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I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

512RD EESC PLENARY SESSION, 9 AND 10 DECEMBER 2015

Resolution of the European Economic and Social Committee on refugees

(2016/C 071/01)

At its plenary session of 9 and 10 December 2015 (meeting of 10 December), the European Economic and Social Committee adopted this resolution by 174 to 8 with 9 abstentions.

1. The EESC wholeheartedly appreciates the important work civil society is playing in dealing with the refugees fleeing from war-torn countries, and who, therefore, deserve protection according to the Geneva Convention. Without this response, the tragic humanitarian situation which has unfolded in many European countries could have been catastrophic. The European Economic and Social Committee is directly committed to giving voice to this reality, to ensure that it is properly taken into account by the European institutions, governments and other political actors.
2. The EESC is currently organising visits to meet with civil society organisations offering assistance to refugees in 11 Member States (Hungary, Poland, Malta, Greece, Germany, Austria, Slovenia, Bulgaria, Sweden, Italy, Croatia) and Turkey, as these countries are most affected by the flow of refugees. As the representative body of organised civil society to the European institutions, we will act as their voice at European level.
3. The EESC believes that the current situation requires the EU to develop safe humanitarian corridors for refugees from countries affected by wars and threatened by terrorism and to do this together with the countries where these refugees are mostly concentrated. Beyond that we must establish a truly common European asylum system based on harmonised procedures throughout the EU. This includes uniform asylum status and mutual recognition of asylum decisions, shared responsibility and solidarity and efforts with respect to relocation and resettlement, and a revised Dublin Regulation. In addition, there is a need for robust, solidarity-based systems of burden-sharing, in which a permanent, fair and binding system for allocating those seeking protection between all EU countries would be the first step. Due to the exceptional circumstances and in line with the Stability and Growth Pact, the additional costs of hosting refugees should not, after the thorough examination, be recognised in the public deficits of the Member States.
4. The EESC is also very concerned about the current undermining of the Schengen Agreement and of the principle of free movement, as it is one of the fundamental achievements benefiting EU citizens. It is important to properly secure the external borders of the Schengen countries. However, reinstalling internal barriers and building walls will do nothing to bring EU citizens closer together or foster EU citizenship.
5. It is also crucial to develop immediate measures to address the root causes of the current refugee flows. The EU needs to work with countries of origin and transit on these issues and the EESC insists on the human right-based approach to be taken by the Commission for this cooperation, and not only on a security-based approach. Lastly, the EESC underlines the necessity of including civil society in the dialogue with third countries.

6. The EESC, with its long-standing experience with migration issues, in recent years mainly through the European Integration/Migration Forum, believes integration and inclusion of refugees into our societies must be a two-way process where the social partners and other civil society organisations, together with governments and local authorities, play an essential role. Priority should be given to labour market access and, more specifically, to the recognition of qualifications and the provision of vocational and language training where needed. The European Union should launch a series of measures in reception countries and in the EU to centralise applications for employment, training, and recognition of skills.

7. In order to create the necessary social consensus across Europe, it is essential to fully respect the equal treatment and social rights of both EU citizens and refugees in Europe, with particular attention to the most vulnerable among them. Early investment in the integration of refugees into society and the labour market is important to help refugees rebuild their lives, while minimising potential conflicts with the local population and avoiding greater costs in the future. Adequate funding of local public services and a civil dialogue between refugees and the local population are key to achieving this.

Brussels, 10 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

512RD EESC PLENARY SESSION, 9 AND 10 DECEMBER 2015

Opinion of the European Economic and Social Committee on ‘CAP simplification’**(exploratory opinion)**

(2016/C 071/02)

Rapporteur: Seamus BOLAND

On 2 September 2015, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on:

CAP simplification

(exploratory opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 November 2015.

At its 512th plenary session on 9 and 10 December 2015 (meeting of 9 December), the European Economic and Social Committee adopted the following opinion by 196 votes to 9 with 26 abstentions:

1. Conclusions and recommendations

1.1 The EESC recognises the fact that the European Commission has made it a priority to thoroughly simplify common agricultural policy (CAP) implementation and that it has already proposed, and will continue to propose, the simplification of certain Commission acts, making EU legislation easier to understand and to implement on the ground.

1.2 The EESC believes that increased transparency and legal certainty, and the reduction of unnecessary administration and associated costs for farmers, other beneficiaries, producer organisations and national administrations, is a necessary part of the simplification process.

1.3 Simplifications to the system must be implemented as soon as possible, and must make matters easier for farmers in particular. It is essential that they are accompanied by information- and education-based support.

1.4 The EESC recognises the efforts that the Commission has made to simplify the implementation of the new CAP, taking into consideration the notifications and decisions made by the Member States. With the current approach, it is difficult for the CAP to undergo considerable simplification for the farmer without compromising the rigour with which requirements are fulfilled. Conversely, these requirements are not always coherent and justified from the point of view of converting them into genuine public goods and environmental benefits.

1.5 Inspections and possible fines must be proportionate to the amount of money received by the beneficiary, the reasons for the non-compliance and the willingness to take corrective actions. Clear instances of deliberate fraud must be dealt with via normal procedures. The EESC recommends reducing disproportionality between large reductions of support even for minor infringements.

1.6 The application of greening measures must take into account unexpected factors such as weather conditions, drought or other such events that make the measures impossible to implement.

1.7 Where matters such as permanent grassland have been the subject of decisions in the European Court of Justice, it is important that rules established to respect the judgement are designed in a manner that minimises regulations rather than increases them.

1.8 The current legislative process (Council regulation accompanied by delegated and implementing acts) is highly complex and difficult for citizens to understand. Therefore a study should be carried out on how this system could be simplified.

1.9 After implementation of a flat rate scheme in the context of direct payments, the complex system of payment entitlements should be reviewed.

1.10 Temporary grassland should retain the status of arable land, regardless of how long it is used as grassland.

1.11 The current definition of an 'active farmer' must not disadvantage farmers and should be based on the fact that land eligible for aid is being used by the farmer for agricultural purposes.

1.12 The EESC agrees that the simplification of the CAP is an ambitious project, particularly since agricultural and rural development policies are by their nature complex. Simplification must be compatible with broad policy objectives such as:

- the environment,
- food safety,
- food availability,
- cohesion,
- protection of the Union's financial interests, and
- promoting social inclusion, poverty reduction and economic development.

1.13 Member States should ensure that the methodology that guides action on error rates is designed in such a way as to guarantee fair implementation.

1.14 Measures to ease access by young farmers to the young farmers scheme need to be explored and introduced immediately. Access of young people to agriculture should be supported.

1.15 The EESC recommends that a rule on limiting increased bureaucracy be established. For example, the adoption of a rule to allow for the elimination of an existing regulation when a new one is proposed.

2. General comments about the common agricultural policy

2.1 The CAP budget, amounting to EUR 408 billion for the period of 2014-2020, accounts for 38 % of the entire EU budget. The first pillar, at EUR 313 billion, represents 77 % of all CAP expenditure. Direct payments, at EUR 294 billion, account for 94 % of the first pillar.

2.2 This opinion takes note of other opinions by the EESC ⁽¹⁾.

2.3 The last major CAP reform, completed in 2013, was agreed as part of the co-decision process. This means that the European Parliament participated as equal co-legislators with agriculture ministers, who had increased from 15 to 28 since the previous major reform in 2003.

2.4 It is noted that during a previous reform of the CAP there was a Commission proposal for the direct payment regulation, where the evaluation showed a 15-20 % increase in the bureaucratic burden. At the same time, cuts were made to the budget.

2.5 A series of amendments were already introduced in previous years, which did not always maintain a clear distinction between simplifying and dismantling CAP measures. Examples include:

- a single common market organisation (CMO) replaced the previously existing 21 CMOs. Its creation allowed the repeal of 86 Council acts and replaced more than 1 080 legal articles with around 350,
- the 2009 'Health Check' further decoupled and abolished several schemes, such as payments for energy crops and durum wheat, as well as the disposal scheme for cream, butter and concentrated butter,
- for imports, licence requirements were reduced from 500 to 65, and only 43 licence requirements remain for exports,
- the Commission repealed specific marketing standards for 26 types of fruit and vegetables, meaning operators no longer face compliance costs, national authorities no longer need to carry out checks, and less produce will be wasted,
- farmers are no longer required to keep land at their disposal for 10 months to receive direct payments, thus gaining greater flexibility in their farm management and in responding to market developments.

2.6 According to DG AGRI, the share of funds per Rural Development priority is:

- technical assistance and knowledge transfer 3 %,
- enhancing farm viability 20 %,
- ecosystems 43 %,
- promoting food chain organisation 10 %,
- promoting resource efficiency 9 %,
- promoting social inclusion 15 %.

3. Background

3.1 This exploratory opinion follows on from the visit of Commissioner Phil Hogan to the EESC plenary session of July 2015, during which he stated that his main priority was to achieve a greater simplification of the CAP, and the subsequent letter from Frans Timmermans, First Vice-President of the European Commission, which invited the EESC to submit an exploratory opinion on the subject of CAP simplification.

3.2 It is the Commissioner's view that simplification will ensure that the increased complexity of the CAP and the increased administrative burden that it has placed on farmers, other beneficiaries, and managing authorities will be eased, while at the same time not losing sight of any of its prime objectives.

⁽¹⁾ CAP reform implementing arrangements (information report), NAT/664; Rural Development Programmes (OJ C 13, 15.1.2016, p. 89); CAP towards 2020 (OJ C 191, 29.6.2012, p. 116).

3.3 The European Commission is finalising the assessment of all contributions on the basis of three guiding principles, namely that actions should:

- respect the policies of the 2013 reform,
- concentrate on what benefits farmers and other beneficiaries,
- not jeopardise the sound financial management of CAP expenditure.

3.4 Clearly, any simplification process must not threaten employment across the industry.

3.5 Through the rural development pillar, the CAP plays an important role in terms of social inclusion, poverty reduction and economic development and benefits the entire population of rural areas. The EESC expressly welcomes the focuses set out in Article 5(6)(a)-(c) of Regulation (EU) No 1305/2013⁽²⁾: job creation, fostering local development and enhancing the accessibility, use and quality of information and communication technologies. Simplification of the CAP should therefore ensure that the corresponding funds are made available easily and without bureaucratic hurdles.

3.6 The Commission has undertaken a process involving the comprehensive screening of all existing legislation to identify areas where adjustments and improvements are feasible. It has already received contributions from Member States, MEPs and from farm organisations across the EU. It should be noted that to date these proposals exceed 1 500 pages. From examining the documentation, it can be concluded that the proposals fall into two broad categories:

- reducing bureaucracy for farmers,
- protecting measures designed to achieve 'greening objectives'.

3.7 The EESC notes the priority list of simplification measures drawn up by the Agricultural Council and Presidency. This list could form the basis of proposals put forward by the Commission.

3.8 The Commission makes it clear that each Member State has considerable freedom in choosing its own methodology to administer and monitor the CAP and that simplification can be achieved by sensible interpretation. However, Member States should seek to improve the simplification process by exchanging best practices.

4. Simplification approaches

4.1 It is generally accepted that simplification is required so that implementation of the CAP should never be more complex than is necessary.

4.2 The Commission intends to introduce proposals relating to Ecological Focus Areas (EFAs) on a particular farm, adjacent EFAs, compensation of EFAs in case of wrong declaration, and the Land Parcel Identification System (LPIS).

4.3 The Commission intends to review the potential for simplification of direct payments (particularly on greening), rural development, the fruit and vegetables scheme and quality policy.

4.4 The Commission is also presenting a package that covers direct payment elements such as young farmers, coupled support and the Integrated Administration and Control System (IACS). These changes should be applicable, if possible, from claim year 2016 or, at the latest, by claim year 2017.

4.5 The rules regarding permanent grassland are creating problems for the classification of temporary grassland as arable land or permanent grassland. It should be possible to maintain the status of temporary grassland (classified as arable land) even if farmers decide to use this land continuously as grassland for 5 years or more. This would avoid farmers ploughing up their land just to prevent it from becoming permanent grassland. This land could therefore be used for longer as grassland, which has ecological benefits.

⁽²⁾ OJ L 347, 20.12.2013.

4.6 As regards market measures, the Commission is pursuing an ambitious simplification agenda in terms of elaborating the new delegated and implementing acts to align the Commission-level rules with the new Council Regulation establishing a common organisation of agricultural markets (CMO Regulation). The aim is not only to drastically reduce the number and complexity of these rules, but also to ensure real simplification for farmers and operators alike.

4.7 The Commission has recently made two timely changes to the current rules by adopting:

- an implementing regulation postponing, for claim year 2015, the final date for the submission of aid applications for direct payments and support under certain rural development measures to 15 June 2015, thus giving farmers and national authorities more time to prepare these applications, and
- a delegated regulation amending the rules on direct payments by providing more flexibility as regards the eligibility conditions to be respected for voluntary coupled support for animals, thus responding to a request made by many Member States, members of parliament and stakeholders.

4.8 The Commission intends to introduce a series of proposals on changes which can be made under the current guidelines. Examples include:

- pure leguminous crops (e.g. alfalfa) should not be considered by definition as permanent grassland after 5 years,
- the period of declaration of land lying fallow as EFA and the period under agri-environmental commitments will not be taken into account for the calculation of the 5-year period for permanent grassland,
- the Commission will come forward with a number of proposals concerning direct payments,
- a second package to be proposed by the Commission is intended to cover elements other than greening, e.g. the young farmers scheme, voluntary coupled support and certain aspects of the IACS. These changes should become applicable, if possible, from claim year 2016 or at the latest the year after,
- there will be a further review of the greening rules in 2016 after the 1st year of application, as pledged by the Commission in April 2014. The aim is to come forward with a further package of measures in 2016, with a view to them being applied in the following year (claim year 2017),
- the Commission will look at the potential for simplifying rural development: programming and approval of RDPs, double funding, checks, simplified cost options and reporting.

5. Simplification issues

5.1 The greening of direct payments is now a crucial element of the common agricultural policy reforms. While farmers are learning to adapt to these changes, they remain fearful that specific measures may not be flexible enough to deal with unexpected conditions caused by the weather or fluctuations in market price.

5.2 It is understood that unannounced inspections will occur. However, these inspections are seen as at least a serious inconvenience and at most can cause huge mental distress to farmers. It is clear that justice demands that reasonable notice is given to the farmer before the inspection takes place.

5.3 Given that fines levied because of non-compliance will be unusually high, farmers fear that they will not get support, particularly in the form of appropriate information. In this instance Member States must convey adequate information to farmers who are most affected by the changes, with particular focus on farmers who are at a social and economic disadvantage.

5.4 The current regulatory framework regarding the definition of an 'active farmer' is not satisfactory and will require additional complex administration. Because of this, there is a risk that farmers involved in agricultural production will be excluded and, conversely, those not involved in agricultural production may be included.

5.5 Farmers are still trying to get to grips with greening, currently in its 1st year, and the three agricultural practices that it entails. Diversification of crops, maintaining permanent grassland, and allocating 5 % of land to EFAs are the three aspects of the reform that farmers must satisfy in order to be eligible for aid.

5.6 It is unacceptable that farmers are often held responsible because of errors made at official level. In particular farmers whose income is low and are dependent on this source of income are put in a position where their livelihood is in jeopardy.

5.7 'Proportionality of sanctions' is a recurring theme for most European trade associations.

5.8 Farmers with less than 15 hectares or who are receiving payments of less than EUR 10 000 feel that compliance should be based on light-touch inspection, and further inspections should only be carried out with preliminary evidence of serious non-compliance.

5.9 Issues regarding permanent grassland, raised by the 2014 decision of the European Court of Justice, will need to be resolved. The case highlighted many problematic cases of buffer strips (arable land), arable grassland, set-aside arable land and arable land under agri-environmental measures, where farmers saw a risk that this land would be formally declared permanent grassland because of the 5-year definition.

5.10 Where agricultural organisations see a need for simplification, flexibility and proportionality, environmental groups see genuine risks. From an EESC perspective, this represents a failure to reconcile the aims of environmental improvement with that of food production on family farms.

5.11 Regarding horizontal provisions, a more proportional and risk-based approach could apply to the intensity of checks, taking into account the risk and amounts involved, cost-effectiveness and the different objectives and outcomes being sought.

5.12 Multiple checks should be avoided. In cases of non-compliance, particularly with minor infringements, the payment reductions and administrative penalties should be proportional. Additionally:

- the calculation of these penalties should be simplified,
- the checking and penalty system for cross-compliance should also be revised in relation to proportionality,
- the possibility of allowing payments, including advance payments, after the completion of administrative checks should be explored,
- the methodology for the calculation of error rates must be harmonised,
- higher tolerance rates of minor infringements that are easily correctible should be facilitated.

5.13 There should be a focus on steps that require urgent attention, such as improving guidance notes, provision of technical assistance, and facilitating cooperation and exchange of best practices between administrations.

5.14 Young farmers are having difficulty accessing the young farmers scheme. Barriers that unnecessarily prevent such access are likely to discourage young people from entering farming and need to be dismantled. Access of young people to agriculture should be supported.

5.15 Any amendments to the current legal framework must be agreed with sufficient time to allow farmers to adequately plan for the sowing season. Specifically, amendments affecting applications for the year 2017 should be published in the summer of 2016.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

APPENDIX

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussion:

New point after 1.5

Add a new paragraph and change numbering accordingly:

The EESC strongly recommends that inspections should only take place on farms after a period of reasonable notice, not less than 14 days, is given to the farmer.

Reason

Farmers who are inspected without advanced notice, often at the busiest times of the year, risking health and safety as well as mental stress caused by having to abandon important work, such as calving, harvesting and so on.

Result of the vote

For	84
Against	104
Abstentions	35

New point before 1.6

Add a new paragraph and change numbering accordingly:

A higher level of tolerances of minor infringements, where they represent a low level of non-compliance and are easily correctible, should apply.

Reason

Certain infringements are by their nature very minor and easily correctible and in many cases do not affect the overall farm output.

Result of the vote

For	75
Against	116
Abstentions	40

Opinion of the European Economic and Social Committee on ‘Engaged universities shaping Europe’**(own-initiative opinion)**

(2016/C 071/03)

Rapporteur: Mr Joost VAN IERSEL

On 19 March 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Engaged universities shaping Europe

(own-initiative opinion).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 19 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December 2015), the European Economic and Social Committee adopted the following opinion by 143 votes to 1 with 7 abstentions.

1. Recommendations

1.1 The future of Europe depends heavily on the availability of state-of-the-art knowledge and talented people in an open and knowledge-driven society. Universities have a key role to play in this process. If each Member State acts alone, the result will always be less than ideal.

1.2 The EESC underlines that national and EU competences should be shared and fine-tuned in order to create a European Higher Education (HE) Area. The concept of a civic and entrepreneurial university can also be very helpful in fostering the quality of HE in Europe.

1.3 The state of play shows that despite progress being made, there are still many obstacles and restraints that also hamper effective EU involvement. Different cultures, vested interests, a lack of financial resources and demographic developments often make it hard to provide up-to-date responses to dynamic challenges such as globalisation, new technologies, and mobility.

1.4 The EESC is of the opinion that the European institutions must act as a stimulus and speed up the process of modernising European HE, in terms of education as well as research and innovation. Universities have an autonomous mission that serves the public interest. Subsidiarity and the varied landscape of universities do not allow for a one-size-fits-all approach. Strategic guidance and support at EU level, however, can help decisively to improve conditions.

1.5 What is crucial is that the European Commission stimulate and push forward the agenda for the process of transforming European universities into co-drivers for growth and social cohesion and for the well-being of society.

1.6 Explicit reference should be made to the modernisation of HE in the National Reform programmes (NRP) and in the Country-Specific Recommendations (CSR).

1.7 The EU should demonstrate its commitment to HE through the Europe 2020 Strategy (including the semester), Erasmus+, Horizon 2020, the regional and cohesion funds, and by making cross-border mobility easier for students and lecturers.

1.8 Strategic consultations at EU level should add to discussions and projects in and between countries and universities in order to boost any quality of European universities. Best practices should be systematically disseminated.

1.9 Once again, the EESC underlines the need for HE institutions to develop real autonomy, accountability and transparency as essential prerequisites for modernisation ⁽¹⁾. These prerequisites cannot be met without appropriate and adequate funding.

1.10 At a time of deep social and economic change, transforming universities is a long-term and laborious process. Universities need to develop an open attitude to society's needs, and must include outreach to other stakeholders.

1.11 The EESC welcomes the concept of the civic university and the 'triple helix' and 'quadruple helix' model ⁽²⁾. The focus is on opening up HE, on broadening access, on the regional context, on integrating ideas from all (potential) stakeholders into programmes, and on a smart, up-to-date relationship between research and education.

1.12 The civic university has a number of elements in common with the entrepreneurial university. It emphasises its autonomous mission, and is open to the labour market and social relevance of educational curricula and of research and innovation. Stakeholder platforms ⁽³⁾ can be very helpful in co-defining requirements. PPP structures between universities and social groupings of any kind can be equally beneficial.

1.13 The level of teaching and adequate preparedness for subsequent jobs should remain a priority whatever the specialisation of a (top) university. Excellence in teaching also needs to be rewarded.

1.14 The Commission should play a stimulating role in cross-border cross-fertilisation projects between universities, lecturers and students as well as in promoting openness to the world; and in developing instruments, such as U-Multirank, where appropriate for students and other stakeholders.

2. State of play

2.1 The considerable variations between universities in Europe are due to highly-differing traditions and cultures ⁽⁴⁾. In 1999 the Bologna process started a successful trend towards modernising curricula.

2.2 Since 2008, the financial and economic crisis has forced universities to re-evaluate their operations even more closely and to seek out new financing sources and value for money. This has increased competition for scarce resources. A lack of sufficient funding poses a real problem for many universities, and is an impediment to the modernisation agenda.

2.3 The deep and dynamic transformation society is undergoing as a consequence of globalisation and new technologies is leaving its mark on universities. Higher education, research and innovation are at the heart of sustainable economic recovery, but financial constraints and the transformation process reveal equally marked shortcomings.

2.4 One fundamental aspect is the lack of autonomy, accountability and transparency. Substantial discrepancies exist between the Member States ⁽⁵⁾.

⁽¹⁾ See EESC opinion Universities for Europe (OJ C 128, 18.5.2010, p. 48).

⁽²⁾ See 4.7.

⁽³⁾ These platforms should consist of business and social partners as well as regional partners.

⁽⁴⁾ In this opinion, all higher education institutions are referred to as universities. In some countries, an important distinction is made between research universities and universities of applied sciences, while other countries refer to universities for both categories.

⁽⁵⁾ The Autonomy scoreboard of the European University Association reveals that much still remains to be desired when looking at organisational, financial, staffing or academic autonomy in various countries (<http://www.university-autonomy.eu/>).

2.5 Best practice demonstrates that a review of structures and curricula, as well as greater openness and cooperation, boost quality and output.

2.6 HE should be within the reach of all talented people today. A growing correlation between access and social-economic background jeopardises the principle of equity. Moreover, in a number of countries HE by no means guarantees a safe job. During the crisis, youngsters with a higher education have by no means been safe from unemployment.

2.7 Demographic trends are detrimental to (increasingly) less populated and less competitive areas. This development often has serious consequences for attracting teachers and students and for the quality of the teachers and students attracted. Some countries are facing a brain drain. New private universities in the countries concerned, lacking adequate quality assurance, generate unsatisfactory outcomes. This is aggravated by a lack of funding for traditional HE.

2.8 The desire for closer relations between universities and society fuels discussions everywhere on their role in society, and on alliances with other stakeholders such as businesses, social partners, and civil society.

2.9 There is often a painfully-felt mismatch between graduates' skills and labour market needs, between supply and demand. Businesses complain about a lack of skilled professionals, especially in the technical professions and ICT. Rapid changes in the global knowledge-base mean that, now more than ever, the right skill set for the 21st century is needed to enable graduates to systematically update their knowledge.

2.10 Furthermore, new technologies and digitisation are forcing HE to adapt and fine-tune existing methodologies. New forms of teaching and learning are becoming established, including student-centred learning, and online courses. Nevertheless, physical university campuses will continue to play a key role in local and regional communities as meeting grounds for education, research and networking.

2.11 Students and academics/university teachers are becoming increasingly mobile worldwide. In the upper ranks, there is an ongoing 'battle for talent', but the overall trend is broader. The quality and attractiveness of European universities are key draw factors for students from abroad, contributing to education and research, and generating long-lasting networks.

2.12 In striving for greater output, (top) universities often emphasise research as their prime task and financial regulations support this. A primary focus on research tends to undermine the optimal balance and interaction between research and teaching.

3. Transforming universities and opening them up

3.1 The development of universities into knowledge hubs in society as an integral part of the EU ecosystem fuels a discussion on the essential characteristics of HE, on which day-to-day practices must be based.

3.2 While there are different approaches, a common trend seems to be the opening-up of HE to the opinions and interests of public and private stakeholders and students, and to issues such as cross-fertilisation between research and education and greater cooperation and internationalisation.

3.3 For most universities this is a long-term and laborious process. It is not easy for big, traditional institutions to change their behaviour. Moreover, in many countries existing (political) procedures to appoint governors as well as lecturers and researchers are an obstacle to change. In such cases, independent approaches by and within universities are rare. In the view of the EESC, opening up HE and maintaining an open mind should be a high priority for HE across the continent.

3.4 Top-quality research, as well as better-trained and highly-qualified people, is indispensable to the resilience of any economy. The crisis has had a detrimental effect on results in knowledge centres, while analyses prove a direct link between outstanding research and education, and economic performance.

3.5 Universities no longer target the upper echelons of society. Their number and size have increased dramatically. The landscape has become more diverse: more categories, notably, applied sciences universities alongside research universities, regional HE alongside national and international universities, and a greater number of faculties, notably in the economic and technical sectors, etc.

3.6 Broadening access to HE is rightly a political priority across the continent. In the EU, 40 % of the upcoming generation should be able to get a university degree. In addition, curricula, learning tools (the use of modern media in blended learning, etc.), the relationship between research and education, as well as other aspects such as internationalisation and the public interest, bear no resemblance to the way they were in the past. Management methods need to adjust accordingly.

3.7 Autonomous, accountable, and transparent universities should be enabled to act as freely as possible within a legal framework that encourages bottom-up forces and competition as a major contribution to broader participation and smart specialisation.

3.8 An open attitude, including clear outreach to other stakeholders, should sustain universities as drivers for growth, competitiveness and social cohesion.

3.9 For the economic viability of the local and regional community, concepts of the civic and entrepreneurial university can be very useful. These concepts require both ambition and close cooperation between universities, their stakeholders, and public authorities.

4. The civic university

4.1 The EESC welcomes the concept of civic university⁽⁶⁾. This goes beyond teaching, academic research and knowledge. A civic university engages actively with the public and the surrounding society — at all levels. Every university can add a civic dimension to its performance by taking on the role both of intellectually productive power station for the community and of receiving substation, transforming excellent ideas from elsewhere into its own specific context.

4.2 Such processes are taking place across Europe — through demand-driven research, problem-based learning, cooperation between universities and local communities, schools, hospitals, businesses etc. However, a substantial amount of capacity-building is still needed⁽⁷⁾.

4.3 At regional level, universities can support a holistic approach and be leaders in bringing together relevant stakeholders to address common challenges. A well-designed civic university can also play an important role in promoting the output of regions in difficulty.

4.4 The model's form will vary from university to university. In addition to those universities directly concerned by less affluent areas with weak economic performance and/or demographic difficulties, criteria that would qualify a university as 'civic' are valid for a far wider group. These days, world-class European universities and those with similar ambitions are also increasingly and rightly attracted by civic engagement.

⁽⁶⁾ This model has been endorsed by various organisations, such as ERRIN, the European Regions Research and Innovation Network, and ECIU, the European Consortium of Innovative Universities. A strong spokesman is also John Goddard, formerly Deputy Vice Chancellor of Newcastle University.

⁽⁷⁾ EESC Workshop, 13 June 2014 — Universities for Europe.

4.5 The civic university presents a model for universities that want to move beyond outdated methods of management or traditional approaches. This is particularly important in cases, where young talents should be challenged to contribute to the national or regional economy. Deeper cooperation with the relevant stakeholders in all regions must be a formula that drives openness and modernisation.

4.6 Respective Council presidencies rightly adopted a similar approach in the Lund and Rome Declarations⁽⁸⁾, underlining the need for research to focus on the major challenges of our time, moving beyond rigid thematic approaches and involving stakeholders from both the public and private sectors. When it comes to shaping the European Research Area and the Innovation Union, Responsible Research and Innovation is a central objective, spanning all relevant policies and activities. These principles are also priorities under Horizon 2020.

4.7 Alongside the 'triple helix' model — which involves cooperation between universities, the private sector, government — is the 'quadruple helix' model, which also engages local communities and civil society. It has a strong sense of place and a sense of purpose and is transparent and accountable to its stakeholders and the wider public. This presents a new opportunity for civil society to get involved.

4.8 One specific group requiring attention is former students: alumni. More can be done in Europe to engage them in helping to improve universities' output and image. Europe could follow the example of common US practice here.

4.9 Alumni should be seen as an integral part of the university community. They can be ambassadors for a university, regionally, nationally and internationally, and driving forces in the discussion on curricula, which is especially useful in times of dynamic change. They can be instrumental in the discussion on the balance between research and education as well as between research and the market. A specific goal could be to use alumni as coaches for recent graduates, especially first-generation students, including those with foreign backgrounds.

4.10 Greater alumni mobility generates successful international networks, which can be equally beneficial for their universities and for industry.

5. The entrepreneurial university

5.1 'The civic university' has a number of elements in common with the entrepreneurial university. Universities are not companies. They have an autonomous mission in the public interest, notably to educate, to carry out (top-level) research, and to the use of knowledge by society at large. The entrepreneurial university has a dual focus: on steering and managing the institution and on fostering students' entrepreneurial skills and sense of initiative.

5.2 The labour market relevance of educational curricula and the societal relevance of research and innovation are very important. Communication and interaction with the private sector at national/regional level are crucial to meet the challenges facing society.

5.3 The silo mentality is no longer useful. Technological dynamics and societal challenges call for continual adjustment. The demand side is increasingly complicated, requiring inter- and trans-disciplinary competences and an openness to any new development. Besides professional competences, this also entails the need to develop skills. Stakeholders platforms, linked with universities, can be very helpful with jointly defining requirements. Teaching staff must be properly prepared for this dynamic context. Entrepreneurship skills⁽⁹⁾ should also be taught in all kinds of HE across the European Union.

⁽⁸⁾ Lund Declaration 2009, Rome Declaration 2014.

⁽⁹⁾ Recommendation on key competences for lifelong learning (2006/962/EC). Sense of initiative and entrepreneurship refers to an individual's ability to turn ideas into action. It includes creativity, innovation and risk-taking, as well as the ability to plan and manage projects in order to achieve objectives.

5.4 Similarly, PPP structures bringing together universities and social groupings, such as business circles and the health sector, can be equally beneficial.

5.5 A valuable project for universities would be to create 'Education Value Chains', in cooperation with business sectors. There are two main purposes to this:

- to facilitate links and the exchange of information with business sectors, in order to improve learning outcomes for the individual graduate and for business,
- to distribute resources and funds among the various components of the 'educational chain', from the Commission and the national ministries down to school authorities and, finally, to the students. In parallel, technical and apprenticeship education should be promoted.

5.6 Similarly, performance agreements, as applied in some Member States, will boost universities' specialisation, profile and image. They can have a wide international as well as a regional focus, and improve the ambition and quality of both programmes and students. To achieve this, consistent commitment on both sides (governments and HE) is essential.

5.7 Innovation should affect research and education as well as governance. A successful example of bottom-up improvement is HEinnovate, an independent online self-assessment tool, developed by the European Commission ⁽¹⁰⁾. Wider use of this tool should be encouraged.

5.8 Internationally-presented university programmes as well as a broad panoply of competing online courses is on offer for students who want to be more mobile. Comparability and transparency should foster competition and convergence in terms of performance. Transparency tools such as U-Multirank in the EU have great potential and universities need to consider how to use this type of instrument more effectively.

5.9 All talented people should have a fair chance to enter higher education. Fee-paying systems are becoming increasingly widespread. As a result, students become more critical of the education they receive. But any social selection resulting from the introduction of fees must be excluded. Student support (based on socioeconomic background) must ensure fair access for everyone to appropriate education. Moreover, fee-paying systems must not be misused to replace existing public funding.

5.10 Demographic developments also call for additional efforts to be made to boost the number of graduates in the regions concerned, specifically to promote the resilience and future viability of those regions.

5.11 Where both students and business are concerned, higher education and research must be strongly interlinked. By contrast, financing models tend to favour research outputs, resulting in fewer university teachers actually teaching.

5.12 Universities must take due account of the fact that the vast majority of graduates with bachelor's and master's degrees, and even PhDs, will take up jobs in society and business, outside academia. Consequently, educational standards and adequate preparedness for jobs should remain a priority whatever the specialisation of a (top) university. In this respect, the US provides an example that Europe should not follow ⁽¹¹⁾. The formula for Europe is to strive for excellence and equity.

5.13 Digitisation is a paradigm shift that is affecting HE profoundly in terms of teaching and (blended ⁽¹²⁾) learning, teachers' and students' skills, and governance structures. More dynamism and flexibility will be required at all levels. In this regard, closer cooperation between HE and the private sector is also beneficial, if not essential.

⁽¹⁰⁾ See www.heinnovate.eu, HEinnovate, How entrepreneurial is your HEI?

⁽¹¹⁾ See *The Economist*, 28 March 2015, Special report on American universities: Excellence v equity.

⁽¹²⁾ Blended learning is making (integrated) use of both traditional and open (online) education.

6. Putting forward the European dimension

6.1 The EESC welcomes the fact that all of the above subjects, together with the modernisation of HE, are increasingly present on the EU agenda. It would be desirable to find a common approach to ensuring successful completion of the European HE Area and the European Research Area.

6.2 Open and transparent universities, in addition to a well-defined European guiding strategy, will be highly beneficial for the single market and for the modernisation of a resilient European society in the global arena. The free movement of students, researchers and knowledge is essential to this.

6.3 EU engagement in HE began with the promotion of scientific research in consecutive framework programmes. Meanwhile the EU's commitment to the field of education is expanding. The Stability and Growth Pact emphasises the need to uphold growth-inducing expenses, including HE in particular.

6.4 Two of the five Europe 2020 headline targets are directly related to HE: investment in R & D and innovation, and education. They commit a number of different commissioners. In 2014, the CSRs revealed that around half the Member States face serious problems regarding skills mismatch and labour market relevance, as well as an ongoing lack of cooperation between HE and business or other stakeholders.

6.5 The CSRs point to the need to address employability and the needs of the private sector and of students/graduates as future employees (or employers) as well as competitiveness, through more effective cooperation between HE, research institutions and business. The EESC insists that the follow-up of the CSRs should be monitored more effectively and the results discussed openly by the Commission and the Council.

6.6 However, in contrast to the need for HE to be autonomous and accountable, there are political forces in Member States calling for more regulation, which would lead to less autonomy. In these cases, subsidiarity is invoked as a principle, consequently preventing the harmonisation of HE systems in Europe. This would damage the interests of students and of society as a whole.

6.7 Higher and broader qualifications should be put to use in the EU and beyond. This calls for cross-border cross-fertilisation between universities, lecturers and students and for openness to the world. An explicit commitment from the Council, the Member States and the Commission should lead to enhanced HE performance through better sharing and fine-tuning of national and EU competences.

6.8 The EESC constantly underlines the crucial importance of EU research and innovation programmes. Cross-border research fosters return on investment, EU programmes encourage a focus on key technologies and strategic themes, cross-national financing leads to higher outputs, and European scientific alliances give a real boost to European competitiveness. To this end, new knowledge also needs to be shared more widely, notably by open access.

6.9 Under the seventh framework programme (FP7) and, since 2014 under Horizon 2020, the European Research Council successfully supports high quality research through competitive funding. However, structural barriers still impede the cross-border mobility of researchers, academics and students.

6.10 Increasingly, the performance of HE and research is assessed and made transparent worldwide. Universities are cooperating and competing on a global scale, working on joint research projects, pursuing excellence and, increasingly, recruiting both students and staff from outside the EU. This is a key issue, and yet national regulations and a lack of stimulus can stifle progress in this area. International measuring proves that the gap between Europe's best performers and others is widening.

6.11 Greater efforts need to be made to involve excellent researchers from all over Europe in joint projects. Pockets of excellence across the continent need to be connected and to participate in Europe's excellent research projects.

6.12 Mobility among academics and students in Europe is limited, as cross-border movement is still artificially hampered. Ensuring equal working conditions for researchers and academics, along with greater convergence of curricula and student degrees in Europe is a matter of urgency.

6.13 Inadequate statistics should be improved and put to better use in order to measure the extent of mobility and to support it.

6.14 The opening-up and upgrading of universities, as well as cultural diversification through increased internationalisation are healthy. Moreover, students, supported by up-to-date social media, transparency instruments such as U-Multirank, and the specialisation of universities are encouraged to make specific choices. Pragmatic solutions at EU level should help them.

6.15 Closer cooperation among those willing can show the way forward. One example is the recent agreement between the Benelux countries concerning the automatic mutual recognition of diplomas. This is a decisive step forwards⁽¹³⁾. A trend for the mutual recognition of university degrees and the different degrees in sciences will help reduce barriers between universities and create open exchanges.

6.16 Adequate quality-assurance systems need to be internationalised and should have a clear European connection. This includes the need to recognise accreditation decisions. Any initiative in this field should be welcomed⁽¹⁴⁾. A process of mutual recognition should gradually lead to Europe-wide accreditation and will, in particular, boost the quality of teaching in underperforming universities.

6.17 Such practices would be beneficial across Europe for both mobility and employability. By introducing one degree for several universities, joint programmes between universities would become far more attractive. Support for twinning should be considered. The exchange of administrative and teaching practices on the spot may enhance quality.

6.18 A basic condition for internationalisation is the use of common languages. Knowledge of (more than two) languages is desirable for cultural and economic reasons. English might be today's lingua franca. Progress on improving language skills is too slow. Making it mandatory for students to know one foreign language should be taken into consideration.

6.19 The Erasmus+ programme has been a great success and a huge step forward in facilitating mobility. It is also well received by business. It fits in very well with the Commission's guiding principle of growth and jobs. The financing of the programme should meet growing demand. Any legal constraints to student exchanges should be removed.

⁽¹³⁾ On 18 May 2015, the Benelux countries signed an agreement on the automatic mutual recognition of all university degrees. As part of the Bologna-process, the Pathfinder Group recommends to explore system level automatic recognition on a regional basis with like-minded partner countries.

⁽¹⁴⁾ For example, on 9 July 2015 the *Akkreditierungsrat* (Germany) and the NVAO (NL, Bel-FI) have agreed to recognise each other's accreditation decisions regarding joint programmes between the countries.

6.20 European structural and investment funds are rightly focusing on innovation and growth factors, including research. The Commission must play a guiding role in improving the participation of universities in regional projects.

6.21 As a rule, universities are independent from local and regional authorities, although there are notable exceptions. These should be highlighted. A very positive contribution is also being made by the ESIF programme, which links research through RIS3⁽¹⁵⁾ to EU regional programmes, fostering an innovation-friendly environment.

6.22 Universities should be aware of RIS3 and its application at various levels. Together with committed regional authorities they should play an active role in the programme.

6.23 Unfortunately, for reasons of governance, universities are still underusing the ESIF programme. Synergies between EU programmes (ESIF, Horizon 2020 and Erasmus+) need to be sought, but tend to be blocked by conflicting conditions.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹⁵⁾ RIS3: National/Regional Research and Innovation Strategies for Smart Specialisation.

Opinion of the European Economic and Social Committee on ‘The role of engineers in the reindustrialisation of Europe’

(own-initiative opinion)

(2016/C 071/04)

Rapporteur: Antonello PEZZINI

Co-rapporteur: Zbigniew KOTOWSKI

On 19 February 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

The role of engineers in the reindustrialisation of Europe

(own-initiative opinion).

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 5 November 2015 (rapporteur: Mr PEZZINI, co-rapporteur: Mr KOTOWSKI).

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December 2015), the European Economic and Social Committee adopted the following opinion by 206 votes to 1, with 6 abstentions.

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) believes that both individual European engineers and technicians and their national and European organisations are a key resource in the European reindustrialisation process as they help speed up the conversion of research into innovative market applications.

1.2. The European Union (EU)’s economic development is increasingly linked to a process of reindustrialisation, seen as a strategy for shifting to new sustainable models for design, production and marketing of high value-added, innovative products incorporating new, high-quality technologies, materials and services in an increasingly digitalised world.

1.3. The EESC believes that the key role played by engineers and technical professions in this process of attempting to resolve the difficulties facing European society as a result of the challenges posed by reindustrialisation should be more strongly emphasised and highlighted, and calls for the launch of a participatory *foresight* exercise on the future of the profession.

1.4. The EESC recommends promoting a **European culture of entrepreneurship** and innovation and launching tangible initiatives to revive the professions of engineer and technician, which drive civilisation and prosperity.

1.5. The EESC supports the need for a **harmonious European framework** driving the profession forward, covering areas such as:

- mutual recognition of professional qualifications,
- mobility within the EU and entrepreneurship,
- European systems of formal and informal continuing training and lifelong learning with support programmes,
- better access to public procurement, especially for businesses working in cooperation, start-ups, networks of businesses (particularly SMEs) and professional associations of engineers,
- better access to finance and capital markets,

- campaigns to increase the appeal of courses and careers and of professional qualifications,
- support for cross-disciplinary approaches and digital networking,
- flexibility and promotion of gender equality,
- mutual regulation of professional liability across the single market,
- active policies encouraging SMEs to recruit engineers,
- promotion of the intellectual property culture.

1.6. The EESC believes that high levels of training and qualifications are a prerequisite in engineering for an effective mutual recognition system. High levels of education and training need to be maintained, with the introduction of an optional EU '29th regime' based on voluntary European Professional Card pilots ⁽¹⁾ and with active support from national and European professional associations if we want to ensure that each country has confidence in mutual, knowledge-based professional mobility.

1.6.1. The way society is currently developing is creating a multitude of new jobs outside the technical area, which, thanks to the influence of the media and the desire for social popularity, are attractive to young people looking for a rapid and prestigious career. From this point of view the engineering profession is perceived as traditional, providing no possibilities for an easy and fast career. This means that engineering disciplines will not be attractive to future generations, which presents a serious threat to the success of European reindustrialisation and the competitiveness of European industry. It is a serious challenge to existing educational systems and suggests that primary education needs to be steered firmly towards mathematics, physics and engineering, presenting them as attractive so as to arouse the curiosity of younger generations. Likewise, the principle and best practices of dual education (Germany, Switzerland and Austria) deserve special attention from all the Member States which lack such a system.

1.7. The EESC believes that it is necessary to create a European single market for engineering and develop a common, multidimensional approach for increased mobility throughout the European Union, given the importance of mutual recognition, in particular for independent self-employed engineers.

1.8. The EESC recommends that the engineering sector be given a substantial role in European standardisation policy to speed up, simplify and modernise procedures and ensure the interoperability of systems and networks.

1.9. The EESC recommends that organisations in which engineers work develop, on the basis of the European Qualifications Framework, electronic training models geared to the younger generations and governance and evaluation arrangements geared to new engineers and their characteristics, with appealing working environments and career paths.

1.10. According to the EESC, representative organisations and professional bodies need to find more common ground in order to act as a united driving force, both within and outside the EU, and provide their members with lifelong learning in accordance with common European parameters.

1.11. The EESC recommends that the Commission take practical steps towards the establishment of a European liberal profession forum ⁽²⁾, in which engineering associations and professional bodies should be widely represented, and calls for the creation of a European engineering portal where issues such as liability, intellectual property, taxation, pensions, ongoing training and codes of good practice can be addressed.

⁽¹⁾ See the FEANI European Engineering Card.

⁽²⁾ OJ C 226, 16.7.2014, p. 10.

1.12. The EESC recommends that the Commission draw up a European code of good engineering practice on the basis of the experience of national organisations of engineers and technicians, providing these professionals with the legal and financial prerequisites for innovative projects, particularly SMEs and R & D operators.

1.13. The EESC believes that the profession needs to be increasingly focused on the management of complex issues relating to economic, social and environmental sustainability, making increasing use of advanced multidisciplinary approaches and proper interoperability between manufacturing systems and the new Industry 4.0 systems.

1.14. The EESC calls on the Commission and Member States to take due account of the European Council conclusions of 20—21 March 2014 urging them to address shortages in the area of science, technology, engineering and mathematics — the so-called STEM skills — as a matter of priority, with increased involvement of industry.

2. Introduction

2.1. European engineering is rooted in the pursuit of innovation, as epitomised in the genius of Leonardo da Vinci, a fact that reflects European society's openness to new ideas and a culture of valuing civic engagement, good governance and hard work.

2.2. As underlined by the European Parliament (EP), 'The crisis has hit European economies hard. (...) The EU needs a comprehensive growth strategy to overcome these challenges' ⁽³⁾.

2.3. The EU's reindustrialisation strategy focuses especially on investment in innovation, where engineers play a key role, particularly in fast growing sectors.

2.4. The convergence of digital technologies, communication systems and smart grids, nanobiotechnology, sustainable industrial technologies, 3D printers and cross-sectoral enabling clean technologies is radically changing how economies and societies operate, with speed that has become exponential as a result of globalisation.

2.5. The EU's future is linked to a process of reindustrialisation, which means, first and foremost, a strategy for shifting to new sustainable models of design, production and marketing for high value-added products incorporating new technologies, materials and services in an increasingly digitalised world.

2.6. The EESC firmly believes that without scientific and technical human resources, with the requisite assets in terms of experience and know-how, it will be difficult to achieve the objectives outlined in the Europe 2020 strategy. Here, too, the role of professional organisations and associations of engineers and technicians needs to be highlighted, at national and European level.

2.7. In Europe, the highest concentration of technical skills is in the engineering sector, which boasts some 130 000 companies employing more than 10 million highly qualified and skilled people, with an annual output worth approximately EUR 1 840 billion, equivalent to around one third of all EU exports. Engineers and technicians also play an important role in all other sectors of the economy ⁽⁴⁾.

2.8. Europe needs to develop a new, 'smart' approach to its policies, ensuring a new role for professionals with a technical background. There is an increasing need to manage *smart* transformation processes in the regions, something that is explicitly required by the new European agenda.

2.9. If it is to achieve these objectives, the EU must improve the skills levels of its workforce. There will be an increase in demand in the public and private sectors for engineering expertise in particular. The public sector will require increased technical skills to meet challenges in a range of sectors (energy, transport, health, waste management, education, the carbon footprint, the internet of things and the circular economy) applying the new public procurement directives with forms of cooperation involving business networks, work in clusters and new software.

⁽³⁾ See EP Resolution of 15 January 2014.

⁽⁴⁾ Source: Eurostat.

2.10. The private sector will also have to upgrade engineering skills if it wants to reap the benefits of more advanced skills in the workplace. Analysis of consumer behaviour reveals a constantly increasing demand for intelligent products and services.

2.11. Technical know-how and experience must be constantly updated to respond to the challenges posed by new industrial processes. New forms and methods of learning and training are needed to allow for optimal, flexible use of human and social capital in the sector. It will be necessary to organise new forms of work for professionals operating in the area of vocational, technical and scientific services in Europe.

2.12. Greater mobility in national, European and global labour markets will lead to better use of the workforce available within an attractive European engineering pool. With the possibility of opting for a voluntary EU '29th regime', the dissemination of an EU professional card could be encouraged, to make it easier for specialised engineers to build up professional experience in the different European countries.

2.13. To make potential engineering students more aware of the profession, greater cooperation is needed between industry and academia and between employers and state and private schools, at both primary, secondary and R & D levels. This would encourage companies to put corporate social responsibility into practice and promote appropriate training.

2.14. Involving entrepreneurs and taking on new and more complex issues will make it clear to young people that maths, information technology, physics and chemistry are necessary to solve the problems that society has to address and are the keys to new innovative solutions in medicine and healthcare, transport, pollution and energy savings.

2.15. Cooperation of this kind must be forged at local level, but experience and best practice should be shared at European level. This would make for new jobs and career opportunities for engineers, and could help to make these subjects more alive and relevant for future generations.

2.16. At the same time, taking into account parallel progress in all the various disciplines and the multi-disciplinary nature of practical applications, quality and effectiveness need to be guaranteed, introducing educational pathways that incorporate other subjects into secondary and university education, such as social psychology and human resources team management, stimulation of creative processes, nanotechnologies, biomedical engineering, technical history, economic geography, etc.

2.17. A process of accrediting educational curricula is one way in which these professions can guarantee compliance with standards. Quality assurance involves the establishment of reference and evaluation standards in line with the European and national qualifications frameworks.

2.18. External accreditation and internal quality assurance are two very important factors in maintaining high quality engineering training.

3. General comments

3.1. *The driving role of engineers in EU reindustrialisation*

The EESC considers the driving role of engineers and technicians in the practical implementation of the European reindustrialisation strategy to be essential, providing viable solutions for '*lean, clean and green*' processes, products and services in response to the challenges of sustainable, competitive development.

3.1.1. At the same time, the EESC points to the need for a European framework driving the profession covering the following areas:

- mutual recognition of qualifications and professions,
- mobility within and outside the single market and development of entrepreneurship,
- increasingly aligned European systems of formal and informal continuing training and lifelong learning with support programmes,
- uniform liability guarantees and accountability in the single market,

- campaigns to increase the appeal of courses and careers and professional qualifications, promoting a gender balance,
- support for cross-disciplinary approaches and network management of complex issues,
- flexibility and harnessing of the specific attributes of the new generations,
- ‘Gen C’ (the connected generation),
- policies to increase the flexibility of management and communication, including across sectors and disciplines, ensuring interoperability between science, manufacturing and Industry 4.0;
- support for the role of engineers and technicians and their socio-occupational organisations in the use of R&I programmes and Structural Funds,
- measures promoting accountability and implementation of codes of ethics, particularly in public procurement with the system introduced by the new directives ⁽⁵⁾, with networks of businesses and cooperation in clusters, and specifications in the area of green procurement and for civil defence,
- an international cooperation framework, facilitating access to third-country markets,
- legislative changes to guarantee protection of intellectual property rights geared to the development of the information society.

3.2. *Mutual recognition of qualifications and professions, mobility and entrepreneurship*

3.2.1. The EESC believes that high levels of engineering training and qualifications are a prerequisite for an effective mutual recognition system: lowering educational standards in order to preserve mobility might be likely to reduce mutual confidence in a knowledge-based EU that can address new engineering challenges.

3.2.2. In the EESC’s view, there is a need to develop a common, multidimensional approach (with the European Professional Card) ⁽⁶⁾, subject to greater alignment of training paths, the adoption of a parallel optional regulatory framework for a voluntary EU professional card, and a common training framework and systems for the validation of formal and/or informal qualifications obtained.

3.2.3. The EESC recommends launching specific measures to revive the professions of engineer and technician, as they are the main drivers speeding up the conversion of research into market applications and solutions to society’s problems. In particular, the EESC calls for specific reinforcement for engineers of the Erasmus for Young Entrepreneurs (EYE) initiative and micro-credit facilities, along with the introduction of an EU creative engineering prize, to give the profession a higher profile and to encourage the formulation of engineering concepts and projects of excellence.

3.3. *Formal and informal continuing training and lifelong learning*

3.3.1. Given the pace of technological progress, the EESC considers it important for Europe to support the development of training modules in partnership with industry, to impart high levels of specific skills and develop *collaborative learning* and *learning by doing* projects for better interpersonal communication and online digital technology modules, and communication networks for gathering and evaluating information.

3.3.2. With regulatory support from the EU, global standards need to be developed for validation of leadership and risk-taking abilities acquired through non-formal learning ⁽⁷⁾.

3.3.3. Harnessing the skills of the new generations: Gen C requires a new configuration of production, organisational, communication and leadership structures.

⁽⁵⁾ OJ L 94, 28.3.2014, p. 65, p. 243, p. 1.

⁽⁶⁾ OJ L 354, 28.12.2013, p. 132.

⁽⁷⁾ *European Institute for Industrial Leadership*, Position Paper P 20-2015.

3.4. *The image and future of engineers in EU reindustrialisation*

3.4.1. The EESC believes that the key role played by engineers and the technical professions in addressing the difficulties facing European society as a result of the challenges of reindustrialisation should be more strongly emphasised and highlighted, and calls for a participatory foresight exercise to be launched, involving development players, administrations, policymakers and stakeholders, to identify and highlight the profiles that will be required by the profession in future in terms of problem-solving ability and the speed with which new technologies are acquired and applied.

3.4.2. In this respect, engineers should be given a specific role in giving this reindustrialisation process economic, social and environmental sustainability, to bring about a gradual transition to a circular economy 'including re-manufacturing and reuse' ⁽⁸⁾.

3.5. *The role of engineers and technicians in the use of R & D programmes and the Structural Funds*

3.5.1. The EESC believes that European engineers and technicians are a key resource in the reindustrialisation process as they help speed up the conversion of research into innovative market applications and resolve the complex difficulties involved in shifting to a sustainable, sound, competitive social market economy: this resource must be given access to support in the form of innovative solutions that reward quality as well as economy and encouragement of all kinds of joint cooperation in networks and clusters through EU policies and programmes, starting with:

- strategic measures in the area of the digital agenda,
- Horizon 2020, especially through Key Enabling Technologies,
- COSME and the EIF,
- the Structural Funds and the Cohesion Fund.

4. **Final comments**

4.1. The EU is facing major challenges that present European engineers with just as many difficulties:

- the prospect of an ageing population,
- pervasive, intrusive digitalisation,
- an increasing lack of resources in an increasingly critical environmental and climate context,
- geographical, political and financial globalisation with the centre of gravity shifting away from Europe,
- the convergence between technologies, in particular ICTs, nanobiotechnology and 3D systems,
- complex issues of integrated management, particularly of megacities,
- the exponential growth in the internet of products and services and smart grids, with the development of Industry 4.0,
- the mushrooming of collective intelligence connected in real time (social brain) among Gen C.

4.2. The EESC believes that the new Gen C of engineers will have to obtain higher formal and informal qualifications and levels of skill, given that simpler problem-solving will be carried out by autonomous digital systems, and develop cross-disciplinary abilities and flexibility to manage complex issues.

⁽⁸⁾ OJ C 230, 14.7.2015, p. 91.

4.3. The organisations in which the engineers operate will have to develop digitalised training modules and systems on the basis of the European Qualifications Framework, with governance arrangements geared to the new generation of engineers and their qualities, increasing buy-in to corporate values and goals and fostering attractive working environments and career paths.

4.4. The EESC believes that engineers' representative organisations and professional bodies should find more common ground at European level in order to be able to act as a greater driving force both within and outside the EU in the creation of a **single European engineering market**.

4.5. The EESC recommends that the Commission take practical steps towards the establishment of a **European liberal profession forum**, in which engineering associations and professional bodies ⁽⁹⁾ of independent engineers and engineering SMEs should be widely represented, and calls for the creation of a **European engineering portal** where key issues such as management of responsibility, protection of intellectual property and taxation and pensions systems can be addressed interactively.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽⁹⁾ OJ C 226, 16.7.2014, p. 10.

Opinion of the European Economic and Social Committee on ‘Nanotechnology for a competitive chemical industry’

(own-initiative opinion)

(2016/C 071/05)

Rapporteur: Mr Egbert BIERMANN

Co-rapporteur: Mr Tautvydas MISIŪNAS

On 28 May 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on:

Nanotechnology for a competitive chemical industry

(own-initiative opinion).

The Consultative Commission on Industrial Change (CCMI), which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 5 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December), the European Economic and Social Committee adopted the following opinion by 115 votes to 2, with 4 abstentions.

1. Conclusions and recommendations

1.1. The EESC supports the activities for developing a European industrial policy and in particular those supporting key enabling technologies (KETs), which strengthen our competitiveness. When Europe speaks with one voice internationally, its role within global dialogue is strengthened. The innovative power of nanomaterials and nanotechnology — particularly in the chemical industry — is making an important contribution in this regard.

1.2. An initiative to promote nanotechnology can also help further develop common European industrial policy. Research and development are so complex that they cannot be undertaken by individual companies or institutions working alone. They require overarching cooperation between universities, scientific institutions, companies and business incubators. Research hubs, such as those set up in the chemical and pharmaceutical sector, are a positive approach. It must be ensured that SMEs are included.

1.3. European clusters of excellence (nanoclusters) should be further developed to support nanotechnology. Specialists from the world of business, science, politics and society must form networks in order to promote technology transfer, digital and person-to-person cooperation, better risk assessment, a special life-cycle analysis and the safety of nano products.

The financial instruments provided for in the Horizon 2020 research framework programme relating to the area of nanotechnology must be made simpler and more flexible, particularly for SMEs. Public financing must be reinforced and the supply of private capital stimulated.

1.4. In order to better anchor multidisciplinary nanotechnology within education and training systems, qualified scientists and technicians from disciplines such as chemistry, biology, engineering, medicine or the social sciences should be involved. Businesses must meet their staff’s growing need for qualifications through targeted initial and further training measures. Employees, with their experience and competences, should be included.

1.5. The EU standardisation process should be further boosted. Standards play a key role in ensuring compliance with laws, particularly where employee safety requires a risk assessment. Tools should therefore be devised for certified reference materials, in order to test the procedures for measuring the characteristics of nanomaterials.

1.6. Consumers should be fully informed about nanomaterials. It is essential to promote acceptance of these key enabling technologies. Regular dialogues must take place between consumer and environmental organisations, businesses and politicians. Pan-European information platforms and tools for increasing acceptance must be developed to this end.

1.7. The EESC expects the European Commission to set up an observatory to record and evaluate the development processes, applications, use (recycling) and disposal of nanomaterials. It should also monitor and assess the impact on employment and the labour market and describe the political, economic and social conclusions to be drawn. An up-to-date 'Report on nanomaterials and nanotechnologies in Europe' should be presented before 2020, identifying development trends to 2030.

2. Nanotechnology in an innovative Europe

2.1. There have been and continue to be various European Commission initiatives designed to promote innovation and key enabling technologies with a view to increasing competitiveness. Examples include the Commission communications on a common strategy for key enabling technologies (2009 and 2012) and its 2014 communication on research and innovation. Particular attention has been paid to nanotechnology in several EESC opinions⁽¹⁾.

2.2. With the adoption of the 2014 Juncker Plan, EU industrial policy is taking on a special importance — as is the promotion of innovative technologies. The favoured technologies set out show that a competitive European industrial policy must focus strategically on forward-looking technologies and materials. This particularly applies to the chemical and pharmaceutical industry.

2.3. The European chemical and pharmaceutical industry drives innovation in other sectors. Nanotechnology plays a key role in developing new products. This improves competitiveness and also contributes to sustainable industrial development.

2.4. Nanomaterials are already present in many everyday products (e.g. sports clothing, cosmetics, coatings). Innovations for new products and processes are also emerging (for example, energy and environmental technology, medical technology, optics, the development and manufacture of chips, technical data protection, the construction industry, as well as varnishes and paints, medicinal products and medical technology).

2.5. Due to their small size, nanomaterials can have new optical, magnetic, mechanical, chemical or biological properties. They can be used to develop innovative products which incorporate new functionalities and special features.

2.6. According to a recommendation adopted by the European Commission, nanomaterials are materials whose main elements measure between 1 and 100 billionths of a metre. This definition is an important step forward, as it clearly describes which materials should be regarded as nanomaterials and makes it possible to select the most appropriate test procedure⁽²⁾.

⁽¹⁾ EESC opinion on 'Growth Driver Technical Textiles' (OJ C 198, 10.7.2013, p. 14); EESC opinion on 'Strategy for Micro- and Nanoelectronic Components and Systems' (OJ C 67, 6.3.2014, p. 175).

⁽²⁾ European Commission, Brussels, 18 October 2011. One nanometre equates to one billionth of a metre. This is long enough to fit around 5-10 atoms. The relationship between a nanometre and a metre is equivalent to that between a football and the Earth. The term nanotechnology refers to the targeted and controlled measurement, development, production and application of nanomaterials, whose structures, particles, fibres or platelets measure less than 100 nanometres.

2.7. Nanotechnology offers huge potential for growth. Experts expect the market to grow from USD 8 billion in 2006 to USD 119 billion in 2021 ⁽³⁾.

3. Nanotechnology in the chemical industry and medicine ⁽⁴⁾

3.1. The range of nanotechnology used in the chemical industry is enormous. It must be noted that much of what comes under the heading 'nano' today is nothing new, though 'nanotechnology' may sound new. Mediaeval stained-glass church windows, for example, include gold nanoparticles. What is actually new about nanotechnology as we understand it today is the fact that we now have a better understanding of how it works.

3.2. Medicine offers many fields of application for nanotechnology. The desire to deliver active substances to diseased tissue in a targeted way is as old as the production of medicines and stems from the fact that many active substances have powerful side effects. These side effects are often caused by active ingredients being distributed throughout the body in a non-specific way. The development of nano-scale drug delivery systems makes it possible to concentrate active substances in the diseased tissue and thereby reduce side-effects.

3.3. There are specific nano developments in the field of life sciences such as, e.g. 'biochips' for tests which enable the early diagnosis and treatment of diseases such as Alzheimer's, cancer, multiple sclerosis and rheumatoid arthritis ⁽⁵⁾. Nanoparticle-based contrast media bind specifically with diseased cells, leading to significantly faster and better diagnostics. Nanogels speed up the regeneration of cartilage. Nanoparticles that can cross the blood-brain barrier may help, for example, with the targeted treatment of brain tumours ⁽⁶⁾.

3.4. In artificial membranes, small pores measuring around 20 nanometres ensure that bacteria and viruses can be filtered from water. 'Ultrafiltration' is used in the purification of both drinking water and process water, i.e. water from industrial production processes.

3.5. In the near future nanotechnology will significantly increase the efficiency of solar cells. Energy generation and energy efficiency can be increased considerably through the use of new surface coatings.

3.6. Whether as an additive in plastics, metals or other materials, nanotubes, carbon nanotubes or graphene can provide materials with new characteristics. For example, they improve electrical conductivity, increase mechanical resilience or promote lightweight construction.

3.7. The use of wind turbines can also become more efficient using nanotechnology. Modern building materials make wind turbines lighter, leading to lower energy generation costs and optimised construction.

3.8. Around 20 % of the energy consumed globally is used for lighting. Nanoresearch promises energy-saving light bulbs that use much less electrical energy, with the result that energy consumption is set to fall by more than a third. Electric cars will also become cost-effective thanks to lithium-ion batteries, which would not be possible without nanotechnology.

3.9. Concrete is one of the most commonly used building materials. Using nano-based calcium crystals, precast concrete components can be manufactured very quickly and to a higher standard using less energy.

3.10. The automotive industry is already working with nano-coatings, each with their own particular characteristics. The same is true of other carriers, such as planes or ships.

⁽³⁾ Source: www.vfa.de/.../nanobiotechnologie-nanomedizin-positionspapier.pdf

⁽⁴⁾ In the following text, the term 'chemical industry' can be taken to include the pharmaceutical industry.

⁽⁵⁾ Source: www.vfa.de/.../nanobiotechnologie-nanomedizin-positionspapier.pdf

⁽⁶⁾ Source: www.vfa.de/.../nanobiotechnologie-nanomedizin-positionspapier.pdf

4. Nanotechnology as an economic component

4.1. The competitive factors in the global market are constantly changing. Whilst many things are planned, much of what happens is unforeseen. Policy programmes are drawn up in order to secure development. For example, 2010 saw the adoption of the Europe-2020 strategy. This strategy aims at sustainable and inclusive growth with greater coordination of pan-European policy measures. It is hoped this will lead to success in the headlong race for innovation. The strategy concerns research and development, patent protection, production sites and jobs.

4.2. The chemical industry is one of the EU's most successful sectors, boasting EUR 527 billion in sales in 2013, which makes it the second-largest producer. But despite this strength, there seems to be reason for concern about the current situation. Following a rapid cyclical trend, production has stagnated since the beginning of 2011. Over a longer time horizon, the EU's share of global production and exports has fallen ⁽⁷⁾.

4.3. In 2012, the EU chemical industry invested around EUR 9 billion in research. Since 2010, the amount spent has plateaued at this level. In contrast, the research and development of nanotechnology occupies an increasingly important position for example in the USA and China, but also in Japan and Saudi Arabia, meaning that competition in this area is set to increase further.

5. Nanotechnology as an environmental component

5.1. Green business practices are a significant factor for competitiveness in European industrial policy, both with regard to the single market and the global market.

5.2. Whether as upstream, intermediate or finished products, nanomaterials with their multifarious properties help to increase the efficiency of energy conversion and to reduce energy consumption. Nanotechnology offers the prospect of reducing CO₂ emissions ⁽⁸⁾. As such, it contributes to climate protection.

5.3. The German state of Hesse has published a study highlighting the innovation potential of nanotechnology in the area of environmental protection ⁽⁹⁾, e.g. for water treatment and purification, waste prevention, energy efficiency and air purification. This will mean stronger orders, particularly for SMEs. The chemical industry is researching and developing the foundations and the relevant upstream and finished products.

5.4. The environmental component must be integrated into the strategies of businesses, including SMEs, as part of a sustainability approach. Employees should be actively involved in this process.

5.5. The precautionary principle is an integral part of current EU environmental policy and health policy. Harm or risks to the environment or human health should be minimised from the outset. However, it is necessary to ensure the proportionality of the costs, benefits and burdens involved in implementing preventive measures, in particular to protect SMEs.

⁽⁷⁾ Oxford Economics Report, *Evolution of competitiveness in the European chemical industry: historical trends and future prospects*, October 2014.

⁽⁸⁾ For example, the German **Fraunhofer Institute for Wind Energy and Energy System Technology** and the Italian National Agency for New Technologies (ENEA) have developed the technology for converting CO₂ to methane and storing it. Source: **Fraunhofer Institute for Wind Energy and Energy System Technology, 2012**.

⁽⁹⁾ Source: State of Hesse, Ministry of Economics and Transport, 'Einsatz von Nanotechnologie in der hessischen Umwelttechnologie' (*Use of nanotechnology in environmental technology in Hesse*), 2009.

6. Nano as an employment/social component

6.1. Nanotechnology's potential to create jobs worldwide is very high. The number of nano-related jobs in the EU is already estimated at between 300 000 and 400 000 ⁽¹⁰⁾.

6.2. Alongside this growth, the risks associated with job losses, the relocation of production sites and the evolving qualification spectrum must also be considered.

6.3. The number of jobs is one thing; the quality of those jobs is another. The jobs created in nano-related areas of various businesses, not just in the chemical industry, tend to be well-paid jobs for skilled employees ⁽¹¹⁾.

6.4. This generates a significant need for education and training within businesses. New forms of cooperation emerge. Social partnership itself becomes a factor in innovation in the sense that an ongoing dialogue is needed, e.g. regarding the organisation of work, occupational health and training. In the German chemical industry, there are far-reaching social partnership agreements ⁽¹²⁾ to this end.

7. Opportunities and risks associated with nanotechnology

7.1. The European Commission is already spending between EUR 20 and 30 million annually on nano-safety research. This is on top of roughly EUR 70 million from the Member States ⁽¹³⁾. The scale of this effort is appropriate and sufficient.

7.2. A comprehensive programme of public and private long-term research should be coordinated at European level with view to expanding knowledge about nanomaterials, their characteristics and the potential opportunities and risks for employee and consumer health and the environment.

7.3. Many chemical companies have taken various risk management measures in order to implement sustainable occupational and product safety in a responsible manner. In many cases this is done under the umbrella of the chemical industry's global Responsible Care initiative ⁽¹⁴⁾. Similar initiatives also exist in other sectors.

7.4. The principle of product stewardship applies from the research stage through to disposal. As early as the development stage, companies examine how their products can be manufactured and used safely. The examinations must be completed and safe usage guidelines drawn up before products are released on the market. In addition, companies must also provide details on how to dispose of the products correctly.

7.5. In its publications regarding the safety of nanomaterials, the European Commission stresses that scientific studies have shown that nanomaterials essentially qualify as 'normal chemicals' ⁽¹⁵⁾. Knowledge about the properties of nanomaterials is constantly increasing. Existing risk assessment methods can be used.

⁽¹⁰⁾ Otto Linher, European Commission, Grimm et al.: Nanotechnologie: Innovationsmotor für den Standort Deutschland (*Nanotechnology: an innovation driver for Germany*), Baden-Baden, 2011.

⁽¹¹⁾ IG BCE/VCI: Zum verantwortungsvollen Umgang mit Nanomaterialien (*On the responsible use of nanomaterials*). Position paper, 2011.

⁽¹²⁾ IG BCE: Nanomaterialien — Herausforderungen für den Arbeits- und Gesundheitsschutz (*Nanomaterials: challenges for occupational health and safety*).

⁽¹³⁾ Otto Linher, European Commission.

⁽¹⁴⁾ <http://www.icca-chem.org/en/Home/Responsible-care/>

⁽¹⁵⁾ Background paper for WHO Guidelines on Protecting Workers from Potential Risks of Manufactured Nanomaterials.

7.6. The European Commission considers REACH⁽¹⁶⁾ to be the best framework for managing the risks associated with nanomaterials. Some clarifications and further details are required in the annexes to the REACH Regulation and the European Chemicals Agency guidance documents — but not in the main text of the regulation⁽¹⁷⁾.

7.7. In the pharmaceuticals industry, 'Good Manufacturing Practices' (GMP) play a key role in the processing of nanomaterials. This relates to the quality assurance guidelines for the production processes associated with the production of pharmaceutical drugs and active ingredients.

7.8. It goes without saying that consumers must be informed. The dialogues on nanotechnology conducted by large chemical companies are positive examples of this⁽¹⁸⁾. These dialogues aim to provide information, promote acceptance and identify hazards. To improve access to information about nanomaterials, the European Commission launched a web platform at the end of 2013⁽¹⁹⁾. This includes references to all available information sources, including national and sectoral registers.

8. Competitiveness factors/Stimulus for nanotechnology in Europe

8.1. A positive climate for research and innovation is an essential factor for competitiveness. This applies to innovations in products and processes as well as social renewal. The importance of nanotechnology should also be more strongly reflected and supported in the EU's priorities and in its research and regional funding programmes.

8.2. Research and development must take on a key role in the EU. Europe-wide networking, cooperation and clustering between start-ups, established businesses, universities and research institutions focusing on fundamental and applied research are important in this regard. Nowadays, this is the way to generate effective innovation potential. Hubs linking companies are being set up at key geographical points in order to optimise cooperation.

8.3. Initial and further training are a key factor in highly innovative processes such as nanotechnology. A mixture of skilled workers and graduates produces the strongest innovation effects, with the exchange of knowledge between employees with different types of qualification supported by complementary organisational and HR policy measures such as teamwork, job rotation and the delegation of decision-making. Global competition for innovation also gives rise to competition for skilled workers. Appropriate incentives must be developed by policy-makers and industry stakeholders.

8.4. More freedom in research focus and fewer bureaucratic requirements would ensure competitiveness. Medicines, medical technology, surface coatings and environmental technology are very important for European exports and the single market. In particular, the single market with its regional hubs opens up a wide range of opportunities in this area for SMEs.

8.5. Labour-related costs should not be solely taken to mean salaries. The administration costs entailed (e.g. control activities, quality assurance) must be included in the assessment.

8.6. Energy costs are a relevant factor for competitiveness in the energy-intensive chemical industry. Competitive prices and a stable energy supply in the EU are preconditions for competitiveness, particularly for SMEs.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹⁶⁾ REACH is the European Regulation on the registration, evaluation, authorisation and restriction of chemicals. <http://echa.europa.eu/web/guest>

⁽¹⁷⁾ Source: Sector Social Dialogue, Committee of the European Chemical Industry.

⁽¹⁸⁾ <http://www.cefic.org/Documents/PolicyCentre/Nanomaterials/Industry-messages-on-nanotechnologies-and-nanomaterials-2014.pdf>

⁽¹⁹⁾ https://ihcp.jrc.ec.europa.eu/our_databases/web-platform-on-nanomaterials

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

512RD EESC PLENARY SESSION, 9 AND 10 DECEMBER 2015

Opinion of the European Economic and Social Committee on the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Report on competition policy 2014

[COM(2015) 247 final]

(2016/C 071/06)

Rapporteur: Reine-Claude MADER

On 6 July 2015, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Report on competition policy 2014

[COM(2015) 247 final].

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December 2015), the European Economic and Social Committee adopted the following opinion by 128 votes to 1, with 1 abstention.

1. Conclusions and recommendations

1.1. The EESC welcomes the various initiatives taken by the Commission to promote fair competition, which safeguards the interests of economic operators (businesses, consumers, workers).

1.2. It supports the steps taken by the Commission to ensure compliance with competition rules, including measures to tackle anti-competitive practices such as abuse of dominant position. These hinder the economic development of the EU and particularly that of small and medium-sized enterprises, which play a key role in growth and employment, as well as the development of social economy enterprises which promote social cohesion.

1.3. It does regret, however, that yet again the Commission has failed to adopt a genuine legal mechanism for collective actions that would provide effective enforcement of the right to damages for those affected by anti-competitive practices.

1.4. It supports the Commission's efforts to publicise the rules and make them transparent, which provides stability for businesses and thus the market too. It wishes to point out in this connection that the practices of the retail sector deserve continued attention.

1.5. The EESC welcomes the impetus given by the Commission to cooperation with national competition authorities (NCAs), which have a key role to play, particularly in terms of prevention and the development of programmes to raise awareness of competition law. It believes that NCAs should have the necessary means to carry out this work.

1.6. Given the globalisation of trade, the abovementioned cooperation should be extended to the international level so that Europe is not undermined by unfair competition.

1.7. The Committee would like political dialogue between the different European institutions (EP, EESC, Committee of the Regions) to be bolstered and even reinforced.

1.8. The EESC supports the changes to State aid rules which have been aligned so as to support innovative enterprises, particularly in the digital domain. This is creating major opportunities in terms of economic development and job creation, benefiting both consumers and businesses.

1.9. While conscious of the limits of the Commission's action on tax planning, the EESC would like the Commission to continue to take steps to rectify, limit or put an end to fiscal and social distortions in so far as its powers allow, while ensuring that this does not lead to a race to the bottom.

1.10. The Committee believes that there should be a strong focus on the energy market. It is in favour of creating a European Energy Union to ensure security of supply and affordable energy prices across the EU.

1.11. It also attaches importance to measures that contribute to energy-saving, improved energy efficiency and the development of renewable energy.

1.12. It believes that the measures to open up the energy market should benefit consumers, who lack genuine scope for negotiation.

1.13. The EESC calls for every effort to be made to provide free access to digital infrastructure so as to enable rural areas to develop. This objective justifies an approach which dovetails private investment and public support.

1.14. The EESC calls on the Commission to continue to pay particular attention to the provision of financial services for the purposes of financing the real economy and ensuring that consumers can continue to enjoy the best conditions for the services they use.

1.15. Finally, in the EESC's view, it is essential to follow up and assess any policy measures taken.

2. The 2014 report on competition policy

2.1. Essentially, this annual report focuses on the digital single market, energy policy and financial services. It also raises questions relating to making European industry more competitive, State aid control, promoting a culture of competition inside and outside the EU and interinstitutional dialogue.

2.2. It highlights the digital economy as a factor that could boost innovation and growth in energy, transport, public services, health and education. To this end, all the tools of competition law have been used to support development and modernisation of infrastructure, including 'new generation' broadband networks on the basis of State aid, while preserving the principle of technological neutrality.

2.3. The smart mobile device market is developing very rapidly, as illustrated by Facebook's acquisition of WhatsApp following the first examination phase of the merger, authorised unconditionally by the European Commission in application of Merger Regulation (EC) No 139/2004⁽¹⁾ ⁽²⁾.

2.4. 2014 was another opportunity to see that the application of competition law to the digital sector is characterised by the complex relationship — and the need to ensure a balance with — intellectual property rights deriving from a patent, as illustrated by the Samsung and Motorola⁽³⁾ decisions, or from copyright, as shown by the opening of formal proceedings against several US film studios and European pay-TV broadcasters in the 'cross-border access to pay-TV content' case⁽⁴⁾.

2.5. The report then turns to the energy sector, underlining the need to reform European energy policy. The Commission plans to support infrastructure investment by providing a framework for State aid and simplifying its implementation: the new General Block Exemption Regulation stipulates that, under certain conditions, prior authorisation by the Commission will no longer be necessary⁽⁵⁾ for aid for energy infrastructure, aid to promote energy efficiency in buildings and support for renewable energy production, decontamination of polluted sites and recycling.

2.6. However, aid for nuclear energy is not included in the new guidelines. For this reason it is still being examined by the Commission under Article 107 TFEU, as was the case with UK plans to subsidise the construction and operation of a new nuclear power plant at Hinkley Point⁽⁶⁾.

2.7. Finally, competition policy was used as a tool to lower energy prices by penalising the misconduct and collusive practices of operators such as EPEX Spot and Nord Pool Spot (NPS)⁽⁷⁾ and OPCOM in Romania, where it had abused its dominant position⁽⁸⁾, the Bulgarian Energy Holding (BEH) in Bulgaria⁽⁹⁾, and even Gazprom in connection with upstream gas supplies to central and eastern Europe⁽¹⁰⁾.

2.8. In 2014, competition policy also sought to improve the transparency of the financial sector and to support better regulation and supervision of the banking sector.

2.9. For example, the Commission monitored implementation of State aid in Greece, Cyprus, Portugal, Ireland and Spain, whilst ensuring that development banks did not distort competition⁽¹¹⁾.

2.10. It also instituted legal proceedings on two occasions against the banks RBS and JP Morgan, which were involved in both an illegal bilateral cartel aimed at influencing the Swiss franc Libor benchmark interest rate and a cartel with UBS and Crédit Suisse on bid-ask spreads of Swiss franc interest rate derivatives in the EEA (European Economic Area)⁽¹²⁾. The Commission imposed a fine of EUR 32,3 million⁽¹³⁾.

⁽¹⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1).

⁽²⁾ Case M.7217 Facebook/WhatsApp, Commission decision of 3 October 2014.

⁽³⁾ Case AT.39985 Motorola — Enforcement of GPRS standard essential patents, Commission decision of 29 April 2014. Case AT.39939 Samsung — Enforcement of UMTS standard essential patents, Commission decision of 29 April 2014.

⁽⁴⁾ Case AT.40023 Cross-border access to pay-TV content, 13 January 2014.

⁽⁵⁾ Commission Regulation (EU) No 316/2014 of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements (OJ L 93, 28.3.2014, p. 17); Guidelines on the application of Article 101 of the Treaty on the Functioning of the European Union to technology transfer agreements (OJ C 89, 28.3.2014, p. 3).

⁽⁶⁾ Case SA.34947 UK Support to Hinkley Point C Nuclear Power Station, 8 October 2014.

⁽⁷⁾ Case AT.39952 Power Exchanges, Commission decision of 5 March 2014.

⁽⁸⁾ Case AT.39984 OPCOM/Romanian Power Exchange, Commission decision of 5 March 2014.

⁽⁹⁾ Case AT.39767 BEH electricity.

⁽¹⁰⁾ Case AT.39816 Upstream gas supplies in central and eastern Europe, 4 September 2012.

⁽¹¹⁾ Case SA.36061 UK Business Bank, Commission decision of 15 October 2014. Case SA.37824 Portuguese Development Financial Institution, Commission decision of 28 October 2014.

⁽¹²⁾ Case AT.39924 Swiss Franc Interest Rate Derivatives, Commission decision of 21 October 2014, http://europa.eu/rapid/press-release_IP-14-1190_en.htm

⁽¹³⁾ No fine was imposed on RBS, which benefited from immunity under the 2006 Leniency Notice for revealing the existence of the cartel to the Commission and thereby avoided a fine of around EUR 5 million for its involvement in the infringement. UBS and JP Morgan received reductions of their fines for their cooperation in the investigation under the Commission's leniency programme. All four banks, having chosen to settle the case with the Commission, have benefited from a further reduction in their fines of 10 %.

2.11. Finally, the Commission continued to institute legal proceedings against anti-competitive practices by Visa Europe, Visa Inc., Visa International and MasterCard which were linked to the multilateral interchange fees: the Commission made binding the commitments offered by Visa Europe and at the same time instigated proceedings against Visa Inc. and Visa International in relation to international inter-bank fees.

2.12. The report also mentions the Commission's efforts to boost the competitiveness of European enterprises, notably SMEs, by making it easier for them to access funding in the development phase⁽¹⁴⁾ and by supporting research and innovation through a new aid framework establishing a block exemption⁽¹⁵⁾.

2.13. SMEs are also the main target of the revision of the De Minimis Notice, which provides them with guidance on assessing whether their agreements fall within the scope of Article 101 TFEU prohibiting illegal cartels between undertakings⁽¹⁶⁾.

2.14. 2014 also saw the Commission paying particular attention to some businesses' use of differences between Member States' tax regimes to reduce their tax base; it opened formal investigations into Apple in Ireland, Starbucks in the Netherlands and Fiat Finance & Trade in Luxembourg.

2.15. Above all, the year marked the tenth anniversary of the application of Regulation (EC) No 1/2003 and the revision of the regulation on merger control⁽¹⁷⁾. In this connection, the report states that progress would be welcome on the independence of competition authorities and on the mechanism enabling them to institute proceedings against — and to penalise — illicit practices. It also stresses the need to further streamline merger control.

2.16. The Commission also reports that a major achievement in the field of competition policy in the year was the adoption of the Directive on antitrust damages actions which came into force in 2014, arguing that thanks to this Directive, it will be easier for European citizens and companies to receive effective compensation for the harm caused by antitrust violations, such as cartels and abuses of dominant market positions.

3. General comments

3.1. The EESC supports digital development policy and initiatives taken to boost innovation and growth. It believes that broadband should be available throughout the EU, which may require the use of State aid accompanied by additional EU funding. The guidelines for the application of State aid rules in relation to rapid deployment of broadband networks should be useful in this connection⁽¹⁸⁾.

3.2. Moreover, there can be no digital market without a broadband network across the whole EU. The Commission's objectives are rather modest, given private operators' lack of interest in certain areas, including rural areas which need support for their economic development.

3.3. The EESC supports the Commission in its desire to penalise infringements of competition rules: it believes that the size of the penalties should act as a deterrent and that they should be made more severe in the event of a repeat infringement. Furthermore, competition policy should be explained, including to businesses, so as to prevent anti-competitive behaviour.

3.4. The EESC notes, as the Commission states, that the number of users of smart mobile devices is increasing. Innovation is crucial here, but the 'rules of the game' must be drawn up for operators, they must be widely known and should be transparent. The Committee believes that the ubiquity of major international groups, such as Google, has given rise to the risk that a dominant position might be abused and that it is important to enforce the existing rules to allow new operators to enter the market.

⁽¹⁴⁾ Commission communication on guidelines on State aid to promote risk finance investments (OJ C 19, 22.1.2014, p. 4).

⁽¹⁵⁾ Commission communication on the framework for State aid for research and development and innovation (OJ C 198, 27.6.2014, p. 1).

⁽¹⁶⁾ Communication from the Commission, Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice) (OJ C 291, 30.8.2014, p. 1).

⁽¹⁷⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1). See footnote 1.

⁽¹⁸⁾ Communication from the Commission: EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (OJ C 25, 26.1.2013, p. 1).

3.5. In addition, the EESC maintains that patent holders must propose patent licence agreements on fair, reasonable and non-discriminatory terms.

3.6. The Committee supports the adaptation of the legislative framework applicable to copyright in the digital era ⁽¹⁹⁾; it must keep up with the times, as the Commission quite rightly points out.

3.7. As regards the functioning of energy markets, the EESC believes that there can be no economic development without a common energy policy. It therefore welcomes the Commission's intention to create a European Energy Union.

3.8. It believes that this Union will be good for businesses and consumers, who should also benefit from reasonable prices and security of supply.

3.9. The Committee supports the attention paid by the Commission to the energy market with a view to ensuring genuine competition and the steps taken to remove obstacles to competition on these non-regulated markets. It is keen for the Commission to use all means to avoid shortcomings that have repercussions for the economy.

3.10. Finally, it attaches particular importance to measures that contribute to energy-saving, improved energy efficiency and the development of renewable energy sources and bioenergy.

3.11. The EESC would like the whole financial sector to behave in a more ethical and transparent way, while at the same time supporting growth.

3.12. It welcomes the fact that State aid control has contributed to a consistent policy response to financial challenges and helped limit distortions of competition, while at the same time reducing the use of taxpayers' money to the minimum necessary. It points out that steps taken to consolidate and establish supervision mechanisms as part of State aid control have made it possible to limit certain distortions of competition in the market.

3.13. The Committee feels that the measures taken by the Commission to reduce the costs of using bank cards, which have led to a 30-40 % reduction in operational costs in the single market, should be highlighted.

3.14. The announced objective of promoting economic growth is absolutely essential and could be supported by the policy on innovation aid included in the 'Framework for State aid for research and development and innovation'.

3.15. In its earlier opinions, the EESC welcomed the Commission's initiative on State aid modernisation and expressed the belief that the new guidelines ⁽²⁰⁾ were more in tune with the needs of Member States and the realities of the market. It believes that increased transparency will lead to a better understanding of the allocation of State aid. Supervision by the Commission will verify that aid has been allocated in accordance with the rules laid down. Finally, the evaluation will enable Member States to make sure that the allocated aid has been used correctly.

3.16. The Commission communication on the conditions to promote implementation of European projects, together with the announcement of the creation of the European Fund for Strategic Investments, should help meet this objective.

3.17. The EESC also welcomes the recognition of the need to grant State aid for the rescue and restructuring of businesses which are in difficulty, but which are viable. It supports measures to put an end to the illegal cartels that undermine development — especially that of SMEs (which create jobs) — and have an impact on employment and prices.

3.18. The Committee notes that large companies continue to conduct their tax planning in a way that takes account of the subtle differences between tax systems. It welcomes the Commission's efforts to tackle tax evasion arising from tax distortions, to limit it or put an end to it in so far as its powers allow.

⁽¹⁹⁾ OJ C 230, 14.7.2015, p. 72; OJ C 44, 15.2.2013, p. 104.

⁽²⁰⁾ Commission communication on guidelines on State aid to promote risk finance investments (OJ C 19, 22.1.2014, p. 4).

3.19. The Commission's efforts to ensure convergence with and between national competition authorities (NCAs) are particularly important.

3.20. The Committee will closely monitor the follow-up to the White Paper entitled *Towards more effective EU merger control*, which seeks to improve existing mechanisms.

3.21. Given the globalisation of trade, the EESC supports the development of multilateral cooperation (OECD, ICN and Unctad), as well as cooperation and technical assistance programmes.

3.22. DG Competition's dialogue with the European Parliament, the EESC and the Committee of the Regions must ensure that the interinstitutional debate on policy implementation is transparent.

3.23. This commitment to dialogue should be maintained, particularly as Mr Juncker emphasised this political partnership in his mission letter to Ms Vestager.

3.24. Unlike the Commission, the EESC does not believe that Directive 2014/104/EU of the European Parliament and of the Council⁽²¹⁾ or the recommendation on common principles for collective redress mechanisms in disputes concerning infringements of competition law are capable of providing the necessary collective redress for the rights of those affected by such violations.

4. Specific comments

4.1. *The delicate balance to be achieved between innovation, competition and industrial property rights with a view to creating a connected digital market*

4.1.1. According to the Commission, better standard-setting procedures and increased interoperability are crucial if the digital agenda is to be effective. What is meant by 'better' standard-setting procedures still has to be established.

4.1.2. The Motorola case⁽²²⁾, one episode in the 'smartphone patent wars', is used as an example for the guidelines to be followed by businesses in the sector. In this particular case, the Commission had decided that Motorola, the holder of GPRS standard essential patents (SEPs), had abused its dominant position by seeking to get and have enforced an injunction against Apple before a German court. These SEPs were considered 'essential' because they were vital for the implementation of the GSM standard. Potentially, companies holding a SEP have considerable market power. Therefore, standardisation bodies often require them to commit themselves to licensing their essential patents on fair, reasonable and non-discriminatory (FRAND) terms in order to ensure that all market participants have access to this standard.

4.1.3. In this instance, without access to the essential patent of which Motorola was the holder, it was not possible for its competitor, in this case Apple, to produce and market a certain category of smartphone.

4.1.4. It is legitimate for a patent holder to seek an injunction before a national court in the event of that patent being infringed, but this may constitute abusive conduct where the SEP holder has a dominant market position, where it has pledged to grant access on FRAND terms and where the competing business which is the subject of the injunction is prepared to obtain a licence under these FRAND conditions. In spite of this, the Commission did not impose a fine on Motorola owing to the absence of case-law in EU jurisdictions on the legality, under Article 102 TFEU, of SEP-related injunctions and because of the differences in national case-law. However, the Commission did order Motorola to put a stop to its abusive conduct.

4.1.5. In a similar case, the Commission accepted the commitments offered by Samsung not to seek injunctions in the EEA, on the basis of SEPs for smartphones and tablets, against businesses belonging to a specific licensing framework.

⁽²¹⁾ Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ L 349, 5.12.2014, p. 1).

⁽²²⁾ See footnote 3.

4.1.6. These cases illustrate that it is very difficult to strike the right balance between competition, patent rights and innovation in pursuing the ultimate goal of enabling the consumer to acquire technological products at a reasonable price, whilst also benefiting from the widest possible choice between interoperable products.

4.1.7. The EESC supports the Commission's efforts in this connection and urges it not to lose sight of the fact that the objective of competition is not simply to apply the rules of competition per se, but rather to ensure a form of competition which ultimately benefits the consumer.

4.1.8. The EESC supports the idea of supplementing private investment with public investment in order to avoid a digital divide within the EU, provided that State aid does not impede private investment. The EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks⁽²³⁾ were the first document to be adopted definitively as part of efforts to modernise State aid — a sign, perhaps, of the Commission's interest in the subject.

4.1.9. However, the EESC regards as insufficiently ambitious the Commission's goal of achieving blanket fast broadband coverage (30 Mbps) for services and the adoption of ultra-fast broadband (100 Mbps) services for 50 % of Europeans by 2020.

4.2. *The energy markets*

4.2.1. Ensuring Europe's energy independence and promoting the creation of an integrated energy market are crucial for access to energy, the abolition of energy islands and security of supply. The EU must have a genuine political commitment to meeting this objective and encouraging diversification of energy sources by promoting renewables. Mr Juncker's goal of a European Energy Union⁽²⁴⁾ will undoubtedly play this role of policy catalyst.

4.2.2. The EESC believes that the third 'energy package' must be implemented swiftly, especially as the rules on the cross-border trade in energy remain fragmented.

4.2.3. The EESC underlines the need to implement without further delay the structural reforms needed to remove barriers to investment in infrastructure, in particular those with a cross-border dimension.

4.2.4. The EESC is in no doubt that promoting competition rules helps open up domestic energy markets, as demonstrated by the 'power exchanges' and 'OPCOM/Romanian Power Exchange' cases mentioned in the Commission's report⁽²⁵⁾, where the Commission imposed a fine under Article 101 TFEU on two exchanges which had agreed not to compete and to divide up geographical areas between them and another fine on the Romanian power exchange OPCOM, under Article 102 TFEU, for discrimination against electricity traders from other Member States.

4.2.5. However, the Committee questions the assertion that, while wholesale electricity prices have fallen thanks to increased competition, this has not often led to a reduction in the overall level of prices for final consumers⁽²⁶⁾.

4.2.6. In this connection, the EESC supports the Commission's investigations under Article 102 TFEU on abuse by Gazprom of its dominant position in the supply of natural gas to central and eastern Europe⁽²⁷⁾.

⁽²³⁾ OJ C 25, 26.1.2013, p. 1.

⁽²⁴⁾ Jean-Claude Juncker, 'A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change', Political Guidelines for the next European Commission. Opening statement at the European Parliament Plenary Session, 15 July 2014.

⁽²⁵⁾ Case AT.39952 Power Exchanges, Commission decision of 5 March 2014 and Case AT.39984 OPCOM/Romanian Power Exchange, Commission decision of 5 March 2014.

⁽²⁶⁾ Commission communication on energy prices and costs in Europe, 29 January 2014.

⁽²⁷⁾ Case AT.39816 Upstream gas supplies in central and eastern Europe.

4.3. *Financial and banking services*

4.3.1. 2014 saw the continuation of the in-depth revision of bank regulation and supervision. The proposed rules seek to make financial markets more transparent.

4.3.2. The Commission has also ensured that financial undertakings supported by State aid are either restructured or exit the market and has paid particular attention to the risks of distorting competition between such undertakings⁽²⁸⁾.

4.3.3. The EESC has followed attentively the Commission's investigations into anti-competitive business practices and welcomes the decisions taken by the Commission and the national competition authorities penalising 'interchange fees'.

4.3.4. The EESC welcomed the ruling of the EU Court of Justice in the MasterCard case⁽²⁹⁾, confirming the Commission's analysis. The interbank fees paid by consumers at the time of payment by bank card were indeed increasing in size and number and becoming less and less transparent.

4.3.5. In addition, these business practices prevented non-bank economic operators from entering the payments market. Such operators would probably have offered consumers other means of electronic, mobile and secure payment — via their smartphones, for example.

4.3.6. The particularity of the MasterCard case also stemmed from the fact that the restriction engendered by the mechanism for setting multilateral interchange fees was an effect of that mechanism and not the objective.

4.3.7. The EESC welcomes the fact that the Court of Justice, like the General Court, found that multilateral interchange fees were not objectively necessary for the operation of the MasterCard system.

4.4. *Further support for SMEs*

4.4.1. The EESC welcomes the attention paid to SMEs, which play a fundamental role in growth and an important role in meeting the Europe 2020 targets. It endorses the Commission's decisions to support the financing of their operations and adapt the rules to their specific needs.

4.4.2. The EESC appreciates that these policies signal an openness towards the intellectual professions and recognises the crucial role Europe's professionals play in growth by providing, sector by sector, the vital contribution of knowledge needed to solve the complex problems faced by the public and businesses. The EESC also recommends that the Commission continue, and if possible redouble, efforts in this direction.

4.4.3. For example, the guidelines on State aid to promote risk finance investments⁽³⁰⁾ could enable Member States to make it easier for SMEs to access finance in their start-up phase. Moreover, they seem to have been designed to be more attuned to the realities of the market.

4.4.4. It also supports the measures taken by the Commission to tackle abuses of dominant position that could hinder the creation and development of SMEs and affect their activities.

4.4.5. The 2014 De Minimis Notice⁽³¹⁾ provides a safe harbour for such agreements with no tangible effect on competition, as they are implemented by companies which do not exceed certain market share thresholds. The Commission has also published a guidance document for SMEs. However, the EESC believes it would be a good idea to publicise information at grassroots level.

⁽²⁸⁾ Case SA.38994 Liquidity scheme in favour of Bulgarian banks, Commission decision of 29 June 2014.

⁽²⁹⁾ Ruling of the Court of 11 September 2014 in case C-382/12 P, MasterCard Inc./Commission.

⁽³⁰⁾ Commission communication on guidelines on State aid to promote risk finance investments (OJ C 19, 22.1.2014, p. 4).

⁽³¹⁾ Communication from the Commission: Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice) (OJ C 291, 30.8.2014, p. 1).

4.5. *Boosting the means available to NCAs and international cooperation*

4.5.1. The EESC welcomes the quality of cooperation between the Commission and NCAs. It believes that this cooperation ensures the interaction which is essential if the market is to function smoothly.

4.5.2. It supports all measures required for cooperation with NCAs, which means that they must have resources and must be independent.

4.5.3. The EESC approves of the Commission's initiatives to create a genuine European area of competition, which implies that the basic rules of national law must be harmonised, since this safeguards economic activity in the single market.

4.5.4. It also believes that Member States need to have a comprehensive set of legal tools to conduct the necessary inspections and to impose effective and proportionate fines.

4.5.5. Leniency programmes which have proved their worth in the fight against cartels must also be rolled out across all Member States.

4.5.6. There must continue to be active multilateral cooperation with the OECD, the International Competition Network and Unctad and the Commission should seek to play a leading role in this connection.

4.5.7. Finally, the EESC stresses that technical assistance should play a greater role in accession talks with candidate countries.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council — A fair and efficient corporate tax system in the European Union: five key areas for action’

(COM(2015) 302 final)

(2016/C 071/07)

Rapporteur: Mr Petru Sorin DANDEA

Co-rapporteur: Mr Paulo BARROS VALE

On 6 July 2015, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament and the Council — A fair and efficient corporate tax system in the European Union: five key areas for action

(COM(2015) 302 final).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December), the European Economic and Social Committee adopted the following opinion by 169 votes to 15 with 8 abstentions.

1. Conclusions and recommendations

1.1. Combating aggressive tax planning has been one of the key concerns of Member States and the Commission in recent years. The action plan for implementing a fair and efficient corporate tax system presented by the European Commission is an important step towards reducing this damaging phenomenon. The EESC welcomes the publication of the plan and expresses its support for the Commission in combating this practice which erodes Member States' tax bases and promotes unfair competition.

1.2. As previously stated⁽¹⁾, the EESC endorses the introduction of a compulsory CCCTB for transnational companies. An optional CCCTB would be less effective because companies engaged in profit shifting in order to reduce taxes will refuse to adopt the CCCTB.

1.3. The EESC recommends that the Member States and the Commission consider extending the CCCTB in the future to all companies, to avoid operating two different tax bases. Before extending the CCCTB to all companies, a thorough impact assessment should be carried out, particularly with regard to the impact of this system on micro and small businesses operating locally.

1.4. The EESC recommends that, when drafting the proposal, the Commission pay attention to the clarity of the definitions and concepts that are to govern the common base. The clarity of these definitions will be pivotal as regards the quality of the transposition process and preventing major discrepancies between the Member States, which could significantly reduce the effectiveness of the legislation.

1.5. The EESC considers that the mechanism for cross-border loss relief, which the Commission wishes to introduce until consolidation is adopted, should not affect the right of a Member State to tax the profits resulting from an activity carried out on its territory.

1.6. The EESC is pleased that in the appendix to the communication, the Commission has published a list of non-cooperative tax jurisdictions. The Committee reiterates the proposal it made in previous opinions, that EU rules should include sanctions for companies that continue to run their business through tax havens and thereby avoid having to pay tax within the tax systems of the Member States in which they operate.

⁽¹⁾ EESC Opinion on *Coordination of direct taxation* (OJ C 10, 15.1.2008, p. 113), EESC Opinion on the *Creation of a common consolidated corporate tax base in the EU* (OJ C 88, 11.4.2006, p. 48).

1.7. The EESC recommends that, following the adoption of the CCCTB directive and the introduction of consolidation, the Commission carry out an impact assessment of the new rules. Should this assessment show that there has been no decrease in profit shifting to Member States with lower tax rates, the EESC proposes that targeted complementary measures be adopted.

1.8. The EESC recommends to the Commission that in the context of reviewing the mandate of the Platform for Tax Good Governance, it also consider including among its members representatives of the European social partners. They could make an important contribution to the work of the platform.

2. The Commission proposal

2.1. On 17 June 2015, the European Commission presented a communication⁽²⁾ setting out an action plan for implementing a fair and efficient corporate tax system in the European Union. The action plan follows on from the tax transparency package presented by the European Commission in March, which included a proposal for a directive on the mandatory automatic exchange of information on advance tax rulings.

2.2. The plan sets out the following four objectives aimed at fostering a new approach to corporate taxation in the EU: re-establishing the link between taxation and where economic activity takes place; ensuring that Member States can correctly value corporate activity; creating a competitive and growth-friendly corporate tax environment for the EU; and protecting the single market and securing a strong EU approach to external corporate tax issues, including measures to implement the OECD BEPS project.

2.3. The action plan outlines a series of measures to help meet the objectives. These are as follows: implementing a common consolidated corporate tax base (CCCTB); ensuring effective taxation where profits are generated; introducing additional measures for a better tax environment for business; making further progress on tax transparency; and making better use of EU tools for coordination on tax matters.

2.4. The Commission also wishes to address the issue of the tax breaks granted by Member States for patents. The Commission is aiming to ensure that these preferential tax regimes do not create distortions in the internal market and will provide guidance to Member States as regards the new approach. Should the Commission find that Member States are not applying this new approach consistently, it will prepare binding legislative measures.

2.5. The Commission is continuing to work with its international partners here and stresses the importance of the implementation of the OECD BEPS action plan, which is aimed at fostering a level playing field for the taxation of multinational corporations, including in developing countries.

3. General comments

3.1. The Commission's plan seeks to combat the damaging phenomenon of profit shifting used by businesses with cross-border activities which transfer profits to States or jurisdictions with very low or non-existent tax rates, eroding Member States' tax bases and causing them to increase other taxes and thus increase the tax burden for compliant taxpayers (individuals or SMEs). The Committee welcomes the publication of the plan and expresses its support for the Commission in combating this practice.

3.2. The Commission's main proposal in this plan is the implementation of a mandatory CCCTB. The proposal for a directive presented by the Commission in 2011 proposed an optional CCCTB. At that time, the EESC issued an opinion containing a number of substantive proposals on the CCCTB⁽³⁾, which it still stands by today.

⁽²⁾ A fair and efficient corporate tax system in the European Union: five key areas for action, COM(2015) 302 final.

⁽³⁾ Common Consolidated Corporate Tax Base (CCCTB) (OJ C 24, 28.1.2012, p. 63).

3.3. The Commission considers that the CCCTB should be compulsory because transnational companies engaged in aggressive tax planning will avoid adopting the CCCTB if it is optional. The EESC agrees with making the CCCTB mandatory and recommends that the Commission assess whether the CCCTB should be applied in the future to all companies so that Member States would not have to operate two different tax bases.

3.4. Taking account of consultations with the Member States, the Commission is proposing that the initial focus be on introducing the common tax base, with consolidation envisaged at a later stage. Given that aggressive tax planning is seriously affecting competition in the single market and leading to a significant loss of revenue for the Member States, the EESC recommends speeding up the timetable for implementation.

3.5. The proposal for a directive is to be published next year. The EESC recommends that, when drafting the proposal, the Commission pay attention to the clarity of the definitions and concepts that are to govern the common base. The clarity of these definitions will be pivotal as regards the quality of the transposition process and preventing major discrepancies between the Member States, which could significantly reduce the effectiveness of the legislation.

3.6. The Commission is planning to include a mechanism for cross-border loss relief in its proposal for a directive, to be in place until consolidation is introduced at a later stage. As consolidation is the chief economic advantage of the CCCTB, it should really have been introduced from the outset. Given the difficulties involved in securing a political agreement on this point, however, the EESC endorses the proposed mechanism. Bearing in mind the demands from the European Parliament and the Member States for profits to be taxed where they are generated, the EESC feels that this mechanism should not unduly affect the right of a Member State to tax the profits resulting from an activity carried out on its territory.

3.7. The Commission's analysis shows that some companies with cross-border activities are shifting profits to Member States with a lower rate of taxation. This practice is encouraged by current corporate legislation⁽⁴⁾. The EESC believes that should companies continue this practice in the single market even after the introduction of consolidation, appropriate legal measures should also be introduced.

4. Specific comments

4.1. The aggressive tax planning carried out by businesses with cross-border activities costs Member State budgets hundreds of billions in losses each year. The EESC agrees with the implementation of the CCCTB, and believes that this should become a general standard for corporate taxation in the EU. This would simplify the tax system for companies and prevent Member States having to apply the CCCTB to companies with cross-border activities and a different system to other companies.

4.2. The EESC recommends that, following the adoption of the CCCTB directive and the introduction of consolidation, the Commission carry out an impact assessment of the new rules. Should this assessment show that there has been no decrease in profit shifting to Member States with lower tax rates, the EESC proposes that targeted legal measures also be adopted that discourage companies with cross-border activities from continuing to engage in profit shifting to Member States with lower tax rates.

4.3. The Commission proposes better regulating the corporate concept of 'permanent establishment'. The EESC believes that only by taxing the profits resulting from an activity carried out within a Member State can the possibility be ruled out that, in certain situations, companies can artificially avoid having a taxable presence. Adopting the OECD BEPS plan could significantly reduce the cases in which businesses can avoid corporate tax on the grounds of current EU legislation.

⁽⁴⁾ The Parent-Subsidiary Directive (Council Directive 2011/96/EU of 30 November 2011) and the Interest and Royalties Directive (Council Directive 2003/49/EC of 3 June 2003).

4.4. Consolidation is the operation through which the profits and losses of a company can be aggregated for the whole EU territory. The EESC recognises that, once adopted, this will constitute the main element of the CCCTB for combating the complex transfer pricing practices engaged in by companies with cross-border operations within the EU in order to reduce the tax they pay. However, the EESC recommends that the Commission factor in protecting the right of a Member State to tax the profits resulting from an activity carried out on its territory.

4.5. The Commission communication includes an appendix containing a list of non-cooperative tax jurisdictions. The Committee sees this as only a first step in the fight against uncooperative tax jurisdictions, which are generally referred to as tax havens. It reiterates the proposal it made in previous opinions ⁽⁵⁾, that EU rules should include sanctions for companies that continue to run their business through tax havens and thereby avoid having to pay tax within the tax systems of the Member States in which they operate.

4.6. The Commission recognises the important role played by the various groups, which have ensured cooperation with the Member States on tax matters. The two main groups here are the Code of Conduct for Business Taxation Group and the Platform on Tax Good Governance. The EESC recommends that the Commission and the Member States assess the possibility of incorporating the provisions of the code into EU legislation — so that they become binding.

4.7. The EESC recommends to the Commission that in the context of reviewing the mandate of the Platform for Tax Good Governance, in addition to prolonging its mandate beyond 2016, it also considers including among its members representatives of the European social partners. They could make an important contribution to the work of the platform.

4.8. The Committee recommends that the Commission and the Member States continue to address the issue of simplifying and harmonising the existing legal framework at both EU and national levels. This would help boost investment at European level, laying the foundations for sustainable growth and job creation.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽⁵⁾ EESC Opinion on *The fight against tax fraud and tax evasion* (OJ C 198, 10.7.2013, p. 34), EESC Own-initiative Opinion on *The Community method for a democratic and social EMU* (OJ C 13, 15.1.2016, p. 33).

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration’

(COM(2015) 240 final)

(2016/C 071/08)

Rapporteur: Stefano MALLIA

Co-rapporteur: Cristian PÎRVULESCU

On 10 June 2015 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration

(COM(2015) 240 final).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 19 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 161 votes to 10 with 7 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the Commission’s ‘European Agenda on Migration’, which it believes symbolises a new-found understanding of the need to address migration at a European level, and encourages the Member States to collectively support the implementation of this Agenda.

1.2 The immediate challenge for the EU is to bring the current chaotic situation under control and to ensure that people seeking international protection are treated properly. The EESC supports the immediate setting up of ‘hotspots’ to support countries faced with a large influx of migrants and insists they are given the necessary resources and support.

1.3 The EESC believes that the current situation requires the EU to establish a truly common European asylum system based on harmonised procedures throughout the EU. This includes uniform asylum status and mutual recognition of asylum decisions, shared responsibility and efforts with respect to relocation and resettlement, and a revised Dublin Regulation. There is a need for robust, solidarity-based systems of burden-sharing, especially a permanent, fair and binding system for allocating those seeking protection between all EU countries. In addition, long-term solutions for the event that mass migrations continue or occur again in the future must also be sought.

1.4 Europe has an ageing population and faces a skills shortage, which can be addressed through migration. However, the EU must have a more effective immigration policy in place. The EU should design a comprehensive legal migration policy aimed at welcoming newcomers that is transparent, predictable and just. At the same time, it has to be recognised that immigration is not the only response to labour market shortages and demographic challenges, and that Member States may consider other, more appropriate solutions.

1.5 The integration of migrants and refugees is a very significant challenge that the EU and its Member States need to confront by building robust integration systems. The EESC considers that the cost of non-integration greatly exceeds the cost of integration. The EESC, with its long-standing commitment to the European Integration/Migration Forum, believes integration must be a two-way process where social partners, local authorities and civil society all play an essential role. Priority should be given to labour market access and, more specifically, to the recognition of qualifications and professional and language training. Particular attention should be paid to the integration of women.

1.6 The EU must secure its external borders. Given the current complex security situation, a European rather than a national effort is required, which may entail sharing some national competences in this area.

1.7 All EU external policies must be streamlined and focus on helping the countries of origin to reach a reasonable level of human security, stability and prosperity. The EESC is well aware that this is a long-term goal fraught with enormous difficulties.

1.8 It is necessary to enforce cooperation in the field of readmission to ensure an effective and timely implementation of the Return Directive.

1.9 Civil society plays a vital role in dealing with the migration crisis, for example by providing the necessary first responses to migrants upon arrival and by organising the ensuing activities to integrate them into society and the labour market. It is essential that governments, local authorities, and civil society organisations work towards creating a cultural and social consensus among European nations that it is important and beneficial to invest in integrating immigrants into society and the labour market.

1.10 The EESC therefore calls on the EU and its Member States to increase funding and material support for national NGOs and civil society organisations.

1.11 The appropriate financial resources must be raised in a joint effort by the entire international community. It should be clarified in the process that expenditure incurred by the Member States in connection with the reception and integration of asylum seekers and refugees is not long-term, structural expenditure and should not, therefore, be included in the calculation of structural budget deficits. The necessary resources must not be raised at the expense of existing funds for social objectives in the EU. This would jeopardise public consent from some sections of the population.

2. The Commission's Communication and latest developments

2.1 The European Commission published its Communication on 'A European Agenda on Migration' on 13 May 2015. This and the ensuing implementing proposals were subsequently discussed by various Council constellations between June and October. The EESC welcomes the Commission's Communication, considering that it is comprehensive and also focuses on essentials.

2.2 Implementation of the initiatives proposed in the Agenda is ongoing and most Member States are gradually realising that only collective action based on the principles of solidarity and shared responsibility can lead to an effective management of the challenge posed by migration. Effective action requires mobilisation of more resources from the EU's budget, as well as increased contributions from the Member States. It should be clarified in the process that expenditure incurred by the Member States in connection with the reception and integration of asylum seekers and refugees is not long-term, structural expenditure and should not, therefore, be included in the calculation of structural budget deficits.

2.3 In terms of funding, the EU has tripled resources for the Frontex joint operations, Poseidon and Triton. In parallel to this increase, assets (ships and aircraft) are being deployed by several Member States. The European Commission has also allocated EUR 1,8 billion from the EU budget to set up an Emergency Trust Fund for stability and addressing the root causes of irregular migration in Africa, mobilised EUR 60 million in emergency funding for frontline Member States, proposed a EUR 50 million resettlement scheme, and freed EUR 30 million for a Regional Development and Protection Programme.

2.4 EU leaders have pledged increased resources to Frontex, Europol and EASO in order to strengthen the EU's external borders, placing particular emphasis on hotspots to ensure the identification, registration and fingerprinting of migrants. However, EU financial support is necessary to ensure that the hotspots operate efficiently and achieve their objective.

2.5 At Council meetings in July and September, agreements were reached on the relocation of 160 000 migrants from Greece and Italy and the resettlement of another 22 000 people in need of international protection. The successful implementation of these decisions, which is in its initial phase, is crucial for the success of any future EU migration policy.

2.6 On 23 September 2015, the European Commission adopted 40 infringement decisions against several Member States for failing to implement legislation establishing the Common European Asylum System. The EESC welcomes this decision, but is very concerned that it had to resort to this mechanism to convince Member States to properly implement EU law in this crucial domain.

2.7 On the international front, several decisions may potentially lead to an improvement in the overall situation. These include increasing the EU's budgetary resources for providing refugees with immediate relief, strengthening dialogue and cooperation with non-member countries such as Lebanon, Jordan and Turkey and the candidate countries in the Western Balkans, as well as increasing humanitarian aid in 2016 and establishing the Emergency Trust Fund for Africa. The necessary resources must not be raised at the expense of existing funds for social objectives in the EU. This would jeopardise public consent from some sections of the population. The EESC welcomes the European Council's endorsement on the 23 September 2015 of the joint Action Plan with Turkey as part of a comprehensive cooperation agenda based on shared responsibility, mutual commitments and delivery.

3. Dealing with the crisis

3.1 *Immediate action*

3.1.1 The concept of smart borders is welcome and overdue. The main challenge associated with stronger and smarter borders is to ensure that migrants' human rights are not violated. Furthermore, the principle of non-refoulement should not be undermined even if this could prove challenging because the distinction between refugees and economic migrants is not always clear and straightforward. Smart borders must fully respect fundamental rights and freedoms.

3.1.2 The Schengen agreement is one of the pillars of the EU and has more than symbolic significance for European integration. It is one of the most tangible rights enjoyed by European citizens, giving them a real taste of a border-free Europe. The EESC wants the operation of the Schengen regime to return to normal as soon as possible and strongly urges the Member States to take all possible steps to prevent the permanent collapse of the system.

3.1.3 So far an agreement has been reached on the relocation of 160 000 refugees in the EU. The swift implementation of this agreement would enable much valuable experience to be gathered with a view to developing long-term solutions for the event that mass migrations continue or occur again in the future. The EESC considers that more ambition is needed. The global mass movement of people will not subside for many years to come.

3.1.4 It is in the interest of all Member States that a robust, solidarity-based system of solutions for the event that mass migrations continue in the future is implemented. An immediate measure must be a permanent, fair and binding system of burden sharing, whereby those seeking protection are allocated between all EU countries. This must be supported by a permanent distribution key based on a number of considerations such as the size of a country's economy and territory, GDP, job opportunities and skills shortages, the existence of co-national/ethnic communities and minorities in the receiving country. Such a distribution key should be reviewed periodically. The preferences of the asylum seeker should also be taken into account as long as they are linked with considerations that would facilitate integration (e.g. knowledge of the language, family in the country, etc.). This will hopefully end the continuous and discordant Council meetings that have tarnished Europe's image.

3.1.5 The EESC welcomes the proposal to activate the Civil Protection Mechanism and to mobilise Migration Management Support Teams as well as Rapid Border Intervention Teams to help Member States deal with emergency situations.

3.1.6 The EESC also welcomes the increase in EU funding for Frontex, EASO and Europol in 2015 and the EUR 600 million increase for the three agencies in 2016 to help the most affected states. These efforts need to be complemented by an effective return policy. Currently, only about 38 % of those who have been found not to be in need of protection have been returned to their countries.

3.1.7 The EU needs to increasingly link aid to developing countries to internal reforms as well as foster effective cooperation on migration issues, particularly legal migration (including temporary movement/visas) and return policy. It is however important for EU Member States to honour their commitment to assign 0,7 % of gross national income (GNI) to development aid.

3.1.8 The EESC welcomes the proposal to step up diplomatic efforts in order to engage countries of origin and transit countries in a cooperative effort to deal with the challenge. The first appointment in this endeavour was the summit on migration held in Valletta on 11–12 November 2015.

3.1.9 In this respect, it is important to stress that the EU needs to listen as much as it needs to talk to its partners and that it needs to treat them as such. Many misapprehensions and different perceptions still prevail between the EU and its partners in Africa and the Middle East regarding the objectives to be reached and the means to achieve them.

3.1.10 The EESC welcomes the EU's pledge to continue to work more closely with international organisations such as the UNHCR, UNDP, IOM and the Red Cross. However, it observes that many EU Member States do not meet their obligations, one case in point being the sorry state of support for the World Food Programme.

3.1.11 The EESC also welcomes the Commission's proposal to increase humanitarian aid by EUR 300 million in 2016 to meet the essential needs of refugees.

3.1.12 The EESC supports the principle of the mutual recognition of asylum decisions. According to Article 78 of the TFEU, the EU should develop a common policy on international protection, comprising a 'uniform status ... valid throughout the Union'. If such EU-wide status is not granted by an EU agency, the only alternative is the mutual recognition of national decisions.

3.1.13 The EESC fully supports the Commission's undertaking to submit proposals to reform the Dublin Regulation by March 2016. It also supports the Commission's commitment to present a new package on legal migration at the same time, including a revised Blue Card Directive.

3.1.14 The protection of EU external borders should be a shared effort where Member States pool physical and intellectual resources.

3.1.15 The EESC fully supports the immediate setting up of hotspots. However, these must be fully staffed and given all the resources required to enable them to function effectively. In places such as Italy and Greece, where thousands of migrants arrive every day, only a significant pooling of financial and physical resources can prevent total chaos.

3.1.16 The EESC shares the UNHCR's grave concerns about the registration and selection process in place at the hotspots as soon as immigrants arrive at the EU's borders.

3.2 Long-term action

3.2.1 The EU can only reduce migration flows to manageable proportions if it engages meaningfully in resolving the many problems affecting the countries of origin. The long-term goal of achieving stability, peace and prosperity will require an unprecedented effort, not only from Europe but from the entire international community. The EU must seek to strengthen international efforts, particularly through the UN.

3.2.2 It is necessary for the EU to extend its institutional presence in key origin and transit countries by setting up specific migration centres as temporary or permanent processing facilities for asylum applications. More focus and assistance is needed in countries such as Algeria, Morocco, Mali, Libya, Lebanon and Turkey.

3.2.3 The EESC believes that one of the principal goals of the Agenda is to launch an EU migration policy which makes legal migration possible, while at the same time stimulating the effective integration of migrants. The EESC is waiting for the first legislative and policy proposals in these areas, and stands ready to support the European Commission in its efforts to develop these proposals.

3.2.4 EESC encourages the Member States to fully respect and actively implement the 1951 Geneva Convention and resist pressure to reduce the level of protection and services granted to refugees.

3.2.5 The EESC supports a common asylum policy based on simplified, common procedures. Such a policy must also be based on a common definition of refugee status and the rights attached to this status in order to avoid refugees shopping around for the 'best treatment'.

3.2.6 The Country of Origin Information (COI) system needs further development. Asylum applications from citizens originating from the same states and presumably facing a similar situation often have different outcomes. The system in place should be flexible and reliable enough to research and process developments in the countries of origin in real time. Cooperation between the security services of the Member States should continually be improved, because they are an important source of information.

3.2.7 Greater priority should be given to organising legal migration and visa policy, the digitalisation of the process, the recognition of qualifications and obtaining educational mobility.

3.2.8 The EU should be more involved in the management of returns and support for reintegration measures. The pilot project on returning to Pakistan and Bangladesh is of limited relevance to the current emergency situation. The EESC strongly recommends the planning and implementation of similar projects, with proper financing and institutional support.

3.2.9 Strengthening border controls in transit countries, enhancing sea patrols and destroying smugglers' vessels can help but are not the only sustainable way to tackle the problem. The EU is on the right track when it takes a comprehensive approach that makes better use of its diverse instruments and significant resources.

3.3 *Civil Society*

3.3.1 Civil society plays a vital role in dealing with the migration crisis. Civil society actors can provide essential help in supplying the necessary first responses to migrants as they arrive. However, civil society potentially has an even more important role to play when it comes to the longer term effort required to integrate migrants into society. Civil society can adopt the people-to-people responses that are so crucial at all stages in the reception and settling of refugees.

3.3.2 The EESC praises the solidarity shown by segments of civil society and private individuals who have voluntarily assisted asylum seekers. However, this positive and spontaneous reaction lacks the sufficient scale to enable it to effectively deal with the challenges posed. The EESC calls on the EU Member States to recognise and appreciate the role that civil society plays by stepping up their aid to national NGOs and civil society in order to ensure a more structured and effective response. Member State governments have a special responsibility to identify and link up with the civil societies on their territories, and to step up aid to ensure their capacities are increased.

3.3.3 Furthermore, the EESC recommends that the Commission make efforts to provide Member States with more resources through the partnership agreements concerning structural funds to channel more ESF and ERDF funds towards managing the migration flows and integration effort. NGOs and organisations involved on the ground should be prime recipients of such funds. These should be over and above the funds currently being provided under the Asylum, Migration and Integration Fund.

3.3.4 The EESC draws attention to the European Migration Forum, succeeding the European Integration Forum which was created in 2009 by the EESC and the European Commission. The forum is a platform for dialogue between European institutions and civil society in the areas of immigration, asylum and migrant integration.

4. Integration into society and the labour market

4.1 The EESC considers it important and highly relevant to ensure that there is a transparent, predictable and just system of legal migration to the EU. The population of Europe is ageing and growing at only around 0,2 % per annum, which is significantly below the replacement level. It is estimated that Europe will lose some 30 million people of working age by 2050 and unless something is done quickly, the dependency ratios in most EU Member States will continue to increase rapidly, productivity will decline, companies will close down and the costs of maintaining services, particularly for the ageing population, will increase significantly.

4.2 Through collective and organised action based on solidarity, the EU can transform the current situation into an opportunity to reverse the current demographic trend and its socioeconomic effects. Integrating migrants into the labour market leads to economic growth and supports their independence. On the other hand, policies that neglect integration shift the burden of supporting migrants on to public services and could lead to social friction with considerable implications.

4.3 The EESC recognises that integration is strongly dependent on labour market integration. There are however a number of factors associated with the impact of immigration on the labour market which need to be explained. These include the impact of immigrants on the level of wages, the availability of jobs, pressure on the fiscal system (health and education) and the effects of multi-culturalism.

4.4 The Committee has already drawn up an exploratory opinion⁽¹⁾ that was the basis for the preparation of the Zaragoza Ministerial Conference in 2010⁽²⁾, which adopted an important Declaration on the labour market integration of migrants and the challenges for European and national authorities and the social partners.

4.5 Studies show that on the whole, migrants contribute more than they take from the economy, that their impact on fiscal systems is minimal and that they help Europe address its demographic deficit and stimulate economic growth. However, the effects of migration do not impact all regions of Europe in the same way and need to be assessed carefully for their impact at the local level. In addition, there is a marked difference between the orderly arrival of migrants as part of the implementation of a policy and a sudden surge of thousands of incoming migrants, which would be difficult to deal with and would strain local, regional and national structures as has happened in recent weeks.

4.6 The integration of migrants in the labour market depends on a number of factors such as the level of unemployment in the host countries, migrants' skills, their level of skill, pre-entry preparation in terms of language capabilities and formal training and the organisations, structures which are set up in the host countries to facilitate the integration of immigrants, including refugees, in the labour market. It is in these areas that civil society has a crucial role to play.

4.7 However, there are other factors which hamper rapid integration, such as recognition of qualifications, bureaucratic obstacles, lack of transparency, public misperceptions about migrants, exploitation and legal hurdles presented by outdated laws and the non-implementation or slow transposition of EU legislation.

4.8 Trade unions and employers' associations have a crucial part to play in addressing the challenge of integrating immigrants into the labour market. The EESC recommends that the social partners be fully involved in drafting, developing, implementing and following up on integration policy and related measures at the local, regional, national and European level.

⁽¹⁾ OJ C 354, 28.12.2010, p. 16.

⁽²⁾ <http://www.integrim.eu/wp-content/uploads/2012/12/Report-20101.pdf>, <https://www.uclm.es/bits/archivos/declaracionzaragoza.pdf>

4.9 Government, local and regional authorities and the social partners must work together to achieve a social consensus on the ways and means of integrating migrants into the economy and society, above all to avoid a struggle between different disadvantaged groups.

4.10 Civil society plays a crucial role in helping migrants gain access to education, training and employment, and in challenging discrimination in the education sector, labour market and society as a whole.

Brussels, 10 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person’

(COM(2015) 450 final — 2015/0208 (COD))

(2016/C 071/09)

Rapporteur: Cristian PÎRVULESCU

On 16 September 2015 and 21 October 2015 the European Parliament and the Council of the European Union decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on:

Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person

(COM(2015) 450 final — 2015/0208 (COD)).

The Section for Employment, Social Affairs and Citizenship, which was responsible for the Committee’s work on the subject, adopted its opinion on 19 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 152 votes to 6 with 13 abstentions.

1. Conclusions and recommendations

1.1 The refugee crisis in the EU has reached the point at which the founding principles of human rights protection and democracy are being called into question. Despite the difficulties, EESC strongly believes that these principles must be upheld and properly implemented.

1.2 The EESC believes that the sovereigntist tendencies of some governments and the negative perceptions of migration and refugees held by a growing number of citizens can be limited through a broad and necessary effort to uphold core European values and the EU institutional achievements. In these exceptional situations, we need more Europe, more democracy and more solidarity.

1.3 The current refugee crisis, although foreseeable, occurred because of the absence of a common asylum policy, the delay of which was due to the absence of concerted European political action. In this context, the EESC urges the European Council, the European Commission and the European Parliament to implement Article 67(2) and Article 78 of the Treaty on the Functioning of the European Union, which lay down the conditions for the EU to create a genuine asylum policy.

1.4 The EESC has consistently highlighted the need for solidarity, responsibility and common action as well as the centrality of fundamental rights.

1.5 The EESC welcomes the efforts made by the European Commission to coordinate a common response to the refugee crisis, including the Leaders’ Meeting on refugee flows along the western Balkans route.

1.6 The crisis relocation mechanism is a concrete example of cooperation based on solidarity and responsibility. However, the EESC wishes to have this relocation mechanism and other similar initiatives included as part of a general strategy in order to ensure coherence and efficiency. In particular, there is a need for robust, solidarity-based systems of burden-sharing, especially a permanent, fair and binding system for allocating those seeking protection between all EU countries.

1.7 The European Commission and the other EU institutions must actively support the governments of the Member States so as to provide proper conditions and prospects for integrating the relocated asylum applicants. In this context, it should, *inter alia*, be clarified that expenditure incurred by the Member States in connection with the reception and integration of asylum-seekers and refugees is not long-term, structural expenditure and should not, therefore, be included in the calculation of structural budget deficits.

2. General comments

2.1 The current refugee crisis represents both an administrative challenge — as the sheer scale of the phenomenon is unprecedented — and a legal one. The EU has reached the point at which the founding principles of human rights protection and democracy are being called into question. The willingness of the Member States to fully implement international treaties has been affected by increased international mobility, as a consequence of economic globalisation. The EESC believes that the sovereigntist tendencies of some governments and the negative perceptions of migration and refugees held by a growing number of citizens can be limited through a broad and necessary effort to uphold European core values and the EU institutional achievements. In these exceptional situations, we need more Europe, more democracy and more solidarity.

2.2 The European asylum system is under significant pressure, stemming from multiple crises. Some of these originate from the international politics of the 2000s, while others are perverse effects of the economic and financial crisis. The most recent ones, the 'Arab spring', political instability in Libya and the civil war in Syria, have directly led to the considerable increase in the number of refugees.

2.3 The 47 Member States of the Council of Europe are bound to apply the human rights provisions ensuring that, on the basis of Article 3⁽¹⁾ of the European Convention on Human Rights, all human beings are protected. In contrast, the 1951 Convention relating to the Status of Refugees only grants protection for a specific category of individuals, as defined in Article 1, and this protection can be more easily lost. However, the Convention considers individuals in need of international protection to be entitled to a set of rights. In some Member States, for example in Romania, constitutional provisions give primacy to international treaties over national legislation. Article 18⁽²⁾ of the Charter of Fundamental Rights of the European Union, which became binding pursuant to Article 6 of the TFEU, sets out the right of people in need of international protection.

2.4 The Dublin system has disproportionately placed the burden of processing asylum applications on a number of 'frontline' states (Malta, Italy, Cyprus, Greece, Spain and recently, Hungary). Under these conditions it has become increasingly difficult for some Member States to observe in practice the principles of non-refoulement and the principles enshrined in the European Convention on Human Rights, the Charter of Fundamental Rights and the directives stemming from it. Despite the difficulties, EESC strongly believes that these principles must be upheld and properly implemented.

2.5 Article 67(2) and Article 78 of the Treaty on the Functioning of the European Union lay down the conditions for the EU to build a genuine asylum policy. In the light of these articles, the focus is not on drafting minimal rules, but rather on creating a common system which includes uniform procedures. The current refugee crisis, although foreseeable, occurred because of the absence of a common asylum policy, the delay of which was due to the absence of concerted European political action. In this context, the EESC urges the European Council, the European Commission and the European Parliament to implement these articles.

⁽¹⁾ 'No one shall be subjected to torture or to inhuman or degrading treatment or punishment'. Not only Article 3 is related to the asylum and international protection. Expulsion of persons who filed an asylum application which was rejected can be problematic in relation with Article 2 (Right to life), Article 5 (Right to liberty and security), Article 6 (Right to a fair trial), Article 7 (No punishment without law), Article 3 of Protocol No 4 (Prohibition of expulsion of nationals), and Article 4 of the same Protocol (Prohibition of collective expulsion of aliens). Other articles also invoked: Article 8 (Right to respect for private and family life), Article 13 (Right to an effective remedy), Article 16 (Restrictions on political activity of aliens).

⁽²⁾ The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.

2.6 The EESC welcomes the efforts made by the European Commission to coordinate a common response to the refugee crisis, including the Leaders' Meeting on refugee flows along the Western Balkans Route. The meeting brought together Heads of State and Government, both EU and non-EU, in an effort to better coordinate action in the region in three key areas: providing shelter, managing the migration flows together and border management ⁽³⁾.

2.7 The EESC hopes that the crisis relocation mechanism will help the EU move, on the basis of a consensus, towards a system that is robust and flexible enough to meet the challenges of migration in its different forms.

2.8 The EESC has consistently highlighted the need for solidarity, responsibility and common action as well as the centrality of fundamental rights. It has also insisted that serious efforts must be made to facilitate the integration of migrants and refugees.

2.9 The crisis relocation mechanism is a concrete example of cooperation based on solidarity and responsibility. However, the EESC wishes to have this mechanism and other similar initiatives included as part of a general strategy in order to ensure coherence and efficiency. In particular, there is a need for robust, solidarity-based systems of burden-sharing, especially a permanent, fair and binding system for allocating those seeking protection between all EU countries. The European Commission's 'European Agenda on Migration' is a positive step in this direction.

3. Specific comments

3.1 Any Member State that does not take part in the mechanism should explain its reasons. If the motivation is primarily financial or due to lack of preparation for receiving the asylum applicants, provision should be made for some advance financial support.

3.2 EU support for the civil society organisations dealing with the refugee crisis and the integration of migrants is still insufficient. Bureaucratic rules and procedures hamper their capacity to act effectively on the ground.

3.3 To determine that a crisis exists, the EC would look at whether the situation is such that a Member State with a 'well prepared asylum system' is still unable to handle the situation. How is this defined? What are the criteria for describing an asylum system as 'well prepared'? The proposal gives some criteria the EC might consider, however they are flexible and are described as 'inter alia'.

3.4 The proposal is not specific enough as regards matching the preferences of the beneficiary Member State, the Member State of relocation and the applicants. It is not clear how it will work in practice.

3.5 It is recommended that relevant information and counselling be available to the applicants, provided by the authorities in beneficiary Member States and the liaison officers of the Member State of relocation.

3.6 It is not clear how the Member State of relocation is encouraged to properly receive and integrate the relocated applicants. The state of infrastructure, the availability of services, e.g. medical or educational, and financial allocations will influence the willingness of the applicants to be relocated to a specific country. The European Commission and the other EU institutions must actively support the governments of the Member States so as to provide the proper conditions and prospects for integrating the relocated applicants.

3.7 The proposal needs to be more specific in this respect and outline a procedure for evaluating and encouraging the development of asylum infrastructure and services in all Member States.

3.8 The system must to some extent accommodate the preferences of asylum seekers for specific Member States of relocation. The preferences must be linked to clear and demonstrable prospects for successful integration (resident family members, knowledge of language, and previous links to the country such as studies or business).

⁽³⁾ See the Leaders Statement issued after the meeting.

3.9 'Cultural ties' are mentioned as a factor to be taken into account when relocating a person to a Member State. The EESC considers that this criterion should not be used to justify the rejection of asylum seekers on the basis of their religion.

3.10 The proposal fails to specify how the scheme will work for countries like Serbia and the former Yugoslav Republic of Macedonia, which have clear accession prospects and are experiencing a significant influx of migrants and asylum seekers.

Brussels, 10 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments’

(COM(2015) 337 final — 2015/0148 (COD))

(2016/C 071/10)

Rapporteur: Antonello PEZZINI

On 7 September 2015 the European Parliament, and on 21 September 2015 the Council, decided to consult the European Economic and Social Committee, under Articles 192 and 304 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments

(COM(2015) 337 final — 2015/0148 (COD)).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 18 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December), the European Economic and Social Committee adopted the following opinion by 138 votes to 1 with 1 abstention.

1. Conclusions and recommendations

1.1 The Committee is convinced that sustainable reindustrialisation with competitive growth that creates new and better jobs is crucial to Europe, and that in this respect the EU’s CO₂ trading system should constitute a key European policy instrument for combating climate change and for moving towards a carbon-free world economy.

1.2 The Committee considers that, as an instrument for reducing the EU’s energy emissions, the EU’s Emissions Trading System (EU ETS) should provide a carbon price signal while also boosting sustainable investment in new low-carbon technologies.

1.3 In the EESC’s view the carbon market needs to be made more stable, flexible and open to all the main global partners, as part of a detailed and coordinated framework, so as to achieve the objective of a competitive and sustainable industrial manufacturing system.

1.4 The Committee would argue that the Commission must comply strictly with the mandate set out by the 2030 Climate and Energy Policy Framework agreed by the European Council on 23 and 24 October 2014, in particular regarding its clear indications on the carbon leakage provisions to be developed as part of the EU ETS reform.

1.5 In the Committee’s view, proper transition mechanisms must be put in place so as to protect the competitiveness of European industry and offset the risks of investment flight and of exposing European industry to unfair competition from countries with no comparable climate regulations.

1.6 The EESC recommends the establishment of a proper framework of rules, particularly regarding free allocation levels, carbon leakage admissibility, the review of benchmarking parameters and compensation for costs passed on to electricity prices, so as to secure 100 % free allocation and full compensation for indirect costs in all Member States for the 10 % most efficient plants in sectors exposed to a high risk of carbon leakage.

1.7 The EESC recommends the following as key aspects of the reform:

- abolition of the cross-sectoral correction factor for direct costs,
- harmonised European-level mechanisms to compensate for indirect costs throughout the EU, in order to prevent distortions of competition ⁽¹⁾,
- rather than penalties, reward schemes for best performers however the results are achieved, including carbon capture and use,
- benchmarks based on solid industrial data, set once only at the beginning of a given period,
- the allocation of free allowances for sectors on the basis of actual as opposed to past production levels,
- the possibility of a fall-back approach in Phase 4 for sectors with no pre-existing benchmarks,
- a looser definition of carbon leakage with up-to-date qualitative risk criteria without introducing threshold values,
- use of part of the Market Stability Reserve to support the phasing out of sectors that have been removed from the carbon leakage list,
- extension of the exemption from the mechanism to plants with emissions below 50 000 t CO₂,
- full mainstreaming of the social dimension within the EU ETS in order to support the transfer of industrial and employment processes and skills towards a carbon-free economy,
- examination of how to extend reward schemes for best performers to civil society, awarding **ETS bonuses** to households, communities and official bodies which significantly reduce their own consumption of CO₂-generating energy or offset their emissions with **green investments**,
- an independent preliminary study to establish the operating mechanisms through which the EU ETS will best contribute to reaching the climate goals set.

1.8 Lastly, the Committee calls for maximum consistency, full synergy, minimum overlap between requirements, and the elimination of excessive red tape in the new rules revising the EU ETS and the parallel and accompanying rules with which they interact.

1.9 The EESC considers that a framework for trading international credits should be set up: these credits should have a part to play in achieving the broader aims of reducing emissions in Europe, with the support of multilateral and bilateral international agreements.

1.10 The Committee considers it important to draw up an own-initiative opinion on this subject once the Paris Conference in late 2015 has concluded.

⁽¹⁾ See *State aid Modernisation for an integrated EU energy market*, Joaquín Almunia, Vice-President of the European Commission responsible for Competition Policy, Brussels, 2 December 2013, *Energy: the sector where 'more Europe' is most needed*. Development of common principles for the assessment of State aid. For aid to be compatible, it needs to — Contribute to a common EU objective — Correct proven market failure/address equity concern — Be an appropriate instrument — Ensure an incentive effect — Be proportional/limited to the minimum — Avoid undue distortions of competition and trade. See also *Guidelines on State aid for environmental protection and energy 2014-2020* (OJ C 200, 28.6.2014, p. 1).

2. Introduction

2.1 The EU Emissions Trading System came into operation on 1 January 2005, and is one of the EU's most important climate policy instruments, in the light of the opportunities it provides to cut greenhouse gas emissions.

2.2 Since it was set up, the EU ETS has sought to provide a reference point for carbon, with the aim of enabling emissions to be reduced in all sectors of the European economy that are responsible for approximately half of the EU's greenhouse gas (GHG) emissions.

2.3 The EESC has always considered the EU ETS to be a key instrument in EU climate and energy policy for reducing the EU's industrial emissions, and has called for its genuine reform with a view to achieving the EU's climate objectives for 2030 while safeguarding the Union's industrial competitiveness and avoiding investment leakage.

2.4 The **European Council of 21 March 2014** called for measures to compensate in full for the direct and indirect costs arising from EU climate policies for sectors exposed to global competition, until such time as an international climate agreement succeeds in establishing a level global playing field.

2.4.1 The EESC would nevertheless reiterate the observations made by the European Court of Auditors, according to which there are 'significant weaknesses' in the implementation of the EU ETS, and would make a number of recommendations with a view to improving the integrity and implementation of the system, while boldly asserting the notion of industrial efficiency to ensure that the EU economy is fully competitive.

2.5 On **23 and 24 October 2014, the European Council** laid down the 2030 Climate and Energy Framework. It also adopted conclusions, and in particular endorsed a number of important targets:

- a binding EU target of reducing greenhouse gas emissions by at least 40 % by 2030 compared to 1990 levels, with a linear reduction in the annual rate of 1,74 %,
- a binding target of at least 27 % for consumption of renewable energy in 2030, but without binding targets for the Member States,
- an indicative target of improving energy efficiency by at least 27 % — non-binding, but subject to revision with a view to raising it to 30 %,
- support for the urgent completion of the internal energy market, meeting the existing electricity interconnection target of 10 %, no later than 2020.

2.5.1 The EU's target of reducing domestic greenhouse gas emissions by at least 40 %, formally adopted at the Environment Council meeting of 6 March 2015, represents the basis for the EU's contribution to the negotiations on a new global agreement on climate change.

2.5.2 All these aspects of the framework will be reviewed from time to time by the Council, which will continue to provide strategic guidelines for both sectors covered by the ETS and those not, and for interconnections and energy efficiency.

2.5.3 Instruments and measures must take a comprehensive and technologically neutral approach to promoting lower emissions and energy efficiency.

2.6 On **13 May 2015** agreement was reached between the Council and the European Parliament on reform of the EU ETS, with a decision on a market stability reserve (MSR):

- a market stability reserve will be established in 2018, to be operational from 1 January 2019,
- 'backloaded' allowances (the 900 million allowances whose auction was postponed from 2014-16 until 2019-20) will be placed in the market reserve,

- unallocated allowances will be transferred directly to the MSR in 2020 and their future usage is to be considered under the wider EU ETS review,
- the 10 % *solidarity component* of allowances will be temporarily exempt from the scope of the MSR until the end of 2025,
- the EU ETS review will take account of the possible use of a limited number of allowances before 2021 in order to make use of existing resources for promoting CCS (CO₂ capture and storage),
- the EU ETS and market stability reserve reviews will take account of:
 - the relocation of CO₂ emissions and competition-related aspects, and
 - employment and GDP issues.

2.7 As part of the Energy Union strategy and with a view to the Paris climate conference, the Commission has proposed a package of measures intended, *inter alia*, to revise the EU Emissions Trading System in accordance with the indications laid down by the Council, retaining the reindustrialisation of the European economy and the international competitiveness of those industrial sectors most exposed to the risk of relocation of production, as priorities.

2.8 The measures to revise the EU ETS touch upon many other EU policies apart from energy.

2.9 The EESC commissioned a study on the impact of measures financed by EU environmental protection instruments ⁽²⁾, which emphasised the importance of the effective utilisation of revenue from market based instruments to achieve environmental improvements in line with the promotion of the green economy, as well as revenue generated by the EU ETS, which represent a particularly significant opportunity to fund such improvements and to move industry and employment towards a carbon-free economy.

3. The Commission's proposals

3.1 The Commission initiative modifying EU ETS directive 2003/87/EC sets out by means of a series of interlinked proposals to increase the annual reduction level for allowable emissions, so that the quantity of allowances released each year across the European Economic Area (EEA) declines by a linear factor of over 2,2 %, from 2021 onwards, to achieve a reduction of 43 % in 2030 compared to the 2005 level.

3.2 The proposal contains several funding mechanisms to support economic actors who must combat carbon leakage and meet the major challenges posed by the innovation and investment needed to modernise their plants and to achieve energy efficiency to help reduce emissions.

4. Global emissions trading systems

4.1 Emissions trading systems are expanding across the world outside the EU, with national and sub-national systems already operating in various countries.

4.2 In the US, President Obama has announced the rules for the Clean Power Plan (CPP), which will lay down individual standards for each state to reduce carbon emissions from power stations — mainly coal and gas burning — by 2030.

4.2.1 A 'cap-and-trade' programme was launched in **California** in 2012. The Regional Greenhouse Gas Initiative (RGGI) is in force in **Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island** and **Vermont**.

⁽²⁾ www.eesc.europa.eu/envistud

4.3 **Australia** has an emissions trading system that will be linked to the European one by 2018, under a 2012 agreement with the European Commission.

4.4 In **Canada**, Quebec's Cap-and-Trade System for Greenhouse Gas Emissions was introduced in 2012, covering 85 % of Quebec's emissions from 2013.

4.5 **New Zealand** launched the NZ ETS in 2008, which includes forestry and agriculture, liquid fossil fuels, electricity generating plants and industrial processes.

4.6 At their bilateral summit in June 2015, the EU and **China** reached an agreement on cooperating to combat climate change.

4.7 Since January 2015, the KETS programme has been underway in **South Korea**, the first national-level system in operation in Asia and the second in the world after the EU ETS.

4.8 The Tokyo Cap-and-Trade Programme (TMG ETS) is **Japan's** first mandatory emissions trading scheme, launched in April 2010.

4.9 In **Switzerland**, the ETS-CH was launched in 2008 on a 5-year voluntary basis as an alternative option to the CO₂ tax on fossil fuels: since 2013 the scheme has been mandatory for large energy-intensive industries.

5. General comments

5.1 The Committee considers that the EU ETS can be an efficient, key instrument for reducing the EU's energy emissions, provided it follows a market-driven approach that should provide a carbon price signal commensurate with ambitions and at the same time boost investment in low-carbon technologies, foster the development of renewable energies and enhance energy efficiency.

5.1.1 The EESC is concerned by the potential acceleration in investment leakage as a particular form of carbon leakage in vulnerable sectors. This process could further reduce the competitiveness of these sectors and their ability to adopt the measures needed to achieve a low-carbon, resource-efficient economy, in line with the comments made in recent opinions ⁽³⁾.

5.2 The EESC is convinced of the need to make the carbon market more stable, flexible and open to all its main global partners.

5.3 The 2030 Climate and Energy Policy Framework agreed by the European Council on 23 and 24 October 2014 sets ambitious targets for unilateral reductions, and also provides specific guidelines for the carbon leakage mechanisms to be developed as part of the EU ETS reform.

5.3.1 The EESC also considers that the EU ETS reform should represent a framework for coordinated policy, particularly in combination with reform of the non-ETS sectors (Effort Sharing Decision — ESD) and policies on renewable energies (Renewable Energy Directive — RED) and energy efficiency (Energy Efficiency Directive — EED and Energy Performance of Buildings Directive — EPBD).

5.4 The EESC would argue that key aspects of the reform should include:

— abolition of the cross-sectoral correction factor for direct costs,

— harmonised European-level mechanisms to compensate for indirect costs,

⁽³⁾ *Market-based instruments — Low carbon economy in the EU* (OJ C 226, 16.7.2014, p. 1), *Policy Framework for Climate and Energy 2020-2030* (OJ C 424, 26.11.2014, p. 39) and *The Paris Protocol* (OJ C 383, 17.11.2015, p. 74).

- rather than penalties, reward schemes for best performers however the results are achieved, including carbon capture and use,
- the establishment of benchmarks based on solid industrial data and set once only at the beginning of a given period,
- the allocation of free allowances for sectors based on actual production,
- possibility of a fall-back approach in Phase 4 for sectors with no pre-existing benchmarks,
- a looser definition of ‘carbon leakage’ with up-to-date qualitative risk criteria,
- use of part of the Market Stability Reserve to support the phasing out of sectors that have been removed from the carbon leakage list,
- exemption from the mechanism for smaller plants with emissions below 50 000 t CO₂,
- complete mainstreaming of the social dimension within the EU ETS in order to fully support the transfer of industrial and employment processes and skills towards a carbon-free economy.

5.4.1 Companies at risk of relocation should be allocated a number of free emission allowances.

5.5 In the Committee’s view, proper mechanisms should be put in place for the transition towards a balanced reduction in free CO₂ emission allowances in order to protect European industries’ competitiveness and offset the risks of investment flight and of exposing European industries and employment sectors to unfair competition from countries lacking comparable regulatory frameworks.

5.5.1 In particular there needs to be a package of appropriate rules on free allocation levels, carbon leakage admissibility, the review of benchmarking parameters and compensation for costs passed on to electricity prices, so as to secure 100 % free allocation and full compensation for indirect costs in all Member States for the 10 % most efficient plants in sectors exposed to a high risk of carbon leakage.

5.5.2 Thought should also be given to the possibility of extending reward schemes for best performers to civil society, awarding **ETS bonuses** to households, communities and official bodies which significantly reduce their own consumption of CO₂-generating energy or offset their emissions with **green investments**.

5.6 The EESC considers that the Clean Development Mechanism (CDM) should be retained, improved and extended, and the links between the European ETS and new systems emerging in other parts of the world must be given sufficient support.

5.7 Climate change calls for a global solution based on an agreement with clearly-defined and secure objectives for all the major world economies.

6. Specific comments

6.1 The Committee recommends reviewing the procedures for subdividing allowances, guaranteeing a sufficient percentage of free allowances to meet demand from eligible operators. The definition of sectors at risk of relocation from 2020 could result in a significant cut with a 0,18 threshold as a prerequisite for eligibility.

6.2 The EESC is concerned that tightening the benchmarks would further penalise companies that are up against difficult circumstances: the across-the-board reduction of the benchmark by means of a single linear correction factor, set between a minimum of 0,5 % and a maximum of 1,5 % on an annual basis, does not give consideration to the lifespan of machinery and technological reality in sectors that are highly diverse.

6.3 The EESC considers that the carbon-leakage benchmarking parameters should be technically and economically viable so as to reflect actual technological progress and would recommend that the methodology for cutting back the number of sectors on the carbon leakage list from 177 to 52 for the 2021-2030 period be approved by both sides of industry and accompanied by phasing out measures.

6.4 The EESC also considers that the cross-sectoral correction factor should be abolished. A poorly-calculated correction factor would generate uncertainty as to free allocation and would leave those plants at greatest risk liable to undue costs.

6.5 According to the EESC, provision should be made for a harmonised European-level mechanism for compensation for indirect costs, to be distributed on the basis of pre-existing parameters⁽⁴⁾, avoiding the current internal market distortions, rendering the current system based on State aid compulsory and obliging Member States to earmark at least part of the revenue from auctions for adequate compensation of indirect costs sustained by environmental best performers in vulnerable sectors.

6.6 The EESC calls for more flexible and dynamic allocation of free allowances to be based on up-to-date levels of actual production, supporting units that improve their efficiency by retaining the same number of free allowances for them.

6.7 The criterion for defining carbon leakage risk needs to be made more flexible in order to reflect as accurately as possible the impact of the carbon price on the competitiveness of the various sectors, particularly for SMEs, using the qualitative criterion, as defined in 2008.

6.8 The EESC considers that the EU ETS funds — the Market Stability Reserve, the Innovation Fund and the Modernisation Fund — should be seen as part of a single framework, in order to ensure that they function properly and are equipped with appropriate management/control systems, to avoid accumulation and overlaps.

6.9 The EESC takes the view that:

- part of the Market Stability Reserve should be used to support the phasing out of sectors removed from the carbon leakage list,
- the Modernisation Fund should be open to electricity production measures in NUTS 2 areas as well as in countries with a GDP that is under 60 % of the EU average, for the transparent promotion of investment without distorting the internal energy market,
- the Innovation Fund should be brought into play for new technologies and low-carbon industrial processes, particularly in sectors that are being phased out,
- *voluntary carbon auctions should be supported*, e.g. CarboMark, as additional commitments taken on voluntarily by forestry owners in order to maximise the indirect environmental benefits produced by wooded areas, and which allow the climate-related function of the forest ecosystem to be recognised, not least in economic terms.

6.10 The Committee would urge that the measures planned for small plants with emissions below 25 000 t CO₂ be extended to plants with emissions lower than 50 000 t CO₂, which account for approximately 75 % of ETS installations at European level but only 5 % of total emissions.

6.11 The potential for operators to reduce emissions generated by mineralogical processes is negligible and they should benefit from full allocation of free allowances.

⁽⁴⁾ Guidelines on State aid for environmental protection and energy 2014-2020 (OJ C 200, 28.6.2014, p. 1).

6.12 As the EU ETS review measures involve many other EU policies besides energy policy, the Committee calls for maximum consistency and the elimination of excessive red tape in the new rules and in those with which they interact.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — A Digital Single Market Strategy for Europe’

(COM(2015) 192 final)

(2016/C 071/11)

Rapporteur: Mr Raymond HENCKS

Co-rapporteur: Mr Thomas McDONOGH

On 12 May 2015 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Digital Single Market Strategy for Europe

(COM(2015) 192 final).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 24 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 9 December), the European Economic and Social Committee adopted the following opinion by 219, with 2 votes against and 7 abstentions.

1. Conclusions and recommendations

1.1. The EESC supports the European Digital Single Market Strategy. However, it is concerned by a lack of political will in some Member States to open themselves up to a digital union that is both creative and innovative, rather than merely consumerist.

1.2. The strategy proposed by the Juncker Commission for a digital single market in Europe is an extension of existing digital strategies and programmes. Its intention is to provide a fresh impetus for implementing a long overdue EU-wide digital policy. At the same time, this is also a new focus on commerce and consumers and the measures necessary to create more commerce, more consumers and better conditions and protection for consumers.

1.3. In this context, our first priority is to close the skills gap. This may be as much an issue of numeracy and literacy as it is of digital skills and their responsible use. Secondly, easy use of platforms is needed to drive the market, so platform operations should not be restricted. Thirdly, there is a need for relevant applications, and so the focus on standardisation is welcome. More e-government will help to engage more citizens in digital activity. From the consumer point of view, the EESC welcomes the initiatives concerning better access for consumers and businesses to digital goods and services across Europe.

1.4. Some, but not all, of the initiatives detailed in Section 4.2 (Creating the right conditions for digital networks and services to flourish) relate to the networks’ infrastructure and are parts of the digital agenda. These proposals are important due to the single market context and the urgency with which they will be addressed. Some of the other initiatives in this section are important for consumer rights.

1.5. The EESC supports the Commission in its determination to end the fragmentation of European digital policy into 28 strategies and national digital markets and merge them within a European approach, so as to guarantee a leading position for the EU in the global digital economy, a privilege that has become the preserve of third countries.

1.6. The EESC is convinced that the European Union, which has at its disposal excellent skills and considerable experience in certain aspects of digital technology, can still catch up. With this in mind, the EESC strongly recommends developing multidisciplinary research poles and European synergies in the European Research Area, in spheres such as cloud computing, nano-electronics, the storage and processing of big data, appliances that can be consulted or controlled remotely (connected objects) and smart services.

1.7. The EU will be able to make up the necessary ground if it manages, in the short term, to pool its resources in order to mobilise and coordinate efforts in both the public and private sectors of the 28 Member States, while at the same time involving all stakeholders in discussions on the Digital Single Market Strategy. The EESC endorses the Commission's pledge to launch a public consultation for each of its future actions relating to the digital single market.

1.8. The EESC regrets the absence of a social dimension in the digital strategy (with the exception of issues related to digital skills), as the development of business services and models will lead to profound changes in the labour market. The EESC considers it necessary to take into account not only potential benefits but also the many risks and challenges, particularly in the fields of security, work organisation and social security. Furthermore, the procedures laid down in the treaty regarding social dialogue and the horizontal social clause must take their place in the Digital Single Market Strategy⁽¹⁾. The EESC believes that the social dimension, with all its implications for employment, should form the fourth pillar of the European Digital Single Market Strategy.

2. Introduction

2.1. The EESC understands the term 'digital single market' (DSM) to mean the transfer to the internet of transactions and activities from the existing EU internal market. In part, this has already happened, but the initiatives outlined by the Commission are designed to achieve the full digital potential. The market activities and transactions involve the production of goods and the provision of services followed by intermediation, distribution and consumption. Transactions between consumers (C), businesses (B) and public authorities (G) reflect both the influence of social networks and the trend towards a sharing society. The role of public authorities in the DSM is that of a service provider.

2.2. The benefits of the transfer of business processes are well understood: greater integration in the value chain, acceleration of processes from design to delivery, improved customer interfaces (especially in the context of social networks) and greater competitiveness overall. As the transition continues, it will open the way for the internet of Things and the 4th Industrial Revolution.

2.3. The unique characteristic of the internal market is that it is transnational by design and is therefore well-adapted in principle to exploit the internet. However, it still faces some challenges of its own in terms of adapting rules, laws and regulations to the digital environment. There are shortfalls in digital readiness in each of the 'B', 'G' and 'C' communities, shortcomings with the technological infrastructure of the DSM and potential issues of dominance by large platforms.

2.4. In parallel with the DSM project, the Commission is running its Digital Agenda. This deals with valid concerns about the EU's lack of presence in the global hardware and software industries, but these concerns are peripheral to the DSM. According to the Commission, the prize for completing the DSM is very large in terms of GDP and employment and everything needing to be done is within the present capacity of the EU and Member States.

2.5. The failure to complete the single market in services has profound implications for the development of the DSM. The service sector is the dominant sector in Member State economies. Service provision is increasingly driven by internet transactions; progress with the DSM strategy could, in itself, facilitate the single market in services.

2.6. Rules, regulations and laws developed for the paper-based transactions and the early decades of e-commerce have become obstacles to the achievement of the DSM. The EESC welcomes the legislative programme proposed and the ambitious timetable that has been set:

- legislative proposals for simple and effective cross-border contract rules for consumers and businesses;
- review of the Consumer Protection Cooperation Regulation;
- measures in the area of parcel delivery;

⁽¹⁾ EESC opinion on the *Effects of computerisation on the services sector and employment in relation to industrial change* (OJ C 13, 15.1.2016, p. 161).

- a wide-ranging review to prepare legislative proposals to tackle unjustified geo-blocking;
- competition sector inquiry into e-commerce, relating to the online trade of goods and the online provision of services;
- legislative proposals for a reform of the copyright regime;
- legislative proposals to reduce the administrative burden on businesses arising from different VAT regimes;
- initiatives on data ownership, free flow of data (e.g. between cloud providers) and on a European Cloud;
- review of the e-Privacy Directive.

2.7. While the legislative programme outlined in Section 2.6 above is clear cut, the actions envisaged to enhance internet awareness, competence and readiness in the three communities, 'B', 'G' and 'C', are much less clear:

- digital skills and expertise, particularly for many sections of EU citizens, are far from adequate, as are the Commission's proposals in this respect. The EESC regrets that the Commission is not giving the necessary priority to this critical success factor for the DSM and the European information society;
- adoption of a Priority ICT Standards Plan and extending the European Interoperability Framework for public services;
- new e-Government Action Plan including an initiative on the 'Once-Only' principle and an initiative on building up the interconnection of business registers.

Taken together these initiatives will affect citizens, SMEs, government and private sector services and sectoral applications central to DSM achievement. These proposals seem to lack precision and urgency. The EESC will closely follow the development of these initiatives which are all under the control of the EU and the Member States.

2.8. A number of vital infrastructure initiatives are proposed:

- review of the Satellite and Cable Directive;
- legislative proposals to reform the current telecoms rules;
- review of the Audiovisual Media Services Directive;
- establishment of a cyber-security contractual public-private partnership.

Telecoms and cyber security are the obvious priorities but clarification of audiovisual delivery rules for cable satellite and broadband is also pressing.

2.9. Platforms drive the DSM. Most members of the 'C', 'B' and 'G' communities use them every day. They are accessible, easy to use, and often free. Their further development is indispensable, but there are concerns:

- they facilitate disruptive applications that challenge sectors and established firms. Customers benefit, but established firms question their legality;
- many platforms hold dominant positions that raise questions about the potential abuse of dominance;

- most large platforms are domiciled outside the EU, but there is an EU platform industry and it needs a level playing field to survive and thrive.

For these reasons the EESC welcomes the *Enquiry: Comprehensive analysis of the role of platforms in the market including illegal content on the internet*. For the DSM to succeed platforms must flourish and so law enforcement should not otherwise restrict platforms' room for manoeuvre.

2.10. Given the above analysis, the EESC views the Community programmes outlined in Section 2.7 above as the probable Achilles heel of the strategy and would express 'caveats' in respect of platforms.

3. General comments

3.1. It is safe to say that the European Union has not yet made the best possible use of the significant opportunities that digital technology has to offer. This is largely due to the fact that the European market is still divided into 28 national markets.

3.2. However, there is little doubt that certain Member States prefer to maintain and develop their own national digital strategies rather than being open to the possibilities of a creative and innovative European Digital Union. At the same time, the French and German ministers for economic affairs have called for the creation of a common framework, led by their countries in particular.

3.3. Moreover, the EESC notes that the prime ministers of some Member States have written to the President of the Council to express reservations about the implementation of the strategy. They stressed: 'We should regulate only where there is clear evidence to do so, backed by the principles of smart regulation and thorough impact assessment. It is very clear that a successful digital single market will not be one that stifles innovation, investment and entrepreneurship'. The EESC shares this view as long as the interests of consumers and employees are also taken into account.

3.4. The Commission sees this new Digital Single Market Strategy as an extension of the 2010 Digital Agenda for Europe. The latter proposed 101 actions, 72 of which have already taken place according to the Commission, and 23 of which ought to be completed ahead of the deadline. Nevertheless, as the digital single market has not yet been set up, some of these initiatives will be included in the new strategy.

3.5. During his presentation of the new European Commission's political guidelines, Mr Juncker expressed the view that 'By creating a connected digital single market, we can generate up to EUR 250 billion of additional growth in Europe [...] thereby creating hundreds of thousands of new jobs'. According to the communication in question, this 'could contribute an additional EUR 415 billion to European GDP', while the two commissioners in charge of digitalisation refer to 3,8 million jobs to be generated by a digital single market.

3.6. The EESC feels that it is counterproductive to bombard the public with statistics, as these tend to vary considerably depending on which Commission source is providing them, yet are presented as irrefutable if somewhat unconvincing facts. Such declarations will ultimately result in people distrusting political decision-makers and remaining indifferent to the real problems.

3.7. To date, the Commission has never produced any evidence that its predictions in this area have materialised. The EESC requests that the present Commission take stock of its findings at the end of its term and compare these to its initial predictions.

3.8. The EESC considers it unrealistic to believe that the digital single market can be implemented during the Commission's current term of office, especially seeing as the relevant scientific research and impact studies supporting such claims have not been made public. The EESC feels that the Commission's projections ought to be compared with those studies that predict substantial job losses as a result of digital change⁽²⁾.

3.9. According to the Commission, a connected digital market would allow Europe to maintain its leading position in the global digital economy, offering European companies the chance to expand their business outside of the European Union.

⁽²⁾ See footnote 1.

3.10. The EESC regrets that the EU's ambition, as set out in the 2000 Lisbon Strategy, of becoming the most competitive and dynamic knowledge economy in the world, capable of sustainable economic growth as well as quantitative and qualitative improvement in employment and greater social cohesion, has been scaled down quite substantially.

3.11. The European Union is being left behind.

The digital economy has become the preserve of the United States and Asia. The 50 or so major EU e-commerce operators are subjected to 28 different national regulatory frameworks, whereas the 6 biggest operators in the American market and the 3 giants of the Chinese market are overseen by a single regulatory framework. The image of an intra-European digital market as a factor in integration is no longer appropriate in a borderless digital world; it has not, moreover, prevented major third-country platforms from establishing monopolies or oligopolies in most EU countries.

3.12. The EESC continues to hope that the EU will be able to make up ground and that the European Digital Single Market Strategy can give a new lease of life to the sector. This is only possible if the EU acts as a creator and not merely a consumer of digital technology. It needs to encourage a qualitative leap forward on the part of society towards the early education of young people in order to develop digital skills and promote their responsible use, eliminate the digital divide, guarantee accessibility for all citizens (including disabled people) and ensure appropriate public and private investment in teaching, professional training and research.

3.13. To this end, the EU needs to pool its resources to mobilise and coordinate public and private efforts in all 28 Member States. This is imperative in order not to miss the boat on the changes constantly taking place in the digital economy, such as, for example, mobile applications (which have exploded in numbers in recent years), cloud computing, big data, or the strategic challenges presented by large-scale digital service platforms, which are now the only way to access the internet. Discussions regarding the strategy for a digital single market must involve all stakeholders and take into account the protection and the fundamental rights of citizens, consumers, workers and persons with disabilities in the aim of establishing a more inclusive society.

3.14. The EESC cannot help but note the total absence of any social dimension in the Digital Single Market Strategy. The effects of digitalisation upon employment and the challenges that these represent are largely ignored. Meanwhile, the ongoing development of services and business models is leading to major changes in the labour market, with significant repercussions for the nature of the work and the structure of businesses. There is a risk that collective agreements will break down. With this in mind, the procedures anticipated in the Treaty concerning social dialogue as well as the horizontal social clause must take their place in the Digital Single Market Strategy. In its opinion on the effects of digitalisation upon the service sector and employment in the context of industrial change (CCMI/136), the EESC formulated a series of recommendations to make sure that changes to the digital sector do not affect the efficiency of the existing systems of vocational education, job protection, social security and taxation. The EESC believes that the social dimension, with all its implications for employment, should form the fourth pillar of the European Digital Single Market Strategy.

3.15. Big data is another area in which the EU has the opportunity to assert itself, as the technical standards which could be used to organise the collection and processing of data still need to be devised. With this in mind, the various national regulations should be brought together within a coherent European framework which, based around a smart data processing policy, would be characterised by a balanced combination of economic interests and the protection of private life, in various spheres including medicine, public health, personal services, agri-food, etc.

3.16. The European Union has plenty of experience of discussions between Member States about technical standards, and can draw upon this to create a European data policy based on a high-quality legal framework, as well as overseeing rules relating to the protection of private data (see SWIFT), in order to make sure that they are not imposed by other stakeholders.

3.17. Moreover, the EESC notes that the digital sector is also characterised by a significant gender imbalance, and that the vast majority of IT professionals are men. Given the many unfilled vacancies in the ICT sector, the EU and Member States should encourage more women to actively consider a digital career.

3.18. In its report 'Golden growth: Restoring the lustre of the European economic model', the World Bank divided the European Union into six blocks in order to highlight, based on digital indicators, the considerable differences between Member States when it comes to the deployment of digital technology, skills and applications, as well as e-commerce. The EESC calls on the Commission to take these differences into full consideration when establishing priority actions in its work plan.

3.19. Finally, the EESC takes note of the Commission's declaration, according to which — aside from EU funding of around 21,4 billion — the European Fund for Strategic Investments is designed to support a wide range of digital projects, while the European Investment Bank and the European Investment Fund offer significant possibilities for additional funding. The EESC welcomes the fact that the Commission will work with the EIB, project promoters and Member States to make sure that all available funds are used, but wonders why those EU funds that have been allocated to Member States remain largely under-utilised. The EESC calls for this issue to be analysed in order to guarantee effective and efficient utilisation in the future.

4. Specific comments

4.1. *Better access for consumers and businesses to digital goods and services across Europe*

4.1.1. *Legislative proposals for simple and effective cross-border contract rules for consumers and businesses*

This is an ambitious initiative, but welcome if it is feasible. Even so, cross-border commerce, 'e' or otherwise, will remain challenging for SMEs and private individuals because of language and cultural issues. Fair and simple standard contract text in all EU languages will remove one important obstacle, but others will remain such as concerns about the security of e-commerce, cross-border or otherwise. In this context, the cyber-security initiative is welcome.

The EESC expects that when the Digital Single Market Strategy for Europe is implemented, all the proposals will ensure a high level of protection for consumers and will not lead to a reduction in the level of protection currently in place, in any of the Member States.

There is a residual concern amongst social partners that cross-border e-commerce can disrupt existing national businesses. This concern highlights the need to include the social dimension in the strategy.

4.1.2. *Review of the Consumer Protection Cooperation Regulation*

Clearly effective cooperation is the sine qua non of seamless cross-border consumer protection. Procedures for timely compensation and redress are likely to be key for the acceptance of cross-border e-commerce.

Every effort should be made to reduce the regulatory burden on SMEs.

The EESC thinks the Commission should:

- ensure that consumers can access lawfully-available content on fair and reasonable terms across borders;
- review the extent to which consumers are discriminated against online on the basis of the country they live in and the economic and consumer consequences of this, and propose the necessary steps to address any discrimination;
- review the implementation and enforcement of consumer rights, set out how consumer rights apply to digital products and ensure that consumers and businesses understand their rights and have confidence that they will be enforced.

4.1.3. *Measures in the area of parcel delivery*

Rapid response parcel delivery is the key to customer satisfaction in domestic e-commerce markets and is working well. It is logical that cross-border e-commerce should be similarly supported, although the Committee notes that major international parcel services already operate in Europe.

4.1.4. *A wide-ranging review to prepare legislative proposals to tackle unjustified geo-blocking⁽³⁾*

This applies to both e-commerce and audiovisual services. In e-commerce, searches for goods and services rarely give results outside the searcher's geographical area. At the other end of the scale, the provision of EU-wide results could be overwhelming.

In fact, the searcher can set the search engine to any required geographical area. One problem is that customers from a different geographical area may be subject to discriminatory pricing, as the recent Disneyland Paris case has shown. The EESC would support actions to ensure that cross-border commerce is conducted on a level playing field, so that consumers are protected. Another problem is that in some cases, cross-border access to websites is simply denied.

Audiovisual blocking has two dimensions: restricting external access from travelling nationals who have a right to access services domestically and restricting external access to non-nationals whose access claims are based on EU citizenship. In the former case, the EESC recommends the introduction of digital identities to facilitate access. In the latter case, the EESC is aware that most geo-blocking is caused either by rights restrictions or by commercial concerns. A streamlined rights framework would be helpful but care must be taken not to disrupt business models linked to advertising and market access.

4.1.5. *Competition sector inquiry into e-commerce, relating to the online trade of goods and the online provision of services*

The EESC welcomes market surveillance by competition authorities and a strict regime of sanctions against the abuse of dominant positions. Nevertheless, at the same time, the EESC notes that technology and the digital economy have been driven forward by large companies to the benefit of the economy and society at large. Therefore the EESC strongly recommends that the enquiries envisaged be based strictly on the established principles of commercial and competition law.

4.1.6. *Legislative proposals for a reform of the copyright regime*

The EESC supports these proposals so long as the various commercial business models remain viable and the rights of intellectual property owners are respected.

4.1.7. *Review of the Satellite and Cable Directive*

This directive concerns the coordination of certain rules concerning copyright and rules related to copyright applicable to satellite broadcasting and cable retransmission. The Committee agrees that it is necessary to review the directive both in the context of the legislative proposals anticipated in paragraph 4.1.6, and also to reflect the profound changes taking place in these industries.

4.1.8. *Legislative proposals to reduce the administrative burden on businesses arising from different VAT regimes*

Digital technology taxation is a key factor for the success of the Digital Single Market Strategy, as it is obvious that European and national tax laws are not suited to the realities of the digital economy and lead to tax evasion and unfair competition. The EESC agrees with the Commission's approach on VAT (i.e. focusing on the location where the customer is based rather than the place where the service provider is established) as well as the direct taxation principle, which ensures that profit is taxed in the place where value is generated. The EESC also supports the Commission in its efforts to cut the red tape imposed upon businesses as a result of disparities between VAT regimes. With regard to point (iv), a simpler solution might be to extend the exemption to intra-EU transactions.

⁽³⁾ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

4.2. *Creating the right conditions for digital networks and services to flourish*

4.2.1. *Legislative proposals to reform the current telecoms rules*

The obvious difference between Europe, Asia and the United States in the telecoms domain is the fragmentation of the European market. In order to create organisations with the scale of investment and research capacity required to compete globally, any review should also consider the capacity of the tier 1 and tier 2 internet communications service providers in view of the exponential growth of digital traffic. The review should also seek to achieve a balanced solution to the issue of net neutrality. To the extent that audiovisual media is and will be delivered over the internet, telecoms operators must have the freedom to meet user expectations in terms of the quality and speed of delivery.

With regard to the Commission's proposals, the Committee welcomes the continued emphasis on consumer protection, together with the drive to reduce fragmentation and increase harmonisation.

4.2.2. *Review of the Audiovisual Media Services Directive*

There are clearly major disparities between the regulation of licenced broadcasters and un-regulated service providers. The lines are further blurred by the retransmission of regulated broadcasts on broadband and the plethora of websites distributing Video on Demand (VOD), the armies of bloggers in the news space and the digital dimension now attached to most newsprint.

Nevertheless, the Committee doubts that it is desirable to attempt to regulate all services on a uniform basis. Linear broadcasting needs to adhere to standards because of public service obligations and because viewer choice is limited. Access to broadband websites is under the control of the viewer, as is parental control. Given the speed of change in the industry, a review will be timely and changes will be needed, but a balance must be achieved.

4.2.3. *Comprehensive analysis of the role of platforms in the market including illegal content on the internet*

It is clear that the EU digital agenda relies heavily on and is driven forward by platforms, as is also the case in other regions of the world. The success of the major platforms has given them a dominant position, and that position must not be abused. However, the EESC cautions the Commission that it should not inhibit the operations of these companies just because they are both big and successful. To do so runs the risk of putting obstacles in the way of developing the digital single market in Europe.

That being said, the five action points proposed by the Commission are reasonable and sensible. They have the potential to enhance the utility of platforms in the digital single market. It is essential that the Commission should adopt a balanced approach and not disregard the legitimate commercial interests of the platforms.

4.2.4. *Review of the e-Privacy Directive*

The EESC endorses this approach to personal data protection. The EESC is not convinced that the present status of the 'right to be forgotten' is tenable in the long term because the present EU interpretation is too broad and because it is technically difficult to maintain this right within the global internet. The Committee urges the Commission to refine this 'right' to protect the vulnerable in order to ensure its global acceptance.

4.2.5. *Establishment of a cybersecurity contractual public-private partnership*

In the digital economy, the various stages of the value chain know no boundaries and transcend the national dimension, which contributes to the spread of cyber-crime. The EESC welcomes the fact that the digital single market strategy provides for a partnership with industry regarding cyber-security, to the extent that a culture of risk management and efficient flow of information, which has been a long time in the making, will finally take shape.

There is one characteristic of cyber-crime which the Commission has not addressed: information and communication technology offers possibilities for cyber-surveillance that risk being exploited in order to control data and personal communication at the expense of individual freedom, or could even be used to spy on states and their governments. With this in mind, the EESC considers it necessary to make arrangements to pool information and improve detection and intervention capacities at EU level.

The Commission gives no indication of the scope of the proposed partnership, the expected outputs or the partnership structure (one or many partners). The Committee also highlights the scale of market investment in cybersecurity at the present time. For both these reasons, the Committee cannot comment on this proposal until more is known.

4.3. *Maximising the growth potential of the digital economy*

4.3.1. *Initiatives on data ownership, free flow of data (e.g. between cloud providers) and on a European Cloud*

The EESC is aware of a conflict in the 'big data' environment between the security of personal data and the need to aggregate personal data sets into mega analyses for economic, social and medical purposes. The EESC urges the Commission to use the planned review to resolve this conflict.

4.3.2. *Adoption of a Priority ICT Standards Plan and extending the European Interoperability Framework for public services*

The EESC supports this initiative. While a degree of hardware and systems software standardisation is achieved by international committees, there is obviously a very large opportunity for standardisation and interoperability at the sectoral, application and App levels with a tremendous potential to increase the value and relevance of the digital single market.

4.3.3. *New e-Government Action Plan including an initiative on the 'Once-Only' principle and an initiative on building up the interconnection of business registers.*

Responsibility for e-government lies with Member States. There are leaders and laggards. Progress towards fully functioning e-government is an indispensable prerequisite for a digital single market.

4.3.4. *Digital skills and expertise*

The Commission does not envisage a legislative programme for digital skills and expertise, leaving the issue to the Member States. The EESC is disappointed that there are no new initiatives in this domain. As a minimum, the Committee would expect a Communication from the Commission incorporating standards and best practice. Furthermore, there needs to be an emphasis on numeracy and literacy since these are key components of the digital skill set.

The Communication envisaged by the EESC would provide a framework tailored to the different stages of life, together with overarching proposals for life-long learning. The framework should have four components: education, employment, retirement and disability:

A EDUCATION

A1 Primary schools — basic skills.

A2 Secondary schools — two streams are envisaged:

- full skill set so that pupils are equipped to live and work confidently in the information society;
- special digital skill set for students with the potential to be ITC practitioners capable of filling the industry skills gap. It is in this context that a greater efforts need to be made to achieve a better gender balance in information technology.

A1&2 In both primary and secondary education it is important to develop the responsible use of digital skills.

A3 Tertiary education — two streams are envisaged:

- skills related to each vocation, embedded in teaching and examinations in curricula such as engineering, mathematics and biotechnology;
- advanced technology education, qualifying students to fill vacancies in the technology industries.

B EMPLOYMENT

B1 Job-related training by employers with an ongoing focus on retraining and continuous professional development to retain the currency of skills

B2 Skills training for the unemployed to be organised by public authorities, using appropriate agencies

C RETIREMENT

C1 Information society skills to be universally available for those whose life and career have passed the information society by

C2 Special programmes to assist those who become infirm to remain part of the information society

D DISABILITY

Support at every stage to bring the disabled into the information society and then keep them there, even as the disability becomes more acute

It is clear from the data in the Commission's communication that there are skills gaps at every age and in every region. The Committee believes that only a structured and controlled programme in each Member State can ensure that few, if any, citizens are excluded from the information society and the digital single market. The EESC has called repeatedly for resolute action on skills. In the context of the Digital Single Market Strategy, the time has come for the Commission to act.

Brussels, 9 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

Opinion of the European Economic and Social Committee on the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Action Plan against migrant smuggling (2015-2020)

[COM(2015) 285 final]

(2016/C 071/12)

Rapporteur: Brenda KING

On 6 July 2015 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Action Plan against migrant smuggling (2015-2020)

[COM(2015) 285 final].

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 November 2015.

At its 512th plenary session, held on 9–10 December 2015 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 176 votes to 3 with 5 abstentions.

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the stated aims of the EU Action Plan against migrant smuggling ⁽¹⁾, namely 'to counter and prevent migrant smuggling, while ensuring the protection of human rights of migrants' and 'to address the root causes of irregular migration'. The EESC recalls that the refugees benefit from a special status granted by the 1951 UN Convention relating to the Status of Refugees.

1.2. The EESC supports the Action Plan's efforts to disrupt organised criminal networks through intelligence-led and financial investigations, to put an end to money laundering and to confiscate the assets of illicit activities; however it strongly recommends that the plan adopts a more balanced and comprehensive approach by detailing how the EU will protect and assist those who are smuggled.

1.3. Building on the European Commission's communication statement that 'smuggling networks can be weakened if fewer people seek their services', the EESC notes the UN Office on Drugs and Crime statement that it is 'difficult, if not impossible, to secure a visa to the Schengen area nowadays for many people living in impoverished countries or zones affected by armed-conflict and political instability. Profit-seeking individuals and groups have taken advantage of this situation and developed profitable businesses to respond to the demand for border crossing' ⁽²⁾. The EESC therefore recommends that prevention measures be put in place by heeding the request by the Secretary-General of the UN to the EU 'to consider increasing legal and safe pathways into Europe for [refugees and migrants], so that they are not left in the hands of criminal networks and embark on perilous journeys'. These statements reflect the recommendation of numerous EESC opinions on migration.

1.4. The EESC agrees that the principle of solidarity and shared responsibility must be implemented to ensure a more balanced distribution of asylum applications between Member States. The Dublin Convention would need to be adapted to reflect this more inclusive system and to protect the Schengen Agreement.

⁽¹⁾ COM(2015) 285 final.

⁽²⁾ UN Office on Drugs and Crime (UNODC) representative, Ms Martina Hanke. Speech delivered during the EESC Public Hearing on Migrant smuggling, Brussels, 12 October 2015.

1.5. The EESC therefore endorses the statement of the Commission President, Jean-Claude Juncker, who warned Member States against taking advantage of the migrant crisis to dismantle the Schengen agreement⁽³⁾. The EESC requests that the Commission follow these developments attentively and ensure a rapid return to normal.

1.6. The EESC also recommends that the European Asylum Support Office (EASO) should be given greater powers to carry out its work, in particular its operational support activities and joint asylum support teams in Member States that need special or emergency support. The EU must ensure that the Member States make more harmonised, coherent, independent and flexible use of humanitarian visas, as set out in the Common Visa Code.

1.7. The EESC welcomes the Commission's latest proposal to 'address the external dimension of the refugee crisis'⁽⁴⁾, including the launch of the emergency trust fund for Africa. This latest proposal appears to recognise that addressing the root causes of migration is broader than home affairs and security but is linked to other policy fields such as trade, development, foreign policy, integration. This is in line with the principle of policy coherence of the EU international development cooperation.

1.8. The EESC recommends that in order to address the root socioeconomic causes of migrant smuggling, the Sustainable Development Agenda should be used as a long-term solution. The EESC wants to remind EU Member States of their commitment to assign 0,7 % of gross national income (GNI) to development aid. In many cases this commitment has not been achieved, with some Member States reducing their official development assistance.

1.9. Given Europe's challenges with sluggish growth, an aging and declining population as well as labour shortages it is also important to link EU migration policies with labour migration and integration policies as part of the European labour market, in light of ample evidence of migration as a vital factor of economic recovery and development in Europe.

1.10. The EESC agrees that the returns policy within the EU needs to be improved and reminds the Commission of its numerous recommendations that the human rights of asylum seekers should be respected at all times.

1.11. This opinion calls on the representatives of the Community institutions and national governments to take account of the key role of the social partners and organised civil society in providing European migration policies with a social dimension and added value.

1.12. The EESC also requests that more attention is paid to the systematic funding of civil society organisations that are providing critical assistance to migrants along their route to safety as well as in integration efforts, which often compensate for the lack of institutional capacities. The EESC welcomes the approach where civil society organisations will be recognised for their role in understanding the issue of migrant smuggling and their role as intermediaries in assisting people in situations that neither national states nor the EU can reach.

2. Context

2.1. The European Agenda on Migration⁽⁵⁾, adopted on 13 May 2015, outlines the immediate measures to be taken by the Commission to respond to the crisis situation in the Mediterranean and identifies the fight against migrant smuggling as a priority 'to prevent the exploitation of migrants by criminal networks and reduce incentives to irregular migration'.

2.2. Since the adoption of this agenda, the rapidly changing situation with large numbers of arrivals of asylum seekers has created an exceptional situation, resulting in the European Commission taking decisive action releasing a comprehensive package of proposals, on 9 September 2015, to address the refugee crisis.

⁽³⁾ http://ec.europa.eu/commission/2014-2019/president/announcements/call-collective-courage_en.

⁽⁴⁾ Refugee Crisis: European Commission takes decisive action — Strasbourg 9 September 2015.

⁽⁵⁾ COM(2015) 240 final.

2.3. The reason for the Commission's proposal⁽⁶⁾ is because the migratory situation in the Central and Eastern Mediterranean has intensified. According to Frontex, from 1 January to 30 August 2015, the Central and Eastern Mediterranean routes and Western Balkans route are the main areas for irregular border crossings into the EU representing 99 % of the total EU irregular border crossings. Frontex also reveals that the Western Balkans route accounts for more than 30 % of the total irregular border crossings in 2015. This represents a flow of asylum seekers of approximately 500 000 placing intense pressure on EU border states⁽⁷⁾. The majority of those arriving via the Central Mediterranean route include migrants from Syria and Eritrea, who according to Eurostat data have an asylum recognition rate of over 75 %. Similarly, the majority of those migrants arriving via the Eastern Mediterranean and Western Balkans route originate from Syria and Afghanistan. This is in line with UNODC's statement that over 80 % of persons who arrived in Europe by sea this year are from the worlds' top ten refugee-producing countries⁽⁸⁾.

2.4. According to the UN High Commissioner for Refugees (UNHCR) there are 4 185 302 registered Syrian refugees as of 4 October 2015. This figure includes 2,1 million Syrians registered by Egypt, Iraq, Jordan and Lebanon, 1,9 million Syrians registered by the Government of Turkey, as well as more than 26 700 Syrian refugees registered in North Africa⁽⁹⁾.

2.5. As the Syrian conflict approaches its 5th year, a UNHCR study shows a rapid deterioration in living conditions of Syrian refugees in Jordan with large numbers sliding into abject poverty due to the magnitude of the crisis and insufficient support from the international community with only 37 % of the UNHCR's Syria appeal funded. The UNHCR states that until there is enough money to shore up the infrastructures of host (EU neighbouring) countries and improve the lives and prospects of their refugee populations, people are going to continue to leave and head for Europe. While the vast majority of refugees are too poor to move out of refugee camps, those who can are seeking the services of smugglers.

2.6. The Commission's proposal for Council Decision dated 9 September 2015⁽¹⁰⁾ states that it will continue to monitor developments in migratory flows, including the situation in the East of Ukraine should it deteriorate further.

2.7. This exceptional refugee crisis is occurring while the economic situation in the EU is having an impact on the capacity and readiness of some Member States, especially the border states, to provide humanitarian services, in accordance with the Geneva Convention⁽¹¹⁾. Austerity measures have also hit civil society organisations that provide services to asylum-seekers. Some Member States have responded by tightening border controls while others have brought in laws to detain and penalise those crossing the Schengen borders to seek asylum.

3. General comments

3.1. The EESC wants to reinforce its message, to all decision-making bodies, for the EU to act as a real Union by adopting, respecting and applying common rules. The new phase of European immigration policy should adopt a strategic approach, with a medium and long-term vision, and should focus on finding a holistic and comprehensive way of providing legal, open and flexible channels for admission to the EU⁽¹²⁾. With regard to the current crisis this will require a common approach to external border management while empowering the Commission and European agencies to undertake operational tasks with the appropriate level of funding.

⁽⁶⁾ COM(2015) 451 final.

⁽⁷⁾ COM(2015) 451 final.

⁽⁸⁾ UN Office on Drugs and Crime (UNODC) representative, Ms. Martina Hanke. Speech delivered during the EESC Public Hearing on Migrant smuggling, Brussels 12 October 2015.

⁽⁹⁾ <http://data.unhcr.org>.

⁽¹⁰⁾ Press release 'Refugee Crisis: European Commission takes decisive action' (http://europa.eu/rapid/press-release_IP-15-5596_en.htm).

⁽¹¹⁾ <http://www.unhcr.org/>.

⁽¹²⁾ EESC exploratory opinion on European immigration policies, rapporteur-general: Giuseppe Iuliano (OJ C 458, 19.12.2014, p. 7).

3.2. The EESC wishes to contribute by making strategic proposals based on its previous opinions on migration-related matters⁽¹³⁾. The **social partners and representatives of organised civil society and social dialogue** should be involved throughout the discussion process leading to the next phase of the **European migration policy**. The **'social dimension' is the key** to ensuring the added value, proportionality and impact of these policies.

3.3. The EESC requests that account should be taken in this regard of **the demographic situation and the ageing of the population and the labour markets** in the Member States. In its 2011 exploratory opinion⁽¹⁴⁾ on the **role of immigration in the demographic situation in Europe**, the EESC stressed that immigration by workers from non-EU countries and their families should be increased. The EU needs an **open and flexible form of legislation** that allows work-related immigration through channels that are legal and transparent, not only for highly-skilled workers and workers with mid-level skills, but also for those working in less skilled jobs as long as Member States remain free to determine their volumes of admission. At the same time, it is acknowledged that immigration is not the only response to labour market shortages and Member States may consider other more appropriate solutions.

3.4. The EESC strongly recommends the revision of the Dublin Regulation, as the European Court of Justice and the European Court of Human Rights have pointed out there is an inherent weakness with this Regulation. By tying the responsibility of examining the refugee status to the initial entry EU border states have become overburdened.

3.5. The EESC is very concerned about the current undermining of the Schengen agreement as it is one of the fundamental achievements benefitting EU citizens. It regrets the decision of those Member States that have reintroduced or plan to reintroduce border checks within the Schengen area and requests that the Commission follow these developments attentively and ensure a rapid return to normal.

3.6. The Communication states that the Action Plan should be seen in the broader context of the EU efforts to address the root causes of irregular migration and then discusses in the next sentence the operation to identify, capture and dispose of vessels used by smugglers. The EESC strongly disagrees that the access to a vessel is a root cause of irregular migration. On the contrary, strict focus on vessel confiscation only exacerbates the risks for smuggled migrants as smugglers use the cheapest and most dangerous vessels.

3.7. The EESC recommends that the inefficiencies of development aid policies for the migrants' countries of origin need to be addressed and EU Member States need to re-commit to the promised 0,7 % of gross national income to development aid. In addition, the EU should ensure that other relevant policies, such as international trade, agriculture, energy and foreign policy, have positive effects on social and economic stability and development of countries of origin, in line with the principle of policy coherence of the EU international development cooperation.

3.8. The EESC recognises that aid from EU Member States and EU assistance can reach its goals only in a safe and secure society without wars and major security problems. It is therefore important that the international community implements the Sustainable Development Goals, adopted by world leaders at the UN summit in September 2015. These goals range from ending poverty, empowering all girls and women, reducing inequality within and between countries, promoting sustained, inclusive and sustainable growth and decent work for all as well as to **promoting peaceful and inclusive societies**.

4. Specific comments

4.1. The EESC welcomes the stated aims of the Commission's Communication on the EU Action Plan against migrant smuggling but strongly recommends that this plan adopts a more balanced and comprehensive approach if it is to achieve these aims. The EESC notes no details are provided on how the EU will protect and assist those who are smuggled and no specific reference is made to the positive role of migration on the European labour market and economic development.

⁽¹³⁾ EESC, 'Immigration: Integration and Fundamental Rights', 2012 (<http://www.eesc.europa.eu/resources/docs/qe-30-12-822-en-c.pdf>).

⁽¹⁴⁾ EESC exploratory opinion on The role of legal immigration in the context of demographic challenges, rapporteur: Luis Miguel Pariza Castaños (OJ C 48, 15.2.2011, p. 6).

4.2. The EESC notes that while there is a distinction made between *migrant smuggling* and trafficking in human beings, no distinction is made between migrants and asylum seekers. This is important, as the UN Secretary-General reminded European decision-makers 'A large majority of people undertaking these arduous and dangerous journeys are refugees fleeing from places such as Syria, Iraq and Afghanistan. International law has stipulated — and States have long recognised — the right of refugees to protection and asylum. When considering asylum requests, States cannot make distinctions based on religion or other identity — nor can they force people to return to places from which they have fled if there is a well-founded fear of persecution or attack. This is not only a matter of international law; it is also our duty as human beings'. He continued, 'I appeal to all governments involved to provide comprehensive responses, expand safe and legal channels of migration and act with humanity, compassion and in accordance with their international obligations' ⁽¹⁵⁾. The EESC recommends that all people making the perilous journey to Europe should be treated as refugees in accordance with the 1951 Geneva Convention and its 1967 Protocol, until they are proven otherwise.

4.3. *Enhanced police and judicial response*

4.3.1. The EESC recommends that a more comprehensive approach to combat smuggling will be to provide asylum seekers with access to safe and legal channels of migration. This approach combined with disrupting organised criminal networks through intelligence-led and financial investigations, will be a more effective, humane and cost-effective measure.

4.3.2. The EESC strongly recommends that EU decision makers ensure that they 'do no harm' and consider both the intended and unintended consequences of their interventions. The EU's decision to switch from Mare Nostrum (focused on search and rescue) to Triton (focused on border control) has not reduced the number of people embarking on dangerous journeys to reach Europe. However, this decision has contributed to a dramatic increase in the number of lives lost in the Mediterranean. As of 31 May 2015, 1 865 people had died attempting the Mediterranean crossing, compared to 425 during the same period in 2014 ⁽¹⁶⁾. This also explains the shift in migration flows travelling by land across the western Balkans towards Hungary. Those interviewed on both sides of the Hungarian border said they had chosen the Balkans route because it was less expensive and had been recommended by smugglers.

4.3.3. The EESC notes the smugglers are able to adapt to EU policy decisions such as strengthening border patrols on the Mediterranean Sea and destroying vessels. The unintended result of the EU's 'war on smugglers' approach has been chaos at EU borders, people dying on Europe's roads as well as at sea and tensions between EU Member States.

4.4. *Enhanced prevention of smuggling and assistance to vulnerable migrants*

4.4.1. The EESC agrees that the Commission needs to enhance the prevention of smuggling and assist vulnerable migrants; however this needs to be done in a coherent manner where saving lives is the top priority.

4.4.2. Frontex data reveals that 70 % of those using smugglers to cross EU borders are Syrian, Eritrean and Iraqi. These nationalities have an EU asylum recognition rate, based on Eurostat data, equal to or higher than 75 %. Given that these individuals and families are fleeing due to *fear of persecution or attack*, any media campaign on the risks of smuggling is futile.

4.4.3. The EESC reminds the Commission that instruments already exist to take action against the employment of irregular migrants at national level. The Commission's proposal to use limited resources to target specific economic sectors at the EU level will be costly and ineffective.

⁽¹⁵⁾ Statement, New York, 28 August 2015.

⁽¹⁶⁾ International Organization for Migration data (available at: <http://missingmigrants.iom.int/incidents>). 'Migration Read All About It, Mediterranean Update: 101 900 migrant arrivals in Europe in 2015' (available at: <http://weblog.iom.int/mediterranean-flash-report-0>) (both accessed on 10 June 2015).

4.4.4. The EESC welcomes the statement in the action plan 'to provide smuggled migrants, in particular vulnerable groups such as children and women, with assistance and protection.' However the EESC notes that beyond this statement the Action Plan has not stated exactly what it will do. This is important as large numbers of those seeking protection in Europe are unaccompanied and separated children. In Italy, Hungary and Malta, some 19 000 unaccompanied and separated children have arrived during the first nine months of 2015. Some EU border states do not fully conform with international standards with poor reception conditions, poor status determination procedures, low recognition rates, as well as lack of access to durable solutions with regards to sanitation and housing. The action plan needs to state exactly how it will assist Member States with the necessary resources to meet their obligations and responsibilities under international humanitarian law and international human rights law and in particular in line with the UN Convention on the Rights of the Child⁽¹⁷⁾.

4.4.5. The EESC believes that the most effective way to provide assistance while weakening smuggling networks is to limit those seeking their services by providing alternative, legal means to travel to Europe from third countries in Europe's neighbourhood regions. This way the fundamental rights as provided for in the EU Charter of Fundamental Rights will be safeguarded.

4.4.6. The EESC reiterates that it is critical to distinguish profit-oriented smuggling from those assisting migrants. Thousands of European citizens have provided them with transport and refuge, either at no, regular or reduced cost. Humanitarian assistance and solidarity should be encouraged and not penalised within the scope of the EU's agenda against migrant smuggling.

4.4.7. The EESC agrees that the effectiveness of the EU return policy needs to be improved and takes this opportunity to remind the Commission of its numerous recommendations that the human rights of asylum seekers should be respected at all times, from their rescue or reception, while their applications are being assessed to whether the individual requires protection status or is in an irregular situation. The repatriation of migrants must be in accordance with the established rules that ensure that no one may be removed, expelled or extradited to a country where there is a serious risk that they would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment — the *non-refoulement* principle. The EESC reiterates its opposition to returning unaccompanied minors, individuals in need of medical care, and pregnant women.

4.5. *Stronger cooperation with third countries*

4.5.1. The EESC strongly supports close cooperation with third countries along the entire smuggling route. While the Committee agrees that the focus should be on the support of border management, it also believes it is in this area that EU cooperation and coordination between the existing Network of Immigration Liaison Officers, European migration officers and Member States' diplomatic representatives should be a key priority.

4.5.2. The aim of this coordination should be for the EU institutions — EC, European External Action Service (EEAS) and Member States — to put agreed processes in place to allow people to apply for humanitarian visas and asylum from their home countries, or a safe neighbouring country, providing an alternative, humane and legal route to travel to Europe. Hotspots could be created in neighbouring countries such as Turkey, Lebanon, Jordan and Libya where people could be assessed and those who meet the EU asylum recognition rate can be given a humanitarian visa as is currently the case in Brazil. It is also important to foster dialogue and engage civil society organisations that are in direct contact with refugees in these actions, in order to ensure both the protection of human rights and greater efficiency of the processing of applications.

⁽¹⁷⁾ <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

4.5.3. These humanitarian visas have the advantage of reducing the pressure on EU border states, ensuring that applicants for asylum are treated in accordance with EU fundamental rights and the UN Convention on the Rights of the Child, and transforming migrant smuggling into a high-risk, low profit operation. The right to remain could be temporary based on whether it is safe to return to the country of origin or linked to the labour market, given the skill shortages and demographic challenges impacting on growth in Europe.

Brussels, 10 December 2015.

*The President
of the European Economic and Social Committee
Georges DASSIS*

Opinion of the European Economic and Social Committee on the proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU

[COM(2015) 452 final]

(2016/C 071/13)

Rapporteur: José Antonio MORENO DÍAZ

On 16 September 2015 and 15 October 2015, the European Parliament and the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin for the purposes of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection, and amending Directive 2013/32/EU

[COM(2015) 452 final].

On 21 October the Council also decided to consult the European Economic and Social Committee on the matter.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 November 2015.

At its 512th plenary session, held on 9 and 10 December 2015 (meeting of 10 December), the European Economic and Social Committee adopted the following opinion by 180 votes to 4 with 6 abstentions.

Conclusions

1. The Commission considers it appropriate — under Directive 2103/32/EU⁽¹⁾ — to establish a common list of safe countries of origin.
 - 1.1. In an annex, the proposal for a regulation also puts forward an initial list of third countries to be included on the common EU list of safe countries of origin, consisting of Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia and Turkey.
 - 1.2. The EESC considers that the specific criteria for determining that a country is safe for the purposes of Directive 2011/95/EU and, in particular, Annex I of Directive 2013/32/EU, must be established in a more practical and secure way that provides guarantees.
 - 1.3. Similarly, while welcoming the Commission's initiative, the EESC considers that at this juncture it may be premature to draw up a specific list of countries considered to be safe for these purposes.

2. Recommendations

- 2.1. The EESC welcomes the proposal and believes that it would be appropriate to establish a common EU list of safe countries of origin on the basis of common criteria set out in Directive 2013/32/EU, that will enable Member States to use procedures linked to the application of the concept of safe country of origin and thereby increase the overall efficiency of their asylum systems.
- 2.2. In any case, the establishment of a common EU list seeks to offset some of the current differences between Member States' national lists of 'safe' countries of origin.

⁽¹⁾ OJ L 180, 29.6.2013, p. 1.

2.3. While Member States may adopt legislation that makes it possible at the national level to designate countries of origin other than those appearing on the EU common list, the common list will ensure that the concept is applied uniformly by Member States in relation to applicants whose countries of origin are on this list.

2.4. In any case, in Article 2 of the Regulation must explicitly set out the specific, practical and precise indicators and criteria to be used to assess whether a country should be included on the list of safe countries of origin, inter alia, up-to-date information from sources such as the European Court of Human Rights, the United Nations High Commissioner for Refugees (UNHCR), the European Asylum Support Office (EASO), the Council of Europe (CoE) and other human rights organisations.

2.5. The decision to include a country on the common list should be substantiated and justified by carrying out an assessment using all criteria set out in the previous point, regarding the grounds for persecution and serious danger that would merit granting international protection.

2.6. With regard to amending the list, a more flexible mechanism for amendments must be provided that is able to respond to changing circumstances in countries included on the list within a reasonable time frame.

2.7. The EESC considers that it is necessary to substantiate and justify any amendment to the list, by taking into account expert opinions from UNHCR, EASO, CoE and other human rights organisations in order to amend the list.

2.8. The EESC also believes it necessary to establish a mechanism whereby recognised organisations defending human rights, together with ombudsmen and economic and social committees, may initiate the procedure to amend the list.

2.9. The EESC proposes requiring a substantiated decision on the relevance of applying the concept of safe country of origin to a specific case, after an individual assessment, as set out in Directive 2013/32/EU.

2.10. At the same time, procedural safeguards for accelerated procedures should be reinforced, ensuring that an individual examination of the specific case and the relevance of applying the concept of safe country of origin is carried out for every case.

2.11. The EESC believes that the concept of safe country of origin should under no circumstances be applied in cases of infringement of press freedoms, undermining of political pluralism, or in countries where persecution takes place on the grounds of gender and/or sexual orientation, or of belonging to a national, ethnic, cultural or religious minority.

2.12. The EESC also considers that the mechanism to identify applicants in vulnerable situations should be improved. In cases where the said situation is identified after the accelerated procedure has already been initiated, the ordinary procedure must be applied immediately.

2.13. Finally, access to effective remedy should be guaranteed — with a suspensory effect in accordance with Article 46 (5) of Directive 2013/32/EU — against negative decisions on the grounds that a country of origin is deemed to be safe.

3. Background

3.1. Efforts by the European Union to try to eliminate differences in Member States' asylum systems — which have been ineffective up to now — are not new. Since 1999 the European Union has adopted a series of legal instruments in order to establish a Common European Asylum System (CEAS), with the aim of harmonising legislation on asylum procedures, reception conditions and other aspects connected to the international protection system.

3.2. As the European Council stated in its conclusions of 15 October 2015 (EUCO 26/15) 'tackling the migration and refugee crisis is a common obligation which requires a comprehensive strategy and a determined effort over time in a spirit of solidarity and responsibility', eventually concluding that 'The orientations set out above represent a further important step towards our comprehensive strategy, consistent with the right to seek asylum, fundamental rights and international obligations. There are however other important priority actions that require further discussions in the relevant fora, including the Commission proposals. And there is a need for continuing reflection on the overall migration and asylum policy of the EU'.

3.3. Directive 2013/32/EU allows Member States to use derogations and fast-track procedures, particularly accelerated procedures at borders and in transit areas, where the applicant is a national of a country that has been designated as safe by national law and that may be considered as safe for the applicant in accordance with his or her particular circumstances. Only some Member States have adopted national lists of safe countries of origin.

3.4. The recast Directive on common procedures for granting or withdrawing international protection (2013/32/EU of 26 June 2013): this Directive tends to reduce disparities between national procedures and to ensure quicker and fairer asylum decisions on repeat applications or those which do not introduce any new elements. Despite improvements made to the new text, it continues to leave Member States substantial leeway that may impede the objective of establishing a truly common procedure.

4. Analysis

4.1. The concept of 'safe country of origin' has important practical implications, such as the possibility of using an accelerated procedure for these applications (Article 31(8)(b) of Directive 2013/32/EU), the consequent shortening of deadlines for reaching a decision on the merits of an application, the difficulties in identifying applicants in vulnerable situations within shorter deadlines (Article 24 of Directive 2013/32/EU), and, ultimately, greater difficulties in accessing international protection for nationals of these countries, when operating on the presumption that the application is unfounded (Article 32(2) of Directive 2013/32/EU).

4.2. This different treatment of applications for international protection according to nationality may clash with the prohibition of the discriminatory treatment of refugees on the grounds of their country of origin laid down in Article 3 of the 1951 Geneva Convention Relating to the Status of Refugees. All of these factors make it advisable to restrict the use of the concept of 'safe country of origin'.

4.3. It should be emphasised that the adoption of a common list of safe countries of origin will not necessarily lead to greater harmonisation, as this common list will co-exist alongside national lists compiled by each Member State.

4.4. The Proposal for a Regulation includes a list of seven countries, determined by indicators used by the Commission in its proposal, namely: the existence of a legislative framework for the protection of human rights, ratification of international treaties on human rights, the number of times the European Court of Human Rights (ECtHR) found violations to have occurred in the country, EU accession candidate country status, the percentage of nationals of these countries receiving international protection and inclusion of the countries concerned on national lists of safe countries of origin.

4.5. However, it appears that these indicators do not properly assess the criteria set out in Annex I of the Procedures Directive, for example, by not analysing the practical application of the law and respect for human rights, or the absence of persecution or serious harm on the grounds determining eligibility for international protection:

4.5.1. National and international legislative framework in the area of human rights: there is no doubt that the assessment of the respect for human rights in practice required by Annex I of Directive 2013/32/EU is a minimum requirement applicable to any country to be included on the list of safe countries of origin, but it is not sufficient. In any case, the Commission itself does not seem to adequately assess this minimum requirement, in that it includes among the safe countries in its proposal a number of countries that have not ratified key international human rights treaties, such as Kosovo.

4.5.2. The number of times the ECtHR found violations to have occurred in 2014 in the countries in question does not reflect the current human rights situation in the proposed countries. The majority of cases decided in 2014 relate to events which took place many years previously, owing both to delays at the ECtHR itself and to the need to exhaust all domestic legal recourse before making an application to the ECtHR.

The Commission's analysis of the data may lead to confusion. The Commission compares the condemnations with the total number of ECtHR rulings on the country in question, without distinguishing how many of these decisions were decided on the merits of the case, i.e. the degree of respect for human rights. For example, in the case of Turkey, of the 2 899 cases submitted to the ECtHR that the Commission takes into account, although neither the time scale of the cases nor the time taken to decide them are indicated, the court only delivered a decision on the merits in 110 cases, finding a violation of the European Convention on Human Rights in 94 cases, i.e. 93 %⁽²⁾. In the case of Bosnia and Herzegovina, there were 7 decisions delivered on the merits of the case in 2014, with a violation of human rights found in 5 cases (71 %) ⁽³⁾. In the case of Montenegro the figure is 100 % ⁽⁴⁾, Serbia 88 % ⁽⁵⁾, 66 % ⁽⁶⁾ for the Former Yugoslav Republic of Macedonia and Albania 66 % ⁽⁷⁾.

Similarly, it makes no reference to which human rights were violated, nor to the content of these decisions — key information when assessing the existence of persecution on the grounds determining eligibility for international protection.

4.5.3. The status of candidate country for accession to the European Union does not imply that the country in question already fulfils the Copenhagen criteria, but rather that a process has begun to validate compliance. On the contrary, the progress reports ⁽⁸⁾ on the EU candidate countries included in the list in the proposal for a regulation highlight weaknesses in areas such as respect for human rights, the rule of law, corruption, political control of the media and judicial independence.

4.5.4. The rates for granting international protection in the EU in 2014 to applicants originating from those countries: The statistical analysis of the data for the whole EU in 2014 carried out by the Commission may create ambiguity. A disaggregated analysis of rates for granting protection in the Member States shows the situation to be more heterogeneous. Thus, for example, the rates for granting protection to people from Kosovo in the second quarter of 2015 reached 18,9 % across the EU, but with wide disparities between countries such as Italy (60 %) or Germany (0,4 %) ⁽⁹⁾.

4.5.5. Inclusion of countries on national lists of safe countries of origin: equally, national lists of safe countries of origin are not homogenous, with each Member State applying different criteria, which means that they cannot be transferred for the purpose of drawing up a common list.

4.6. The Commission's proposal to include these seven countries in the list of safe countries of origin should draw on other indicators that are useful and effective for measuring the degree of application of the law and compliance with human rights, such as the sources of information considered relevant by the ECtHR ⁽¹⁰⁾ in its established case-law for assessing the situation in the country of origin and the risk in the event of return. The proposal for a regulation itself does indeed include these sources, in particular 'the EEAS, EASO, UNHCR, the Council of Europe and other relevant international organisations', in Article 2(2) for reviewing the list, however not for drawing it up.

4.7. Similarly, we consider that the indicators should be used that are capable of reflecting the human rights situation with respect to **all** grounds determining eligibility for international protection, such as respect for freedom of expression and of the press, respect for political pluralism, the situation of the lesbian, gay, bisexual, transsexual and intersexual (LGBTI) community or ethnic, cultural or religious minorities.

⁽²⁾ European Court of Human Rights: Country Profile-Turkey, July 2015
http://www.echr.coe.int/Documents/CP_Turkey_ENG.pdf.

⁽³⁾ European Court of Human Rights: Country Profile- Bosnia-Herzegovina, July 2015.
http://www.echr.coe.int/Documents/CP_Bosnia_and_Herzegovina_ENG.pdf.

⁽⁴⁾ European Court of Human Rights: Country Profile- Montenegro, July 2015.
http://www.echr.coe.int/Documents/CP_Montenegro_ENG.pdf. 1 case decided on the merits, in which a violation of human rights was found.

⁽⁵⁾ European Court of Human Rights: Country Profile-Serbia, July 2015
http://www.echr.coe.int/Documents/CP_Serbia_ENG.pdf. Of the 18 cases decided on the merits, a violation of the Convention was found in 16 cases.

⁽⁶⁾ European Court of Human Rights: Country Profile-Former Yugoslav Republic of Macedonia, July 2015
http://www.echr.coe.int/Documents/CP_The_former_Yugoslav_Republic_of_Macedonia_ENG.pdf.

⁽⁷⁾ European Court of Human Rights: Country Profile- Albania, July 2015.
http://www.echr.coe.int/Documents/CP_Albania_ENG.pdf. Of the 150 cases dealt with in 2014, a decision on the merits was only delivered in 6 cases, with a violation of the European Convention on Human Rights found in 4 cases.

⁽⁸⁾ Available at http://ec.europa.eu/enlargement/countries/package/index_en.htm.

⁽⁹⁾ Eurostat: *First Instance decision on applications by citizenship, age and sex*, quarterly data. <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>.

⁽¹⁰⁾ *inter alia*, NA vs UK app. 25904/2007, 17 July 2008; *Gaforov vs Russia*, 21 October 2010.

4.8. Article 2(2) of the proposal for a regulation provides for the periodic review of the common list of safe countries of origin. The amendment procedure referred to in the proposal for a regulation is the ordinary legislative procedure (Article 2 (3) of the proposal for a regulation) and a procedure for issuing a one-year suspension, extendible by an additional year, in the event of sudden changes in the situation of the country (Article 3 of the proposal for a regulation).

4.9. Neither of these procedures, either the ordinary legislative (co-decision) procedure or the suspension procedure in Article 3, appears to offer a quick, streamlined and flexible mechanism for dealing with changes in the situation of the countries of origin included in the common list. Unfortunately, there are several examples of a rapid deterioration of the political situation, democratic safeguards and respect for human rights in a number of countries, which the established mechanisms would struggle to cope with. Furthermore, these situations can persist for a longer period of time, which would make that the maximum suspension period of two years appear to be very limited.

4.10. When assessing sudden changes in the situation of a country concerned, the expert opinion of the 'UNHCR, the EASO, the Council of Europe and other relevant international organisations' should always be included, as is the case for amendments made in accordance with the ordinary legislative procedure.

4.11. Conversely, the adoption of a Regulation excludes the possibility for asylum applicants to challenge the inclusion of a safe country on the list before national authorities, a possibility open to them in the context of national lists. It would be advisable to voice the possibility that this amendment is being encouraged by human rights organisations or asylum seekers.

4.12. Article 31(8)(b) of Directive 2013/32/EU authorises Member States to process applications from nationals from safe countries of origin using an accelerated examination procedure. This accelerated procedure may not under any circumstances cause the procedural guarantees⁽¹¹⁾ to be undermined due to the speed of deadlines. Similarly, it must not lead to these applications for international protection being assessed on a non-individual basis, as prohibited by Article 10 (3)(a) of Directive 2013/32/EU.

4.13. In fact, Article 36(1) of Directive 2013/32/EU stipulates that countries included in the lists of safe country of origin may only be considered as a safe third country for a particular applicant following an individual examination. This individual examination would have to assess, in a substantiated decision where the burden of proof falls on the Member State and subject to appeal, if it is appropriate to apply the safe country of origin concept to the specific case.

4.14. Since the adoption of a Regulation involves restricting the possibilities for asylum seekers to oppose the inclusion of a country of origin on the list of safe countries of origin, it is necessary to strengthen guaranteed access to an effective remedy in each individual case, granting suspensive effect, as provided for in Article 46(5) of the Asylum Procedures Directive.

4.15. Equally, it is necessary to identify applicants in particularly vulnerable situations to whom, in accordance with Article 24(3) of Directive 2013/32/EU, the accelerated procedure cannot be applied. In these cases, there should be a requirement to carry out this identification process before deciding to apply the accelerated procedure or, if a situation of vulnerability is identified subsequently, it should be possible to abandon the accelerated procedure and return to the standard procedure.

Brussels, 10 December 2015.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹¹⁾ CJEU C-175/11 of 31 January 2013. Paragraphs 74-75.

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