role as European Economic Regulator for ATM. The review of the traffic and unit rate forecasts of the non-EU members of Eurocontrol, which is also done with the SES Performance Scheme, should continue to be carried out by the Eurocontrol Enlarged Committee.

8.5 Eurocontrol has been designated by the Commission to perform the function of Network Manager, under the governance of the Network Manager Board. The Network Manager function is already demonstrating its worth.

⁽¹⁴⁾ <http://register.consilium.europa.eu/pdf/en/12/st13/st13792.en12.pdf>.

8.6 The concept of an industrial partnership for improved service provision should be seen as an objective that would also fit with the further reform of Eurocontrol. To this end, the ANSPs and airspace users would participate in the Network Manager as a kind of joint venture. This model ensures the separation from regulatory bodies as it turns the Network Manager away from the role of an intergovernmental organisation, overseeing a patchwork of national airspace blocks and towards a more rational air navigation service coordination, focused on the creation of a more efficient and cost-effective European airspace network, worthy of the name — Single European Sky.

8.7 The EESC welcomes the Commission's proposal in this legislative package to reinforce the role of the Network Manager, based on streamlined governance that gives a more prominent role to the industry — ANSPs, airspace users and airports.

9. The role of the European Aviation Safety Agency (EASA) in ATM

9.1 EASA has been pivotal to EU aviation safety policy since 2002, with its objective being to achieve a high and uniform level of safety, while furthering the traditional EU goals of a level playing field, free movement, environmental protection, avoidance of regulatory duplication, promotion of ICAO ⁽¹⁵⁾ rules etc.

9.2 The legislation invites the Commission to propose changes to remove the overlap once the corresponding EASA implementing rules have been established.

9.3 ATM was different in that a distinction was made between 'safety' and 'non-safety' rules, given the strong residual role played by Eurocontrol in non-safety issues.

9.4 With the SESAR project now getting close to deployment, the problem of aligning different technical rules risks getting worse, as all related technologies and concepts must be facilitated or mandated by the regulatory system. We need to move to a single regulatory strategy, rule structure and consultation process under the EASA umbrella.

9.5 The Commission proposes in this legislative package to eradicate the overlap between SES and EASA regulations and share work between the different institutions accordingly. The Commission should therefore focus on the key questions of economic regulation, whilst EASA ensures co-ordinated drafting and oversight of all technical rules, drawing on expertise from Eurocontrol.

10. Social dialogue

10.1 Social dialogue needs to be addressed with urgency and with all stakeholders in the aviation value chain, as stated in the recent EESC's exploratory opinion ⁽¹⁶⁾ on SESII+. It is pivotal to the implementation of the SES.

10.2 In accordance with this, there should be moves towards drawing up EU-wide standards in order to safeguard jobs and quality in aviation. The fifth pillar of the Single European Sky therefore plays a crucial role in efforts to give proper consideration to challenges in the areas of employment, worker mobility, changes in staff management and further education. Social dialogue should therefore be strengthened and concern not only the air transport management sector, but should be open to other social partners beyond air navigation services and include discussions on the social impact for workers of air navigation services, aviation businesses and airports and the question of how jobs can be safeguarded in aviation as a whole.

Brussels, 11 December 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽¹⁵⁾ International Civil Aviation Organization.

⁽¹⁶⁾ OJ C 198, 10.7.2013, p. 9.

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