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COMMITTEE OF THE REGIONS

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I

(Resolutions, recommendations and opinions)

OPINIONS

COMMITTEE OF THE REGIONS

114TH.PLENARY SESSION, 12, 13 AND 14 OCTOBER 2015

Opinion of the European Committee of the Regions — European Citizens' Initiative

(2015/C 423/01)

Rapporteur	Mr Luc VAN DEN BRANDE (BE/EPP), Chairman of the Flemish-European Liaison Agency
Reference document	Report on the application of Regulation (EU) No 211/2011 on the citizens' initiative COM(2015) 145 final

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

The European Citizens' Initiative (ECI) with regard to the European participative democracy

1. recalls that the citizens are at the heart of the European project. The European participative democracy shall be considered as the right of European citizens to get involved in European politics and shape Europe's future. The Treaty (Art. 10, 3) confers on every citizen the right to participate in the democratic life of the Union;
2. notes that under Article 11 of the Treaty on European Union the EU institutions are required to inform citizens and representative associations, to give them the opportunity to make known and publicly exchange their views in all areas of Union action. The same article contains an explicit mandate for the European Commission to consult with parties concerned in order to ensure that the Union's actions are coherent and transparent;
3. notes that the provisions regarding the European Citizens' Initiative are more specific than what is stipulated in Article 11, 1-3. Article 11.4 on the ECI does not deal with an 'agenda setting' but has the prospect of a 'legal act'. It should be recognised that the ECI, similar to other direct democratic instruments at different levels, also should allow citizens to influence 'the agenda' for the EU's political decision making;
4. recalls that the European Citizens' Initiative is a right for European citizens. It should be used to give an answer to the European democratic deficit and to provide a tool for European citizens to bridge the gap between citizens and European policy. With the continuing economic and confidence crisis in the EU, it is crucial to use all opportunities for an open dialogue with citizens and prevent their further disenchantment in the concept of European integration. This is also an occasion to restore and to further rebuild the trust of any young Europeans who may have lost faith in the concept of European integration. Strengthened participatory democracy is the only way to keep the perspective of the destiny of the EU and to get rid of the democratic deficit; notes that the European Citizens' Initiative aims to involve citizens more directly in the European political agenda and thus give them the right to legislative initiative. Also, the European Citizens' Initiative, as a transnational tool, has the aspiration of stimulating a Europe-wide debate on issues of concern to European citizens;

5. emphasises that the ECI must be appreciated within a realistic context with a clear and focused ambition and coherent guidance on the steps by which these can be delivered: it is no substitute for the right of initiative of the European Commission that has led to the progress in deepening the Union and must continue; the ECI completes the diversification of the legislative dynamics and gives a transnational dimension; it is an additional channel for mutual understanding whereby the European Commission itself has advantage; it has the potential to be a very good example of 'democracy in action';
6. without prejudice to the European Citizens' Initiative, highlights the need to promote at local and regional level initiatives which foster transparency, cooperation and the involvement of Europeans in public policies, in line with the principle of participatory democracy. Furthermore the necessary involvement of regional and local governments is inspired by the fact that the ECI often involves policy areas for which they are completely or partially competent;
7. is of the opinion that we should strengthen our legal and political participatory instruments to come to a renewed governance architecture based on the principle of multilevel governance. Multilevel governance is essentially multi-channelled and therefore it allows for more 'active' European citizenship. The challenge is to provide for a system of innovative interest representation in which people feel represented on an equal basis in their various identities;
8. emphasises that a European public space for debate between citizens and with power-holders is important for the legitimacy and accountability of the EU. The deficit in democracy can only be eliminated if a European public sphere in which the democratic process is incorporated comes into existence;
9. stresses that regional and local authorities attach special importance to participatory democracy because thus civil society organisations can be involved in European decision-making and play their role;
10. is of the opinion that the European Citizens' Initiative should be considered as one of the instruments for achieving the goals of participatory democracy, but it should not be expected that with this initiative the involvement of citizens in the European decision-making is realised automatically;
11. notes that the European Citizens' Initiative is the expression of participatory democracy that complements the notion of representative democracy; it enhances the set of rights related to citizenship of the Union and the public debate on European politics; it should strengthen the citizens' ownership of and identification with the Union;
12. notes that other channels of participatory democracy, such as other forms of civic dialogue and the involvement of representative civil society should not be neglected, since European Citizens' Initiatives focus on one specific policy issue and require significant coordinated effort and financial resources;
13. calls in this context on the European Commission to produce a report on how the provisions of Article 11.1 and 2 of the Treaty on the European Union are implemented and thus make it clear how the Commission puts into practice participatory democracy;
14. wonders whether — taking into account the limited number of successful initiatives — the initial objectives, as set out in the Regulation, have been achieved, namely to give every citizen the right to participate in European democracy; giving citizens the opportunity to directly approach the Commission; clear, simple and user-friendly procedures;
15. notes that the Commission has done its best to administer the ECI, but that on the other hand there is a pressing need to review certain aspects of its approach, and to undertake actions to identify and remedy those measures which have been overly legalistic and restrictive;

The report of the European Commission

16. takes note of the report of the Commission to the European Parliament and the Council on the application of Regulation (EU) No 211/2011 on the citizens' initiative, carrying out Article 22 of the Regulation, by which the Commission is required to report every three years;

17. notes that the report acknowledges some problems and shortcomings, but it is mainly a factual and technical report, taking stock of the situation after three years of application of the Regulation. The report fails to give an answer to the shortcomings which could lead to the end of this initiative: 'a democratic revolution that never took place';
18. notes that there is a common feeling that the Commission is rather cautious and restrictive in its approach and assessment and that this is something that should be monitored and regularly criticized in order to improve matters;
19. states, based on the report from the Commission, that the European Citizens' Initiative has great potential — in three years 51 initiatives were proposed to the Commission. These initiatives focused on various policy areas such as social policy, environment, animal welfare, and education;
20. notes on the other hand that the registration of 20 (39 %) of these 51 initiatives was refused by the Commission and that they did not pass the admissibility test mainly because these initiatives 'manifestly fell outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties'. The six ECI organisers decided to challenge these refusals before the European Court of Justice;
21. notes that only three initiatives have so far achieved the goal of one million signatures. The manner in which the Commission will give follow-up to those successful initiatives will largely determine whether the European citizens will still attach importance to the Citizens' Initiative as a participative model;
22. is worried about the fact that the number of initiatives presented is systematically declining (23 in 2012, 17 in 2013 and 10 in 2014) and that the number of refusals is increasing (30 % in 2012 and 50 % in 2014); proposes therefore, that the European Commission simplify the conditions thereof;
23. agrees with the Commission that the European Citizens Initiative needs thorough improvements and that solutions must be sought to enable more efficient use of this instrument;
24. calls on the Commission to take a more political approach to the ECI and to give more space to debate, to be more open and not limit the issue to the legal aspects. Democracy, especially in a multilevel institutional environment, implies active participation and scrutiny on the part of citizens, and entails a responsibility for institutions to stimulate this participation;

Recommendations for a successful European Citizens' Initiative in the future

a) General observations

25. notes that it would have been appropriate to make reference to the citizens' rights and duties and to the principle of subsidiarity for the eligibility criteria;
26. is of the opinion that the current conflict of interest of the Commission which has to be at the same time a key information provider and support structure for ECIs, is the primary 'addressee' for ECIs, and also acts as a 'judge' for the decision regarding registration and admissibility of the initiatives is seriously damaging the effectiveness of the ECI in fostering citizens' participation and trust;
27. underlines that this conflict of interest for the Commission must encourage the other institutions to play their role in the ECI procedure (Council, Parliament, Committee of the Regions, European Economic and Social Committee);
28. suggests that it might be more appropriate to appoint an ad hoc impartial 'wise people committee', gathering some experts, scholars and/or jurists, to check the admissibility, avoiding the Commission being judge and jury;
29. is of the opinion that especially the European Parliament has a central role to play in strengthening the transparency and the accountability of the ECI procedures and in the political follow-up, notably by improving the inclusiveness of the hearings organised, and by putting political pressure, where appropriate, on the European Commission, to respond in a timely and constructive way to successful ECIs;

30. underlines that the Commission must respect the principles of the European Rule of Law where any arbitrary assessment of eligibility should be avoided. Moreover, it is a matter of 'Good governance' and not merely of 'Better Regulation'. The Commission should take into account 'liability' in accordance with and respect for the Treaties;

31. is in favour of an improved ex ante assessment to avoid disappointment at the end. In the current situation only an ex post assessment takes place after the registration and after the collection of the signatures;

32. suggests to extend the collection period for statements of support to 18 months;

33. supports the common request of stakeholders and ECI's organisers to allow the latter to freely choose the date to start collecting signatures within a clearly defined time limit following registration; suggests to give the organisers of an ECI an additional period of two months between the registration and the start of the collection of signatures to give them the opportunity to better inform European citizens and to organise the collection of signatures;

34. supports the establishment of a legal status for citizens' committees to mitigate the risk of personal liability for their individual members and to facilitate campaigning;

35. stresses that the Commission must not arbitrarily decide to refuse ECIs and must come forward with a legislative proposal within one year if it agrees to a successful ECI, as it does with parliamentary initiatives. In this period of one year the Commission could give gradual implementation to the outcome of the ECI that leads finally to a legislative proposal. If not, the ECI will become obsolete;

36. is of the opinion that a revision of the Regulation is imperative so that the identified barriers can be overcome. A revision comes not too early since this is a unique 'experiment' with outcomes difficult to predict. Timely and anticipatory interventions are needed to prevent deterrence of potential ECI organisers;

37. is willing to keep on working with the European institutions as well as all interested partners in the process of assessing the operation of the Regulation up to now and to contribute to its revision, in order to make this tool deploy its full potential;

38. suggests exploring the possibility of changing the ECI regulation so that it would also become admissible to propose ECIs which aim at concrete changes of the EU Treaties according to Art 48 TEU;

39. states that problems which do not require changes in the ECI Regulation itself should be addressed as quickly as possible. Simple and transparent procedures will indeed determine the future success of the ECI;

b) *Modifications and improvements to the ECI to be implemented without delay*

40. notes that the comments on the current procedures and suggestions for improvement, formulated by various stakeholders and organisers of citizens' initiatives, are very similar and that it should therefore be possible to make adjustments and improvements without further delay;

41. points out that extremely few Europeans know about the ECI. An indication of this can be seen in a recent Eurobarometer survey ⁽¹⁾ of public perceptions of the EU in six Member States (Italy, Germany, Denmark, Portugal, Finland and Poland) with the ECI concept only registering to any significant degree on German respondents' radars. The CoR therefore underlines the need for joint action by the EU institutions and other levels of governance to make people aware of their right to propose and support an ECI. Information campaigns in all EU Member States, involving regional and local authorities, should be launched, with young people as one of its primary targets, to make citizens aware of this right;

⁽¹⁾ Eurobarometer, September 2014.

42. calls for more efficient communication on the ECI and stresses the role of decentralised communication in this connection. Regional and local authorities play a decisive role in making and maintaining the link between the population at large and institutions at all levels in the EU, and can play a crucial part in showing the relevance of EU-level political questions to citizens and in explaining how the ECI can be an instrument to influence EU policy. Supports the idea of using the national representation offices of the European Commission to build stronger information networks on the ECI and encourages the Commission to involve local and regional authorities in these networks. If the ECI relies a lot on new technologies to collect signatures within the set deadlines, regional and local authorities have a key role to play in disseminating information and relaying issues to and from the grassroots;

43. reiterates its proposal to establish an interinstitutional information point, which aim would be to raise overall awareness on the ECI as an instrument, promote its use, provide a minimum visibility to ongoing and successful citizens' initiatives and answer some questions on the ECI;

44. is in favour of establishing an ECI help-desk providing technical know-how and advice on how to organise and run an ECI campaign, with financial support from the EU budget. Such a help-desk should be distinct from any of the EU institutions because neutrality is a key element of the success of this initiative and can help foster trust on behalf of individuals considering initiating a citizens' initiative;

45. is committed to keep up the cooperation with the European Economic and Social Committee in organising a regular 'ECI Day' event, which explores progress in the application and implementation of the regulation, fosters discussion between EU institutions and ECI organisers on the challenges faced by the latter and encourages dialogue between citizens and representatives of the institutions on initiatives under development;

46. notes that the ECI practice shows that the coaching of an ECI is perhaps as important as an ECI itself. It is obvious that ECIs need the support of civil society organisations (staff, financial means) to be successful. Managing an ECI by individual citizens, without external professional and financial support, is extremely difficult;

47. underlines that too many requirements and burdens may negatively affect the EU's objectives to bring citizens closer to the EU and the citizens' willingness to participate in the EU decision-making process; the European Citizens' Initiative should be a driver for encouraging as many people as possible to participate actively in EU policy and for putting a stop to misguided scepticism;

48. asks the Commission to also develop appropriate forms of response to those ECIs which receive significant support, but do not meet all the formal criteria or do not reach the full 1 million signatures, so that any substantial political message of such ECI and the mobilisation which they have created, are not completely ignored;

49. notes that citizens wish to participate in public policy, but will only do so if it is simple and actually makes a difference. Citizens want to know what happens to the initiatives they support. Facilitating two-way dialogue between EU institutions and an ECI's supporters is crucial for the ECIs success;

50. invites the Commission to explore the possibility of providing financial support towards the costly process of the organisational transnational development (by the relevant Citizens' Committee) of ECIs which both conform to a policy area of Commission competence and demonstrate a groundswell of popular support (i.e. reaching a set milestone threshold, within a given timeframe, in advance of the one million signatures mark requiring a legislative proposal to be made). This would assist with maintaining the necessary citizen-based focus to activities and in assuring the transparency of funding behind the ambitions;

51. suggests that where such ECIs may relate to proposals with sufficient demonstrable and positive impact on local and regional governance, on the territorial dimension or on subsidiarity as to gain the prior support of the CoR Bureau, the CoR should be tasked with overseeing the operation of the aforementioned funding mechanism as well as providing some further assistance with promotional efforts;

52. underlines that the current nationally defined requirements for data-collection constitute a serious barrier to the successful collection of signatures and therefore calls urgently on the Member States to take all necessary steps to simplify the personal data requirements and to harmonise the requirements across the EU as soon as possible;

53. calls on the European Commission to ensure full transparency in the decision-making process and in particular invites the Commission to explain in detail the reasons for rejection of an ECI if it is considered to be 'manifestly outside the Commission's powers' and at the same time to inform the organisers of the relevant legal considerations, so that they can decide whether to revise the ECI and resubmit it in a modified form;

54. invites the Commission to explain its political choices to the public in a detailed and transparent manner in its formal response to an ECI that has obtained more than one million signatures. A politically strong follow-up should be ensured;

c) *The contribution of the Committee of the Regions and RLAs*

55. reiterates its offer to assist the Commission in assessing whether initiatives comply with the principle of subsidiarity or how they contribute to territorial cohesion and cross-border cooperation;

56. underlines that the ECI provides Europeans with an instrument which allows them to participate actively in European policy making; it therefore should not be initiated by the EU institutions. It recognises however its own role and responsibilities and recalls in this context the decision of its Bureau ⁽²⁾ on the CoR's involvement in European Citizens' Initiatives. It reiterates its commitment to support ECIs which fall into the CoR's political remit and which are deemed politically relevant, by, for example: supporting the European Commission in its screening of proposed ECIs from the perspective of their local/regional relevance and subsidiarity; hosting of events linked to the ECI; support for decentralised communication action on the ECI; where appropriate, own-initiative opinions on the ECI's subject; active participation in the EP hearings and the political follow up; supporting the implementation of successful ECIs and where appropriate the legislation in response to them.

Brussels, 13 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

⁽²⁾ 144th meeting of the Committee of the Regions Bureau, 10 April 2013, item 8 — CDR1335-2013_11_00_TRA_NB-item 8.

Opinion of the European Committee of the Regions — Strengthening cross-border cooperation: the need for a better regulatory framework?

(2015/C 423/02)

Rapporteur-general: Nikola DOBROSLAVIĆ (Croatia, EPP), Prefect of Dubrovnik-Neretva County

I. GENERAL COMMENTS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. welcomes the fact that the Luxembourg government decided to make stronger cross-border cooperation one of the priorities of its EU Presidency and welcomes its efforts — by removing the barriers to such cooperation — to strengthen Europe's economic, social and territorial cohesion and develop the full potential of areas located on both sides of a border; prioritising such cross-border cooperation is all the more important in the current climate of calling into question free cross-border movement when this is one of the main achievements of European integration;
2. also welcomes the call for an improved regulatory framework for cross-border cooperation, for the specific legal provisions that already exist on different aspects of this cooperation to be implemented, and for the legal framework in place to be improved or expanded in order to make it easier to adopt sector-specific rules or rules covering certain geographical areas;
3. stresses the importance of cross-border cooperation for regional urban and rural development and notes that cooperation between Europe's local and regional authorities enables them to carry out their tasks more effectively and in particular helps border regions to progress and develop;
4. emphasises that border areas are unique test beds for the process of European integration — in other words, they are areas where the results of the completion of the single market and other European policies should be easier to see than anywhere else. Border areas, almost by definition, are uniquely multi-faceted crossroads where a diversity of perspectives and cultural and linguistic synergies are at their strongest;
5. points out that in the past 25 years cross-border cooperation has made great strides at EU level, through the Interreg programme, the Instrument for Pre-Accession Assistance (IPA) and the European Neighbourhood Instrument (ENI), which form part of it, and through the other forms of European territorial cooperation; the results obtained to date remain unsatisfactory, however, in terms of fully harnessing the potential of such cooperation. Therefore increased attention should be paid to further strengthening of cross-border cooperation and linking it to other existing instruments (cohesion policy, Horizon 2020, State aid, etc.) so disadvantaged border regions receive special treatment;
6. commends, in the light of the efforts made so far to expand cross-border cooperation, the role of the different kinds of regional cooperation, be they functional areas, macro-regions (the Baltic, Danube, Adriatic and Ionian and the Alpine region strategies) or local and regional authorities;

7. highlights the scope of the legal instruments that have been adopted to strengthen cross-border cooperation, including the Council of Europe's European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities⁽¹⁾ under which Member States gave a commitment to facilitate and encourage cross-border cooperation between local and regional communities or authorities within their jurisdiction and those under the jurisdiction of the other contracting parties. There are also the Regulation on European Grouping for Territorial Cooperation (EGTC)⁽²⁾ and the European Economic Interest Grouping (EEIG), which are high-quality tools for ensuring that legal instruments are in place for cross-border cooperation to gain impetus;

8. highlights the role of the EGTC in supporting and promoting cross-border, transnational and interregional cooperation between Member States or local and regional authorities;

9. highlights the flexibility that the EGTC offers in terms of its membership, seeing as it constitutes a platform for multilevel governance through which bodies from different tiers of government and with differing powers can act together, adapting to each region's needs;

II. BARRIERS TO STRENGTHENING CROSS-BORDER COOPERATION

10. notes that progress on cross-border cooperation is hampered by a number of constraints and barriers to economic growth in border regions and to achieving Europe's objectives for economic, social and territorial cohesion; notes, furthermore, that this cross-border cooperation faces unforeseen obstacles, which are often the result of steps taken by Member States and regional and local stakeholders;

11. notes that the workshop organised by the Luxembourg Presidency and the survey it has carried out have highlighted substantial barriers to the further strengthening of cross-border cooperation, such as the fact that cross-border projects frequently stall due to differences in legislation — in the areas, for example, of transport, health, the environment and civil protection — or in Member States' institutional set-ups or ways of organising their regions, or due to the lack of legal certainty affecting cross-border bodies and shared services, or, again, due to inequality in the level of economic development across borders, which may be caused by different national arrangements regarding labour law, taxation and social security, to mention just a few examples;

12. also acknowledges that border regions' healthcare systems are not compatible, and this includes the regulation of healthcare provided by emergency services — which, in the case of workers in areas covered by different legal jurisdictions, raises the question of which one they are covered by. There are problems of mismatching between healthcare providers and public authorities on the two sides of the border: prior authorisation is required in order to obtain reimbursement of costs, for example, which means that the local population finds it difficult to access health services quickly and in close proximity;

13. considers, furthermore, that the barriers to cross-border cooperation that the Luxembourg Presidency has identified in its survey are only typical examples and that a more systematic and comprehensive review of all such barriers should be carried out;

14. welcomes the European Commission's stated aim of carrying out, by the end of 2016, an analysis of the barriers to cross-border cooperation that will look at solutions and examples of good practices; also calls on the Commission to actively involve the European Committee of the Regions to participate in conducting this analysis and in a joint assessment of the results;

⁽¹⁾ European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, Madrid, 1980, Council of Europe, European Treaty Series No 106. See also: M. Perkmann (2003): Cross-Border Regions in Europe: Significance and Drivers of Regional Cross-Border Cooperation. European Urban and Regional Studies, Vol. 10, No 2, pp. 153-171.

⁽²⁾ Regulation (EC) No 1082/2006, based on Article 175 of the Treaty on the Functioning of the European Union (TFEU) and Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings.

15. emphasises that in order to carry out a high-quality assessment of the barriers to cross-border cooperation and to find appropriate solutions to remove them, the concept of 'border region' must be clearly defined, and relevant data on such cooperation must be available; is disappointed that there is no useful statistical evidence from every border region and that Member States differ in how they compile statistics;

16. calls on the Commission to make use of the studies of cross-border barriers that have already been carried out at the initiative of border regions and as part of cross-border programmes;

III. POLICY RECOMMENDATIONS

17. underlines the fact that cross-border cooperation needs to be promoted and facilitated, with a view to ensuring the balanced development of all regions throughout the Union and with the aim of reducing disparities between their levels of development, in accordance with Article 174 of the Treaty on the Functioning of the European Union; notes, furthermore, that in terms of boosting their economic development, some border regions are at a particular disadvantage, especially when there are considerable differences in economic prosperity compared with other border areas that benefit from their location. This is also true of areas bordering third countries and in Europe's outermost regions; calls, specifically because of the disadvantages faced by certain regions, for the provisions on territorial cohesion that are set out in Article 174 of the Treaty on the Functioning of the European Union to be more rigorously observed;

18. underlines the considerable importance of continuing efforts to eliminate barriers to cross-border cooperation — a constant challenge — while at the same time deepening the process of European integration. It therefore welcomes initiatives of legislative nature and also suggests that the importance of cross-border cooperation would be adequately reflected in the financial allocation for the further development of this cooperation;

The existing legal framework and the Luxembourg EU Presidency's new proposal

19. stresses that, in the quest for a solution that would remove the barriers to cross-border cooperation that have been identified and in view of the results of the action programme aimed at reducing administrative burdens in the European Union (REFIT)⁽³⁾, the starting point should be the provisions currently governing such cooperation, with a view to ensuring that they are fully implemented;

20. points out that, under Article 4 of the Council of Europe's European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities, signatory countries made a commitment to work on resolving the legal, administrative and technical difficulties likely to hinder progress and the smooth working of cross-border cooperation and to consult one another in order to resolve these difficulties;

21. welcomes the latest initiative of the Luxembourg Presidency to present a first suggestion of a new legal tool, with the objective of allowing Member States affected by a specific cross-border project to agree on a legal framework created from the existing laws of these Member States and applicable only to this specific cross-border project. This would contribute to cohesion in cross-border areas. Although this instrument is related to actions that do not necessarily involve EU funding, it provides a valuable input into the upcoming discussion on the future of cross-border cooperation and the objectives of the economic, social and territorial cohesion of the EU as a whole;

22. notes that one tool for improving cross-border cooperation at EU level already exists in Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC), as amended by Regulation (EU) No 1302/2013, with a view to implementing and managing cross-border cooperation projects under differing national rules and legal procedures; notes the different legal nature of the two tools: whilst the EGTC legal regime applies only to its members, the Luxembourg proposal would create a legal regime that would be applicable to a specific cross-border project with a precisely-determined geographical scope;

⁽³⁾ Final report of the action programme for reducing administrative burdens in the European Union, http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/com2012_746_swd_ap_en.pdf For further information on the REFIT programme, see: http://ec.europa.eu/smart-regulation/refit/index_en.htm

23. welcomes all of the simplifications made in the amended EGTC Regulation which took effect on 22 June 2014, some of which were proposed by the CoR, but is disappointed to note that some Member States have been relatively slow to adopt this amended EGTC Regulation; therefore, calls on the Member States to redouble their efforts to implement it and facilitate the creation of EGTCs in their country, bearing in mind that it makes it possible to be more flexible when setting up and registering EGTCs and to establish their tasks more clearly; nevertheless, considers that there has not yet been sufficient time since its entry into force to evaluate its scope fully or to assess its impact on the ground;

24. considers that, given the existence of the EGTC Regulation and the full potential it has for bolstering cross-border cooperation when transposed into the legal systems of all the Member States, the proportionality principle should be respected when contemplating creating additional legal measures: also considers that there are cases where a legal instrument of a different nature to the EGTC could have proved useful in overcoming specific obstacles to a particular cross-border cooperation project;

25. welcomes the proposal's approach, which consists of continuing to improve the quality of the toolbox of cross-border cooperation by providing a tool of a general character that does not create a new entity with legal personality, and therefore carrying forward the objective of using pre-defined rules to implement joint initiatives in two or more Member States, which could be seen as confirming the success of the EGTC concept;

26. points out that, at this stage, the proposal for a new tool raises a number of questions which need to be properly scrutinised in the upcoming debate:

- the establishment of a special regime of derogations to the applicable law in order to facilitate cross-border cooperation might affect the Single Market and fall beyond the scope of Article 175(3) of the TFEU, so the legal basis of this legal instrument needs an in-depth analysis,
- the CoR asks for the policy areas in which the new regulation should be applicable to be more clearly defined, in accordance with the distinction between the competencies of the Union those of the Member States and shared competencies. In this respect, a reference to the provisions on economic, social and territorial cohesion (Articles 174 to 178 of TFEU) does not seem to be sufficient,
- the suggested legal tool might touch upon the issue of constitutionality, since it invites Member States to apply the laws of other Member States within their territories. This regime of exceptions and derogations would be limited to border regions and needs to be scrutinised more in-depth — a thorough legal analysis of the new regulation should thus be undertaken once the gap analysis to be conducted by the EC confirms the need for such a new legal instrument;

27. points out that, while the mission and the tasks set out by an EGTC convention are circumscribed to the group itself and to its members, and while it is not permitted to adopt, implement or enforce legislation — which means that it cannot be used as a basis for doing this at cross-border level — it may, however, manage public infrastructure, provide a public service, provide services of general economic interest and harness and manage public resources in order to achieve public interest objectives or activities that reflect the fundamental principles of the Treaty and the general interests of the Member States; considers that the current EGTC Regulation provides a good legal framework for this type of action, even if consideration could be given to examining the alternatives, which might facilitate general cross-border cooperation in a given region;

The need to raise awareness and provide information for stakeholders regarding the opportunities for developing cross-border cooperation offered by the existing legal framework, in particular by the EGTC Regulation

28. emphasises that, in terms of using EGTCs as a mechanism for cross-border cooperation, the main problems concern insufficient awareness and information, a lack of confidence and the absence of the necessary political will and that, in order to strengthen cross-border cooperation, there is a need to raise awareness and provide stakeholders with more information about the opportunities for developing this cooperation offered by the existing legal framework, and in particular by the EGTC Regulation;

29. calls on the European Commission and the Member States to make further efforts, in cooperation with the European Committee of the Regions, to clarify and publicise the role that the EGTC can play as a tool for more effectively meeting local needs in cross-border regions;

Promoting simplicity in the legal framework and how it is implemented

30. calls for the legislative framework to be as simple as possible, meaning that any new piece of regulation or any amendment to those in force should simplify procedures for running cross-border projects, whether financed by the EU budget or not, and considers, in relation to this, that the proposal by the Luxembourg EU Presidency constitutes a useful contribution to the debate that will soon be held on the legislative package for the next programming period;

31. welcomes the leading role that the proposal of the Luxembourg Presidency gives to local and regional authorities in the light of the principles of subsidiarity and local democracy, according to which the border regions and cities would take the initiative to adopt these European cross-border conventions, identify the legal provisions that need to be adapted, draw the draft convention and address it to the competent Member State authorities for final approval;

32. proposes that a simplified approval procedure be applied to EGTCs in cases where an established entity — such as a Euroregion or a working community — already exists under the European Outline Convention of the Council of Europe on Transfrontier Cooperation between Territorial Communities or Authorities and its 1980 protocols and subsequent bilateral agreements;

33. would point out, regarding the idea of drafting a new legal instrument to encourage cooperation in border regions, that the Treaty on European Union provides that the Union must respect Member States' essential State functions, including ensuring the territorial integrity of the State (Article 4);

Adapting how resources from EU funds are used

34. highlights the different procedures that apply to the implementation and monitoring of cross-border cooperation projects involving some partners from Member States and some that are not and the difficulty in running the programmes and initiatives concerned because of the different participants; therefore calls for procedures for planning and managing EU-funded cross-border programmes and projects to be further simplified, particularly for small, one-off cross-border projects, and for procedures to be applied to all stakeholders in a uniform manner; would, furthermore, like to see a simple and quick solution to how such projects are to be implemented from the administrative and legal point of view;

35. calls on the Member States to make it easier to involve private operators in supporting actions to promote growth and permanent jobs and to secure project outcomes in a forward-looking and effective manner;

36. calls on the Member States to include existing and potential EGTCs in their future operational programmes;

37. notes that the procedures for drawing up and adopting territorial cooperation programmes for the 2014-2020 financial programming period are lagging so far behind that they will have an impact on the successful implementation of those programmes and calls on the European Commission to step up its commitment to — and assistance for — stakeholder countries when they draw up and adopt the programmes;

38. calls on the EU to pay special attention to the use of its funds for frontier regions bordering third countries and Europe's outermost regions in order to improve implementation of cross-border projects financed from its funds;

39. urges the European Commission to continue simplifying procedures in order to make the implementation of cross-border projects easier, to start the process of adapting funds implemented at national level and in this matter to consider the possible automatic coupling of EU funds with cross-border projects;

40. calls on the European Commission to draw on its analysis of the barriers to cross-border cooperation and examples of good practice in working with the European Committee of the Regions to craft a long-term strategy for pushing ahead with cross-border cooperation and a related action plan that would both extend over several future presidencies of the European Union and thus ensure that even once Luxembourg's Presidency has ended, its work will continue;
41. suggests that discussions on this new regulation form part of the comprehensive discussion on the future of Cohesion Policy. The called-for full and effective implementation of the EGTC Regulation in Member States could be a medium-term goal along with awareness-raising in relation to its application and/or possible amendments arising from its shortcomings; calls on the Commission to consider the Luxembourg proposal and further elaborate it in the light of the results of the cross-border review currently carried out by the Commission;
42. finally, emphasises the importance of respecting the principle of subsidiarity and the need for trust, confidence and cooperation between the central level and the local and regional authorities, which are needed to achieve genuine and fully functional cross-border cooperation.

Brussels, 13 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

Opinion of the European Committee of the Regions — The simplification of the common agricultural policy (CAP)

(2015/C 423/03)

Rapporteur: Anthony Gerard BUCHANAN, Councillor, East Renfrewshire Council (UK/EA)

I. BACKGROUND

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. welcomes the request from the European Commissioner for Agriculture and Rural Development for the Committee of the Regions to be involved in this exercise which he has signalled as his top priority for 2015;
2. agrees with the stated aim that a simpler framework for the common agricultural policy (CAP) would increase competitiveness in the agricultural sector, save time and reduce costs for all the actors in the CAP, including farmers, economic operators and public authorities;
3. believes that the added value of the CoR contribution is to focus on the territorial aspects of the CAP and to promote subsidiarity and multi-level governance as a significant part of CAP delivery is managed through Local and Regional Authorities;
4. intends to formulate not only short-term proposals that can improve the current regime while ensuring the delivery of the CAP objectives and ensuring legal certainty for beneficiaries but also to use this opinion as a springboard to launch the discussions at the CoR on the future of the CAP post-2020;
5. supports a continued liberalisation and simplification of the CAP and no return to failed policies of the past which isolated farmers from the market but insist that this should not be made at the expense of food security or undermine farmers' ability to draw a fair income for their delivery of products to the market;

II. POLICY RECOMMENDATIONS

Subsidiarity v common EU policy,

6. recalls that the new CAP, has as one of its distinctive features a significant increase in decentralisation with many provisions left to Member States and in many cases to regional authorities: issues such as decisions on how much scope there is to transfer between Pillar 1 (direct payments) and Pillar 2 (rural development), the definition of active farmer, minimum requirements for direct payments, voluntary coupled support, capping of direct payments and regionalisation are among the issues that it is up to Member States and regions to decide;
7. notes that Member States requested derogations and exemptions that significantly contributed to the current concerns about the growing complexity of the CAP;
8. recalls that the CoR opinion CdR 65/2012 already recommended greater application of subsidiarity in the reform to ensure more flexibility for Member States and regions. However in bringing more subsidiarity, multi-level governance and territorial cohesion should not result in an scenario whereby the CAP becomes excessively fragmented and is unable to operate as a single EU policy;

Key simplification criteria

9. believes that a core litmus test for any further simplification of the CAP is that Member States, regions and local authorities can be empowered to have more flexibility over implementation and the certainty of controls so long as this does not distort the EU-wide level playing field that the Common Agricultural Policy, as an EU policy delivering on EU-wide goals, must ensure;

10. warns that simplification of the CAP cannot be now used in a way that dismantles a wide range of public goods, particularly environmental ones, that the CAP is meant to deliver;

11. insists that any simplification of CAP rules needs to ensure that competitive food production is ensured while farmers can obtain a fair outcome from the market, incentives are provided to farmers and local communities to provide public goods such as environmental protection, social inclusion and rural services so that communities are empowered as to provide them the means to diversify economic activity thus reducing depopulation;

12. insists on the need for more consistency and complementarity between CAP and other EU policies such as the Environmental Policy (and funds). Greater consistency is most needed between the Rural Development and the rest of European Structural and Investment (ESI) Funds jointly delivering a Common Strategic Framework based on the broad policy objectives of the Europe 2020 Strategy;

13. believes that the bargaining power of farmers vis-à-vis other actors in the food chain (mainly input suppliers, retailers and processing industry) must be strengthened and market transparency improved so that primary producers receive a fairer share of the market price. Fair competition must be ensured and we call on the Commission to investigate all potential abuses of buying power along the food supply chain;

14. believes that, in the ongoing review of CAP rules involving more than 200 pieces of legislation including environmental focus areas (EFAs), basic payment scheme for farmers and CMOs or rules for geographical indicators, it is essential that legal certainty and predictability for the beneficiaries is ensured;

15. considers that the simplification of the CAP would provide the most added value in the targeted reduction of administrative burden on farmers and beneficiaries such as rural communities, improve the clarity of the legal framework, ensure more consistency between the two pillars of the CAP while ensuring the sound management of CAP finances;

16. recommends a more effective approach to data sharing, and integrated IT solutions such as electronic forms and databases that can provide a one-stop-shop that reduces the form-filling burden for farmers, land managers and managing authorities. This requires a prior risk assessment on what and which data can be shared and also requires the involvement of the Commission and audit bodies including the ECA to avoid audit issues further down the line;

17. welcomes the creation of the high-level group on simplification of the ESI funds and the fact that particular focus should be given to the impact in beneficiaries. Proposes that one of its members be a representative from the Committee of the Regions. Such representative will seek input from and report back to the NAT Commission, CoR national delegations and nominating bodies as well as the CoR Subsidiarity and Europe 2020 networks;

Pillar 1 and Pillar 2

18. recalls that the CAP 2014-2020 has continued to be divided between a large Pillar 1 focused on direct payments and a smaller Pillar 2 focused on rural development. As the transfer between pillars is decided nationally or regionally this is welcome in terms of subsidiarity, but it has also resulted in a very complex picture EU-wide. In its opinion CDR 65/2012, the CoR supports the possibility of transferring up to 10 % of the funds from the first to the second pillar rather than the other way around;

19. notes that progress has been made in ensuring demarcation in between pillars but clear overlaps continue in issues such as areas of natural constraints, environmental protection and support for young farmers, as well as in the relationship between Pillar 2 and the other ESI funds;

20. believes that in an ideal scenario there should not be such overlaps and perhaps post-2020 there could be an EU policy instrument focused on supporting food production, another to deliver sustainable development and a third to empower rural communities to diversify away from farm production, with consistency and no overlap between them. However at the present moment simplification should focus on reducing these overlaps and in ensuring that the existing rules do effectively prevent beneficiaries from receiving 'double funding' from the two pillars for delivering the same activity;

21. insists that the Commission can play an active and supportive role throughout the period in critically assessing the choices initially made by Member States and managing authorities so as to facilitate the changing of these priorities over the period if they have not delivered real added value, while at the same time ensuring that such changes do not alter the legal certainty of beneficiaries throughout the programme;

Greening

22. believes that, while the greening of the CAP is one of the key innovations of the new programming period, their implementation is often perceived as being excessively complex and the Commission's interpretation as being excessively inflexible, particularly on practices equivalent to greening, as well as Commission delegated and implementing acts going well over and above the text of the regulations;

23. notes the concerns that the provision of evidence on crop diversification, inspection rates, minimum size of area or the rules on keeping permanent grassland are too burdensome for beneficiaries;

24. emphasises that the CAP must be fair to all farmers. However, the natural conditions, costs of production and general living standards are not the same around Europe and must be taken into account in the redistribution of support, therefore considers that support should reflect EU agricultural diversity;

25. recalls its opinion CdR 65/2012 that urged for more subsidiarity so that local and regional authorities are empowered to initiate and manage targeted environmental measures including through territorial contracts in partnership with local farming, environmental and socioeconomic stakeholders and with the categories of measures open to all farms;

26. insists that the credibility of the CAP can only be ensured if it not only supports food production, income support for farmers and contributes to rural development, but if it also delivers biodiversity and climate objectives;

27. notes that the CAP has the second-largest share of the EU budget and has a strong territorial dimension and together with regional policy is the main instrument to deliver EU environmental commitments;

28. fears that given the way greening has been designed it will not deliver its full potential with, for instance, the vast majority of farms in the EU not required to implement environmental focus areas (EFA) status;

29. recalls that at the same time there are wide concerns from beneficiaries that the greening rules are exceedingly complex, often leading to discouragement rather than encouragement of sustainable farming practices;

30. believes, however, that simplification of CAP greening rules cannot be used as an excuse to weaken its environmental goals. Changes to the rules should be driven by scientific evidence ensuring that these changes are environmentally sound and it is that evidence that should frame the extent of any new changes in administrative procedures to beneficiaries to reduce their regulatory burden;

31. recalls that the existing CAP rules allow for the adoption of measures equivalent to greening and believes that these equivalent measures can, in some circumstances, be a reasonable alternative, provided that they enhance, or at least do not weaken, CAP environmental outcomes;

32. believes that proportionality should be added to the inspections and compliance rules on greening by enabling higher tolerance levels to minor infractions, adverse climatic conditions and unexpected events beyond the control of beneficiaries. This is particularly relevant for the first years of the introduction of the CAP new rules where the risk of errors is likely to be high, also due to the fact that the Managing Authorities and the Commission's own guidance was belatedly produced;

33. proposes more flexibility on mapping so that the beneficiary does not have to declare all the elements in the concerned area thus avoiding the risk of over declaration;

Active farmers

34. recalls that one of the key changes in the new CAP rules is that it aims to ensure that the CAP benefits only those farmers that actually work the land and not those commonly known as 'slipper farmers', as the Committee already called for in its previous Opinion CdR 65/2012;

35. notes that, while this this is done via the minimum activity requirements requiring proof of minimum stocking density to be provided by the beneficiary, there are concerns that the rules as formulated do still leave leeway for non-active farmers to continue to benefit from CAP payments;

36. is concerned, however, that the current rules and definitions about active farmers are exceedingly complex and should be clarified. Member States must be given the option of setting their own criteria for active farmers, provided that the general principles of EU law are observed;

Young farmers and small farmers

37. supports the specific recognition of small farmers within the CAP as they make up a very significant percentage of rural employment in several EU Member States and had previously proposed as a simplification measure that the minimum support threshold to be raised to EUR 1 000;

38. believes that young farmers are drivers of a diversity of economic and environmental outcomes both on-farm and towards the wider rural community;

39. recommends that the new CAP financial and legal provisions be reassessed so as to ensure that they really incentivise the entry of young farmers. They need to be more flexible in recognising young farmers' role within the actual legal and economic realities on the ground (transfer of entitlements, older farmers that only recently start farming activity, etc.), with young farmers starting their careers alongside older family members or other rural entrepreneurs;

Cross-compliance

40. notes that there are different percentages in the Regulation (5 %) and the Delegated Regulation (3 %) to define when a penalty should be set. It is widely considered that a 3 % rate is disproportionate;

Commission guidelines

41. is concerned that, in spite of the stated aims of the new CAP in reducing EU-level legislation, the Commission regulatory output via delegated legislation has increased, with guidelines often treated by the Commission as equivalent to legislation;

42. insists that the gold-plating of EU rules by introducing additional national or regional guidance should be avoided. In that respect the belated production of Commission guidance has in itself contributed to the complexity of the CAP and this increases the likelihood of audit risk further down the line;

43. believes that whenever EU guidelines or legislation provide a degree of flexibility, national and managing authorities should avoid adding over-prescriptive and difficult-to-verify provisions;

44. calls for the ongoing review process of CAP instruments to be done using the new better regulation and regulatory fitness (REFIT) criteria that have been recently formulated by the Commission;

Audit burden

45. considers that, like other EU funds, the CAP continues to have a multi-layered level of audit, often with different interpretations. This creates legal uncertainty for national, regional and local authorities but crucially for beneficiaries;

46. believes that CAP should move towards a more proportionate and outcome-based approach to inspections and audit, focusing less on penalties and more on improvement and in ensuring that the broader outcomes of the CAP are achieved. A key criteria of simplification for beneficiaries, including local and regional authorities is the reduction of the number of inspections required, with the existing 5 % on-the-spot checks it is often seen as too burdensome;

47. advocates a risk-based, more flexible and proportionate approach to inspections so that more than one type of inspection can be carried out on a single visit and giving, in justified cases, early notice of inspection so as to ensure these can be carried out efficiently and with limited disruption to the daily work of farmers and other beneficiaries. When there is a high chance of errors, pre-inspections could take place so as to help increase compliance and ownership from the beneficiary;

48. is concerned that the new Article 9 of the CAP Horizontal Regulation will increase the annual inspection burden and stresses the need to reduce to a minimum additional national audit rules. These should be risk-assessed on their consistency with EU audit rules and practices, and need to be developed with the prior advice of the EU auditors;

49. insist that for the future the risk based approach to audit should be developed further to arrive at a scenario whereby if a national and regional authority is able to demonstrate that it has a domestic audit system no further EU audit is required from the Commission or the European Court of Auditors, other than very exceptional, random checks to ensure that the national audit system remains robust;

50. is concerned that the audit regime will *de facto* be more burdensome this time round and believes that, to prevent this, managing and audit authorities need to get together from the early stage of design of the schemes, so as to avoid contradictions later on and the need to perform multiple audit checks by different bodies on the same activity. Considering the slow pace of the launch of the CAP schemes this exercise is still possible in many countries and regions;

51. believes that compliance can improve via more transparency of the audit process with the Commission publishing its audit findings at an early stage in the process and by results of conciliation and appeals being made public as soon as they are finalised;

52. considers that, while the new Common Market Organisation (CMO) has been in itself a great simplification move by replacing the previous 21 CMOs and eliminating 81 legislative pieces, there is room for improvement in reducing the amount and scope of reporting that it is required to submit to the Commission;

Rural Development

53. notes that in many Member States, rural areas are not only synonymous with agriculture, but are also home to small business operations outside food production as well as being areas for settlement;

54. recalls previous opinions in which the CoR had deemed it crucial, in line with the EU objective of territorial cohesion, to reserve a sufficient share of funds for the development of rural areas, by boosting the European Agriculture Fund for Rural Development (EAFRD) to ensure the harmonious and integrated development of these areas, including the provision of local infrastructure; supporting SMEs, village renewal and wider economic diversification;

55. insists on the need for a holistic rural development policy that also ensures access to the other ESI funds to jointly deliver the Europe 2020 common strategic framework priorities;

56. regrets in that respect that rural development investments continue to be focused on similar farming activities that are already supported in Pillar 1; urges the Commission to use the likely review of the rural development programmes (RDPs) throughout the period to entice managing authorities to move away from those interventions when they have not provided sufficient added value in terms of meeting Europe 2020 objectives and towards diversifying and empowering rural communities;

57. is concerned that there has been a significant delay in approving the rural development programmes, even resulting in the 2014 budget having to be shifted to later years;

58. finds that a significant reason for these delays is due to the internal coordination between Directorates-General, with approval often led by the speed of the slowest official in the inter-services consultation review. A proposal for the future could be to second officials from the other DGs to DG AGRI during the RDP approval process;

59. considers that, given the slowness of the Commission to come forward with guidance and delegated legislation, a sensible approach for RDP negotiation is for the Commission not to require RDPs be presented until such EU rules are produced. This would not reduce the delays in Programme approval but would simplify their negotiation;

Community-led local development — Leader

60. notes that that the community-led local development instrument has gone beyond the previous Leader initiative to empower local communities, not only via EAFRD but also the other three ESI Funds; the CoR in its opinion CdR 1684/2012 had signalled CLLD as one of the breakthroughs of the current programming period;

61. regrets however that, while in some Member States, regions and local authorities CLLD will be used extensively, in many others CLLD would amount essentially to the previous Leader initiative focused in the EAFRD;

62. believes that this is a missed opportunity for rural communities and finds this is due to patchy coordination between the ESI Funds, different reporting and audit rules still being applied to each Fund, which are often run in separate management and ministerial lines. It is equally concerned that the new audit rules for CLLD are more burdensome for accountable bodies and local action groups (LAGs);

63. insists that there should be recognition that in most cases it is the local authority that ensures that LAGs can deliver CLLD;

64. is thus concerned that a strict application of the 51 % voting majority for non-public members in LAG decisions would sometimes not take place in practice, and thus municipalities as accountable bodies would be penalised for this; insists therefore that such penalties be proportionate whenever the accountable bodies can demonstrate that they did involve private and civic groups in LAG decision-making;

65. notes that the rules on maximum size of LAG population and minimum size of LAG budget give Member States a degree of discretion to depart from the Commission guidance in justified cases but regrets that there has been insufficient use of such discretion resulting in some LAG areas not being defined in a way that better reflects existing geographies.

Brussels, 13 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

Opinion of the European Committee of the Regions — the future of European aquaculture

(2015/C 423/04)

Rapporteur: Jesús GAMALLO ALLER, Director-General for External Relations and Relations with the European Union, Region of Galicia (ES/EPP)

I. BACKGROUND ANALYSIS**The development of aquaculture**

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. points out that the Committee has already issued a number of opinions on aquaculture in previous years and that, for the first time, the 2014-2020 common fisheries policy (CFP) has placed aquaculture on an equal footing with extractive fishing, despite the fact that this sector has not yet taken off in the EU;
2. welcomes the synergies offered by the merger between the European Commission's Directorate-General for Maritime Affairs and Fisheries and the Directorate-General for the Environment and believes that this union may make a positive contribution towards the development of European aquaculture;
3. is pleased that the new European Maritime and Fisheries Fund (EMFF) includes promoting sustainable and competitive aquaculture as one of its priorities, thereby delivering a real boost to new forms of aquaculture that have real potential for growth and innovation, such as: offshore aquaculture or aquaculture in exposed waters, aquaculture which is not for human consumption, or aquaculture diversification — defined as a sideline activity exploiting the natural resources associated with such facilities, diversifying the economic activity of the sector, and facilitating the promotion of its products;
4. points out that the 2013 strategic guidelines for the sustainable development of EU aquaculture emphasise the strategic nature of aquaculture production in addressing challenges such as food, protecting natural resources and spatial planning;
5. recognises that the aquaculture sector generates jobs, particularly in structurally weak areas, helping to create greater territorial cohesion and rural development which is in line with the growth targets set out in the Europe 2020 strategy;
6. emphasises the vital role of local and regional authorities in the development of European aquaculture, and specifically in implementing the multiannual strategic plans drawn up by the Member States for the period 2014-2020;
7. highlights the fact that the European aquaculture sector is largely dominated by small and medium-sized enterprises (SMEs), 75 % of which employ five or fewer employees;
8. welcomes the establishment of the new Aquaculture Advisory Council (AAC), which will allow stakeholders to advise the EU on all matters relating to the development of this sector, and looks forward to working with it in the future;
9. highlights the importance of combining various administrative simplification, spatial planning and competitiveness measures, in order to unlock aquaculture's potential for sustainable development. This development is viewed as complementary to, and not as an alternative to, extractive fishing;

10. warns that, while aquaculture is growing worldwide and already represents around 40 % of total fish production, in Europe aquaculture production is falling (11 % between 2000 and 2012) and accounts for less than 20 % of fish production, despite having 14 000 firms and generating 85 000 jobs directly. Generally, aquaculture soon looks set to overtake fishing — in the same way that agriculture once replaced hunting;

11. regrets that only 24 % of the 23 kg of fish and seafood consumed on average per person, per year, in Europe comes from aquaculture with more than half being imported from outside the EU. This means that 70 % of the total volume of fish and seafood consumed in the EU is imported. Aquaculture is therefore set to become the answer to a growing overall demand for fish and shellfish;

12. expresses its deep concern over the imbalance between European and Asian aquaculture production. Asia accounts for around 88 % of global production and, although the majority of Asian fish imports comply with European regulations, they put increasing pressure on European producers in terms of pricing and production volumes. European aquaculture producers are therefore specialising increasingly in high-quality production, with the lower end of the market covered by cheaper Asian imports;

13. emphasises that the EU aquaculture sector is diverse when it comes to farmed species, production methods and geographical locations and thus EU rules should be implemented in a flexible way, especially in the outermost regions on account of their specific situation;

II. POLICY RECOMMENDATIONS

Simplification of administrative procedures and access to space

14. regrets that the lack of available space that is suitable for this use, the complexity and the timescale involved in obtaining operating licences and permits, together with the costs incurred, are a major obstacle to the development of aquaculture;

15. notes that in Europe, it is generally the responsibility of regional and local authorities to grant licences and support small and medium-sized enterprises operating in their area; It would therefore be advisable to provide public officials with high-quality training, in order to improve the efficiency and effectiveness of the licence-granting process carried out by public administrations;

16. with regard to the administrative system, suggests the use of a 'one-stop-shop', which would take on and exercise all responsibilities, allowing relevant documents to be submitted to a single administrative body. This would significantly improve the relationship between the end-user and various levels of the public administration;

17. suggests establishing a simplified or 'fast-track' licensing system, whereby the competent administration grants a provisional certificate permitting those operators who meet predefined criteria to commence their activities. These criteria could be based on the applicant's history or the fact that they have put forward a pioneering aquaculture project in terms of innovation or sustainability or on the establishment of reserved aquaculture easement zones where uses that are incompatible with aquaculture are defined in advance;

18. considers it appropriate — as far as the characteristics of the area will allow — to use a 'traffic light' system for classifying aquaculture activities into different levels, depending on, amongst other things, environmental impact, production, the status of animal health, etc. This system would have to be user-friendly and easily accessible for microenterprises so that a level playing field is created for both large and small companies;

19. highlights that transparency is needed throughout the aquaculture decision-making process and, therefore, must be the guiding principle for public institutions, civil society and the scientific community;

Competitiveness and quality control

20. highlights the need to improve public communication, by going beyond simply advertising products and instead focusing on the benefits of a sustainable, environmentally integrated sector, as a key element for increasing the competitiveness of aquaculture;

21. stresses the importance of R & D and innovation for tapping into the growth potential offered by aquaculture — as reflected by the European Aquaculture Technology and Innovation Platform's (EATiP) strategic research and innovation agenda, which sets out priority areas for action divided into eight thematic areas;

22. welcomes the fact that the European research and innovation programme, Horizon 2020, has included the exploitation of living aquatic resources as one of its thematic priorities, and urges both the industry and public authorities to use the results of funded projects to support the sustainable development of aquaculture;

23. urges the Commission to introduce a labelling system for aquaculture products, which will distinguish European products, instil confidence in consumers, enhance products' quality image and set them apart from competitor's products. Correct information can only make the sector more competitive;

24. welcomes the fact that continuing and vocational training programmes, designed to meet the needs of the aquaculture market, are being developed in the EU. Such programmes also help to integrate young people into the sector. The Committee calls for the standardisation of formal qualifications, in order to promote greater mobility among aquaculture professionals in the EU;

Sustainability in relation to aquaculture

25. reiterates that sustainability is a prerequisite for the development of European aquaculture;

26. notes that sustainability is the first condition that the CFP imposes on European aquaculture. Moreover, all stakeholders concerned wish to establish a proper definition of 'sustainable aquaculture', which addresses environmental, social and economic criteria, and is adaptable to the specific characteristics of each area. The Committee believes that the new Aquaculture Advisory Council must play a key role in drawing up this definition;

27. recognises that the aquaculture sector requires coordinated spatial planning, which will minimise conflicts arising from competition for space between competing uses, increase sustainability, reduce uncertainty and encourage investment. Highlights the work already carried out in this area by the Marine Strategy Framework Directive, which aims to protect and restore European marine ecosystems and to ensure the ecological viability of economic activities related to the marine environment;

28. recommends promoting innovative production processes which have a minimal impact on surrounding ecosystems — such as recirculation, multi-trophic aquaculture or aquaponics. These examples demonstrate that using space can be fully compatible with the pursuit of efficiency and the creation of wealth and added value;

29. expresses the need for further research and innovation in order to move towards replacing fishmeal and fish oil as feed for farmed fish. In relation to this, points out that 60 % of feed used in aquaculture production is of plant origin and 80 % comes from sustainable sources. This enhances the sustainability of a sector which only continues to complement wild fishing more and more as it develops. Whilst it is necessary to carry out research into alternatives to fishmeal and fish oil, at the same time it is important to press ahead with the technological development of these products in order to optimise them and improve yields;

30. highlights the important environmental services that aquaculture performs, particularly in preserving biodiversity;

31. takes note of the negative impact on sustainable aquaculture of the rapid recovery of protected species, and consequently recommends that population management plans for these species should not only be drawn up on the basis of scientific criteria, but should also give consideration to possible conflicts with aquaculture producers. It therefore urges the European Commission, in the course of any future updates to the nature protection directives (Birds and Habitats), to take account of current conflicts involving different uses of maritime, river and land areas;

32. recommends diversifying the cultivation of organisms — drawing particular attention to seaweed production. In addition to its increasing use for animal and human consumption in recent years, seaweed has proved to be very suitable for certain industrial processes and for generating energy. However, despite offering extensive opportunities in terms of environmental sustainability — as it does not require feeding or produce waste — its great potential is not being exploited in the EU;

The market and the supply chain

33. points out that, under current circumstances, it does not make sense to set extractive fishing and aquaculture in opposition to one another. Global demand for aquatic products is currently increasing, while at the same time the EU is taking action to gradually reduce pressure on wild fish stocks. Accordingly, we can only emphasise the need for complementarity;

34. highlights that cooperation between aquaculture and processing could create added value for aquaculture products, if it exploits synergies, promoting both activities in less developed areas;

35. recommends promoting the local market and short circuit distribution chains for European aquaculture products, thus helping to cushion the effect of fluctuations on the global markets;

36. notes that traceability is guaranteed throughout the aquaculture process, which enhances consumer safety and minimises changes in consumer behaviour regarding the consumption of this product;

37. recommends using campaigns to raise the product's profile among consumers, so that they recognise and value the contribution made towards the food supply, food safety and job creation as well as the environmental benefits that aquaculture brings in the long term;

38. welcomes the European Commission's support for sharing best practices and technical expertise, which will contribute towards improving the public image of aquaculture production and help to establish and promote models. With this in mind, the Committee also welcomes the European Commission's 'Farmed in the EU' initiative, a campaign which is undoubtedly raising awareness of sustainable aquaculture products in the EU.

Brussels, 13 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

Opinion of the European Committee of the Regions — digital single market

(2015/C 423/05)

Rapporteur:	Helma KUHN-THEIS (DE/EPP), Member of Weiskirchen Municipal Council
Reference document:	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Digital Single Market Strategy for Europe
	COM(2015) 192 final

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. welcomes the Commission proposal's general objective of promoting and securing international competitiveness in the long term by creating a connected digital single market in Europe, by generating network effects and economies of scale to a much greater extent, in order to ensure sustainable growth and employment in Europe;
2. sees the creation of a digital single market as a strategic contribution to safeguarding Europe's 'digital sovereignty', with a flourishing European digital economy making a structural contribution to meeting the political challenges facing Europe;
3. emphasises that the key role and potential of local and regional authorities should be taken into account in all future legal acts adopted to shape the digital single market;
4. stresses that the internet's open character is a key driver of competitiveness, economic growth, social development and innovation, which has led to spectacular levels of development in online applications, content and services and the emergence of new products in Europe being achieved and further promoted;
5. notes that local and regional authorities are enthusiastically seizing the potential of digitalisation in the context of the digital single market, focusing primarily on the areas of particular interest to them:
 - modern e-government services for the economy and society, a key element in improving public services,
 - promoting equivalent living conditions in urban and rural areas by minimising the 'digital divide' through a comprehensive expansion of the broadband network, including in rural areas,
 - permanent, cross-generational development of digital literacy in all areas of society and administration, to begin as a part of early childhood education, laying the foundations for lifelong learning in schools and other educational establishments,
 - promoting an environment which creates better development prospects, particularly at local and regional levels, for digitally-based SMEs and start-ups;

Why we need a digital single market

6. shares the Commission's view that digital technologies and internet-based services are profoundly changing the economy and society;

7. stresses that this process is confronting local and regional authorities with particular challenges, since they are particularly affected by certain changes which they have a limited capacity to control;
8. therefore in particular sees a need for all actions at European and national level promoting a digital single market to aim to develop further the attractiveness of the regions in a targeted way;
9. encourages the Commission in its intention of developing the digital single market as a basis for improving international competitiveness, as certain states enjoy greater economies of scale, which are of particular relevance in the digital economy;
10. adds that a sole focus on network effects with a European dimension would not be sufficient, but rather that flourishing digital ecosystems need to develop in parallel with SMEs and start-ups at local and regional level, generating added value and jobs locally;
11. stresses, with regard to the strategic choice of the three 'pillars' of the Communication, that, from the point of view of local and regional authorities, digitalisation effects in the linking of online and offline areas of the economy and society have to be included, as in an 'app economy' network effects arising from modern platform services can be observed in these areas too at local and regional level;
12. in this context not only considers the question of whether products, services and applications are migrated from an offline to an online environment to be important, but also sees a need to discuss how, in a digital single market:
 - (a) digitalisation with regional and local value creation can be complemented and made more competitive by 'smart services';
 - (b) novel applications, particularly in 'bricks and mortar' sales outlets with multi-channel marketing, can maintain the attractiveness of living and working in regions, cities and municipalities, by, for example, countering the trend for specialist shops to close;
 - (c) new links between the online and offline environments, such as additive manufacturing (e.g. 3D printing), can create value and jobs, particularly at local and regional level;
 - (d) the 'Internet of Things' can generate local services and new ways of creating value in the regions too, e.g. in electrical trade businesses;

Better online access for consumers and businesses across Europe

13. agrees with the Commission that modern rules for online and digital cross-border purchases will encourage more businesses to sell their products and services online across Europe and increase consumer confidence in cross-border e-commerce;
14. sees the Commission's harmonisation proposal, announced for late-2015, as a basis for reducing to some extent the current focus on platforms and intermediaries in single market transactions, by offering SMEs a better basis for developing direct sales throughout Europe;
15. agrees with the Commission that, in this context, the single market will be strengthened only if the consumer protection framework is further developed at a high level, and stresses in this context the important role of the local and regional authorities, e.g. in ensuring identity management, which should be further developed on the basis of cross-border standards;

16. stresses the importance of fast and affordable cross-border parcel delivery services, and welcomes in this context the self-regulatory approaches aimed at generating qualitative effects, e.g. in connection with parcel tracking technologies, and at improving price transparency and delivery options, in the interests of consumers;

17. shares the Commission's assessment that in most cases unjustified geo-blocking is not understood by consumers, especially when purchase of services for a given region is refused or when consumers are directed to a local site with differing sales conditions, and highlights the existing limitations of a single digital market; points out that geo-blocking is, inter alia, the result of the current system for financing audiovisual production and the purchase of broadcasting rights by means of geographically-defined licences. It is necessary, however, to have cross-border approaches to digital media so as to protect the 50 million European citizens who speak a minority regional language, as well as the Union's less-used languages. The access of many minority groups to media services in their mother tongue must, in the interests of linguistic diversity, be made possible as a linchpin in Europe; therefore reiterates its call for a proposal to ban geo-blocking in the digital single market ⁽¹⁾, taking account of audiovisual content's specific cultural characteristics;

18. emphasises the Commission's finding that creativity, particularly in the regions of the EU, is one of Europe's strengths in international competition and is of great importance for the development of the single digital market;

19. would, therefore, like to see appropriate consideration given to the existing system of regional licences for audiovisual works in the legislative proposals announced by the Commission;

20. notes that digital developments such as cloud services and streaming pose huge challenges, particularly in the field of copyright;

21. welcomes the Commission's intention on the one hand to establish more harmonised copyright law, in order to reduce the fragmentation of the different legal regimes in the Member States, and on the other hand to modernise copyright and bring it into line with developments in recent years;

22. supports the Commission's view that, whilst a modernised copyright should facilitate the transfer and use of content beyond national borders, incentives for creativity and investment — the rights of authors — are also of central importance;

23. concurs with the Commission's view that the current state of harmonisation between the Member States of VAT rules for the intra-Community trade in goods and services does not yet offer a sufficient basis for the development of the digital single market; calls therefore on the Commission to build provisions into its next proposal for a review of VAT Directive 2006/112/EC to facilitate the development of the digital single market not least by eliminating measures that are discriminatory with regard to digital media;

24. points out that it is clear that the VAT exemption for small consignments from third countries is putting particular competitive pressure on SMEs in some Member States, since small consignments from third countries can be obtained relatively easily via platforms; any reform of this system should not create disproportionate administrative burden and take into consideration the small value of these consignments;

25. against this background is in favour of the Commission submitting in 2016 various legislative proposals for the targeted development of the complex VAT rules;

26. welcomes the Commission's announcement that it will support the creation of digital innovation hubs and calls on the Commission to ensure a geographical balance in the allocation of funds;

⁽¹⁾ CoR resolution on the priorities for the 2016 work programme of the European Commission, point 27.

Creating the right conditions and a level playing field for advanced digital networks and innovative services

27. shares the Commission's assessment that credible, reliable, high-performing and affordable networks and services are the essential basis for the further development of the digital single market and that a competitive and dynamic telecoms sector provides the necessary impetus to innovation and investment. In this context, the Commission rightly emphasises the importance of effective competition;

28. recommends creating conditions which facilitate the connection of all areas to broadband services which will be efficient in the long term, in a competitive environment, and calls on the Commission, as part of the implementation of the digital single market, also to report regularly on progress made in overcoming the digital divide, particularly at regional and local level. Poor profitability means that, in the rural areas of the regions in particular, there is often no market-driven development of high-speed broadband networks, so that the support options at European and national level need to be consistently further developed. Individuals and businesses have a right to high-speed broadband access at the transmission speed that they need to earn their living, learn or run a business regardless of where they are based geographically;

29. reiterates in this context its call for projects for the development of broadband in rural areas and areas with low population density to be recognised as services of general economic interest⁽²⁾; also stresses in this regard the need to determine future investment requirements for broadband, especially at regional level, and proposes working with the European Commission and the European Investment Bank to develop new funding and support schemes for ICT infrastructure in, for example, rural areas;

30. stresses, in view of the agreement concluded on 30 June 2015 between the Council, the Commission and the Parliament on a single telecoms market, that an open, non-discriminatory internet, the appropriate development of net neutrality and the ending of roaming charges in mobile networks planned for 15 June 2017 are very important throughout all of Europe's regions and especially in border regions;

31. stresses, in this connection, and especially to the Commission and the Body of European Regulators for Electronic Communications, that all the measures needed are particularly important in terms of making the digital single market generally attractive and visible to Europe's consumers. These measures are required in order to ensure that the time frames can be properly implemented. In particular, a fair use policy for consumers needs to be explored that is properly drafted to take regulated roaming services into account.

32. stresses, in view of the speed of developments in recent years, that appropriate development of the ICT regulatory framework should also aim at a level playing field in which structural disadvantages are mitigated by unilateral commitments for telecommunication network operators in converging markets;

33. points out that it can only partially endorse the Commission's views regarding the lack of consistency and predictability of regulation across the EU, as the most recent telecoms review process, and its Article 7 notification procedure, was in particular a step towards greater uniformity of regulation;

34. welcomes, therefore, the fact that from 2016 a thorough review of the need to adapt telecoms rules will get underway;

35. supports the Commission's intention to make proposals for the harmonisation of access to the 700 MHz bands, as this is essential to secure the supply of broadband services in rural areas. The Committee would also call on the Commission to move quickly to prepare access to the 800 MHz bands in order to accelerate the development of the latest 4G technology. A discussion of certain spectrum allocation and usage parameters falling under national responsibility in the context of the Radio Spectrum Policy Group could generate meaningful single market effects. Radio frequencies in many cases reflect and promote regional applications and media culture identities. In view of this, efforts should be made to balance diverging interests in the course of further development;

⁽²⁾ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013AR5960>

36. believes that the announced review of the Audiovisual Media Services Directive should provide a major impetus to the identification of the development needs of a modern digital single market and, on the other hand, to the promotion of a culturally diverse and high-quality European audiovisual media landscape. The convergence of media should be matched by convergence of regulation, with fair competitive opportunities for all media service providers;

37. emphasises that platforms often perform the role of market players and, in addition to providing new business options, are often involved in local and regional economic and social structures. Platforms and intermediaries therefore have a strategic role, the development of which needs to be monitored closely with a view to emerging regulatory requirements. It should be noted in this context that network effects strengthen and consolidate the market power of platforms and thus increase the risk of abuse of such power;

38. regrets that the Commission communication only scratches the surface when it comes to 'the sharing economy' and does not contain any proposals for a coordinated approach to the rules applicable to it in order to ensure free and fair competition, i.e. same conditions with regard to regulation and framework as for traditional businesses, consumer safety and employment conditions, with particular regard to taxation on income generated by trading platforms. The Committee also notes with some concern that structural changes are taking place when it comes to commercial activities in the 'sharing economy', with entrepreneurial risks often remaining with local or regional actors, but, as a result of the immense network effects of platforms and intermediaries, value creation being transferred out of the region. In this connection, the complex interaction between growth options with new customers in the digital single market and negative structural changes in the regions needs to be closely monitored;

39. is convinced that the development of the digital single market depends on the modernisation of education, because education has an important role to play in society through also imparting basic skills in the digital sphere. To take advantage of the big opportunities for new approaches and methods within education systems, the development of innovative, digital methods must be promoted, supporting and encouraging teachers and all those involved in this process;

40. welcomes, in this context, the emphasis of the Commission in its studies on the role of platforms which are to be launched before the end of 2015;

41. strongly welcomes the Commission's clear strategic focus on the importance of cybersecurity in digital services and the confidential treatment of personal data as an essential basis for the development of the digital single market;

42. stresses in this connection the particular importance of the future General Data Protection Regulation, both as a basis for service developments in the digital single market which command trust and for promoting a level playing field and offering regional businesses better development opportunities;

Maximising the growth potential of the digital economy

43. welcomes the Commission's clear statement that all sectors of the economy have to undergo digitalisation and that most sectors are likely to become increasingly integrated into digital ecosystems;

44. notes in this context that the way in which Europe succeeds in the long term in realising the almost unlimited value-creation potential of digitalisation will play an essential role in the long-term prosperity of Europe's regions and rural areas;

45. like the Commission, believes that one of the main challenges for a digital single market lies in the creation of a sustainable data economy, also in an industrial context (Industry 4.0). The technological development trends of recent years are giving rise to multifarious opportunities for new value creation. However, it must be noted that enormous technical, structural and legal challenges exist for local and regional authorities too;

46. stresses interoperability as a horizontal key factor in the development of the digital single market, to facilitate the development of novel, digital value creation networks on the basis of standards, where e-government services, particularly in local and regional authorities, could make a significant contribution;
47. emphasises the enormous importance of the digital literacy and skills for citizens, workers and jobseekers for the comprehensive implementation of digitalisation in the economy and society. In this context, the Member States and the local and regional authorities, which in many cases are responsible for schools and educational institutions, have a key long-term role to play in the development of digital skills;
48. against the backdrop of the rapid advance of digitalisation in all areas of our society, advocates e-inclusion, in order to make the advantages of a digital society available to all;
49. also advocates sharing of data, with due regard for individual countries' privacy rules, for purposes and processes contributing to the common good, as this is a real contribution to simplification and standardisation, certainly at national level (processes have already been in place for some time in some countries), but also at transnational level;
50. advocates, with a view to real development of the digital single market, a thorough reworking of processes, both in public administrations and in businesses; thinking digital and creating new technological solutions do not mean reproducing sequences of manual actions and paper flows in digital form. Rather, bringing to bear existing innovative digital instruments, internal and external flows and procedures in the economy should be simplified, in order to make the process of communication between different players faster and more efficient, as well as to create personalised services with more added value;
51. shares the Commission's assessment that e-government is a key tool for further increasing the cost-effectiveness and quality of public-sector services for businesses and the general public, particularly in the case of local and regional authorities;
52. stresses, in the context of the eGovernment Action Plan 2016-2020 which has been announced, that further improvements to structures in existing public sector portals and services can generate positive effects, to which local and regional authorities, and particularly those in cross-border metropolitan regions, can make a major contribution;
53. is, however, more reticent than the Commission in its assessment of the short-term leverage effects and potential cost savings of the efficiency gains thus generated, and calls for the local and regional authorities to be particularly closely involved in the shaping and implementation of the eGovernment Action Plan, in order to be better able to develop their existing e-government potential. More attention should be paid to those smaller local authorities lacking the finances or human resources to best tackle the challenges of digitisation. Additionally, new organisational forms of collaboration to enhance the provision of such services should be piloted, which may be different to those used for the provision of physical goods or services;

Delivering the digital single market

54. stresses in this context that, in connection with the resulting need for adaptation of governance structures, responsibility and the leading role should be assigned to local and regional authorities, as the public sector's main 'interface' with businesses and the general public;
55. supports the Commission's focus on improving the investment climate for digital networks, research and innovative businesses, also in order to close the digital divide between urban and rural areas.

Brussels, 13 October 2015.

The President
of the European Committee of the Regions
Markku MARKKULA

Opinion of the European Committee of the Regions — Review of the ‘Audiovisual Media Services’ Directive

(2015/C 423/06)

Rapporteur: Jean-François ISTASSE (BE/PES), Member, Verviers Municipal Council

I. GENERAL COMMENTS

THE COMMITTEE OF THE REGIONS,

1. deems it appropriate to review the Audiovisual Media Services Directive (AVMSD) in the light of constantly evolving technological developments and the geopolitical situation and their implications for the production, distribution and consumption of audiovisual media;
2. reiterates the importance of maintaining an explicit reference to cultural diversity as a founding pillar of the AVMSD, particularly in view of the European Union’s accession to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions; the CoR notes here that regional public service broadcasting (PSB) — represented in Europe by CIRCOM — provides this kind of service, broadcasting news and other programmes of relevance to local and minority language communities;
3. highlights the need to pursue policies which encourage the pluralism of news media, protect individual freedoms and maintain international standards, which are guarantors of democracy; points out that new initiatives should be developed to guarantee independent and pluralist media as cornerstones of regional and local democracy;
4. asserts the appropriateness of taking the regional dimension in the AVMSD into account, in order to enhance European cultural identities, cross-border co-productions within the European Union and local creative innovation;
5. notes the economic power of the cultural industry, its great ability to create value and its potential in terms of quality jobs in the economic sectors of the future;
6. shares the desire expressed by the European Commission in its Green Paper on Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values, to ensure ‘the widest possible access to European diversified content and the widest choice of high quality offers’, and emphasises in this respect the need to regulate the accessibility of regional public service broadcasting (PSB), in particular so as to be informed of its aims and the range of services it offers;
7. is pleased to note the wish expressed by the European Commission, in relation to the Digital Single Market Strategy, to modernise copyright legislation and to ensure a fair balance between the interests of producers and users, in order to promote access to culture and cultural diversity;
8. stresses the value of the dual system that typifies the European audiovisual landscape, ensuring the stimulating co-existence of public and private stakeholders, and highlights the importance of encouraging Member States to provide sufficient long-term public funding for public audiovisual operators, in order to enable them to carry out public service obligations in both linear and non-linear services in full compliance with European regulations governing the funding of public service broadcasters;
9. reaffirms the importance of effective regulation of audiovisual media services, requiring genuine cooperation between regulators and the independence of these regulators from both public authorities, audiovisual stakeholders and political parties;
10. stresses the importance of the role of social cohesion played by European audiovisual media, an essential part of European citizenship;
11. considers it necessary to extend the scope of the AVMSD to include audiovisual content that does not qualify as ‘television-like’;

II. POLICY RECOMMENDATIONS

Scope of the directive

12. considers that the scope of the AVMSD must cover all types of audiovisual content providers, including those that host user-generated content;
13. recommends exploring the appropriateness of establishing new categories of service providers, which should be considered as service distributors within the meaning of the directive, regardless of the distribution platform;
14. if new categories are created, stresses the benefit of subjecting any new categories of service providers to certain provisions of the directive, according to the nature of their activity;
15. notes that, after having passed the programme selection stage, consumers are placed in a similar viewing situation, regardless of whether the service is linear or non-linear, and that the AVMSD's differing treatment of linear and non-linear services with respect to the protection of minors and commercial communication should, therefore, be adapted;
16. calls on the European Commission to clarify the concept of 'editorial responsibility' characterising the activity of an audiovisual media service provider, as set out in the current directive, to order to include both responsibility relating to service provision and the accompanying legal liability;
17. calls for the operative part of the directive to include a clear distinction in the rules applicable to audiovisual media service providers exercising full editorial control over the programmes and services they offer and service providers who do not exercise such control, such as service distributors and over-the-top (OTT) services including search engines, social networks, content aggregators, e-commerce services, portals or online file-sharing services;
18. notes that local and regional media are under increasing pressure. News provision from their own environment is in danger of dying out. In order to foster the development of local and regional news content and a pluralist media, a legal framework for public-private cooperation should be created;

Assessment of the country of origin principle

19. reiterates the call made in its opinion on European film in the digital era⁽¹⁾, for an assessment of the country of origin principle as enshrined in the AVMSD, considering in particular questions of legal certainty, which is crucial for the development of European audiovisual stakeholders. The appropriateness of considering the so-called 'country of destination principle' as is being done in some Member States, should therefore also be explored, to the extent that this does not empty the country of origin principle of all substance;
20. considers, in line with the European Parliament's resolution of 12 March 2014 on Preparing for a Fully Converged Audiovisual World, that European law must be adapted to the realities of the Internet and the digital environment, in particular with respect to companies offering audiovisual content online which try to evade taxation in certain Member States by basing themselves in countries with a very low tax rate;
21. encourages the strengthening and broadening (in particular to cover non-linear services) of the current arrangements as laid down in Article 4 of the AVMSD which aim to prevent European and national measures being circumvented;
22. considers it appropriate to require providers of audiovisual media services based outside the EU that are targeting EU audiences to register or appoint a representative in one Member State (e.g. the main target country);
23. considers that the prime factor in connecting an audiovisual media service provider to a Member State must be the place of business criterion, i.e. the place where the largest section of the workforce is employed in audiovisual media activities;

⁽¹⁾ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014IR3660&from=EN>

Accessibility

24. noting the growing importance of OTT services — defined as a method of distributing content via the Internet and without intermediary action on the part of Internet service providers over and above transporting data — and their growing interfacing role between members of the public and audiovisual content, underlines the usefulness of effective regulation applied to such services in order to ensure access to a broad range of information sources and a diversity of audiovisual content;
25. deems it essential to ensure that local and regional audiovisual content producers have equal access to the viewing public, including in cases where content is distributed by aggregators;
26. considers that this principle of equal access to the public by local and regional audiovisual content producers should guide the European institutions' considerations;
27. calls for provisions to be adopted ensuring that OTT services and Internet and telecommunications service providers are in no way able to favour their own content or any content of their choice when acting as audiovisual media service distributors, in order to promote cultural diversity. The central issue here is that the integrity and quality of a channel's signal, as provided by a broadcaster, should be fully respected and safeguarded;
28. with a view to enforcing the principles of cultural diversity and media pluralism, asserts that searching for and selecting audiovisual content cannot in any circumstances depend on economic interests;
29. calls for it to be ensured that the necessary measures relating to content integrity are adopted when reviewing the directive, out of consideration for both content producers and consumers;

Geo-blocking

30. considers that fair remuneration of audiovisual content producers is a prerequisite which cannot be called into question;
31. considers it appropriate in a converging digital world to ensure a stimulating value chain for European audiovisual production;
32. considers that publicly funded and developed regional and local audiovisual content should be available throughout the EU. Digital barriers to this should be removed;
33. urges the European Commission, when considering the geo-blocking of audiovisual content, to take the specific cultural features of such content into account;
34. similarly, calls on the European Commission to take the necessary measures to support European audiovisual content producers and European and national distributors;
35. considers that the principle of copyright territoriality must be preserved, this mechanism having proved its effectiveness in guaranteeing payment to producers and promoting quality European audiovisual production;
36. supports the introduction of portability of rights by audiovisual media service users and, in particular, portability of rights relating to audiovisual subscriptions, allowing users to access the services they have in their country when travelling elsewhere in the European Union;
37. also makes the case for special attention to linguistic and cultural minorities in the European Union which are affected by geo-blocking policies preventing those concerned from having access to audiovisual media services in their own language;

European and independent works

38. encourages all European audiovisual stakeholders to favour the development of high-quality content in order to make the European selection of linear and non-linear services more attractive;

39. stresses the importance of ensuring the effectiveness of the AVMSD, which recommends 'adopting suitable measures to encourage the activity and development of European audiovisual production and distribution, particularly in countries with a low production capacity or a restricted language area', including at regional level;

40. advocates encouraging Member States to implement financial contribution systems for linear and non-linear services with the aim of supporting the overall audiovisual chain, including production of European works, as currently set up, on an optional basis, for non-linear services in Article 13 of the directive, and including the clearance of rights for these works and their promotion;

41. pursuing the same objective of promoting quality European works and programming, believes that more extensive measures should be taken to harmonise this promotion effort for both linear and non-linear services;

Consumer protection

42. recommends that the key principles of consumer protection in relation to commercial communications be maintained and that the new provisions to be adopted for convergence be concentrated in the area dedicated to the programme's design;

43. draws the European Commission's attention to the new advertising practices and strategies developed on non-linear services, aimed at increasing the effectiveness of messages, and to the potential dangers they entail with regard to protecting consumers, their private lives and their personal details;

44. accordingly, calls for the introduction of a coherent and unified body of measures aimed at ensuring that consumers of linear and non-linear audiovisual media services are protected;

45. notes that particular attention should be paid to the link between the questions relating to apparent absence of costs, to accessibility, to quality of content and to the risks that have a bearing on people's individual freedoms, including the use of their personal data;

46. stresses that promoting broader and more knowledgeable digital literacy enhances the ability of individuals and their representatives to monitor and prevent the risk of programmes being depleted, at economic, commercial and cultural level, of local characteristics and links, replaced by standardised audiovisual media services programming controlled by whoever is in charge of the network;

Protection of minors

47. suggests a similar form of regulation for programmes likely to be harmful to minors, irrespective of the means of accessing such programmes or the broadcasting medium used, for both linear and non-linear services; draws attention to the fact that in most European PSB — both national and regional — programmes and broadcasting times for minors are laid down by contract or by law;

48. calls for the introduction of incentives to promote content specifically designed and adapted for children as well as the promotion of partnerships between audiovisual operators and the educational community in the digital environment. Educational programmes should be set up to teach young people at an early stage how to deal with all forms of social media, digital content and information services, etc.;

Media literacy

49. calls for further promotion of content relating to media literacy, also covering new media; calls for all available media — both digital and analogue — to be used wisely in order to improve people's quality of life and to ensure that everyone is able to participate fully in the media society;

Online media

50. deems it appropriate to look closely at whether it would be useful for the directive's scope to cover certain online media strands (video) and downloading services (such as download-to-rent and download-to-own) in particular by revising the definition of the term 'audiovisual media service';

51. notes that the TTIP negotiating mandate expressly stipulates that 'the Agreement shall not contain provisions that would risk prejudicing the Union's or its Member States' cultural and linguistic diversity, namely in the cultural sector nor limit the Union and its Member States from maintaining existing policies and measures in support of the cultural sector given its special status within the EU and its Member States';

Regulation

52. supports the inclusion in the AVMSD of the principles set out by ERGA — the European Regulators Group for Audiovisual Media Devices — in its founding declaration, referring to 'the identification, at European level, of common characteristics that any independent regulator in our sector should be equipped with' in terms of independence, transparent decision-making and appointment processes, competence and expertise, the effectiveness of enforcement powers, dispute settlement mechanisms and review of regulators' decisions by a judicial authority.

Brussels, 13 October 2015.

The President
of the European Committee of the Regions
Markku MARKKULA

Opinion of the European Committee of the Regions — Financial instruments in support of territorial development

(2015/C 423/07)

Rapporteur: Adam STRUZIK (PL/EPP), Marshal of the Mazovia region

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. sets forth its recommendations on the use of financial instruments in territorial development, taking as a basis an analysis of the legal environment, the question of usefulness in territorial development policy, and measures to ensure effectiveness and provide an institutional framework for the use of financial instruments;
2. stresses that, in view of the importance of the use of financial instruments in territorial development, the process of preparing this opinion has entailed gathering the experiences of the COTER commission and BUDG group members and carrying out consultations with the European Commission, the European Investment Bank (EIB) and other stakeholders with knowledge and experience of the use of financial instruments;
3. recognises that financial instruments can be important tools for territorial development. Repayable financing can ensure greater leverage from invested capital in certain areas where private financing can complement public financing and where returns are attractive enough;
4. underlines that the subsidy system plays an important role in fostering territorial development in particular in areas where the market has failed and where territorial cohesion challenges are a real issue and points at the complementary nature of subsidies and financial instruments as they ought to apply to different situations. Promoting the use of financial instruments must not lead to an excessive curtailment of the subsidy system or to a crowding out effect on the EU's budget allocated to cohesion policy;
5. expresses its support for the Council's conclusions on the challenges of implementing the Cohesion Policy 2014-2020 adopted on 9 June 2015 in Riga; in these conclusions, the Commission is called on 'to provide guidance on the use of financial instruments and on the synergies between different instruments in a timely, coherent, consistent and clear manner and to explore all opportunities to provide more clarity, in no case going beyond the scope of the legal provisions agreed by the co-legislators by creating additional obligations';
6. acknowledges the Court of Auditors' conclusions in Special Report 05/2015 on the use of financial instruments in rural areas ⁽¹⁾, which highlighted the risk of overcapitalising the guarantee fund relative to private investor demand, and also the consequences associated with a lack of leverage when private funding is needed to top up public funds. Calls therefore on the European Commission to learn lessons from this report;

The European Committee of the Regions wishes to stress that:

Legal environment

7. the goal of public intervention using the Structural Funds is to ensure the implementation of Article 174 of the Treaty on the Functioning of the European Union. The competent EU and national authorities should always, whenever setting out their positions or taking decisions regarding financial instruments, assess their impact on efforts to meet this objective;

⁽¹⁾ http://www.eca.europa.eu/Lists/ECADocuments/SR15_05/SR15_05_EN.pdf

8. under-regulating the use of financial instruments is as harmful as over-regulating it. It is important, particularly at the start of the 2014-2020 financial perspective, to adopt without delay all necessary legal solutions to avoid repeating the mistakes that occurred at the beginning of the 2007-2013 financial perspective;

9. once Member States have started to implement instruments financed using the European Structural and Investment Funds (ESIF), regulation at EU level should be introduced only in exceptional circumstances. It should be ensured that the authorities and the institutions of the European Union, particularly the European Commission (EC), consult with representatives of the regions on any regulatory changes having an impact on the programming, implementation and clearance of financial instruments of importance for territorial development;

10. permanent dialogue should be set up between representatives of regions, the EC, the EIB and associations representing businesses on the interpretation of the binding legal provisions, the effects of implementation, or emerging problems, so as to maximise the benefits of implementing instruments financed from the ESIF. The Committee of the Regions calls on the European Commission to provide an institutional framework for this cooperation as a matter of urgency;

11. notes also that any information on this subject should be transparent, as detailed as possible and communicated in simplified form, so that all parties who might be interested, whether they be natural or legal persons, can have all the background information needed to make a decision on investment or development. This reduces the hidden risks, ensures that administrative procedures can be assessed and planned and, on the whole, increases the interest of investors;

12. it should be ensured that the problems currently faced by regional and local authorities which opted to implement and use repayable instruments in the 2007-2013 financial perspective do not discourage them from choosing precisely this form of financing in the 2014-2020 programming period. Steps must also be taken to ensure that the risk created by under-regulating financial instruments in the 2007-2013 financial perspective does not act as a burden on managing authorities, financial intermediaries and, in particular, final recipients;

13. in the process of making possible corrections within the framework of the 2007-2013 financial perspective, it should be borne in mind that, under Article 98 of Council Regulation (EC) No 1083/2006 of 11 July 2006, account was taken of the nature and gravity of the irregularities and the financial loss to the Funds. The European Commission should take steps to ensure that the provision in question is observed both at EU level and in the individual Member States;

14. the CoR notes that point 20 of the Guidelines on State aid to promote risk finance investments⁽²⁾ stipulates that 'risk finance aid measures have to be deployed through financial intermediaries or alternative trade platforms, except for fiscal incentives on direct investments in eligible undertakings. Therefore, a measure whereby the Member State or a public entity makes direct investments in companies without the involvement of such intermediary vehicles does not fall under the scope of the risk finance State aid rules of the General Block Exemption Regulation and these Guidelines'. Consequently, when a managing authority makes a direct aid payment to an SME as part of a financial package, the aid in question can only be considered State aid compatible with the Treaty if the amount provided is smaller than the amounts decreed in the *de minimis* regulation, or if the aid is provided in accordance with other horizontal State aid rules (e.g. SMEs, regional cohesion, R&D, etc.). Calls therefore on the Commission to make sure this scheme does not result in the break-up of projects supported by financial instruments, and that the guidelines are not in breach of Article 38 of Regulation (EU) No 1303/2013 on common provisions for Structural Funds with regard to implementing financial instruments;

15. at all levels of implementation, steps should be taken to eliminate unnecessary regulatory constraints, which increase costs and reduce demand for financial instruments;

⁽²⁾ OJ C 19, 22.1.2014.

16. in the event of irregularities in the implementation of the Structural Funds under the 2007-2013 financial perspective, it is necessary to ensure that the expenditure in question is not presented for clearance with the Commission. However, it should be underlined that the withdrawal of funds from the intermediary or from the fund of funds in the event of irregularities being detected should only occur when it is not possible to ensure continued effective use. The Committee highlights, among other things, the intention of the second subparagraph of Article 78(6) of Council Regulation (EC) No 1083/2006 of 11 July 2006, which stipulates that eligible expenditure shall be determined at the partial or final closure of the operational programme. The Committee of the Regions calls on the European Commission to guarantee the above and, if necessary, to carry out all necessary regulatory changes in this respect;

17. steps should be taken to ensure that, as part of the process of clearing expenditure, reliable documents are submitted by the beneficiaries. The Committee of the Regions stresses, however, that most of the financial instruments used were developed on the commercial market. Therefore, in the clearing process, account should be taken of their nature and structure of implementation;

18. THE evidence of eligibility of expenditure required must be only such that is necessary in order to achieve the objective. Wherever possible, evidence should be permitted which places the least possible burden on beneficiaries and final recipients, such as statements. This does not affect in any way the need to carry out checks to verify the evidence submitted. A proposal should be drawn up on the use of the public registers of Member States. The Committee also proposes that, from the programming phase onwards, the system of evidence and checks should be set up in such a way that it does not have a negative impact on the decisions of beneficiaries or end-users in connection with the raising of funds;

19. in any market and in the case of financial instruments, a balance is established on the basis of supply and demand. The factor which affects the amount of supply and demand is price. The Committee of the Regions emphasises that, in the case of public financial instruments, natural market mechanisms should be used as much as possible;

20. in this context, it should be underlined that, in the case of collection of fees and commissions from SMEs by intermediaries, reducing the size of the eligible expenditure funded under the 2007-2013 perspective may act as a disincentive to sound management of public resources and lead to excessive distortion of natural market mechanisms. The Committee of the Regions calls on the Commission to take steps, together with the regions, to identify inefficient areas and to prepare appropriate remedial measures without delay;

Financial instruments as tools of regional policy

21. it should be underlined that the decision to use financial instruments must always be based on in-depth analysis and maximising public utility. The Committee of the Regions emphasises therefore that financial instruments must solve specific social, economic or environmental problems. One purpose could be to promote smart, sustainable and inclusive growth;

22. the decision to introduce financial instruments should always take into account the analysis of the impact that such an instrument will have on the other available forms of support, including the possible synergies obtainable by combining different forms of assistance and possible overlapping of instruments. Competent authorities should ensure coherence between instruments implemented at EU level (e.g. COSME and Horizon 2020) and other sources of support, in particular resources from the EIB, the ESIF and those financed with the help of national/local development banks and promotional banks. Taking into account the benefits of synergies, the Committee of the Regions calls on the European Commission and the European Investment Bank to ensure permanent dialogue with local and regional partners in this area;

23. it is important to stress the need to introduce solutions that enable different forms of funding and financing from different sources to be combined in a more flexible way. In the case of the ESIF, an overlap of eligible expenditure should be allowed with a view to combining subsidies and financial instruments. This is particularly important for entities excluded from the banking sector. The Committee of the Regions therefore calls on the European Commission, together with representatives of the regions, to draw up proposals for regulatory changes that take account of the interests of the weakest economic entities;

24. it is essential to avoid using territorial development instruments to stabilise the financial system and for counter-cyclical measures. These measures should be financed using other sources. The Committee of the Regions calls on the authorities and the institutions of the European Union to ensure that development resources are used in accordance with their objective;

25. the European Commission and the European Investment Bank should ensure appropriate participation of the regions in the use of financial instruments under the Investment Plan for Europe. Welcomes in that context that Recital 56 of the Regulation on the European Fund for Strategic Investments (EFSI) stipulates that regional and local authorities should be able to contribute to the establishment and management of the European investment project portal;

26. it is a good thing for financial instruments to attract private capital, and the European Commission must ensure that the level of leverage in instruments financed using European funds is optimal and consistent with the social objective set;

27. the CoR advocates the simplification of the EU's financial instruments and underlines that instruments need to be simple and easy to use with the right amount of checks and balances;

28. the CoR highlights the need to better promote financial instruments amongst potential users in order to increase knowledge of their specific added value and best use;

29. it should be ensured that financial instruments are distributed in accordance with social and economic needs, with a clear awareness of the regional dimension and an approach that takes account of the varying conditions that often prevail in municipalities and rural areas, by for example supporting small-scale projects and small regions' access to such financing opportunities. It is important to draw attention to potential adverse effects that may interfere with the optimal distribution of financial instruments;

30. the CoR points out that many local and regional authorities find it difficult to access the EU Funds as they are unable to co-finance them from their side; underlines that financial instruments need to be developed in order to help overcome this issue;

31. given the limited availability of external financing, particularly for small and micro-enterprises in the European Union, more flexible options for financing working capital are needed. In view of payment difficulties and the seasonal nature of production, working capital should be financed without unnecessary restrictions. To this end, the Commission should take appropriate steps to ensure such solutions, together with representatives of the regions;

32. allowing — in response to the economic crisis — the financing of working capital in the framework of the 2007-2013 financial perspective, must be regarded as appropriate from the point of view of European economic interests;

The effectiveness of financial instruments

33. it should be underlined that sound cooperation by the EC, EIB and local and regional authorities is a key element in ensuring the successful use of financial instruments in territorial development and across the cohesion policy;

34. taking into account the experience of the crisis, it must be borne in mind that public financial instruments must not lead to the excessive growth of risk in the financial system and in the banking system in particular;

35. before taking a decision to use instruments, it should be examined whether the financing of investments, e.g. through a debt instrument, will over-burden consumers with the cost of servicing this debt. In addition, it should be borne in mind that the benefits of using publicly-funded financial instruments must not be appropriated or diminished by financial intermediaries (e.g. the guarantee instrument should lower the cost of raising capital). It is also necessary to ensure that financial instruments are not a source of unjustified profit for intermediaries, e.g. through bancassurance or cross selling. The European Commission and national authorities must, in this case, adopt appropriate regulations;

36. the exchange of experience and knowledge between the EC and the EIB and local and regional authorities should be stepped up. In addition, local and regional authorities and the bodies responsible for the financial instruments already in place should carry out a joint analysis to make these instruments as effective as possible. The Committee of the Regions recognises the commitment of the European Commission and the European Investment Bank in this respect, but would like to underline that, in view of the crucial nature of the initial period of implementation, it is vital to step up work on full implementation of solutions, such as the fi-compass platform;

37. in order to promote the use of financial instruments — and not only as regards the implementation of the ESIF — the European Commission and the European Investment Bank should ensure that regions have the possibility of appropriate substantive support. This support should allow for a case-by-case approach to each region, but equally it requires that there is proper comprehensive guidance on how local and regional authorities can apply for financial instruments, EIB credit lines and EFSI loans, so as to ensure that they can make informed decisions on which financial instrument is more relevant for them in terms of size, type of investment and level of risk;

38. the CoR points out that financial instruments must be accessible for possible users on more advantageous terms compared to standard commercial loans;

39. while acknowledging the steps already taken, the Committee of the Regions calls on the European Commission and the European Investment Bank to swiftly implement awareness-raising programmes, including courses and training (at different levels and in regional languages) for the administrations in charge of planning, implementing and clearance of financial instruments, but also for regional financial entities, in particular non-profit organisations, which have limited access to such knowledge. Similarly given that some regions and groups of municipalities have successfully used EU-funded loan instruments in the past, there should be support for transferability of their models and lessons learned to other countries and regions. The Committee emphasises that e-learning must be used to this end;

40. the financing of bodies implementing financial instruments must encourage the efficient management of resources allocated;

41. when examining the need for standardisation of financial instruments (at regional, Member State and EU level) the chief guiding principle should be effectiveness with regard to the objectives set and the diversity of regions. Standardisation should not be based solely on the desire to reduce the management costs incurred by intermediaries;

42. while the process of instrument programming may turn out to be longer than in the case of subsidies, the speed with which financial instruments (loans and guarantees) are distributed should remain, at the start of the financial perspective, their key advantage over subsidies. To boost effectiveness and efficiency in the use of financial instruments, without prejudice to the rigour and quality of the ex-ante analyses required for the programming process, it is important that the time needed for administrative procedures is kept to a minimum;

43. those responsible must take into consideration the possibility of undesirable developments arising in the implementation of financial instruments, especially the crowding-out of private funds from the market as a result of public intervention. It is therefore necessary to adopt appropriate measures to safeguard against such phenomena. There is a need for appropriate cooperation in this area between the European Commission, the European Investment Bank and the regions including comprehensive official guidance of the different financial instruments that are available to local and regional authorities;

44. it should be stressed that the use of financial instruments, particularly in the case of entities excluded from the banking system, should ultimately lead to them obtaining access to banking services and long-term financing on the commercial market;

The institutional system

45. implementation of financial instruments using the ESIF should not focus on the clearance of the support granted, but on achieving long-term positive effects for the European economy;

46. financial instruments should be implemented both by large financial institutions (particularly in the case of large and complex products) and, for simpler instruments, by smaller intermediaries, implementing products from the area of micro-finance;

47. whereas there is a need to ensure an effective internal financing structure following public intervention, the European Commission, together with representatives of the regions, should develop appropriate solutions to ensure that, as a result of intervention in the 2014-2020 period, business environment institutions will be strengthened;

48. the CoR highlights that the controls performed at various levels need to be better coordinated in order to remove unnecessary burdens for local and regional authorities; however, the governments of the various Member States should be required to cooperate with local and regional authorities;

49. in so far as it does not conflict with other objectives, financial instruments should also be used to develop financial products, e.g. they should be used to promote public-private partnerships and energy service companies (ESCOs). To this end, the European Commission and the European Investment Bank would need to ensure the possibility of support for regions;

50. it should be borne in mind that changes to regulation or the additional burdens or risks associated with the distribution of instruments should not weaken financial intermediaries by causing them financial difficulties or damaging their market standing;

51. efforts to internationalise financial instruments (the institutions' activities, the flow of private funds, etc.) must be supported. This will make them more effective and efficient and thus help increase the competitiveness of the European economy.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

Opinion of the European Committee of the Regions — EU agenda on better regulation

(2015/C 423/08)

Rapporteur-General:	Spyros SPYRIDON (Greece/EPP), Municipal Councillor of Poros
Reference document:	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Better regulation for better results — An EU agenda'
	COM(2015) 215 final

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. considers it important that the Commission makes better regulation a policy priority in order to deliver better results for citizens. Innovative methods of consultation between the institutions can help to build a body of clear and effective EU legislation that will uphold the fundamental principles of the EU;
2. believes that better regulation, i.e. simple, quality legislative acts that are clear, properly incorporated into the legislation of the Member States and revised where necessary, contributes to deepening the single market, reducing red tape and creating added value for citizens and businesses;
3. is convinced that the majority of European citizens look to the EU as the institution that consolidates and safeguards the right to quality of life, environmental security, and economic, social and territorial cohesion;
4. endorses the Commission's heightened commitment to improving the quality of lawmaking, starting with the regulatory fitness and performance programme and the aim to cut red tape and remove regulatory burdens, thereby contributing to a favourable investment climate; endorses moves to simplify and reduce administrative burdens for private operators, whilst respecting, however, the need to strike a balance between simplification and maintaining environmental quality and protecting the rights and interests of individuals, workers, consumers and users. It stresses that better regulation and reducing unnecessary administrative burdens should not be used as a pretext for deregulation or non-regulation in sectors where citizens have legitimate expectations, as referred to above, or to avoid action in areas where the EU Treaties create clear 'obligations to act' for the EU institutions;
5. reiterates that better regulation should be carried out in the spirit of multilevel governance, through coordinated action by the EU, national, regional and local levels;
6. welcomes the way that better regulation has been upgraded politically, by putting the first Vice-President of the Commission in charge of the procedure, and anticipates an improvement in quality by producing legislation that lives up to the expectations of European citizens for achieving the ambitious goal we have set in respect of fundamental principles and the high standards of EU policy;
7. takes a positive view of the fact that the Commission has been at the forefront of efforts to implement the principles of good lawmaking throughout the entire legislative cycle, including a large part of secondary legislation, by means of innovative methods and procedures that are now internationally recognised good practice and set an example for the Member States;

8. would welcome closer involvement of regional and local authorities, through the CoR, in specific consultations at the legislative initiative stage, taking into account the territorial dimension. This will provide a practical response to the economic recession, making it possible to establish sub-national objectives tailored to differing local and regional situations; would welcome the involvement of regional and local authorities, through the CoR, in drawing up the actual objectives and implementing the strategies, given that their role is to implement and apply EU legislation while safeguarding local characteristics, in compliance with the subsidiarity principle;

Broad consultations

9. welcomes the extension of consultations to include stakeholders, local authorities and citizens in the preliminary legislative stages and in the implementation of legislation; their involvement from the early stages of the development of regulatory initiatives can lead to greater acceptance of the final regulations and can make transposition and application easier for national, regional and local authorities;

10. trusts that the Commission will make a distinction between institutions representing regional and local bodies (institutional stakeholders) and those representing private interests (private stakeholders), bearing in mind that only the former are democratically elected and thus democratically embody the real needs of the people, including those who are not individually able to make their voices heard. It would seem, therefore, that there is a need to strengthen the Commission's structured dialogue with the Committee of Regions as well as with representatives of regional and local authorities, so as to safeguard the democratic nature of the participatory process when drafting EU legislation. This stems from the conviction that the EU institutions should give priority to local and regional authorities, which champion the interests of all economic and social groups, over large corporations, including in consultations;

11. particularly commends the new 'Lighten the Load — Have your Say' platform and the Commission's commitment to expanding its functions and services. The Committee notes that whilst open online consultations can work in favour of organised groups and participants with advanced computer skills, they often have the effect of restricting the nature and scope of the proposal under discussion, and traditional methods of communication with the Commission, apart from the platform, should therefore not be excluded;

12. proposes that effective use be made of other instruments for targeted consultations (conferences, expert panels, workshops and meetings with stakeholders), as these will also ensure direct participation of the parties involved, and encourages the Commission to broaden their format and use (by introducing focus or user groups and test panels, etc.);

13. points out that public hearings must complement, rather than replace, the consultation of the social partners enshrined in TFEU Article 154(2);

14. as the consultation process is directly dependent on the representativeness of the participants and the quality of their contribution, consultations should in practice be conducted in such a way as to facilitate participation by stakeholders who are directly involved and the dissemination of information on the decision to be taken, particularly in the case of highly technical, knowledge-intensive legislative provisions;

15. notes the need for translation of at least the basic documents at each stage of consultation in all official EU languages, as this will facilitate the participation of more stakeholders and citizens in the process;

16. calls on the Commission to ensure greater transparency regarding the use of expert groups, when they are being set up, in what policy areas, who they represent and, in particular, the Commission's selection procedure for setting up such groups;

17. points out that, as has also been noted in a recent CoR opinion on REFIT (CIVEX-V-040), there is room for improvement as regards the consultation process, including providing more adequate feedback, better visibility of the process and the need to devote greater efforts to quantify the results. It urges the Commission to take the CoR's recommendations into account in the new procedure;

18. stresses that the involvement of local and regional authorities, stakeholders or citizens in consultations through their institutional representatives, such as the CoR and the EESC, which must be clearly distinguished from other stakeholders, will contribute to the objective of better regulation, particularly in view of the fact that time-frames are often limited and it is easier to obtain a response from the above bodies, which have extensive networks. Their active and meaningful involvement in the process of better regulation is a prerequisite for high-quality results;

19. if the objective of partnership and better and more effective legislation is to be achieved, a number of operational guidelines should be drawn up, to be applied when assessing the subsidiarity principle in the preparation of new legislation;

Impact assessments throughout the entire legislative cycle

20. welcomes the Commission's commitment to extensive scrutiny in the form of impact assessments throughout the legislative cycle;

21. proposes that the Commission publish all *ex ante* impact assessments, even for initiatives that are not translated into legislative proposals, in the interests of transparency and strengthening accountability; the publication of the inception impact assessments at the start of the policy cycle is regarded as a good first step to provide feedback and bring forward concerns on subsidiarity;

22. considers multifaceted impact assessments to be useful, as they are not confined only to the economic dimension, but equally encompass protection of the environment and nature, consumers, health and employment, social protection and labour law. They also include both the possibility of non-regulation and, in the case of regulation, an exploration of the implications in terms of safeguarding the fundamental principles of the EU and their impact on social and territorial cohesion;

23. in particular, for each piece of new or secondary legislation, it insists on the need to carry out territorial impact assessments. The CoR, with its know-how, will actively contribute to this, including through its platforms and networks which provide a good access point to regional and local authorities. Following the Commission's commitment to 'keeping the EU competitive and the EU's development sustainable' ⁽¹⁾, it also calls for competitiveness and sustainability proofing;

24. while acknowledging the importance of SMEs as a motor for growth in the EU, it regrets the lack of care in assessing the effects of legislation, in particular as regards reducing the administrative burden for local and regional authorities, which are required to implement the bulk of EU legislation;

25. takes the view that modernisation of legislation must be in line with the EU's *acquis* regarding the safeguarding of EU principles. It therefore calls for care to be taken when implementing the regulatory fitness and performance programme (REFIT) so as to comply with the obligation to maintain the EU's high standards in social and environmental matters and achieve the objective of deepening the single market. It would emphasise that the objective of the REFIT programme is not deregulation but improved and more effective regulation through the reduction of unnecessary administrative burdens, better interconnection between means and objectives, and the participation wherever possible of stakeholders in the decision-making process;

26. insists that in carrying out impact assessments there should be less reliance in contracting them out to external consultants, particularly on issues of direct local and regional concern. Instead, CoR and representative bodies of local and regional authorities are better placed to provide evidence of what is the situation on the ground;

⁽¹⁾ COM(2015) 215 final, point 3.1.

27. particularly in the case of SMEs, stresses that exceptions to the general rule must strike a careful balance between the benefit to recipients and protecting the common European interest and must not risk undermining high standards of protection (of workers or the environment);

28. calls on the development of a more structured form of consultation to local and regional representatives in the pre-legislative phase, taking perhaps inspiration from the existing methodology of the European Social Dialogue that involves the Commission and the social organisations in preparing EU legislation directly concerning them;

29. takes a positive view of the Commission's announcement that it intends to consider simplification of regulations relating to the common agricultural policy and the European Structural and Investment Funds, and reiterates its proposal for a fitness check of legislation in the relevant areas for local and regional authorities, including urban policy, environmental legislation, the transport sector, and for action to reduce administrative burdens such as licensing procedures and authorisations;

30. notes that the REFIT programme can also contribute to improving the cost-benefit ratio for local and regional authorities, as well as for businesses, by freeing up human and financial resources and promoting the competitiveness of the EU;

The role of the CoR

31. considers that, because of its permanent nature and composition, the new Regulatory Scrutiny Board with its extended mandate partially addresses the concerns of the CoR regarding its effectiveness and, insists that while respecting the independence of the Commission which represents the general interest, the Regulatory Scrutiny Board could ideally be made of independent external experts, as it is the case of similar bodies in some Member States;

32. emphasises that at least one of the external experts of the Regulatory Scrutiny Board should have experience in local/regional governance and administration;

33. welcomes the Commission's decision to include a CoR representative on the new REFIT platform, in response to a previous request from the CoR. However, it would reiterate that the institutional role of the Committee should not be confused with the role of other stakeholders involved in the platform;

34. recalls that the Treaties recognise the local and regional dimensions of the subsidiarity principle as well as the role of the CoR, and calls for the inclusion of the Committee of the Regions in the new Interinstitutional Agreement on Better Regulation. Repeats its concerns about the degree of consultation of local and regional authorities in shaping the EU's policies and about the need for timely and comprehensive information in order to express itself. Some members of the European Parliament have asked for a more active participation of the CoR and its experience and know-how at the early stages of the preparation of legislative proposals;

35. welcomes that the REFIT platform is being formed through an open call process. Nevertheless the Committee of the Regions requests that this open call is widened so that it specifically allows representatives of European and national organisations of local and regional authorities to be able to directly apply and be represented in it;

36. calls on the directorates-general of the Commission and the co-legislators to recognise the role of the CoR and its members as an institutional partner and to consult both the CoR and the local and regional authorities more closely when carrying out impact assessments;

Better regulation requires the active participation of all tiers of government

37. notes the uneven application of procedures for better regulation by Member States. This means that a clear distinction cannot be made between the effects of EU legislation due to the way in which it is implemented, and the effects that stem directly from the EU legislation itself, making it difficult to comprehensively monitor the life cycle of legislative acts;

38. calls on the Member States to heed the Commission's calls for better implementation of the procedures of better regulation, both in the Council and in national administrations;

39. calls on the Member States concerned to provide a national EU consultation process that involves local and regional authorities, including through their national organisations, in a timely manner and at all stages. These authorities have considerable technical knowledge, expertise and experience in implementing legislation;

40. urges the Commission to examine the causes leading to late or poor application by Member States of EU legislation and to seek solutions to this important problem, including giving reasons for the choice between directives and regulations, and to step up its efforts by strengthening the support, control and enforcement mechanisms;

41. emphasises that the transposition of directives into national law is a national process where both national and regional and local administrative arrangements have to be adapted. This requires both sufficient time and room for manoeuvre. The CoR believes that the Commission's intention to publish implementation plans for legislation and guidelines, in addition to controls not only for the formal but also for the practical transposition of provisions into national law are a step in the right direction;

42. points out that legislation that is simple, understandable and easy to comply with, and is accompanied by a thorough impact assessment and roadmap for implementation, will make for speedier and more efficient transposition into national law and enhance compliance;

43. recognises the right of countries to ensure higher standards than those laid down by the actual EU legislation. This should not, however, be confused with the practice of the so-called 'gold-plating' where Member States add additional legal or administrative requirements in the process of transposing EU legislation into national law. It is important for the public to understand clearly which obligations derive from the EU and which are a result of legislative 'gold-plating' by Member States and the Committee of the Regions therefore asks Member States to identify and justify clearly any additional provisions made by them when transposing EU legislation;

44. notes that 'gold-plating' has been defined in a variety of ways, by the institutions (such as the CoR⁽²⁾ and the European Commission) and by other organisations. The Committee reiterates its proposal for a common definition to be adopted, to assure legal clarity in the transposition and implementation of EU law and to enable benchmarking between Member States;

45. stresses the need for timely, accurate and effective transposition of EU law into national law;

46. expresses its satisfaction with the Commission's commitment to thorough scrutiny of the proportionality and subsidiarity principles in legislative proposals and reiterates, in this respect, that the role of the CoR and national parliaments is legally enshrined;

47. points out that national, regional and local administrations enact a number of rules and laws based on EU legislation, which is why it is essential to ensure that implementation of new EU legislation is assessed to make it as simple and administratively straightforward as possible, so that individual tiers of government do not use unnecessary resources and expenditure when it comes to implementation;

48. regrets that the 'better regulation' package does not appear to improve the assessment of the subsidiarity principle so as to ensure that decisions can be taken in the lowest tier of government as possible, in line with the Committee of the Regions subsidiarity assessment toolkit;

Good quality regulation calls for enhanced institutional cooperation

49. is aware that there continues to be a lack of participation in the EU decision-making process in many Member States. Therefore stresses the need to include local and regional government, which are the tiers that are the closest to the citizens, in the lawmaking process, as well as the importance of transparency, accountability and a citizen-friendly and business-friendly approach that should prevail in the EU institutions;

(²) CIVEX-V-040, 30 May 2013.

50. proposes that wherever possible all the directorates-general of the Commission, the European Parliament and the Council adopt and implement harmonised rules on impact assessment at all stages in the legislative process, since this will contribute to mutual understanding and better quality;

51. would urge the co-legislators to respond to the Commission's call for swift adoption of the new Interinstitutional Agreement and subsequent implementation of the commitments it entails, to allow the better regulation procedures to be upgraded across all the European institutions and to promote the implementation of EU legislation by citizens;

52. emphasises that close cooperation with the EESC in the subcommittee on better regulation would be beneficial as it would make for better coordination of the positions of civil society and of representatives of local and regional authorities;

53. believes that withdrawing legislative proposals that have been in the pipeline for a long time could contribute to good European governance, but should be undertaken with care to avoid it becoming a means of applying pressure on co-legislators. Clearly the co-legislators, being competent, should be allowed a reasonable period of time and the general possibility to express their views on the proposals to be withdrawn;

54. agrees with the proposal of the European Parliament to the Commission to consider introducing 'sunset clauses' in legislative initiatives of limited duration, provided that it does not create any loopholes, and 'review clauses' within a reasonable time after the entry into force of the measures so that existing measures can be evaluated. The Commission should encourage Member States to introduce 'sunset clauses' also when assessing national legislation, in particular where it is an obstacle to the swift transposition of EU legislation;

55. observes that the consequences of legislation should be explored not only at the time of the Commission's proposal, but also after significant changes introduced by the co-legislators. It points out, however, that doubt should not be cast on the democratic legitimacy of the legislative process and that these impact assessments must not lead to a restriction of the room for manoeuvre available to the co-legislators, and therefore does not support the idea to carry out further impact assessments in the period between the conclusion of negotiations and the final vote;

56. notes the absence of any reference to self- and co-regulation as more flexible procedures for cooperation between the public and private sectors, in a constantly changing world where legislation may lag behind regulatory needs;

57. highlights the importance of diversifying consultations and creating stable consultation and monitoring networks for issues requiring specialist knowledge, and of also making effective use of participants in consultations after legislation has been adopted, particularly as regards the control and monitoring of implementation;

58. welcomes the fact that the Commission wishes to establish clearer criteria for when it should use delegated acts and when it should use implementing acts. It is also positive that the Commission will have the option of consulting interested parties before tabling any proposals for delegated acts; calls on the Commission, therefore, to apply this procedure in all areas, and not only when the Commission considers it to offer added value;

The quality of legislation will depend on the commitment in practice of all the stakeholders to implementing the agenda

59. is confident that the Commission will make every effort to fully implement the provisions of the communication, despite the increase in the administrative burden and the commitment of human resources that may be required;

60. draws attention to the need to avoid creating further delays in producing legislation as a result of the new procedures of better regulation;

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61. stresses the obligation to inform public opinion in the Member States and to promote the consultation process by mobilising local or regional government, in order to raise greater awareness and increase participation by citizens and stakeholders, and at the same time to enhance the democratic decision-making process;
62. undertakes to inform local and regional authorities about the new procedure for better regulation for better results and to contribute to better implementation of legislation at EU, national and regional level.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

Opinion of the European Committee of the Regions — The Draft EU Budget for 2016

(2015/C 423/09)

Rapporteur:	Uno SILBERG (EE/EA), Member of Kose Rural Municipal Council
Reference document:	Draft General Budget of the European Union for the financial year 2016 — General Introduction — General statement of revenue — General statement of revenue and expenditure by section
	COM(2015) 300 final

I. GENERAL COMMENTS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. notes that this is now the third own-initiative opinion on the EU's annual budgetary procedure; the main item for consideration is Section III of the draft EU budget with the exception of administrative expenditure under heading V;
2. stresses once again that the process of drawing up the annual EU budget — in line with the subsidiarity and proportionality principles — has both a direct and an indirect impact on the budgets of local and regional authorities. It is important in helping them to carry out their assigned tasks and to adapt to new challenges on the ground;
3. underlines the crucial role of the EU budget in triggering investments, given that its leverage effect, complementing national and subnational private and public finances, contributes to competitiveness and economic, social and territorial cohesion in the EU;
4. notes that in times of difficult economic environment and scarce financial resources, emphasis should be put on better spending and performance of the EU budget rather than on absorption and compliance; welcomes the efforts of the EC to focus on concrete results achieved with higher EU added value based on better leverage of EU funds and more simplification efforts;
5. welcomes the 2016 draft budget (DB) and its priorities, which are both in line with the new European Commission programme to boost the economy with investment in jobs, growth and knowledge and which facilitate a response to recent developments such as the migration crisis and the unstable situation in the EU neighbouring regions;
6. criticizes that the considerable delay in the start of new programmes under the 2014-2020 MFF period owing to the late approval of the Operational Programmes will have negative implications on the territory of the LRAs; urges the European and national institutional level to take all necessary measures, together with regional and local authorities, in order to make good the delays in the implementation of the new EU funding;
7. notes that the EU draft budget for 2016 provides for EUR 153,5 billion in commitment appropriations (5,3 % down on 2015) and EUR 143,5 billion in payment appropriations (1,6 % increase on the 2015 budget);
8. draws attention to the fact that, while commitments are decreasing, the level of payments remains quite stable in real terms relative to 2015 and includes appropriations to gradually reduce the backlog of outstanding claims from the last budgetary period, which reached EUR 24,7 billion at the end of 2014;

9. welcomes the creation of a special payment plan as the result of an agreement, however is concerned that payment shortages will have a damaging effect on beneficiaries, particularly on LRAs, who are currently facing many economic and social challenges; also points out that the difference of EUR 10 billion between commitments and payments will not address the structural problem of the backlog of outstanding claims to be expected at the end of the programming period and laments the limited involvement of the CoR in the analytical process;

10. wonders if interest rates should not be applied to the delays in the Commission's payments to project managers;

11. emphasises the CoR's readiness to contribute to the debate on the reform of the system of EU own resources: a thorough overhaul of the system is unavoidable, as its current shortcomings are causing gridlocks in budgetary negotiations and are at the very heart of the issue of outstanding payments. The only credible solution would be to introduce a proper own-resource mechanism for the EU;

II. POLICY RECOMMENDATIONS

Budgetary procedure

12. stresses that the EU budget has a direct impact on local and regional authorities, since they are beneficiaries and, at the same time, managing authorities of some programmes;

13. highlights that the EU budget has acquired even greater importance due to the economic and financial crisis and budgetary austerity, as it also supports the implementation of programmes and of public and private investment projects that would be difficult or impossible to finance during such crises and that also help to manage them;

14. requests that the CoR attend interinstitutional meetings on the state of play and outlook for budgetary implementation in the current and future years, to be held based on the provisions of point 36 of the Annex to the multiannual financial framework (MFF) interinstitutional agreement;

15. underlines the persistence of a too significant gap between commitment appropriations and the ceiling set by the MFF, in a situation of austerity measures and significant cuts in public and private investment, to finance measures aimed at job creation, fighting unemployment, tackling migration issues or reducing regional disparities;

16. is particularly concerned about the weakness of the contingency reserve in the 2016 budget in particular with a view to the costs of managing the European migration crisis which, on the basis of the Commission's plan to relocate 160 000 asylum seekers throughout the Union and an assistance of EUR 6 000 per person supported, should amount to at least EUR 1 billion;

Competitiveness for growth and employment

17. stresses that the EU's global economic competitiveness must be improved by turning it into a smart and inclusive economy; therefore welcomes the fact that the draft budget under heading Ia provides for a 7,8 % increase in commitment appropriations compared with 2015, in order to increase competitiveness and create economic growth and jobs;

18. reinforces its recommendation already set out in its opinion on the draft budget for 2015 ⁽¹⁾ that a specific budget line be created for providing technical assistance to the Adriatic and Ionian macroregion, as well as the Alpine macroregion, modelled on the one established in 2014 for the Baltic Sea and Danube macroregions, amounting to EUR 2,5 million in commitment and payment appropriations respectively;

⁽¹⁾ COR-2014-01750-00-00-AC.

Investment Plan and flexibility

19. points out that the draft budget includes new elements compared to previous budgets, such as the EFSI, the global margin for commitments, as stipulated in Article 14 of the MFF, introduced for the first time, and provisions for the use of flexibility to finance new initiatives under heading III;

COSME, Horizon 2020 and the Europe 2020 strategy

20. points out that COSME continues to be the EU's only programme specially geared towards SMEs and improving competitiveness, and is concerned about the reduction in commitment appropriations compared with the draft budget for 2015;

21. welcomes the fact that part of the global margin for commitments and unused margins will be used to finance the EFSI and that cuts in the Horizon 2020 and CEF programmes have been reduced, in line with the CoR's recommendations;

22. believes that a reduction in strategically significant research could have considerable negative repercussions in the long term and for this reason it opposes the proposed cut in commitment appropriations for the Horizon 2020 programme. There is hope, however, in that appropriations for payments for Horizon 2020 are set to increase by 10,45 %;

23. is pleased to note that the budget provides for more funding for cutting-edge research in the fields of food security, sustainable agriculture and the bioeconomy. The Commission's initiative to mobilise additional funding through Horizon 2020 for research and innovation, drawing on the potential of the public and private sectors, is to be welcomed;

24. notes that many small and micro enterprises still cannot afford to undertake scientific research, which explains why take-up of the relevant funding is lower;

25. expresses concern over the 2,5 % reduction in commitment appropriations for the Europe 2020 strategy compared with 2015. Further reductions in commitment appropriations will make it harder to achieve the Europe 2020 targets;

Economic, social and territorial cohesion

26. notes that an integrated budget model could be used to standardise EU Member States' revenues, with more being invested in cooperation between Member States in the areas of research and development; this should be based on the needs of local businesses, which in turn will improve their competitiveness, regional development and people's incomes;

27. welcomes the fact that funding for programmes and measures due to start in 2016 has been approved and confirmed. The cohesion policy programmes (ESF, EAGF, ERF, Cohesion Fund) co-financed with Member States have been approved, and the commitment appropriations available because of delays in previous periods are now being used; at the same time, the Committee hopes that the Commission will make sure that full use of funding is made in these programmes;

28. hopes that the Commission's capacity to make payments improves on the whole, and that the target groups receive the investments they require on time;

29. draws attention to the need for EU Member States to exercise budgetary discipline and calls on the European Commission to encourage the use of ESI funds for economic recovery centred on investments, fiscal consolidation and structural reforms; points out, in this connection, the important role of cohesion policy as the EU's main investment policy aimed at reducing disparities between European regions by strengthening economic, social and territorial cohesion;

30. calls on the European Commission to adhere to its rules on financial reporting; underlines that currently the reporting obligations are administrative and time demanding; calls therefore for simplification of the reporting system;

Sustainable growth: natural resources

31. is concerned about the lack of sufficient funding under heading II to offset the loss of income of farmers in the EU Member States caused by the steep fall in the price of agricultural produce stemming from low purchase prices and from the abolishment of milk quotas, the current swine fever outbreak in Europe and Russian sanctions, and is disturbed by the lack of provision for (direct) assistance to ease these situations;

32. draws attention to the general introduction to the budget, which states that the funds for mitigating the effects of the Russian sanctions have been reduced under heading II, and does not agree with the suggestion that market conditions and prospects are favourable;

33. considers that the reserve arising from the margin between the commitment appropriations for the European Agricultural Guarantee Fund (EAGF) and the possible ceiling (approximately 1,7 % of commitments under the EAGF) is not explained clearly enough. Finalised action plans are expected on the ground that show when and in which circumstances the reserve can be used (for example, the outbreak of crises or for managing crisis-relief measures);

34. regrets the inadequacy of the means proposed by the European Commission for a reserve for the agricultural crisis and the insufficient increase of appropriations for the European Agricultural Fund for Rural Development (EAFRD) compared with the 2015 commitment appropriations;

35. is concerned about the way the absorption rate for the 2007-13 programmes has developed and wonders if the assumptions made by the European Commission are not too optimistic;

36. fears that in some cases Member States would seek speedy disbursement of funds in order not to lose committed amounts, thus increasing the risk of irregularities, which could lead to financial corrections, and that unabsorbed funds at the end of the programming period would result in automatic decommitment;

37. stresses that local and regional authorities, as the main beneficiaries, would pay the heaviest price for irregularities and decommitments, as their financial burden would increase;

38. calls for better-quality financial planning at all levels and for an effort to avoid mechanical programming of commitment and payment appropriations by the European Commission;

Security and Citizenship

39. stresses the importance of the commitments made in the 2016 draft EU budget and calls for them to be further strengthened in response to recent developments that entail new, more cumbersome and onerous tasks, such as the migration crisis and new problematic situations in neighbouring regions; supports the application of the flexibility instrument in an appropriate form; fears, however, that the proposed increases might prove to be insufficient and that even more resources will be required;

Europe in the world

40. takes the view that the EU's 2016 budget must demonstrate the EU's determination to take on a more active and serious role internationally in combating the causes of the crisis, and to take into account local, regional and global interests and obligations;

Next steps

41. calls for earlier presentation and adoption of key legislative proposals for the next programming period (post-2020). In fact, delays in adoption of the multiannual financial framework as well as the Common Provisions Regulation and other ESIF-specific regulations, resulting from lengthy negotiations, have caused the 2014-20 programming period to get off to a slow start and are one of the main reasons for the rise in outstanding commitments (RAL). The Committee will strive to actively contribute to an early debate on the future of cohesion policy post-2020 and will submit its contribution to the discussions in due course;

42. underlines the importance of the High Level Group on Own Resources and its 'first assessment report', which proposes that the issue of own resources be examined from as many perspectives as possible;
43. stresses its readiness to participate in the debate on reform of EU own resources. In the Committee's view, a fundamental reform is absolutely essential, as the shortcomings of the current system have already led to problems in the budgetary negotiations, and even greater problems are likely, e.g. the negative impact of outstanding payments and arrears on the co-financing of investment projects at national, local and regional levels;
44. has opened a timely preliminary debate on the planning of measures for the next programming period post-2020 that have a direct and immediate impact on local and regional budgets and reflect changing needs, with the aim of avoiding the problems which arose during previous programming periods and particularly at the beginning of the 2014-2020 programming period.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

Opinion of the European Committee of the Regions — Towards a global climate agreement in Paris

(2015/C 423/10)

Rapporteur: Ms Annabelle JAEGER (FR/PES), Member of Provence-Alpes-Côte d'Azur Regional Council

Reference document: Communication from the Commission to the European Parliament and the Council — The Paris Protocol — A blueprint for tackling global climate change beyond 2020

COM(2015) 81 final

POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

In the run-up to the 21st Conference of the Parties of the United Nations Framework Convention on Climate Change (COP 21), and in line with its previous reports ⁽¹⁾:

- strongly supports the European Union (EU) playing its full role as leader in international negotiations,
- urges the EU to step up its efforts prior to 2020 and accelerate the entry into force of the new climate change agreement, particularly in the areas of energy efficiency, the CO₂ pricing signal in Europe and mobilising international funding for tackling climate change in developing countries,
- encourages it to raise its level of Intended Nationally Determined Contribution (INDC) before Paris and no later than 2016, and believes that the Paris agreement should be a sustainable, dynamic agreement that provides a mechanism allowing state contributions to be evaluated and enhanced regularly (every 5 years),
- encourages the EU to show how it will honour its share of the financial commitments taken in Copenhagen in 2009 and to defend a fair approach towards funding and differentiation, which will support energy transition and resilience in the poorest and most vulnerable areas in the world,
- calls for a new global climate governance model based on the principles of multi-level governance, that fully recognises the action of non-state actors and that would allow each level of government to maximise its climate action.

An ambitious agreement in Paris — the European Union's decisive role

1. In light of the fifth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC) and its summary report, the CoR is deeply concerned that the world is not on track to keep the temperature increase below 2 °C. It recognises the urgent need to step up efforts to reduce greenhouse gas emissions, to adapt to the impacts of climate change and to adopt an agreement in Paris which will allow temperatures to remain below this threshold.

2. Consequently, the CoR calls on the EU to actively support a long-term global target based on the safest IPCC scenarios. The aim is to reach zero carbon emissions in 2050. Such a shared target would send a strong signal to all countries and stakeholders, particularly investors, steering the global economy away from fossil fuels.

⁽¹⁾ CoR Opinion *A Policy Framework for Climate and Energy in the period from 2020 to 2030*, CoR 2691/2014, Annabelle Jaeger (FR/PES); CoR Opinion *Green Paper on Framing 2030 Climate and Energy Policy*, CoR 5810/2013, Sirpa Hertell (FI/EPP); CoR Resolution on COP 19 UNFCCC — *Advancing the International Climate Change Agenda*, CoR 5883/2013; CoR Opinion *EU Strategy on adaptation to climate change*, CoR 3752/2013, Neil Swannick (UK/PES).

In relation to this, the CoR also points out that the EU has set a long-term target of reducing greenhouse gas emissions by 80 % to 95 % by 2050.

3. The CoR considers the first commitments made by the EU as part of its INDC to be a move in the right direction. However, the CoR urges the EU to go further by deciding to carry out an upwards revision of its fixed obligations, set by the European Council in October 2014. The CoR believes ⁽²⁾ that a greenhouse gas reduction of at least 50 % in Europe would be both realistic and beneficial for Europe. It is also possible and desirable to achieve at least a 40 % share of renewable energies and 40 % energy efficiency. Furthermore, the CoR believes that the EU should support the inclusion in the Paris agreement of commitment periods and revision cycles of five years, beginning in 2025. This will avoid becoming locked into a lower target for a long period, and take regular account of developments in science and technology.

4. The CoR calls on the EU and non-EU developed countries to set out a financial package to support efforts to adapt to climate change and reduce greenhouse gas emissions in developing countries before COP21. The CoR is awaiting a roadmap on increasing funding from the EU. Funding should be predictable, transparent, new and additional. In this document, the EU will indicate how it intends to honour its pledge to raise its fair share of the commitment of USD 100 billion dollars per year by 2020. In the Paris agreement, the EU should also support the principle of new financial commitments for the post-2020 period, drawn up every five years with separate objectives for adaptation — which has been the ‘poor relation’ of climate funding;

5. The CoR also welcomes the EC’s position that the agreement and accompanying decisions need to provide a framework for a strong set of rules on transparency and a common, unified system for regularly measuring, reporting and verifying each Party’s performance on its GHG emissions targets. Such a framework will be an essential foundation for meaningful global cooperation on climate and is necessary to promote trust and confidence that the commitments are met. It will also be key to understanding the mitigation level achieved and encouraging ambition and as such is in everyone’s interest;

6. The CoR welcomes the European Commission’s (EC) position on including adaptation as a pillar of the agreement (along with the reduction of greenhouse gases and funding). It is essential to recognise the clear link between the increase in temperature and the increased need for adaptation.

The CoR is also pleased that in the end the Green Climate Fund has decided to divide its funding equally between climate change mitigation and adaptation. It recommends that the EC use the Mayors Adapt initiative — launched in 2014 as part of the EU strategy on adaptation to climate change — as a possible example of good practice for international partners to follow in order to improve the resilience of local areas.

The developing countries, in particular the least developed countries and small island states, are the most vulnerable to the effects of climate change: the new climate agreement should take account of their adaptation needs.

7. The CoR also recommends that the European Union increase its efforts to tackle climate change now (without waiting for the entry into force of the Paris agreement in 2020), by:

- significantly increasing the price of carbon in Europe, until it reaches a credible level that will redirect public and private investment. After the adoption of the EU Emissions Trading System (EU ETS) market stability reserve ⁽³⁾, the post-2020 structural reform of this tool should permanently reduce the surplus of CO₂ allowances and increase the Member States’ yield from the sale of allowances,

the European Union should support allocating all income from the EU ETS to energy transition and to the global fight against climate change (at least 50 % to the Green Climate Fund),

- making extensive use of renewable energy sources and energy efficiency,

⁽²⁾ CoR 2691/2014 Opinion on ‘A policy framework for climate and energy in the period from 2020 to 2030’, Annabelle Jaeger (FR/PES).

⁽³⁾ (European Union Emissions Trading Scheme — EU ETS).

- rapidly reducing public support and subsidies for fossil fuels, the main cause of climate change (whether for exploring new reserves, production or consumption),
- supporting specific local activities and mobilising all stakeholders,
- encouraging green public procurement (GPP) for products and services that are more energy-efficient.

The regions and towns — driving the success of climate objectives

8. The cities and regions have a key role to play in achieving and strengthening national climate change targets. Because they deal with mobility, transport, urban planning, construction, energy and green infrastructure, they are indispensable players in the global effort to reduce greenhouse emissions and increase resilience to the effects of climate change.

9. The CoR is delighted to note that the new climate regime seems set to put more emphasis on the effective implementation of commitments taken under the Paris Protocol. The role of cities and regions has been highlighted by the Commission and many other stakeholders at the UN⁽⁴⁾ talks on climate change. These parties advocate that the new agreement should recognise action taken by cities and regions, without which the Member States would not be able to meet their commitments. The credibility of the pledges made by the parties will depend on the firm and real commitment of cities and regions, as well as industry or investors.

10. A stronger focus on the Covenant of Mayors, and an extension until 2030 and 2050, is necessary in order to give new impetus to the 6 500 European cities and regions that have signed it and that are committed to going further than European targets for lowering greenhouse gas emissions by 2020.

The CoR supports the expansion of the Covenant of Mayors at global level and calls on the EC to provide the necessary means for such action, as it respects local realities. This expansion should be done in coordination with and in compliance with other international and national initiatives carried out by networks of local authorities, such as the Compact of Mayors. At the same time, cities that have decided to tackle climate change without signing up to the Covenant should not be marginalised.

11. The CoR calls on the Commission to support the inclusion of quantifiable, measurable efforts made by cities and regions in the national contributions in the new agreement (on lowering greenhouse gases, energy savings and renewable energies). In particular, the EC can build on the work of the Compact of States and Regions, the Covenant of Mayors and the Compact of Mayors, which all contain clear, specific and transparent commitments on the part of cities and regions in Europe and throughout the world.

The CoR deems it necessary to create the appropriate conditions — in terms of regulation and financial mechanisms — to enable cities and regions to pursue the best courses of action.

12. The CoR highlights the need for a voluntary and innovative investment policy which is geared towards the regions in sustainable projects — particularly in the area of energy and adaptation. This policy should involve cities and regions in the process of allocating funding and include smaller scale projects under the Juncker plan. It recommends examining the prospect of deducting climate investment from the 'Maastricht' debt calculation.

13. The CoR recommends facilitating access for cities and regions to the main global climate funds, namely: the Green Climate Fund, the Global Climate Facility and the Adaptation Fund.

In particular, direct access to global climate funds for regional and local authorities in the most vulnerable developing countries, particularly the Green Climate fund would enable such stakeholders to step up their activities, as part of a shared approach to climate change and the millennium development goals.

⁽⁴⁾ United Nations.

14. The CoR proposes a global climate governance system that places the work of cities and regions on an official footing, based on the principles of multi-level governance:

- it notes that regional and local authorities want to see a paragraph on their essential role in addressing climate issues included in the text of the new agreement and to have their role in the process of the United Nations Framework Convention on Climate Change (UNFCCC) formalised, in order to be able to maximise their potential for climate action,
- it requests particularly that a day dedicated to local authorities — as well as a space dedicated to local governments — be organised systematically during COPs by the secretariat of the UNFCCC and the host country, as has been done for COP21 this year,
- in addition, it calls for a structured dialogue to be established during the round of negotiations and not only during the end-of-year international conferences. The Commission could set an example by establishing a dialogue with the CoR several times a year before and during conferences organised by the UNFCCC (COP and preparatory conferences in Bonn, Germany).

15. The CoR welcomes the World Summit on Climate & Territories which will be held in Lyon on 1 and 2 July, as well as the World Summit of Local Governments for Climate to be held in Paris on 4 and 7 December, and it intends to take part. These events are an opportunity for all non-state stakeholders to work together before and during COP21, and to reaffirm their essential role by announcing strong commitments aimed at galvanising global climate action, particularly on the part of states.

16. Finally, the CoR recommends that the European Union support the implementation of a COP decision establishing a work programme on climate action by cities and regions, by defining a *modus operandi* between local and regional authorities and Member States. An example of this is the Convention on Biological Diversity (CBD), which in 2010 adopted an 'action plan for the cities and regions' ⁽⁵⁾. This kind of plan would constitute a flexible application of the principle of multi-level governance at international level.

The involvement of all stakeholders — a requirement for the success of COP21 and for tackling global climate change

17. The IPCC and the United Nations Environment Programme (UNEP) have stated clearly that, in order to contain global warming below 2 °C by the end of the century, all parties must step up their efforts to reduce emissions immediately, beginning with the countries that are primarily responsible for climate change.

The new climate change policy should be based on the broad support of all stakeholders and be implemented using a bottom-up approach. In this regard, cities and regions play a vital role in terms of informing, educating and bringing together stakeholder initiatives.

18. Taking account of ongoing discussions on the 'Agenda for Action' put forward by the French and Peruvian COP co-presidencies in order to enhance climate action by all stakeholders, the CoR reiterates its desire to see cities and regions involved in this agenda. The CoR:

- calls on the cities and regions of Europe to continue and extend their commitment to measurable targets on reducing greenhouse gases, clean transport, developing renewable energies and energy savings to give new impetus to the Paris agreement. It invites them to join the Covenant of Mayors, and the Compact of Mayors and Compact of States and Regions initiatives and to participate in the major meetings in Lyon and Paris to demonstrate their determination,
- calls on the cities and regions to continue to share best practices with the other Member States, as well as with the North and South, particularly via the NAZCA platform ⁽⁶⁾, the Compact of Mayors and the Compact of States and Regions,

⁽⁵⁾ Decision CBD COP10: X/22 Plan of Action on Subnational Governments, Cities and Other Local Authorities for Biodiversity. <https://www.cbd.int/decision/cop/default.shtml?id=12288>

⁽⁶⁾ Platform of non-state actors for climate action (Non-State Actor Zone for Climate Change — NAZCA).

- is aware that the credibility of commitments taken depends on the selection criteria for projects and initiatives, their transparency, the rigour of methods and the seriousness of their assessment. The Covenant of Mayors is a leader in this field and could inspire other ongoing and upcoming initiatives to ensure that the monitoring, reporting and review system (MRV) ⁽⁷⁾ is solid. In this regard, the CoR calls on the EU to ensure consistency and harmonisation at EU level, as mentioned above,
- also calls on Europe's cities and regions to use their international decentralised cooperation efforts to support energy transition and resilience in non-EU countries, particularly poor and vulnerable countries. Privileged relations of this kind between regions and cities worldwide could be a vehicle for climate diplomacy at all levels.

19. In this spirit of cooperation, the CoR intends to deliver messages which are consistent with those of the European Economic and Social Committee, demonstrating that the cities and regions are ready for COP21 alongside civil society and businesses.

20. Global warming is one of humanity's greatest challenges in terms of sustainable development, health and the global economy. The Paris Conference is not an end in itself, but the beginning of a dynamic, progressive process that will allow the international community to make adjustments and get back on track when it comes to keeping the rise in temperature below 2 °C. A new global agreement on climate in Paris is essential, in order to enable and build momentum among stakeholders, as well as to ensure a collective response commensurate with the scale of the issues at stake.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

⁽⁷⁾ Monitoring, reporting and review of greenhouse gas emissions (Monitoring, Reporting and Review — MRV).

Opinion of the European Committee of the Regions — Developing the potential of ocean energy

(2015/C 423/11)

Rapporteur: Rhodri Glyn THOMAS (UK/EA)

Assembly Member for Carmarthen East and Dinefwr

POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

Importance of ocean energy

1. underlines the important contribution of ocean energy to meeting the future energy needs not just of the European Union, but also globally; also welcomes its inclusion as one of the five priority areas of the Blue Growth strategy and believes that the EU could be an important player in the sphere of ocean energy;

2. notes that by providing a reliable and predictable renewable energy source ocean energy has the potential to:

— help deliver the EU's climate and renewable energy commitments,

— contribute to diversification of the energy mix,

— contribute to energy security goals and help reduce intermittency of energy supply,

— create jobs and growth, contributing to diversification and regeneration of EU ports, island and coastal communities, many of which are in remote parts of the EU, and to tourism/leisure industries and aquaculture ⁽¹⁾,

— provide a rich source of intellectual capital, research, knowledge, innovation and skills enhancement (including in engineering, testing, manufacturing, transportation, installation, operation and maintenance of ocean energy facilities, port facilities),

— providing wider environmental benefits, for example coastal flood defences, stimulating new marine ecologies;

3. points out that the fact that ocean energy involves so many different techniques means that it has to be developed at many different levels and in various contexts. The EU could be a successful global player in this sphere given its many coastal regions;

4. notes the European Ocean Energy Roadmap (EOER) 2010-2050 estimates:

— up to half a million jobs could be created in the EU by 2050, 26 000 direct jobs by 2020,

⁽¹⁾ OJ C 62, 2.3.2013, p. 47. See for example the proposed Tidal Lagoon Swansea Bay.

- ocean energy could satisfy 10 to 15 % of EU power demand in 2050 (100 GW ⁽²⁾ is suggested), powering 115 million homes,
- switching to ocean energy could see significant reductions in CO₂ emissions of 2,61 million tonnes by 2020 and 136,3 million tonnes by 2050;

5. recognises the Atlantic Ocean has the highest potential for ocean energy in the EU, however, underlines the important contribution from the EU's other seas and water basins, including the North Sea, Baltic Sea, English Channel, and Mediterranean;

6. recognises the potential of clean ocean energy for the EU's many islands; harnessing this energy could contribute to the energy autonomy of islands and of peripheral maritime regions including in the outermost regions ⁽³⁾, whilst also offering enormous economic and social development potential through the creation of local employment in these communities, including opportunities for the many small and medium-sized ports in the EU;

7. emphasises that development of the ocean energy sector is of interest to the whole of the EU: opportunities to invest in research, knowledge, skills and development, manufacture and export of components, development of supply chains, are not restricted to coastal/island areas;

8. emphasises the importance of an holistic approach to offshore renewable energy. A number of the challenges facing ocean energy are shared with other offshore energy sources, for example access to grid and connectivity, and skills development;

9. notes the different types of ocean energy: tidal range (e.g. tidal lagoons), tidal stream, wave energy, salinity gradient energy, and ocean thermal energy conversion (OTEC) ⁽⁴⁾;

10. notes the technologies for these different ocean energies are at varying stages of maturity, and with the exception of tidal range all are at the research and development stage, mainly small-scale pilots, no commercial-scale arrays in operation, with no consensus yet on preferred technology devices;

11. stresses however that tidal stream and wave energy converters are attracting increasing commercial interest and may become increasingly relevant in the medium and long-term as they can generate energy at a wide range of locations;

The EU and its regions at the forefront ... for how long?

12. notes that the EU is currently at the forefront globally in developing the sector, with a plethora of small-scale demonstration and research activities in place, over 500 companies active in the ocean energy sector, and over 50 % of the tidal energy activity globally; some projects have also reached financial close ⁽⁵⁾;

13. recognises that in many cases the drive towards developing ocean and marine energy is coming from sub-Member State level, for example, Cornwall, Brittany, Aquitaine, Pays de la Loire, Basse Normandie, the Basque Country, Cantabria, Galicia, Scotland, Wales, Flanders, Region Västtra Götaland and more;

14. notes, however, that despite industrial interest the engagement of a number of multinationals and energy utilities in research and development activities, the scale of investment has not matched other renewables sectors and deployment targets envisaged for 2020 have not been met;

15. recognises that without sufficient action the EU risks losing its global leadership;

⁽²⁾ SI Ocean project.

⁽³⁾ Ocean energy converters demonstration: e.g. the Canary Islands, La Réunion and Martinique.

⁽⁴⁾ Source: Ocean Energy Europe.

⁽⁵⁾ For example Meygen Project.

Challenges to development of ocean energy

16. highlights a number of inter-linked barriers to be overcome facing the growth of the sector:

- technological,
- financial,
- administrative/governance (including consenting/planning issues and availability/access to data),
- grid related issues (connectivity),
- environmental impact;

17. underlines that whilst these challenges need to be addressed collectively, technology and financial challenges are particularly pressing, as without proof of concept and reliable technology the industry will find it challenging to achieve a breakthrough and prove viable;

18. expresses its concern that the early stage of much of the ocean energy technology, combined with the high costs associated with testing in the ocean and seas — particularly in harsh and unpredictable conditions — provides a major barrier to large-scale investment, thus hampering advancements in technological development; this is a particular problem for private investors as proof of concept and scalability of technology are both key factors in access to finance and in unit cost reduction;

19. reiterates the importance of environmental considerations set out in the Marine Strategy Framework Directive and its recent opinion on this subject⁽⁶⁾; supports further research and innovation to develop sustainable ocean energy solutions for testing and deployment activities, since the introduction of energy into the sea (noise, light, heat and radiation) affects the marine environment and marine ecosystems;

20. calls on lessons to be learnt from the wind and offshore wind sector, notably for companies and research institutes to collaborate to avoid duplication of efforts and funding, and in fostering standardisation within the industry, which is necessary to enhance cost competitiveness;

EU level action and stronger coordination/cooperation

21. asserts that, given the scale of investments required to realise the potential of the ocean energy sector, coordinated actions between the different layers of governance in the EU is essential, calls on the European Commission to organise a conference with the European Investment Bank, the European Parliament, and other EU institutions, working in cooperation with Member States, local and regional authorities (LRAs), research institute and universities, NGOs, the emerging industry, and potential investors;

22. welcomes the initiative of the European Commission to set up an Ocean Energy Forum tasked with the publication of an Ocean Energy Roadmap to steer the development of this sector and intends with its opinion to ensure the roadmap takes due account of the strong local and regional dimension in the development of this emerging industry;

23. calls on the European Commission to develop the Ocean Energy Forum into an industrial platform to drive forward delivery of the key actions set out in the Ocean Energy Roadmap;

24. calls for the establishment of EU level targets for ocean energy as a clear statement of intent in order to provide investors with certainty for long term commitments;

⁽⁶⁾ ENVE-VI-001.

25. stresses the need for a coherent approach to all activities related to seas and oceans; argues that development of the ocean energy sector could provide the stimulus to the development of a maritime industrial policy for the EU;

26. welcomes the development by Ireland and Portugal of national strategies for marine and ocean energy; welcomes the inclusion of ocean energy by eight Member States in their national renewable energy action plans: UK, Ireland, France, Portugal, Spain, Finland, Italy and the Netherlands; and initiatives in other Member States such as Denmark and Sweden;

27. calls for Member States to give strategic and political leadership in developing this industry through stronger support to research and demonstration projects on their territory; furthermore, underlines the importance of Member States providing stable regulatory frameworks and cost effective subsidy schemes for renewable energy sources to attract investors with long-term plans;

28. reiterates its call for the creation of a specific Knowledge and Innovation Community for the Blue Economy ⁽⁷⁾, since the development of skills and the transfer of ideas from marine research to the private sector have a crucial role in the development of ocean energy;

29. stresses the need to capitalise on existing successful initiatives and partnerships ⁽⁸⁾, to make full use of the knowledge developed in the framework of the Strategic Energy Technology (SET) Plan and its research pillar, the European Energy Research Alliance; i.e. include SET Plan, Smart Cities and Horizon 2020 actors in the development of local and regional energy strategy;

30. welcomes, therefore, the inclusion of two separate calls for the ocean energy sector in the Horizon 2020, 2016-2017 Blue Growth and Low Carbon Energy (LCE) work programme, (LCE 15 'Scaling up in the ocean energy sector to arrays' and LCE 16 '2nd generation of design tools for ocean energy devices and arrays development and deployment');

31. points out the need to develop professional training for skills needed for the installation and maintenance of ocean energy plants which at the moment rest with oil and gas companies and encourage the sectors to share knowledge and learn from each other;

State aids

32. welcomes the State aid approval given in April 2015 to a Portuguese scheme to support demonstration projects (50 MW installed capacity) producing renewable energy from the ocean (wave energy, tidal energy) and innovative offshore wind technologies;

33. notes many stakeholders describe the 2014 Guidelines on State aid for environmental protection and energy as being flexible to support demonstration projects in this area;

34. calls for further technical analysis to be undertaken by State aid experts, working with the Ocean Energy Forum to ensure the State aid regime is sensitive to the particular challenges facing this sector, and will enable major public investments for example in grid infrastructure and large-scale pre-commercial pilot phase projects;

Atlantic Area Macro Region

35. calls for future EU funding programmes supporting territorial cooperation including the Atlantic Area Transnational programme, to be refocused around supporting the development of ocean energy;

⁽⁷⁾ OJ C 19, 21.1.2015, p. 24.

⁽⁸⁾ Joint programmes, JPI Oceans, SI Oceans, Seas-ERA, Ocean Energy ERA-NET.

36. recommends that strong consideration be given to developing an Atlantic Macro Region focused on developing ocean energy; such an approach would provide a clear focus for the five Member States and nations/regions in this area to cooperate, and could potentially lead to a coherent maritime industrial strategy for the Atlantic Macro Region, centred around renewable energy and connectivity;

37. recommends that appropriate and tailored strategies/technologies be developed for all the different sea-basins, harnessing existing experiences/development of advanced technologies for regions with less/different marine energy potential;

38. welcomes the Commission's Communication C(2015) 6317 'Towards an Integrated Strategic Energy Technology (SET) Plan' and in particular the references to strengthening regional cooperation in the Atlantic sea board for ocean energy, to help achieve further cost reductions in this area;

Addressing financial challenges

39. argues that significant public support, including through innovative private public partnerships, is essential for the to the development of ocean energy;

40. recognises the essential role of the EIB's existing support mechanisms⁽⁹⁾; however, emphasises the need for new and innovative instruments at EU level that create a more favourable environment for supporting investments in 'riskier' innovative energy technologies, especially those in ocean energy technology deployment;

41. welcomes therefore the launch in June 2015 of the new InnovFin Energy Demonstration Projects by the EIB and European Commission, and calls on Member States and LRAs to encourage use of this new mechanism to support ocean energy projects;

42. stresses the importance of investing in interconnections, especially between Member States and their regions, upgrading the transmission infrastructure to increase their capacity to absorb renewable electricity generation, investing in distribution grids, extending grids to remote areas as well as developing and implementing smart grid solutions;

43. calls on the EIB and European Commission to prioritise use of the new European Fund for Strategic Investment (EFSI) to support investments in the ocean energy sector, including looking at how this fund can be used to support grid development and connectivity;

44. welcomes the increasing focus on marine renewable energy in a number of Smart Specialisation Strategies (S3); welcomes the launch of the European Smart Specialisation Platform on Energy, and underlines the importance of ensuring this complements the Ocean Energy Forum's work;

45. welcomes the inclusion in a regional operational programmes of priority to investments in marine energy;

46. stresses the importance of strengthening the link between the EU's energy policy and cohesion policy and calls on the European Commission to provide details of the priority given to ocean energy in the regional operational programmes for the ESIFs for 2014-2020 and to provide analysis of which regions are prioritising ocean energy in their S3s;

47. welcomes the decision of the October 2014 European Council to renew the NER300 programme, and notes that from now on small-scale projects will also be eligible⁽¹⁰⁾;

48. calls for a stable higher price for CO₂ emissions and higher financing appropriations for (innovative) renewable energy projects under the new scheme;

⁽⁹⁾ EIB-EU institutions' joint programmes: the 2020 European Fund for Energy, Climate Change and Infrastructure, the Global Energy Efficiency and Renewable Energy Fund and the European Energy Efficiency Fund, European Strategic Energy Technology Plan (SET-Plan).

⁽¹⁰⁾ The NER300 programme supports the demonstration of environmentally safe carbon capture storage technologies and innovative energy renewable energy technologies.

49. welcomes projects like Ocean Energy ERA-NET which aims to coordinate activities between Member States and regions agencies to support research and innovation in the sector, and looks forward to seeing a plethora of ocean energy projects supported under Horizon 2020 and other programmes like Erasmus+;

50. reiterates its call for stronger political priority to be given to creating synergies between EU, Member State and sub-state (local and regional authority) budgets ⁽¹¹⁾ to support investments of key European importance, such as ocean energy;

Environmental and consenting issues

51. asserts that ocean energy can be developed in a way that enhances the natural environment;

52. underlines the importance of ensuring engagement of regional authorities, environmental organisations and other NGOs in the Ocean Energy Forum and other strategic initiatives at EU level, and urges Member States, LRAs and industry, to work fully with such bodies, to ensure that this new industry is developed in a sustainable way, minimising impact on the environment;

53. underlines the critically important role of Maritime Spatial Planning (MSP) in supporting the development of the ocean (and marine) energy industry, as this provides a mechanism bringing together the different users of the sea/ocean (energy sector, marine transport, aquaculture, fishing, recreation and nature conservation) to engage in a dialogue, to exchange information and take coordinated decisions regarding the use of marine spaces, helping to avoid conflicts between sectors, to develop synergies and to reduce negative impacts on ecosystems; urges Member States and LRAs involved in the preparation of MSPs to plan ocean energy development into this process;

54. stresses the importance of simplifying administrative procedures for planning and consenting at LRA and national level, and highlights the recognised good practice in Scotland in this, where they have introduced sectorial marine planning, environmental research and strategic monitoring programmes, a one-stop-shop consenting body and consenting guidance;

55. highlights the importance of access to data and information sharing, to avoid duplication, to reduce the costs of starting operations, and as part of the wider public interest in understanding the marine environment and potential impact of developments on the marine ecosystem;

56. underlines the importance of understanding, monitoring and researching the marine environment and ecology, in order to build a more comprehensive data set than currently exists, including carrying out extensive environmental impact studies, using an ecosystem-based approach to consider biodiversity hosted in these regions, and quantify the potential effects of devices on the marine environment;

Awareness and communication

57. believes that communicating the benefits and potential of ocean energy, should be a key priority in winning over the 'hearts and minds' of EU citizens;

58. underlines the importance of dialogue and communication with all interested stakeholders, including fishermen, the aquaculture sector, and other marine/maritime users;

59. underlines the role that the European Commission and the Committee of the Regions can play in raising awareness of ocean energy, for example through Sustainable Energy Week, Open Days Week of Cities and Regions, Covenant of the Mayors, and potentially through establishing new schemes.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*
Markku MARKKULA

⁽¹¹⁾ OJ C 62, 2.3.2013, p. 32.

Opinion of the European Committee of the Regions — Energy Union Package

(2015/C 423/12)

Rapporteur:	Mr Pascal MANGIN (FR/EPP), Regional Councillor of Alsace
Reference documents:	A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy (COM(2015) 80 final) and Achieving the 10 % electricity interconnection target — Making Europe's electricity grid fit for 2020 (COM(2015) 82 final)

POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

Key messages

1. underlines that to achieve the goals of the Energy Union, Member States and local and regional authorities must ensure strict enforcement of existing legislation regarding the internal market and energy and climate policies;
2. recalls that energy has been a key element of European integration (1951 Treaty of Paris, Euratom Treaty of 25 March 1957); notes that the choice between different energy sources and the general structure of supply remain prerogatives of the Member States (Article 194 TEU), but underlines that stronger coordination at EU level is necessary to ensure the proper functioning of the energy market, strengthen competitiveness and enable the move towards sustainable and secure energy supply for all territories in the European Union;
3. points out that, according to the Conclusions of the European Council of 20 March 2015, the Energy Union consists of five equal dimensions;
4. welcomes the adoption by the Commission of the non-legislative Energy Union package as a step towards a better-integrated energy market across the 28 Member States and as a framework for wider debate on current key challenges in the area of energy policy, which are also reflected in the CoR's recent political work and opinions on sustainable, affordable and competitive energy and security of supply;
5. calls on the European Commission to respect the subsidiarity and proportionality principles in the upcoming legislative proposals concerning the Energy Union;
6. emphasises the impact of energy imports on the EU trade balance and its increasing dependence on third countries;
7. therefore calls for the adoption of regulatory initiatives and the implementation of infrastructure projects that effectively address the problem of the Member States' excessive import dependency on individual suppliers;
8. recalls that the European electricity system is currently in transition. It has considerable excess production capacity with the advent of intermittent renewable energy, which increases the need for balancing energy and means that many older power stations need replacing, while security of supply still gives rise to genuine concerns that require an urgent response;
9. notes that because renewable energy production has increased, European wholesale market prices and the profitability of historical means of production have fallen, leading, paradoxically in some cases to the re-opening of coal-fired plants and consequently to an increase in CO₂ emissions; recognises that one reason for this situation is the lack of sufficient mechanisms to promote the investments that could make the system more efficient and sustainable;

10. can find scarcely any indication in the documents presented of how one of the main energy transition issues is to be addressed, namely reconciling long-term investment with the high volatility created by progressive market liberalisation. This affects for instance hydroelectric and pump storage power plants, as well as modern, highly efficient gas-powered CHP and combined cycle gas and steam plants;

11. stresses that the electricity market faces great challenges, with constantly declining wholesale market prices which do not reflect the full costs necessary for the development and modernisation of infrastructure; underlines furthermore that this market has to build upon the existing resources and infrastructure in the different Member States while taking into account that some market actors are operating across different countries or even on a European scale;

12. observes that end-user prices for European citizens are going up because of the great need for investment, increased taxes, support schemes in favour of renewable energy and alternative energy sources, and a monopoly pricing situation for the consumer, but also because of the hidden subsidies to fossil or other forms of non-renewable energy;

13. considers it essential to link energy policy to the EU policy for combating climate change and emphasises that a well-functioning carbon market leading to an effective price for CO₂, together with increased energy efficiency and investment in renewable energy are the most efficient tools for achieving the desired investment in a green low-carbon economy;

14. stresses the need to put an end to 'subsidy shopping' by fully internalising energy costs and reducing the imbalance between different support schemes and subsidies; asks the European Commission to publish guidelines and recommendations to harmonise the various support schemes, subsidies and tax incentives across the EU;

15. is seriously concerned that the risks and proven disadvantages of nuclear energy are being completely overlooked. Saying that the EU is 'at the forefront' of 'the world's safest nuclear generation' suggests that nuclear technology is safe, but the risks of nuclear energy are not mentioned. And stating that the EU must ensure use of the highest standards for disposing of nuclear waste implies that nuclear waste is actually being disposed of, whereas current technology only allows such waste to be stored without it actually being eliminated. The problem of disposal is thus merely shelved, and certainly not solved;

16. regrets that nuclear energy is presented in a very unbalanced and unduly positive way, and assessed largely uncritically. In many places in the text the term 'low-carbon' is used as a code for nuclear energy: if primarily renewables were meant, this should read 'renewable, low-carbon energy'. The impression is created that nuclear energy is a necessary means to achieve decarbonisation. In effect, linking carbon reduction and nuclear energy like this creates a questionable prescription considering the initial reference to the Member States' freedom to choose;

17. welcomes the proposal to reform the Emission Trading System and emphasises that the Energy Union must go hand in hand with an improved Emission Trading System because a malfunctioning ETS will fragment the internal market and distort the level playing field, thus bringing us back to national measures;

18. takes the view that European energy policy is an important catalyst for territorial cohesion at the EU level as it takes into account the handicaps and strengths of different territories, and believes that the combined strengths and weaknesses of each must lead to an improvement for all; underlines in particular that the transition to low-carbon sustainable energy offers huge potential for development in many regions, not least in regions which are currently lagging behind, but which may be rich in sustainable energy sources such as sun or wind;

19. expresses its willingness to be involved as an institutional partner in recently opened discussions on the Energy Union, and to contribute political recommendations to the work of other institutions especially with regard to legislation and Energy Union governance;
20. emphasises the role of local and regional authorities in strengthening the security of energy supply and developing a common energy market in the European Union;
21. also notes the specific role assigned to local and regional authorities in the Energy Union Package concerning the efforts needed in the area of energy efficient buildings, and welcomes the European Commission's commitment to improving the framework conditions for the financing of energy efficiency projects, including at local and regional level;
22. asks to be more closely involved in the work of the Commission, specifically in setting up a new initiative on 'Financing for Smart Buildings' and as regards the measures to improve the energy efficiency of existing buildings;
23. regrets nevertheless the absence of references to local authorities in key areas dealt with by the Energy Union Package, such as renewable energy, innovation and technology, security of supply and external relations, and calls for the CoR to be more involved and for its political recommendations to be taken on board when the Commission prepares the new legislation foreseen by the Energy Union package;
24. points out that the Energy Union's success will be measured by its added value, which consists in providing free energy streams, security of energy supply and transparency in the sector at competitive and affordable prices, since this is the foundation for modernising the sector in the endeavour to expand the low carbon economy needed to meet climate protection goals; security of energy supply, completion of the internal energy market and infrastructure modernisation are the heart of the Energy Union, so all other measures to create this union must logically be directed to strengthening these core aspects;
25. reiterates the importance of political ownership at all levels in order to successfully implement European policies, and stresses that turning the Energy Union's ambitious vision into a reality will require a strong commitment from the European institutions, Member States, national Parliaments, local and regional authorities, companies and citizens, each at their own level and according to their own capacities;
26. emphasises the role of local authorities as indispensable stakeholders in the Energy Union, notably when it comes to energy saving in urban and inter-urban transport, inter-regional communication strategies, cross-border energy infrastructures, cooperating in new storage technologies, co-financing on energy efficient and smart public buildings, passing legislation on low carbon economy, and using ESI funds for cross-border collaboration on renewable energy. Local and regional authorities sometimes own production infrastructure, which makes them energy producers;
27. singles out the Covenant of Mayors as a particularly strong example of local authority contributions to the implementation of sustainable energy policy; recalls that the CoR has been a strong supporter of this initiative and considers it necessary to make greater use of it as a possible means of implementing the Energy Union as well as EU energy targets for 2030; calls on the European Commission to increase its support for the Covenant of Mayors and extend it to 2030 in order to recruit new members; also calls for local and regional initiatives that do not come under this arrangement, but which have produced ambitious results, such as those carried out by Eurocities and the Council of European Municipalities and Regions, to be encouraged;

Concerning ambitious energy efficiency and renewable energy targets for 2030:

Stepping up support to local and regional players

28. notes that international, national and regional support systems for local and regional energy and climate efforts should be strengthened or introduced. This can be done both within and outside the Covenant of Mayors, through cooperation between local and regional authorities, the Member States, regions, regional energy agencies, etc.;

29. points out that regional cooperation is one of the most important factors in creating a fully operational single EU energy market and the Energy Union; regional cooperation must be further strengthened and taken to a higher level, especially so that higher political priorities can be pursued and the functioning of a true Energy Union made a reality with the help of regional integration;

30. recalls that EU measures should not be geared only towards large cities as approximately 56 % of EU towns and cities are small and medium in size with a population of between 5 000 and 100 000 and have a strong cumulative effect;

31. proposes to this end for example to explore the creation of a territorial forum for EU local and regional authorities, in close cooperation with the Covenant of Mayors and supported by the CoR, including a section dedicated to the Energy Union, that could help to disseminate good practices in the energy field and financing opportunities, and also research and promote ways to gain citizen's support for and acceptance of energy transition projects;

32. considers that action at local and regional authority level should be aimed at diversification of suppliers, sources and transport routes of raw materials. Therefore, it is important to implement Projects of Common Interest (PCI), also at local and regional authority level, by streamlining procedures, issuing licences etc.;

33. calls for the views of the regions involved to be taken into account in the PCI consultation process;

Taking into account the efforts and contributions of local authorities

34. recalls that local authorities often implement, on a voluntary basis, more ambitious targets than those required by EU legislation;

35. stresses the need to establish voluntary demand aggregation mechanisms (joint purchasing) and points to good practice in this area at local and regional authority level (joint purchasing of thermal energy);

36. calls on the Commission to identify these good practices and to use them as a starting point when turning the Energy Union's objectives into law;

37. proposes that a territorial forum in close cooperation with the Covenant of Mayors could assist the European Commission in this task and could collect local authorities' commitments, give them the necessary publicity and ensure their compatibility and soundness;

Enhancing and expanding the Covenant of Mayors' activities

38. points to the multi-level governance approach which was successfully applied to the Covenant and which should be strengthened and transferred to other policy areas within the Energy Union;

39. indicates that the CoR is ready to contribute to defining the Covenant of Mayors' post-2020 strategy;

40. emphasises the importance of energy data sharing, in Member States' legislative frameworks and possibly in compliance with future Community legislation, between key partners in the energy sector involved in the development, management and operation of projects and energy distribution companies at the local and regional level, including energy agencies, network operators, observatories and companies, for the purpose of development, implementation and monitoring of sustainable energy action plans (SEAP), thereby using the local energy data for the calculation of the Baseline Emission Inventory (BEI);

Calling for the outermost regions to be used as test-beds for energy transition

41. recognises the specific nature of the outermost regions, which are most often not interconnected and are thus dependent on expensive carbon-based energy production, whereas they have great potential for renewable energy development;

42. calls on the Commission to support innovative projects which could turn the outermost regions into test-beds of energy transition;

Concerning funding for energy efficiency and sustainable energy projects at local and regional level

Possessing efficient financial tools

43. confirms that it is the CoR's priority to work together with the other institutions in order to improve the regulatory and financial conditions for local and regional investment in sustainable energy; highlights the importance of the successful EIB initiatives and of continued cooperation on financial engineering measures;

44. acknowledges the importance of better promotion of financial facilities, particularly for energy efficiency, low-carbon technologies and renewable energy in the transport and buildings sector, notably at the local level, such as the expected 'Smart finance for smart buildings' initiative, considered to be a potentially important European Commission initiative for the CoR;

45. urges the Commission to single out and highlight locally driven best practices that support efforts for energy efficiency in buildings, not least in order to develop innovative and effective funding mechanisms under the EBRD, the EIB and other EU financing programmes, and build synergies between them. The focus should be both on improving the efficiency of the building envelope and on reducing energy requirements through local and collective systems such as district heating and district cooling;

46. calls in this context for funds and financial instruments from the EU and the EIB to support not only large infrastructure projects but also smaller-scale projects that benefit local communities;

47. stresses that these policies will in many cases depend on the mobilisation of private funding. In order to achieve this, the regulatory environment has to be harmonised and secure while at the same time it must allow innovation to develop, in order to ensure smarter systems and better and cheaper services for the consumer;

48. notes critically that public investment in renewable energy production would be considerably hampered if the European Commission's plans were to be realised. The ambitious goal of increasing the share of renewables across the EU to at least 27 % by 2030 is unlikely to be achieved if support is provided solely through market mechanisms which are not allowed to create distortions in the internal energy market, since this would considerably restrict the freedom of action of the Member States and local and regional authorities;

49. insists on the need to ensure that renewable energy sources can continue to be used and promoted in all the Member States, since centralisation under EU management would prevent many renewables from being boosted in certain countries, and this would significantly increase the need for interconnection. Regional renewable energy sources should not be placed at a disadvantage;

50. calls on the Commission to ensure that new state aid guidelines for energy do not create additional burdens for local and regional renewable energy and energy efficiency projects or for local models built around 'smart grids' and storage which are not able to compete with big operators;

Concerning the focus on consumers in the internal energy market

51. welcomes the Commission's Communication on a New Deal for Energy Consumers, because it covers areas identified as essential in the CoR's latest opinions on energy policy, in particular the active involvement of consumers in the energy system; recalls that the issues of energy poverty and the protection of vulnerable consumers also need to be addressed at EU level;

Promoting energy efficiency to reduce energy consumption

52. recognises that the EU's aim of further exploiting the energy efficiency potential of the buildings sector is essential. Measures in this area should reduce occupants' energy bills while at the same time also decreasing the EU's carbon footprint and dependence on energy imports;

53. recalls that supporting energy efficient home insulation can be an important measure in combating energy poverty and developing employment at a local level;

54. stresses that this policy cannot be fully effective unless it is carried out on a large scale;

55. recalls in this respect that the effectiveness of this measure is based on both high energy performance targets and close cooperation between local authorities and occupants;

Having effective regulations to protect consumers

56. stresses that regulation is key to the successful functioning of the energy market and that a price signal is needed to find the ideal location for infrastructure and means of production, as well as to enable joint actions aimed at optimising costs of the energy users. Itemising energy costs to enable comparison would also ensure transparency in competition;

57. notes that, from the point of view of consumers, it is crucial to ensure transparency in the operation of the gas and electricity markets in the European Union. The instruments available in this area, e.g. under the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT), should be used appropriately. The Committee of the Regions therefore calls on the European Commission to provide the Agency for the Cooperation of Energy Regulators (ACER) with appropriate budgetary resources from 2016 for the performance of this task;

58. calls on the European Commission to submit, in the framework of the planned legislative initiatives, an effective mechanism for *ex-ante* scrutiny of international agreements and commercial contracts, in order to ensure their compliance with EU law and the EU's energy security policy priorities;

59. bearing in mind the above, notes the need to enhance market transparency as part of the review of the Regulation on the Security of Gas Supply (SoS);

60. recalls that the energy sector is capital-intensive, which entails long-term regulatory stability;

61. notes that the increase in renewable energy production, by nature more dispersed, entails the dispersal of production locations and hence increased local authority involvement. This will ensure, *inter alia*, higher energy production within the EU;

62. asks the European Union to urge national regulatory bodies to include a local authority representative;

63. hopes that ACER will incorporate a local authority representative, who could be appointed by the CoR;

Combating energy poverty: a European priority

64. deplores the increase in energy poverty, i.e. the situation for people who do not have normal and regular access to the energy resources necessary for meeting their needs, not only in their homes, but also when they travel;

65. proposes that a definition of energy poverty should be established that takes into account the Member States' particular characteristics and that EU indicators should be defined to better identify and tackle the problem;

66. proposes that the territorial forum should organise regular meetings to discuss energy poverty, to promote local, national and European initiatives and to put forward practical recommendations to political decision-makers and those from associations and industry;

67. considers that the fight against energy poverty must result from energy efficiency and transport policies especially through action on buildings inhabited by low-income households, as well as educational and social policies;

68. considers that dealing with the most difficult cases requires a comprehensive approach to the problem which may include social policy measures, direct financial support, information and counselling initiatives, but also more long-term energy policy measures;

Smart networks and meters: tools for the benefit of consumers

69. insists on the need to speed up the development of a smart system on both the network and producer/consumer levels, to optimise the system as a whole as well as to implement smart meters which are essential to the efficient management of demand, with the active involvement of the consumer; recalls the need to address issues of data protection and data security in this context;

Concerning energy infrastructure: the need to interconnect certain States

70. recognises the strategic importance of a fully integrated internal energy market interconnecting gas and electricity across the EU; agrees that it is essential to ensure that existing infrastructure is used to best effect before investing in new infrastructure, and that investing in network and system intelligence is the top priority;

71. stresses the importance of energy infrastructure investment and calls for the CoR to be involved in the activities of the energy infrastructure forum;

72. highlights the need to invest in resilient energy infrastructure so as to reduce the risk associated with natural and man-made disasters. Recalls that it is more cost efficient to build resilient infrastructures than it is to retrofit;

73. recalls, however, that this infrastructure is financed by consumers and should therefore be based on detailed cost-benefit analyses and real efforts to inform and involve citizens in order to ensure broad public support for these investments within a reasonable time;

74. in order to ensure maximum effectiveness of the solidarity mechanisms provided by the Regulation on the Security of Gas Supply (SoS), proposes the introduction of obligatory cross-border preventive and emergency response plans. The definition of 'protected customers' within the meaning of the SoS Regulation should be harmonised so as not to restrict the opportunities for mutual assistance between States in the event of a gas supply crisis;

Recognising the contribution of local authorities to securing the electricity network

75. notes that local authorities are important for making energy production needs secure by finding an ideal location for the means of production, particularly taking into account local energy potential;

76. believes that innovation in renewable energies, soft mobility, modernising existing energy infrastructure, building smart power plants, carbon capture and energy storage should be promoted at the local level;

77. proposes that, in line with the principle of subsidiarity, the European Union could encourage the creation of regional energy system development schemes established at least at a regional level and whose coherence would be supervised at the European level;

Transforming cross-border areas into Energy Union test-beds

78. regrets that as a result of the border effect and different national laws, many cross-border areas are often at a disadvantage or are unable to fully harness their own potential for innovative and sustainable energy solutions and therefore suggests that the Commission should promote voluntary regional approaches aimed at overcoming the negative border effects;

79. calls on the EU to support, where necessary, regulatory and legislative frameworks such as EGTC capable of promoting interaction between distribution networks on both sides of borders and of optimising energy integration;

80. calls on the European Commission to support and promote regional cooperation projects for distribution in particular;

81. calls for a consistent balance between European Union spending on large cross-border infrastructure and responding to local needs, so as to even better integrate locally produced renewable energy into the grid while at the same time developing smart distribution grids;

Concerning research and innovation: stimulating energy transition and providing a vector for employment

82. acknowledges the strategic role of research and innovation in energy technology with a view to the successful decarbonisation of the EU's energy system and the ensuing reduction in emissions;

83. emphasises that the setting up of highly technological industrial sectors, facilitating active management of demand, smart energy use and energy efficiency, in close cooperation with research centres and universities, must be a priority for the Energy Union; also considers that priority should be given to innovations in the most energy-intensive industrial sectors;

84. estimates that such a transition, if rapidly achieved, could represent the primary source of gains in terms of energy competitiveness, reduced CO₂ emissions and non-relocatable jobs;

85. considers that, in the area of employment and innovation, local authorities have powerful tools for increasing the use of renewable energy and improving energy efficiency not only through building, housing, mobility and spatial planning policies, but also through education and vocational training;

86. expresses the CoR's interest in working with DG ENER and DG REGIO and with the Joint Research Centre to explore the possibilities for establishing better links/synergies between the EU's policies and its funding programmes, in order to optimise local and regional energy investment efforts in the area of strategies for smart specialisation;

87. points to the high added value of strengthening the Energy Community by, inter alia, streamlining the mechanisms for applying EU law in the member countries of the Energy Community; at the same time sees significant added value in involving the member countries of the Energy Community in the EU's energy security mechanisms, including the new SoS Regulation;

88. calls on the Member States, in line with the principle of solidarity, to coordinate their positions and negotiate with one voice vis-à-vis third countries; points out that cooperation in the field of energy can contribute to promoting and strengthening democracy, the rule of law and human rights in the partner countries;

Concerning the external dimension of energy policy:

89. points out that the CoR has regularly participated in the Eastern Partnership's Platform for Energy Security, and that the European Union's experience should be beneficial to our external partners while at the same time promoting the industrial and technological know-how of our businesses;

90. stresses that local and regional sustainable energy projects are key to reducing the European Union's dependency on the sources of energy and third countries to which external suppliers are very often linked, and that more needs to be done to explore this potential more fully; suggests that the CoR should be directly involved in developing future initiatives in particular at local and regional level relating to external energy policy.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*

Markku MARKKULA

III

(Preparatory acts)

COMMITTEE OF THE REGIONS

114TH.PLENARY SESSION, 12, 13 AND 14 OCTOBER 2015

Opinion of the European Committee of the Regions — the decision-making process on genetically modified food and feed

(2015/C 423/13)

Rapporteur:	Mark Weinmeister, Secretary of State for European Affairs, Land of Hesse (DE/EPP)
Reference document:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 1829/2003 as regards the possibility for Member States to restrict or prohibit the use of genetically modified food and feed on their territory COM(2015) 177 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Reviewing the decision-making process on genetically modified organisms (GMOs) COM(2015) 176 final

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. broadly welcomes the intention underlying the Commission's proposal to give a greater say to the regions and extend their decision-making powers;
2. seriously questions the appropriateness of the measure in this particular case, however;
3. points to the widespread mistrust and lack of acceptance among the general population with respect to genetically modified organisms. This mistrust and lack of acceptance should be addressed, for instance by ensuring a more transparent authorisation process for genetically modified food and feed;
4. reiterates the call for clearer labelling rules so that consumers can make informed purchasing choices. Transparent labelling must also clearly show the use of genetically modified feed in the production of animal food products;
5. refers here to the Committee of the Regions opinion on *Freedom for Member States to decide on the cultivation of genetically modified crops in their territory* (CdR 338/2010 fin) (adopted at the 88th plenary session on 27 and 28 January 2011) and its *Resolution on the priorities for the 2016 work programme of the European Commission* (adopted at the 113th plenary session on 9 July 2015);

Authorisation procedure for genetically modified food and feed

6. notes that the European Union has a very comprehensive legal framework governing the authorisation, traceability and labelling of genetically modified organisms (GMOs) and genetically modified (GM) food and feed, based on: Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC; Regulation (EC) No 1829/2003 of 22 September 2003 on genetically modified food and feed; and Directive (EC) No 1830/2003 of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC;
7. observes that the proposed regulatory framework provides that no GMO or genetically modified food or feed may be placed on the market without prior authorisation having been granted under the relevant legal framework;
8. notes that the authorisation procedure for genetically modified food and feed provides for a concluding scientific assessment of the application documents by the European Food Safety Authority (EFSA);
9. notes further that after receiving the EFSA assessment, the Commission presents the Member States, represented in the Standing Committee on Plants, Animals, Food and Feed, with a draft decision as to whether the authorisation should be granted or refused;
10. observes that if the result of voting is inconclusive both in the Standing Committee for Plants, Animals, Food and Feed and in the Appeal Committee, the Commission is obliged under the GMO legal framework and the Charter of Fundamental Rights to take a decision on any application for authorisation;

Review of the authorisation procedure for genetically modified food and feed

11. points out that in its work programme for 2015 the Commission announced its intention to review the process for approving genetically modified organisms in order to address the concerns of the general public and of Member States about the Commission's current legal obligation to grant authorisation of GMOs even in cases where no qualified majority of the Member States is in favour of such authorisation;
12. is surprised that the promise of a review has yielded only a proposal on the use of genetically modified food and feed, as opposed to a radical revision of the authorisation procedure as had been indicated;
13. draws attention to the voting behaviour of the individual Member States under the current authorisation procedure pursuant to Regulation (EC) No 1829/2003 on GM food and feed;
14. laments the fact that voting on genetically modified food and feed in the Standing Committee and the Appeal Committee regularly fails to produce a qualified majority for or against the draft decision;
15. remarks that a Member States may be motivated to abstain or to vote against authorisation because of concerns relating not only to the scientific assessment but also to issues outside the scope of the EFSA risk assessment;
16. notes that under current legislation, the Commission must take a decision on authorisation applications;
17. regrets in particular that the Commission therefore always in practice takes the decision without the endorsement of the Member States' vote, with Commission decisions in the case of a positive EFSA opinion generally being to grant authorisation;
18. deplores the consequence of this, namely that concerns — e.g. relating to social considerations — of one or more Member States expressed during the authorisation process tend not to be taken into account in the decision to grant authorisation;

19. stresses for this reason that authorisation based solely on the EFSA's risk assessment is increasingly being criticised;

Proposals for improving the current authorisation procedure

20. shares the Member States' view that since authorisation or non-authorisation of GMOs is a matter of great public interest, it is imperative that there be a way of taking concerns, including non-scientific concerns, into account in the decision-making process;

21. regrets that this is not in practice the case at the moment: under the current procedure the EFSA's risk assessment is ultimately the main basis for a decision taken by the Commission, since opinions of the Member States diverge and there are not enough votes to achieve a qualified majority;

22. advocates a system whereby, subject to legal examination and notwithstanding observations about the current proposal for a regulation, it should only ever be possible in future for the Commission to take a positive decision on an application if the Standing Committee or the Appeal Committee also vote in favour by at least a qualified majority;

23. believes that this would allow any continuing reservations on the part of the Member States to be better accommodated and would strengthen their sense of responsibility for the way they vote;

24. does not share the Commission's view that the existing legal framework must be preserved and that voting rules are immutable solely on the basis that they apply in other policy areas;

25. therefore calls on the Commission to consider whether it would be possible to change the authorisation requirements for GMOs at risk management level in a way that is compatible with European law;

26. like the Commission, is in favour of a single risk assessment system;

27. calls for closer cooperation between the European Commission and national or regional authorities responsible for GMO cultivation;

28. points out that this could improve acceptance of the risk assessment by the Member States as well as improving the quality of the assessment;

29. would advocate a better examination of the environmental concerns raised about genetically modified plants, as well as GM food and feed, during the authorisation procedure;

30. sees a pressing need to include the reinforced guidelines of the EFSA for the environmental impact assessment of genetically modified plants in the annexes of the directive on deliberate release of GMOs (2001/18/EC), so as to give these binding legal force;

Appraisal of the proposal for a Regulation

31. observes that in its Communication COM(2015) 176 the Commission discusses in detail the way the authorisation procedure works, which it too regards as unsatisfactory, and proposes a change in the regulation on genetically modified food and feed, along the same lines as provided for in Directive (EU) 2015/412 (opt-out rules for GMO cultivation);

32. believes that the Commission's objective of better addressing the concerns of individual Member States would be better achieved by a revision of the environmental risk assessment part of the authorisation process in the very near future — as has just been provided for in Article 3 of Directive (EU) 2015/412 — than by the proposal for a Directive that is now on the table;

33. notes that the point of the proposal is not to change the uniform level of safety that has been established through the EU-wide risk assessment by the EFSA. The EU legal framework already has provisions allowing the Member States to ban a product pending re-evaluation at EU level in cases where new findings indicate that a genetically modified food or feed could pose a serious risk to health or the environment;

34. notes that Member States should be granted the right to adopt decisions at national level to restrict or to ban the use of GMOs in food and feed that are authorised at EU level (opt-out measures with respect to the use of GMOs);
35. points out that the Member States must nevertheless ensure in such cases that their measures comply with EU law in respect of the proportionality principle and the requirement not to discriminate between national and non-national products, and with the EU's international commitments in the WTO;
36. notes that as well as being consistent with WTO global-level provisions, measures must be compatible with the principle of free circulation of goods in the internal market as laid down in Article 34 of the Treaty on the Functioning of the European Union (TFEU), which proscribes any measures that would have an equivalent effect to quantitative restrictions on free movement of goods;
37. observes that Member States wanting to use the prohibition option must justify their measures on the basis of Article 36 TFEU and with compelling reasons of general interest in accordance with European Court of Justice case law; in addition, the reasons invoked by the Member State for banning a product may not conflict with the assessment carried out by the EFSA for risks to human and animal health and to the environment;
38. considers it unsatisfactory that, as current experience indicates, a prohibition option entails unreasonably high hurdles for a Member State to overcome before it can exercise this option at national level and impose a ban; this raises subsidiarity concerns and indicates that the proportionality principle would clearly be breached under this proposal;
39. in that regard, regrets the failure to provide a list of examples of legally watertight grounds on which a national prohibition could be justified. Such a list, which has proved helpful in providing legal certainty, is contained for example in Directive (EU) 2015/412 amending Directive 2001/18/EC in relation to the option accorded the Member States of restricting or banning the cultivation of genetically modified organisms (GMOs) on their sovereign territory;
40. thus explicitly laments the failure to attach an impact assessment to the proposal;
41. in short, criticises the Commission's proposal for giving Member States the option of restricting or banning the use of GMOs in food and feed products authorised by the EU yet giving no indication of how countries can implement such a decision with legal certainty at national level;
42. believes that it is therefore very difficult to predict at the moment to what extent the prohibition option could be used at all in practice given the multitude of conditions to be met;
43. notes with dissatisfaction that current experience suggests it is impossible to cost-effectively monitor a national ban in view of the free circulation of goods in the internal market and of global goods flows, not to mention the multiple links in the process chains of industrial food and feed production;
44. believes it would be preferable to take more account of Member States' concerns by changing the weighting of votes in the two committees referred to above, rather than having a national prohibition system. Such systems can only be introduced after clearing many hurdles and are moreover virtually impossible to monitor;
45. does not therefore agree with the Commission's conclusions that led to this proposal for a Regulation;
46. would consequently recommend that the proposal for a regulation be rejected.

Brussels, 13 October 2015.

*The President
of the European Committee of the Regions*
Markku MARKKULA

Opinion of the European Committee of the Regions — tax transparency package

(2015/C 423/14)

Rapporteur:	Hicham IMANE (BE/PES), Member of the Walloon Parliament
Reference documents:	Proposal for a Council directive repealing Council Directive 2003/48/EC
	COM(2015) 129 final
	Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
	COM(2015) 135 final
	Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance
	COM(2015) 136 final

I. RECOMMENDATIONS FOR AMENDMENTS (COM(2015) 135 final)

Amendment 1

Recital 8

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify any State aid to the Commission .	(8) Member States should exchange the basic information to be communicated also with the Commission. This would enable the Commission at any point in time to monitor and evaluate the effective application of the automatic exchange of information on advance cross-border rulings, rulings designed to reduce the tax base under domestic taxation law based on the structure of a group of companies , and advance pricing arrangements. Such communication will not discharge a Member State from its obligations to notify to the Commission any State aid relating to company taxation that could constitute a State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union .

Reason

Legal specification of the scope of the State aid concerned.

Amendment 2

Recital 12

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States would upload and store information instead of exchanging it by email . The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU.	(12) In order to enhance the efficient use of resources, facilitate the exchange of information and avoid the need for Member States each to make similar developments to their systems to store information, specific provision should be made for the establishment of a central directory accessible to all Member States and the Commission where Member States will upload and store information. The practical arrangements necessary for the establishment of such a directory should be adopted by the Commission in accordance with the procedure referred to in Article 26(2) of Directive 2011/16/EU, guaranteeing Member States the option of identifying the beneficiary or beneficiaries of the ruling .

Reason

Uploading and storing relevant information in the central directory should not be presented as optional. Nor is this process incompatible with additional exchange of information by email.

Amendment 3

Article 1, new Article 8a(2)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings and advance pricing arrangements issued within a period beginning 10 years before the entry into force but still valid on the date of entry into force of this Directive;	2. The competent authority of a Member State shall also communicate information to the competent authorities of all other Member States as well as to the European Commission on advance cross-border rulings, rulings designed to reduce the tax base under domestic taxation law based on the structure of a group of companies , and advance pricing arrangements still valid on the date of entry into force of this Directive. This information will also be stored in the central directory.

Reason

This amendment takes account of the concern expressed by different public authorities that the transmission of all tax rulings issued in the last 10 years but which are not necessarily still valid would constitute an excessive administrative burden.

Amendment 4

Article 1, new Article 8a(3)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
3. Paragraph 1 shall not apply in a case where an advance cross-border ruling exclusively concerns and involves the tax affairs of one or more natural persons.	

Reason

This proposal to restrict the scope of application looks like a step backwards compared with Directive 2011/16/EU.

Amendment 5

Article 1, new Article 8a(3)(a)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
	3(a) <i>Companies engaging in cross-border transactions which employ more than 250 people or have annual sales of over EUR 50 million or whose balance sheet total exceeds EUR 43 million shall notify the Commission directly of all advance cross-border rulings, rulings designed to reduce the tax base under domestic taxation law based on the structure of a group of companies, and advance transfer pricing arrangements to which all entities of the company are subject in the Member States of the European Union. The Commission shall publish a directory of the information submitted to it by these large multinational companies.</i>

Reason

Large multinational companies should be subject to special transparency requirements entailing disclosure of advance cross-border rulings and advance cross-border arrangements country-by-country, given that these are the companies most likely to benefit from distortions in competition, and so as to enable customers to hold them accountable for the ethical standards of their tax behaviour.

Amendment 6

Article 1, new Article 8a(4)(b)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
(b) in respect of the information exchanged pursuant to paragraph 2: before 31 December 2016 .	(b) in respect of the information exchanged pursuant to paragraph 2: before 31 December 2015 .

Reason

There is no reason that notifying advance cross-border rulings issued and advance pricing arrangements that are still valid on the date the amended directive enters into effect should be subject to a deadline different from the date by which the Member States must adopt and publish the legal, regulatory and administrative provisions necessary to comply with the amended Directive (see Article 2 of the proposal for a Directive).

Amendment 7

Article 1, new Article 8a(5)(f)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
	<i>(f) as soon as it is available, the European tax identification number (TIN) as outlined in the Commission's action plan on the fight against tax fraud and tax evasion of 2012.</i>

Amendment 8

Article 1, new Article 8a(6)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
<p>6. To facilitate the exchange the Commission shall adopt any measures and practical arrangements necessary for the implementation of this Article, including measures to standardise the communication of the information set out in paragraph 5 of this Article, as part of the procedure for establishing the standard form provided in Article 20(5).</p>	<p>6. To facilitate the exchange the Commission shall adopt any measures and practical arrangements necessary for the implementation of this Article, including measures to standardise the communication of the information set out in paragraph 5 of this Article, as part of the procedure for establishing the standard form provided in Article 20(5). <i>In Member States where decentralised territorial or administrative subdivisions hold tax powers, the Commission shall provide assistance to Member States to ensure that they fulfil their responsibility to provide training and support to such subdivisions.</i></p>

Reason

The transparency requirements laid down by the proposed Directive can also be applied to territorial or administrative subdivisions. Even though the Member States are responsible for providing training and support to these subdivisions, the Commission must ensure that its legislative proposals have practical effect.

Amendment 9

Article 1, new Article 8a(8)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
8. Member States may, in accordance with Article 5, request additional information, including the full text of an advance cross-border ruling or an advance pricing arrangement, from the Member State which issued it.	8. Member States — <i>and, where necessary, their territorial or administrative subdivisions, including local authorities</i> — may, in accordance with Article 5, request additional information, including the full text of an advance cross-border ruling or an advance pricing arrangement, from the Member State which issued it.

Reason

The transparency requirements provided for in the proposal for a Directive apply not only to the central tax authorities of the Member States, but also to territorial or administrative subdivisions, including local authorities ⁽¹⁾. It must therefore also be possible for these bodies to request such additional information where necessary.

Amendment 10

Article 1, new Article 8a(10)

<i>Text proposed by the Commission</i>	<i>CoR amendment</i>
	<i>10. The Commission must examine all sanctions to be established in instances of refusal or omission of information exchange.</i>

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

1. welcomes the Commission's proposals, which mark a significant milestone in the European Union's response to the realisation that tax evasion and avoidance represent forgone tax receipts of an estimated one trillion euros annually for the EU, bearing in mind that tax revenue represents some 90 % of total public revenues. This loss of revenue seriously jeopardises the efficiency and equity of EU taxation systems. It increases the tax burden on all individuals and companies and effectively reduces the public funding available for public and private investment; the resulting distortions in competition which influence the choice of business location undermine the EU's objective of economic, social and territorial cohesion;

2. therefore supports the Commission's proposal to widen the scope of application of Directive 2011/16/EU with respect to automatic and mandatory exchange of information on taxation so as to include information on advance cross-border rulings, rulings intended to reduce the tax base under domestic tax law based on the structure of a group of companies, and advance transfer pricing arrangements, given that these are used by certain companies with transnational operations to establish structures that result in an erosion of the tax base in the Member States and thus undermine the efficiency of the internal market;

3. points out that the package presented by the Commission does not condemn the practice of tax rulings: such procedures are legal in 22 EU Member States and a company locating in a given national territory has legitimate reasons for checking in advance the amount of tax to which it will be liable. However, opaque arrangements should not be allowed to cause distortions of competition and fiscal erosion that would decrease total public revenues in Europe;

4. emphasises that the transparency requirements provided for in the proposal for a Directive apply not just to Member States' central tax authorities but also to territorial or administrative subdivisions, including local authorities. It therefore seems reasonable that these bodies should also be allowed to issue requests for information and, given the limited resources at their disposal, that the Commission should be able where necessary to provide them with assistance and training;

⁽¹⁾ Article 2 of Directive 2011/16/EU.

5. wonders why the Commission proposal does not include specific penalty mechanisms for Member States that fail to comply with the transparency requirements;
6. believes that the Directive amending Directive 2011/16/EU would provide a new basis on which the Commission could negotiate a BEPS (Base Erosion and Profit Shifting) standard at OECD level that is more ambitious than the draft currently under negotiation;
7. notes that the Commission uses Article 115 TFEU on completing the internal market as the legal basis for its proposal for a Directive amending Directive 2011/16/EU rather than Article 113 TFEU on tax harmonisation. As Article 115 TFEU concerns a sphere of shared competence, the subsidiarity principle applies. In point 2.3 of its explanatory memorandum the Commission nevertheless presents entirely persuasive arguments on the added value of legislating at European Union level and on compliance with the subsidiarity and proportionality principles;
8. observes that, even if the EU does not have direct authority over national tax systems, the Commission can investigate whether certain tax regimes constitute illegal State aid to certain companies by granting selective tax advantages. Given the breadth of ongoing investigations — involving 21 Member States with an average 5-10 of tax rulings per Member State investigated, with another two Member States still to submit their overview of tax rulings issued since 2010 ⁽²⁾ — it would seem necessary for the Commission to draw up guidelines on the design of tax rulings as they relate to State aid;
9. agrees that it makes sense to repeal Council Directive 2003/48/EC on taxation of savings income ('Directive on taxation of savings income') given that Council Directive 2014/107/EU amending Council Directive 2011/16/EU covers all financial products, including those governed by the Directive on taxation of savings income, and given the need to avoid two rules being applied in parallel;
10. welcomes the Commission's presentation of an action plan for corporate taxation in June 2015 that will include other measures aimed at combating tax avoidance and harmful tax competition, and in particular its commitment to submit in 2016 a new proposal on introducing a common consolidated corporate tax base (CCCTB), which would be obligatory at least for multinational enterprises. By way of reminder, according to figures provided by the European Commission in 2011, the CCCTB plan would allow companies in the European Union to save EUR 700 million annually in compliance costs and EUR 1,3 billion through consolidation; therefore reiterates its call to the Commission to consult the CoR on its new CCCTB proposal.

Brussels, 14 October 2015.

*The President
of the European Committee of the Regions*
Markku MARKKULA

⁽²⁾ http://europa.eu/rapid/press-release_IP-15-5140_en.htm?locale=en

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