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Contents

III *Preparatory acts*

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

515th EESC plenary session of 16 and 17 March 2016

2016/C 177/01	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 — Upgrading the Single Market: more opportunities for people and business' (COM(2015) 550 final)	1
2016/C 177/02	Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading' (COM(2015) 583 final)	9
2016/C 177/03	Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council and the European Central Bank — A roadmap for moving towards a more consistent external representation of the euro area in international fora' (COM (2015) 602 final) and on the 'Proposal for a Council decision laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund' (COM(2015) 603 final — 2015/0250 (NLE))	16
2016/C 177/04	Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme' (COM(2015) 586 final — 2015/0270 (COD))	21
2016/C 177/05	Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council and the European Central Bank on Steps towards completing Economic and Monetary Union' (COM(2015) 600 final) and on the 'Commission Decision (EU) 2015/1937 of 21 October 2015 establishing an independent advisory European Fiscal Board' (C (2015) 8000 final)	28
2016/C 177/06	Opinion of the European Economic and Social Committee on the 'Recommendation for a Council Recommendation on the establishment of National Competitiveness Boards within the Euro Area' (COM (2015) 601 final)	35

EN

2016/C 177/07	Opinion of the European Economic and Social Committee on the recommendation for a Council recommendation on the economic policy of the euro area (COM(2015) 692 final)	41
2016/C 177/08	Opinion of the European Economic and Social Committee on the 'Proposal for a regulation of the European Parliament and of the Council on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013' (COM(2015) 701 final — 2015/0263 (COD))	47
2016/C 177/09	Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament and the Council implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives' (COM(2015) 624 final) and the 'Proposal for a directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism' (COM (2015) 625 final — 2015/0281(COD))	51
2016/C 177/10	Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (COM(2015) 667 final — 2015/0313 (COD))	57

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

515TH EESC PLENARY SESSION OF 16 AND 17 MARCH 2016

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 — Upgrading the Single Market: more opportunities for people and business’

(COM(2015) 550 final)

(2016/C 177/01)

Rapporteur: Mr Antonello PEZZINI

On 15 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:

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Upgrading the single market: more opportunities for people and business

(COM(2015) 550 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 1 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 16 March), the European Economic and Social Committee adopted the following opinion by 170 votes to 2 with 1 abstention.

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) has repeatedly stated that the single market is a centrepiece of European integration, with the potential to deliver directly-felt benefits and to generate sustainable growth for Europe’s economies.

1.1.1. The Committee calls for green economy sectors to be given an important place in the implementation of the single market, promoting sustainable market models for production and consumption, by continuing to implement the principles of the circular economy and to tackle climate change by studying new indicators.

1.1.2. With regard to the energy market, the EESC considers it necessary to step up efforts in the gas and electricity supply sector, and to apply the subsidiarity principle to energy storage distribution between different Member States.

1.2. The European Regional Development Funds and the European Social Fund should increasingly focus on the single market and on the social inclusion of European citizens and workers.

1.3. The Worker Mobility Package should be geared towards removing all obstacles to the free movement of workers, while maintaining high levels of security. To this end, the EESC advocates closer coordination between social security systems, with the introduction of welfare bodies whose functions are recognised at European level, believes it is essential for the Treaty to be implemented in full with regard to workers' rights to information and consultation, and calls for greater worker involvement in business governance.

1.4. The EESC believes that consumers must be seen as active players in the single market and urges the Commission to play a more active role in coordinating EU law in this area and to improve dispute settlement mechanisms. Greater efforts are needed to increase product safety and boost market surveillance, especially with regard to scams in the digital market. To this end the Committee awaits the development of a rational collective redress mechanism that works at national and transnational level.

1.5. The EESC believes that retail financial services should be improved in all countries and advocates the launch of one-stop shops and networks of information points in different countries, linked up to a central European system.

1.6. Social and collaborative entrepreneurship is crucial to social cohesion, in order to guarantee Europeans more efficient and sustainable economic growth. To this end, the EESC can contribute to the Commission's reflection and has already proposed a permanent structure ⁽¹⁾ where the various aspects can be explored further.

1.7. Services and networks providing support and information, legal advice and marketing assistance should also cover the whole range of enterprise types ⁽²⁾, focusing particularly on micro-businesses.

1.7.1. All the organisations most representative of the diverse forms of enterprise should be involved in the social dialogue at enterprise level, where they have demonstrated their representativeness.

1.8. European businesses, particularly SMEs, and micro-businesses especially, need a strong, dynamic single market, and the EESC agrees on the need for a legislative proposal on business insolvency and early restructuring and supports the proposal for a second chance for entrepreneurs. Importance should be attached in the proposal to protecting workers and consumers and the need to secure proper safeguards for them.

1.9. The EESC believes that more must be done among businesses and public authorities to promote the principle of mutual recognition of non-harmonised goods.

1.10. The EESC highlights the need to reduce and eliminate administrative barriers that limit the development of businesses and that weigh principally upon SMEs and micro-businesses. The additional, superfluous requirements introduced by Member States should be removed if they run counter to a directive or its objectives; better monitoring of consistency is required from the Commission. The EESC emphasises that the specific conditions for independent professionals should be retained, with more online cooperation between Member States' authorities.

1.11. It is important to improve the effectiveness of the Services Directive and its notification procedures by preventing forms of protectionism and further obstacles to the free movement of services, adopting a sector-by-sector approach to identifying discrepancies and obstacles, and the zero tolerance principle must be adopted by means of targeted infringement procedures in proven cases of non-compliance with the directive.

⁽¹⁾ OJ C 177, 11.6.2014, p. 1.

⁽²⁾ OJ C 255, 22.9.2010, p. 31.

1.12. The EESC calls for a better application of the Posted Workers Directive (96/71/EC) and the 2014 Enforcement Directive.

1.13. It seems important and appropriate for emphasis to be placed on recognition of vocational and academic qualifications, supporting the introduction of mutual recognition, by means of a process of harmonisation that guarantees equal access.

1.13.1. To this end, it is important to extend the European Professional Card to new professions.

1.14. It is also essential that European-level standardisation be supported through a bottom-up system in which the social partners, consumers and environmental associations are permanently involved.

1.15. The Committee calls for the launch of a campaign to promote the direct involvement of the public, young people in particular, to be part of what European citizenship means to each individual. It should be accompanied by the launch of a **Smartphone application** and an interactive online EU portal in all languages, with personal contributions, to ensure its full and proper functioning and to tackle the problem of asymmetric information vis-à-vis the public. The EESC also calls for the creation of a **crafts and apprenticeship Erasmus within the European single market**, which will enable young craftsmen and women, new professionals and apprentices to experience the unity of the European internal market and to exchange experiences and expertise.

1.16. The Committee also considers it important to launch a promotional campaign outside the EU, with the active involvement of the European External Action Service, on the **European single market — a unique opportunity for secure and sound partnerships, involving over 500 million people**.

2. A roadmap to exploit the full potential of the single market

2.1. The single market is the cornerstone of European integration. It is the basis for Europeans' confidence in the European project, European businesses' spirit of initiative, the sustainable and balanced development of production, commerce and services and the optimisation of human resources.

2.2. Recently, the Commission launched proposals for a European Energy Union, the Digital Single Market Strategy, an action plan for the establishment of a Capital Markets Union, the Trade for All initiative, a substantial package of measures on the circular economy and a package on transparency in taxation systems.

2.3. Over the course of the 23 years since its establishment, the single market — which was created so that all Europeans could reap the full benefit of being able to live, work, move, study, produce, sell and purchase anywhere in the European Union, without constraints of any kind — has overcome a multitude of barriers and obstacles to the unrestricted exercise of these fundamental freedoms.

2.4. Despite the progress made, there are still some significant shortcomings and gaps in the completion of the single market that 'stifle innovation and discourage companies from developing new products and services in Europe, from hiring additional staff and from expanding to new markets'⁽³⁾.

2.5. Obstacles to the free movement of people, goods and service are barriers that hinder growth and job creation, as well as damaging the competitiveness of European firms. Given the positive results achieved with Single Market Acts I and II, there is now a need for a decisive step to ensure the optimal functioning of the single market and to release the untapped potential of the single market.

⁽³⁾ COM(2015) 550 final, point 1.2.

2.6. It is therefore necessary 'to continue to eliminate obstacles and remedy intellectual and ideological barriers so that this unique cooperative strategy can fully deliver and benefit all in the 28 Member States and the 3 EEA countries'⁽⁴⁾.

2.7. In its 2015-2018 programme, the SMO set out the 'Digital Single Market Strategy' and the 'Single Market for Energy' as a priorities, along with other forms of cooperation such as developing Solvit⁽⁵⁾.

2.8. The Commission had launched the 'Single Market Act I' in April 2011 and the 'Single Market Act II' in October 2012 — on which the EESC issued opinions⁽⁶⁾ — on the basis of the recommendations put forward by the 2010 Monti report.

2.9. A deeper and fairer single market is one of the Commission's ten priorities: eliminating the remaining regulatory and non-regulatory barriers to the single market in goods and services was one of the priorities set out in the *Annual Growth Survey 2015*⁽⁷⁾.

2.10. Since the 1988 Cecchini report on the cost of non-Europe, various action plans have established priorities for completing the single market and the Commission has repeatedly set out guidelines and measures, although so far these have not been able to produce satisfactory results. This is the background to the Commission's call for tangible action with this new roadmap.

3. The proposals set out in the Commission's roadmap

3.1. The roadmap sets out three main objectives for completing the single market:

- creating opportunities for consumers, professionals and businesses;
- encouraging and implementing the modernisation and innovation that Europe needs;
- achieving practical results that benefit consumers and businesses in their daily lives.

3.2. The main pillars of the initiative can be summarised as follows:

- a) balanced development of the collaborative economy;
- b) growing SMEs and start-ups;
- c) creating a borderless services market;
- d) tackling measures restricting the retail industry;
- e) preventing discrimination against consumers and businesses;
- f) modernising the technical and regulatory standardisation system;
- g) consolidating the European intellectual property rights framework;
- h) a stronger culture of compliance with rules and enforcement;
- i) transparent, effective and responsible public procurement market;
- j) strengthening the goods and services market: fully implementing the Services Directive and expanding it, mutual recognition and compliance checks for illegal products.

⁽⁴⁾ EESC-2014-04518-00-00 (SMO contribution to the Europe 2020 Steering Committee).

⁽⁵⁾ EESC-2015-05912-00-00 (SMO work programme).

⁽⁶⁾ OJ C 67, 6.3.2014, p. 53; OJ C 76, 14.3.2013, p. 24; OJ C 24, 28.1.2012, p. 99.

⁽⁷⁾ COM(2014) 902 final.

3.3. The Commission intends to facilitate this process by taking an active approach to implementing the various relevant directives and regulations, along with a series of measures based on need, modernisation and practical results, with a clear and, it is to be hoped, binding timetable.

4. General comments

4.1. The EESC has repeatedly stressed its firm belief that measures need to be taken to release the potential of the single market for the benefit of businesses, workers, consumers, citizens and other stakeholders in areas such as services, access to financing, simplifying red tape for SMEs while respecting the protection of workers, consumers and the environment, updating and enhancing technical and regulatory standards, e-commerce, the single digital market and mobility.

4.1.1. In this regard, the Committee considers it essential to enable every single citizen, particularly young people, to take full ownership of the value of the European single market through the launch of:

- a campaign to involve Europeans directly entitled **The European single market is mine and I won't tolerate failure**, accompanied by a **Smartphone App** and an **interactive online EU portal**, available in all languages, so as to provide for optimal and full operability and tackle the problem of asymmetric information with and for the citizen;
- the creation of a **crafts and apprenticeship Erasmus within the European single market**, which will enable young craftsmen and women, new professionals and apprentices to experience the unity of the European internal market and to exchange experiences and expertise;
- a campaign for a **European single market**, to boost the informed presence of **Europe as a whole** on the global markets, especially in Asia and America, with the active involvement of the EU External Action Service.
- a campaign which should also cover the common conditions specific to sensitive service sectors in a coherent European framework.

4.2. The EESC believes that before proceeding with any new legislative initiatives, priority should be given to: mechanisms for enforcing existing rules, by setting up a dynamic system for collecting information, and better impact assessment, both to identify infringements and to frame new measures in order to make the single market more effective. At the same time, it should be considered to what extent the intended aims can be achieved through deregulation (forecast).

4.3. The EESC believes that a quality-based selection of consumer protection rules should be made, to ensure proportionality, transparency, efficiency and real European added value.

4.4. The EESC considers it a priority to reaffirm mutual recognition clauses, by analysing individual cases, in order to foster and boost the free flow of goods and services.

4.4.1. To this end, rules should be set out, some of which could in certain cases be included in a 29th regime, with reference to Member States' best practice.

4.5. The EESC supports the development of services in production sectors, by means of steps that provide new business models for the joint supply of goods and services. Improving the transposition of the Services Directive and establishing a clearer, shared formulation for the implementing rules could ensure that applications are compliant with technical and regulatory quality standards.

4.6. The Committee welcomes the fact that the Commission communication devotes a chapter to the collaborative economy. It has already adopted a number of opinions on the subject ⁽⁸⁾. It is currently drafting an exploratory opinion, at the request of the Netherlands Presidency, and two own-initiative opinions on issues related to new trends in consumption.

4.6.1. The EESC believes that the collaborative economy is enabling significant progress to be made towards a more ethical economy based on European values and is helping consumers to adopt ethical consumption patterns.

4.6.2. The collaborative economy involves, in some respects, a conceptual shift in work culture and has great potential when it comes to creating new jobs. It also brings innovative environmental benefits.

4.6.3. The EESC can contribute to the Commission's reflection on the subject and has already proposed a permanent structure where the reflection can be explored further.

4.7. In the EESC's view, it is necessary to fully exploit the potential offered by the collaborative economy while, at the same time, further clarifying the rules governing the services that it provides by collecting reliable data on the state of play across the whole of Europe. Any legislative action to be taken should factor in the need to ensure equal treatment for all market operators. It is also necessary to guarantee the high European standards of labour law, social protection and consumer protection in this area.

4.8. The EESC believes that it is necessary to tackle the barriers to the free movement of services, focusing on commercial services, construction, tourism and the retail sector, as well as on business services. Member States must develop better information services on national standards that affect the provision of cross-border services and justify all rules or further requirements applicable to service providers without discrimination, giving notification of them to the Commission. The EESC calls on the Commission to take steps to bring together and improve the performance of 'single-contact points', by improving links between existing tools ⁽⁹⁾.

4.9. The EESC considers it to be essential to step up infringement procedures to secure a culture of compliance with EU legislation and the proper transposition thereof into national settings. Member States should embrace this culture of compliance, including through strict centralised monitoring of application of legislation, faster European infringement procedures where necessary, and greater cooperation and partnership between the European Commission and national authorities.

4.10. The EESC believes that initiatives to support SMES, start-ups, innovation and digital applications should feature more prominently in the proposed roadmap as they are essential for growth and boosting employment in the EU. It is in this context that the possibility of a second chance for entrepreneurs should be envisaged.

4.11. The EESC supports the Commission as it makes every effort to ensure that the new directives on public procurement ⁽¹⁰⁾ are transposed in a timely and effective manner by the Member States, since they account for some 20 % of the Union's GDP.

4.12. The different forms of company in the EU reflect the diversity of historical developments in Europe. Among these various forms, the emerging collaborative economy is growing in importance, as it is capable of meeting the needs of society at reasonable prices, and encompasses different types of employment and entrepreneurship.

4.13. The Committee urges the European Commission to promote the social economy, for instance by establishing a plan, and to remove the obstacles to that hinder social enterprises in their work and prevent them from tapping into the full potential of the single market.

⁽⁸⁾ OJ C 177, 11.6.2014, p. 1; OJ C 13, 15.1.2016, p. 26; OJ C 67, 6.3.2014, p. 23.

⁽⁹⁾ Solvit, RAPEX, product contact points, etc.

⁽¹⁰⁾ Directives 2014/23/EU, 2014/24/EU and 2014/25/EU.

4.14. European standardisation must serve increasingly — through the support of the social partners and stakeholders — to flesh out and enrich the processes under way in the global economies, both to bring the added value that sets us apart as a social market economy and to support the European economy in the process of globalisation.

4.14.1. It would be desirable for the European culture of standardisation to have a greater presence in and more influence on global standardisation processes.

5. Specific comments

5.1. Consumers and citizens

5.1.1. European consumers are becoming increasingly aware that the Member State governments — often under pressure from powerful economic interests — are continuing to erect both direct and indirect barriers to the free movement of persons, goods, services and capital.

5.1.2. Insurance for goods, services and liabilities should operate freely in all EU Member States.

5.1.3. Moreover, no common electronic system, shared by Member States, has been established to harmonise and simplify motorway tolls for private and commercial vehicles.

5.1.4. The vehicle inspection system has not been harmonised or made accessible to Europeans in every Member State.

5.1.5. Electric plugs — which are increasingly useful to Europeans — have yet to be standardised.

5.1.6. Clothing and footwear sizes also differ between too many Member States.

5.1.7. The EESC advocates widespread awareness-raising campaigns for consumers on the benefits of taking firm action to further develop common single market standards.

5.1.8. The EESC calls on the Commission to present a proposal to harmonise public information on furniture.

5.2. People with disabilities

5.2.1. People with disabilities, representing 15 % of the population of Europe, are affected by further obstacles preventing them from benefiting from the freedoms guaranteed by the single market. The Committee welcomes the European Commission's recent presentation of the European Accessibility Act, aimed at making goods and services more accessible.

5.3. The professions

5.3.1. The EESC endorses the need to establish a common set of rules for the professions, effective in all European countries, and believes that the European Professional Card should be extended to all possible categories with due regard for the provisions of the European directive on professional qualifications.

5.4. Patents

5.4.1. Mechanisms for protecting intellectual property are deficient, especially with regard to SMEs. There is also uncertainty regarding the coexistence of the European unitary patent and national patents and supplementary national protection certificates.

5.4.2. The EESC agrees that there is a need to set up a unified court to guarantee a single jurisdiction for cases on patents.

5.4.3. The EESC supports the Commission's proposal to transfer the process of granting a unitary SPC title to EU level.

5.5. **Public procurement**

5.5.1. As regards public procurement, the EESC is keen to see the establishment of a data collection system and new analytical tools that can detect problems and irregularities.

5.5.2. It could be very helpful to set up European public contracts registers, in order to detect anomalies in the procurement process.

5.5.3. The EESC agrees that it would be worthwhile setting up a voluntary *ex ante* evaluation mechanism for aspects related to the procurement procedure for certain large-scale infrastructure projects.

5.6. **Solvit**

5.6.1. The EESC calls on the Commission to extend the powers and influence of Solvit, in order to ensure that the Member States — in recent times seriously affected by resurgent nationalism — comply with single market rules.

5.6.2. The EESC notes that support for implementing the single market is still weak and there are too many national measures creating distortion and preventing its full implementation.

Brussels, 16 March 2016.

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 on the prospectus to be published when securities are offered to the public or admitted to trading'

(COM(2015) 583 final)

(2016/C 177/02)

Rapporteur: Ms Milena ANGELOVA

On 15 January 2016 and 18 January 2016 the Council and the European Parliament respectively, decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading

(COM(2015) 583 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 3 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 16 March 2016), the European Economic and Social Committee adopted the following opinion by 158 votes to 1 with 2 abstentions.

1. Conclusions and recommendations

1.1. The EESC firmly supports the current proposal for a Regulation as well as its underlying approach — to simplify and streamline the requirements for the prospectus published when securities are offered on the regulated markets making them more cost-effective and more useful for investors in terms of the information they contain. It appreciates the greater legal clarity that the form of a regulation rather than a directive brings in this case to the issuers, to the investors and to all stakeholders, as this will both increase the investors' trust and confidence and will promote the achievement of a CMU.

1.2. The EESC welcomes the special focus on re-gaining investors' trust, approves the particular actions taken in this regard and supports the principle that making the prospectus more reader-friendly and targeted to the specific situation of the issuer has the double advantage of reducing costs and increasing the relevance of the prospectus for potential investors. The EESC also sees the possibility for all prospectuses in the EU to be accessible in a common user-friendly and accessible database as a source of a considerable boost to the development of capital markets in Europe, greater investor confidence and the creation of more diversified financial products.

1.3. The proposal for a Regulation is clearly aimed at reducing the administrative burden of drawing up prospectus for all issuers, in particular for SMEs, frequent issuers of securities and secondary issuances, and therefore merits the EESC's support. The efforts to make the prospectus a more relevant disclosure tool for potential investors and to achieve more convergence between the EU prospectus and other EU disclosure rules also are praiseworthy.

1.4. In order to guarantee that the proposal for a Regulation will achieve its stated objectives it is necessary for all the stakeholders to be closely involved in the process of producing the level 2 legislation and an in-depth, qualitative impact assessment to be performed two years after the Regulation enters into application. The EESC is particularly interested in participating actively in these consultations.

1.5. The EESC urges the Commission to clarify some unclear issues that may influence the impact of the proposed Regulation and to avoid any situation where the margin of discretion left to the Member States may contribute to producing an unnecessary and disproportionate burden for the issuers or may prejudice the clarity of the relevant information for the investors. It is strongly recommended therefore that the ESMA, in exercising its powers to bring supervisory practices in the Member States into closer convergence, take on board the views not only of local regulatory authorities, but also of local stakeholders, including market participants.

2. The European Commission's proposal

2.1. The reform of legislation relating to the publication of prospectuses when securities are offered to the public is part of the third pillar of the Investment Plan for Europe ⁽¹⁾, which seeks to improve the business environment and is a key element of the Capital Markets Union ⁽²⁾.

2.2. The proposal for a Regulation comes as the result of the European Commission's long-term efforts to improve the legal framework for the disclosure of information when securities are issued. Therefore, the components of the proposal should be evaluated retrospectively, taking into account the progress that has already been achieved at the various stages of this endeavour.

2.2.1. Directive 2003/71/EC of the European Parliament and of the Council ⁽³⁾ replaced two earlier directives on listing particulars (1980) ⁽⁴⁾ and prospectuses (1989) ⁽⁵⁾ — that had faced strong criticism from stakeholders because they allowed widely varying practices across the Union and were based on a system of mutual recognition with significant discretion left to the host Member State authorities. It also introduced for the first time the 'single passport' principle.

2.2.2. The 2010 review of Directive 2003/71/EC showed that, although some progress had been achieved, this Directive still lacked the necessary legal clarity, was not effective and efficient enough and did not strike the balance needed between market efficiency and investor protection. It was therefore replaced by Directive 2010/73/EU ⁽⁶⁾.

2.2.3. The impact of Directive 2010/73/EU was evaluated three years after its entry into application. The assessment clearly demonstrated that it had failed to produce the expected results (the prospectus summary, for example), that it had not been ambitious enough (the proportionate disclosure regimes) or simply did not contain measures to satisfy all the expectations of stakeholders.

⁽¹⁾ COM(2014) 903 final.

⁽²⁾ COM(2015) 468 final. The Capital Markets Union Action Plan presents a comprehensive and ambitious programme of measures to strengthen the role of market-based finance in the European economy.

⁽³⁾ Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

⁽⁴⁾ Council Directive 80/390/EEC of 17 March 1980 coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing (OJ L 100, 17.4.1980, p. 1).

⁽⁵⁾ Council Directive 89/298/EEC of 17 April 1989 coordinating the requirements for the drawing-up, scrutiny and distribution of the prospectus to be published when transferable securities are offered to the public (OJ L 124, 5.5.1989, p. 8).

⁽⁶⁾ Directive 2010/73/EU of the European Parliament and the Council of 24 November 2010 amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (OJ L 327, 11.12.2010, p. 1).

2.2.4. The proposal for a Regulation contains many new features and measures and can be seen as a major step forward towards improved and more effective regulation of issues for the public and towards effectively enabling issuers and investors to perform actions within the EU.

2.3. The main goal of the proposal is to make it easier and cheaper for companies to raise capital throughout the Union on the basis of a single approval from a regulatory authority in only one Member State (usually the home country), while at the same time ensuring adequate, accurate information for investors.

3. General comments

3.1. The EESC fully supports the European Commission's initiative to simplify the drafting and procedures involved in publishing prospectuses when securities are offered to the public or admitted to trading on a regulated market situated or operating within a Member State, thus making them more cost-effective and more useful for investors in terms of the information they contain. The EESC had already expressed its support for these same principles in its opinion on Directive 2003/71/EC ⁽⁷⁾.

3.2. The EESC underlines the importance of re-gaining investors' trust and in this regard welcomes the special focus on investors in the draft Regulation. It approves the particular actions taken in this regard and supports the principle that making the prospectus more reader-friendly and targeted to the specific situation of the issuer has the double advantage of reducing costs and increasing the relevance of the prospectus for potential investors. It also appreciates the improvement in structuring the risk factors in the prospectus.

3.3. The EESC also fully supports and endorses the Commission's view that action must be taken to improve the situation for issuers by reducing the administrative burden when securities are offered to the public, since SMEs are currently impeded in this regard by the vast amount of documentation required and the high costs this entails. The Committee believes the estimated time and cost savings to issuers referred to in the impact assessment of the proposal for a Regulation' (about EUR 175 million per year) will further contribute to increasing the EU business competitiveness.

3.4. The EESC believes that the possibility for all prospectuses in the EU to be accessible in a common database should deliver a considerable boost to the development of capital markets in Europe, greater investor confidence and the creation of more diversified financial products. In order for such a database to be really efficient it should be designed in a user friendly way with formats allowing for the information to be easily accessible and usable.

3.5. The EESC welcomes the requirement to disclose less — but standardised — information which will also streamline the work of the administrations concerned and so bring down their running costs.

3.6. The EESC welcomes the choice of legislative instrument and the decision to regulate this area using a regulation and not a directive. A regulation, being a single set of provisions to be directly implemented by all Member States, eliminates the discretion that has so far existed in the transposition of the Directive ⁽⁸⁾ into the national laws of the Member States. The adoption of a regulation ensures the unity and integrity of the internal market, reduces disparities and fragmentation among legislative provisions in force within the EU and is conducive to the Capital Markets Union. Such an approach will also make life much easier for investors, who will not have to familiarise themselves with various national legislations when deciding on investing abroad.

⁽⁷⁾ EESC opinion on Directive 2010/73/EU of the European Parliament and the Council of 24 November 2010 amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (OJ C 347, 18.12.2010, p. 79).

⁽⁸⁾ Directive 2010/73/EU.

3.7. Given how EU law on prospectuses has evolved and the demonstrated need for its ongoing improvement, the EESC welcomes the fact that the Commission has — even at the proposal stage — expressed its intention to assess the Regulation's impact after its entry into force and, more specifically, that has set out the parameters for this. However, the Committee feels that five years is too long to wait for such an important evaluation and urges that this period be appreciably reduced — to two years after the Regulation enters into application. This will allow for a swifter overview of the effects produced by the proposed Regulation and for undertaking corrective actions if necessary. The EESC recommends that a qualitative, in-depth evaluation should be carried out in order to complement the stated quantitative assessment parameters, including a qualitative, in-depth assessment focused also on analyses of how — and to what extent — the capital raised by simplifying prospectus has improved the competitiveness of firms and how far it has helped progress to be made on promoting capital markets in the Member States — and how this has affected the overall business climate in them. It is crucial also to evaluate also whether the Member States have gold-plated the implementation of the Regulation when applying its provisions in areas where they have discretion in adapting them.

4. Specific comments

4.1. Increasing the threshold for issues requiring a prospectus to EUR 500 000⁽⁹⁾ is a step in the right direction in simplifying bureaucracy with the view to improving SMEs' access to finance. On the other hand, the Member States' right to require special forms for the disclosure of information for these issues⁽¹⁰⁾ must not generate additional administrative barriers and 'gold-plating'⁽¹¹⁾ and is something that should be included in the impact assessment to be carried out after the Regulation has entered into application. The EESC sees some potential risks in this regard and invites the Commission to take a closer look at that during the impact assessment.

4.2. The EESC fully supports the special attention devoted by the Commission to providing a precise definition of an 'SME' and shares the view that further adjustments of this definition may be needed⁽¹²⁾. The Committee has already flagged up the need to provide a unified, updated and more precise definition in a number of its recent opinions⁽¹³⁾.

4.2.1. The EESC supports the definition used in the draft Regulation (Article 2(1)(f)) introducing the requirement that at least two of the three criteria set out in European Commission Recommendation 2003/361/EC⁽¹⁴⁾ should be met at the same time. This approach should be adopted more broadly and be mainstreamed across all of the Commission's legislative proposals, as well as in the laws and administrative practices of the Member States.

⁽⁹⁾ Article 1(3)(d) of the proposal for a Regulation.

⁽¹⁰⁾ Article 3(2) of the proposal for a Regulation.

⁽¹¹⁾ In its communication 'Better regulation for better results — An EU agenda' (COM(2015) 215 final, p. 7), the Commission defines 'gold-plating' as follows: 'Member States also often go beyond what is strictly required by EU legislation when they implement it at national level (gold-plating). The Commission adds in the same paragraph that 'This may enhance the benefits but can also add unnecessary costs for businesses and public authorities which are mistakenly associated with EU legislation.'

⁽¹²⁾ Article 2(1)(f) of the proposal for a Regulation.

⁽¹³⁾ EESC opinion on the Green Paper on Building a Capital Markets Union (OJ C 383, 17.11.2015, p. 64) and EESC information report on Access to finance for SMEs EESC-2014-06006-00-00-RI-TRA and EESC opinion on Family Business in Europe as a source of renewed growth and jobs (OJ C 13, 15.1.2016, p. 8). In these opinions the Commission was urged to refine the definition of SMEs so as to better reflect the diversity of companies in Europe and to address the need to standardise the different definitions currently laid down in Commission Recommendation 2003/361/EC (which broadly reproduces Commission Recommendation 96/280/EC of 1996, is hugely outdated and does not take into account EU enlargement), in Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, and in Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (discrepancies in the definition offered by the two Directives are addressed in the present proposal for a Regulation).

⁽¹⁴⁾ Article 2(1)(f) of the proposal for a Regulation. In practice, the original definition of SMEs as set out in Recommendation 96/280/EC requires two of the three criteria to be fulfilled at the same time. But Recommendation 2003/361/EC then gives margin for discretion for the competent authorities 'in the interest of administrative simplification ... to use only one criterion — the staff headcount — for implementation of some of their policies' (recital 7), which leads to exclusion of a large portion of companies from the scope of the definition, which would have been qualified if two of the three criteria had been used simultaneously as per the initial definition.

4.2.2. The Committee is also very much in favour of raising the threshold from EUR 100 to 200 million for the definition of a ‘company with reduced market capitalisation’⁽¹⁵⁾, which reaffirms the definition contained in Directive 2014/65/EU⁽¹⁶⁾ and closes the gap between this and the definition in Directive 2003/71/EC⁽¹⁷⁾.

4.3. The possibility of publishing ‘voluntary prospectuses’⁽¹⁸⁾ provides additional flexibility for issuers and facilitates access to EU capital markets.

4.4. The provisions facilitating subsequent, ‘cascade’ trading of securities⁽¹⁹⁾ are a very positive new element.

4.5. The proposed extremely detailed description of the prospectus summary⁽²⁰⁾ significantly relieves the burden on issuers, surmounting the shortcoming identified in Directive 2010/73/EU as a result of the assessment. The obligation to include only essential and material information simplifies matters for both issuers and investors, making it easier for the latter to navigate the data provided and to compare the prospectuses of various issuers. The Committee invites the Commission to make sure that civil liability is charged for all the cases.

4.6. The envisaged possibility of drawing up a base prospectus when issuing non-equity securities provides flexibility for an additional category of issuers.

4.7. The universal registration document is an option⁽²¹⁾ to be capitalised on because it significantly reduces many of the administrative barriers for frequent issuers and so facilitates their access to the capital market.

4.8. The specific disclosure regimes⁽²²⁾, which again make it easier for companies to publish and for investors to process information, also merit appreciation and support.

4.9. The EESC warmly welcomes the fact that the European Securities and Markets Authority (ESMA) will be tasked to frame certain regulatory and implementing technical standards. These include guidelines for clearer treatment of risk factors and their assignment to appropriate categories with an emphasis on specific rather than general risks, as well as lists for expanding the disclosed information that may be incorporated by reference in the prospectus. This will advance integration in the field of capital markets.

4.10. The EESC suggests to also include proposals aimed at greater standardisation of procedures for examination and review of a prospectus in case of suspension or cancellation of publication. In many cases there are multiple backward and forward procedures before the final decision by the regulatory institution. This leads to unnecessary delay which may be rather costly for the issuer compared to a situation where all recommendations by the regulator are presented in one step. Therefore it would be helpful in making progress on the Capital Markets Union, in the Committee’s view, for the ESMA to work out uniform rules for Member States on time limits and on the formats for specific instructions to potential issuers on how to address any shortcomings in a draft prospectus. This would make it easier for issuers — especially SMEs — to draw up their prospectus and would also create a more homogeneous environment, reducing grounds for regulatory discretion.

⁽¹⁵⁾ Article 2(1)(f), second indent, of the proposal for a Regulation.

⁽¹⁶⁾ Article 4(1)(13) of Directive 2014/65/EU.

⁽¹⁷⁾ Article 2(1)(t) of Directive 2003/71/EC.

⁽¹⁸⁾ Article 4 of the proposal for a Regulation.

⁽¹⁹⁾ Article 5 of the proposal for a Regulation.

⁽²⁰⁾ Article 7 of the proposal for a Regulation.

⁽²¹⁾ Article 9, in conjunction with Articles 10(2), 11(3), 13(2) and 19(5) of the proposal for a Regulation.

⁽²²⁾ Articles 14 and 15 of the proposal for a Regulation.

4.11. The Committee also supports the practice of allowing for a voluntary part in the prospectus where companies would be able to communicate to investors' additional factually correct non-financial information regarding matters as environmental protection, production practices, participation in social programmes, etc. Such information is particularly important for large public companies which are the flagships of Corporate Social Responsibility in line with the request for the prospectus to be correct, clear and complete.

4.12. The EESC would make the following recommendations for improving the annexes to the proposal for a Regulation:

4.12.1. The sections dealing with risks should be more specific: the registration document should distinguish between risks for the company and those for its business (Annex II, II.C, p. 5).

4.12.2. To avoid duplication of information, the securities note should only cover risks associated with securities (Annex III, III.C, p. 8).

4.12.3. The identification of directors, members of senior management, consultants, auditors and certain other information (Annex III, p. 8, I) should be removed from the securities note, since this information is contained in the registration document, unless there are shareholders issuing securities.

4.12.4. The statute of the issuer may be made available as a separate document to which the prospectus can refer.

4.12.5. The EESC recommends reducing the timeframe for the approval of prospectuses of irregular issuers and shortening the time allowed for a reply from the regulator when amendments are made, which should be shorter than the initially proposed times. It should also be possible to submit only corrected parts of the prospectus in response to comments and to reduce the number of paper copies by introducing an electronic variant of the prospectus and its annexes.

4.12.6. The EESC invites the Commission to provide a reasonable period that will enable smooth progression of the implementation of the new provisions and will allow the markets and the issuers to adapt accordingly to the changes involved.

5. Outstanding issues

5.1. Some issues that may influence the impact of the proposed Regulation are insufficiently clarified and the EESC recommends that they be better addressed.

5.1.1. A threshold of EUR 500 000 is introduced for offers of securities, with no prospectus required if the value of the issue is less than this⁽²³⁾. In the latter instance, national regulators can at their own discretion provide for issuers to make 'appropriate forms of disclosure'. The EESC recommends that the content of these 'appropriate forms' should be established in advance to forestall any possible unequal treatment of these issuers in different EU Member States and that they are simpler than the prospectus.

5.1.2. In addition, there is provision for national regulators to exempt all issues between EUR 500 000 and EUR 10 000 000 from the Regulation's provisions on the harmonised prospectus, provided the exemption only relates to the proposal within the Member State concerned and does not require the prospectus to be 'passported'. In this regard, we think that the greater the discretionary scope of the national regulator, the greater the likelihood of unequal treatment of the same categories of issuers by the national legislations of different Member States. This also helps to avoid potential undesirable effects of lower levels of consumer protection. This being the case, we believe that scope for national discretion should be curtailed in some measure. To develop the idea even one step further, the EESC invites the Commission to analyse whether the aforementioned exemption of all issues between EUR 500 000 and EUR 10 000 000 could possibly be detrimental especially for SMEs in the perspective of the CMU. The Committee invites the Commission to rethink, in the light of the conclusions of such an analysis, whether this exemption should be kept or is better dropped.

⁽²³⁾ Article 1(3)(d) of the proposal for a Regulation.

5.1.3. Delegated acts within the meaning of Article 42 of the proposed Regulation should be discussed at length with all stakeholders before their final adoption. The EESC is particularly interested in playing an active part in the Level 2 legislation development consultations.

5.1.4. Similarly, the ESMA, in exercising its powers to ensure convergence of supervisory practices in the Member States, should take on board the views not only of local regulatory authorities, but also of local stakeholders, including market participants.

5.1.5. Since no prospectus is needed for issues of less than EUR 500 000, and they fall beyond the scope of the Regulation, EESC recommends that the EC or ESMA provide recommendations to the Member-States on how to clarify the status of 'SME issuers', who are not allowed to trade on regulated markets but trade on Multilateral Trading Facilities or through crowdfunding platforms. These recommendations should also cover the question of whether such companies are to be referred to as public or private companies and what supervisory arrangements there will be for them.

5.1.6. The EESC draws attention to the text of Article 25(2), referring to 'a language customary in a sphere of international finance' and specifies that this should be an EU official language, and accepted by the host country.

5.1.7. It would be a good idea for Article 7, on the prospectus summary containing information for investors, to include specific warnings on the risks associated with investment.

Brussels, 16 March 2016.

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 and the European Central Bank — A roadmap for moving towards a more consistent external representation of the euro area in international fora’

(COM(2015) 602 final)

and on the

‘Proposal for a Council decision laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund’

(COM(2015) 603 final — 2015/0250 (NLE))

(2016/C 177/03)

Rapporteur: Mr Petr ZAHRADNÍK

On 11 November 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 and the European Central Bank — A roadmap for moving towards a more consistent external representation of the euro area in international fora

(COM(2015) 602 final)

and the

Proposal for a Council decision laying down measures in view of progressively establishing unified representation of the euro area in the International Monetary Fund

(COM(2015) 603 final — 2015/0250 (NLE)).

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 3 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 17 March 2016), the European Economic and Social Committee adopted the following opinion by 204 votes to 5 with 3 abstentions.

1. Conclusions and recommendations (proposals)

1.1. The main general conclusion is that if the euro area is to be more active, effective and visible in international financial institutions, it needs to step up its external representation. This will in turn strengthen its relative weight in international financial institutions and give it a more prominent position in international financial markets. The EESC expressed its views on this subject even before the European Commission published these documents⁽¹⁾.

1.2. The EESC endorses the rationale behind the two documents discussed here, namely that, following a notable buttressing of euro area internal governance (especially between 2009 and 2014), it now makes sense to balance this by improving the area’s representation in the global economy. This would manifest a strengthening of the political pillar that guarantees a proper balance and harmony between internal cohesion and what the euro area needs to operate externally, also leading to a convergence in the economic policy models of the countries in it.

1.3. The EESC also agrees with making strengthening the euro area’s external representation in the International Monetary Fund (IMF) the priority. There are a number of reasons for this, prime among them the IMF’s dominant role in global economic governance and economic policy, as well as its very real involvement in rescue packages for a number of EU Member States in recent years.

⁽¹⁾ EESC own-initiative opinion on *Completing EMU: The political pillar* (OJ C 332, 8.10.2015, p. 8).

1.4. At the same time, however, the EESC thinks the proposed improved external representation of the EU or the euro area is the first step in an entire process that will be followed by a similarly detailed scenario with respect to other relevant institutions — such as the Bank for International Settlements (BIS) or the OECD — that play a role in furthering the goals of a Banking Union and a Capital Markets Union. The EESC proposes that the European Commission, while sticking with the priority of strengthening the euro area's external representation in the IMF, also draft scenarios for making stronger and more effective the links with other relevant international bodies, taking particular account of their remits.

1.5. The EESC broadly agrees with the ultimate goal of a single chair at the IMF by 2025, as set out in the proposal for euro area external representation, and with the scenario to achieve this. It also supports the Commission's call for the European Parliament and the Council to reach a consensus that will enable the latter to adopt a generally advantageous decision on the proposed approach.

1.6. On this point the EESC also recommends clearly and explicitly defining, on the one hand, the roles of euro area external representation and, on the other, their dovetailing with those of the EU as a whole, with a view to preserving the integrity of the single market. The EESC thinks the proposed euro area representation in the IMF involves matters that in reality and in substance are not restricted to just the area itself, but are also extremely relevant to the whole of the EU and all its Member States. At the same time, the EESC endorses the idea that future enlargement of the euro area be taken on board in the process of its external representation. Such coordination may constitute an additional reason and grounds in assessing decisions on whether a Member State is adequately prepared for joining the euro area.

1.7. The EESC agrees with the main elements of the three-phase scenario to gain a single chair at the IMF by 2025 and the transitional stages leading up to this. However, the corresponding political pressure must be marshalled to secure the timely fulfilment of obligations and commitments stemming from this for the Member States.

1.8. The Committee also endorses the proposal to create a set-up that would lead to the post of a representative responsible for the interests of the euro area — mainly at the IMF, but also at all other relevant financial institutions in Brussels (making the SCIMF a full-fledged subcommittee of the Economic and Financial Committee). There should also be an entity to represent the common interest of the euro area in Washington, with explicit and real coordination also being established in relation to non-euro area Member States.

1.9. The EESC anticipates that the proposed procedure will result in better and deeper coordination between Member States in the area of economic policy and its external dimensions and expects a corresponding coordination on this between the relevant EU institutions and bodies, also ensuring the utmost transparency.

1.10. In the view of the EESC, both documents largely focus on procedural and organisational or legislative/legal aspects of the issue. It recommends including an economic analysis and a brief statement on the expected benefits and impact following its implementation.

1.11. The Committee agrees with and supports the proposed practice of submitting regular reports, starting at the earliest in spring 2017, on progress in achieving a reinforced euro area external representation.

2. The Commission proposals: gist and analysis

2.1. This opinion summarises observations on two documents published on 21 October 2015 as part of a package of measures to complete the European Economic and Monetary Union (EMU). They deal with one of this package's priorities: the external representation of the euro area. The package is designed as a system of interlocking and contingent steps, all of which are essential for achieving the desired objective in 2025.

2.2. The underlying idea builds on existing proposals for setting up a deep and genuine EMU (November 2012) and has been further highlighted in the Five Presidents' report of June 2015.

2.3. The documents under discussion take it for granted that the IMF is the main institution in respect of which the euro area's external representation should be strengthened.

2.4. A euro area that had a single chair would also be able to speak to the IMF with one voice on matters where EU policies are to a large extent coordinated, namely economic and budgetary policy, macroeconomic surveillance, exchange rate policies and financial stability.

2.5. The proposal in response to this state of affairs is for a more consistent and effective external euro area representation in the IMF based on a strategy to agree on a scenario as swiftly as possible and to implement it step by step. Three stages are proposed.

2.6. The concept for strengthening the external representation of the euro area is to be implemented transparently and the relevant sections of the public informed through regular progress reports.

2.7. The single euro area representation in the IMF as ultimately envisaged in 2025 is specified as follows in the legislative provisions of the proposal for a decision, COM(2015) 603 final:

- Board of Governors: presentation of euro area points of view; represented by the President of the Eurogroup;
- International Monetary and Financial Committee (IMFC): President of the Eurogroup represents the euro area;
- IMF Executive Board: direct representation of the euro area by the Executive Director of a euro area constituency, following the establishment of one or several constituencies composed only of euro area countries (election of the Executive Director upon proposal of the President of the Eurogroup; full coordination of oral and written statements).

2.8. In the event of euro area expansion, the necessary changes will be made in coordination with non-member countries of the euro area and steps taken to tweak the single representation accordingly.

3. General comments

3.1. The first document under discussion focuses mainly on procedural and organisational matters, with the second framing its substance into a bill. The two constitute an integral contribution to establishing the euro area's political pillar and ensuring a balance between the area's internal and external instruments. Having a single voice in the external representation of the euro area will reinforce its coordination and cohesion and help to foster the convergence of a whole raft of economic policies between its various members. To fulfil this vision and make it a reality more responsibility must be taken in the form of closer integration and the strengthening of institutions.

3.2. The period from 2009 to 2014 witnessed the adoption of an unprecedented number of measures to coordinate EU economic policies. (These include the introduction of the cyclical European Semester process, changes to the rules of the Stability and Growth Pact, adoption of the six-pack and the two-pack, the Treaty on the Stability, Coordination and Governance in the Economic and Monetary Union (Fiscal Compact), the European Stability Mechanism (ESM), the Banking Union and the Capital Markets Union). Most of these were about supplying missing building blocks of the euro area or the adoption of short-term rescue measures to meet urgent economic and fiscal policy needs. After a considerable time, the package of measures published on 21 October 2015, which follows up on the Five Presidents' Report, comes as an ambitious, forward-looking concept geared to developing and improving the institutional environment and instrumental repertoire of the euro area and its architecture, which the implementation of these measures should serve to improve and more fully integrate.

3.3. The measures taken during the 2009-2014 period mainly focused on bolstering the internal workings of the euro area. This left arrangements for the corresponding external representation failing to keep pace with its increased importance and the shift taking place in the harmonisation of economic policies. The position of the euro area in international financial institutions and ultimately in international financial markets either lost ground in relative terms or failed to live up to its potential. It follows that the improved external performance of the euro area should be felt in the outside world and must be more coherent and unified in the global financial system.

3.4. External representation of the euro area ought to be viewed in the wider political context that motivated the Five Presidents' Report. It can be implicitly concluded that:

- a) the EMU's existing structure is inadequate for securing the fulfilment of contributions expected from the euro area;
- b) the measures aimed at the euro area's internal affairs cannot be effective with regard to the role that the euro has in the global economy, without corresponding external representation.

3.5. It can be argued that if external representation of the euro area is not established, then that area's potential for formulating global economic and monetary policy will not be fulfilled and the attractiveness of the euro for transactions, investment and reserve currency in the global context will be restricted.

3.6. The need to focus on the IMF comes from the strong complementarity between EU and IMF economic policies and their instruments now that these have been markedly strengthened and coordinated in the EU and especially in the euro area⁽²⁾. The IMF is the key institution in global economic governance and has also played an important role, in collaboration with the European Commission and the European Central Bank, in shaping and implementing the rescue programmes for Member States hit by the economic and sovereign debt crises. The role of the IMF is expected to continue to grow and the need for collaboration between it and the euro area will now be seen from a much broader and more comprehensive angle than the isolated perspective of individual Member States. At the same time, the EESC maintains that if the euro area had had its own European Monetary Fund from the outset, as was put forward in the original proposals before the creation of the European Monetary System at the end of the 1970s, this could have performed during the crisis precisely the role that was ultimately played by the IMF.

3.7. A stronger and more effective euro area external representation is hampered by a raft of obstacles that are identified and correctly assessed:

- fragmentation among Member States (the 19 euro area members on the IMF Executive Board are spread over six constituencies, with two countries having their own seats, an arrangement that often hampers euro area countries in expressing a common position);
- inadequate representation of the euro area as a whole (no single euro area representative with an official mandate on the IMF Executive Board — this role is currently performed by the EURIMF president); nor does the IMF have an ideal partner for matters common to the euro area (bearing in mind the measures taken recently to reinforce coordination of economic policies); the European Central Bank has observer status on the IMF Executive Board;
- inadequate coordination within the euro area (failure to fully implement the European Council agreement from Vienna way back in 1998); coordination at EU level through the Economic and Financial Committee's Subcommittee on the IMF and Related Issues (SCIMF) is in reality about each Member State defending its own position.

⁽²⁾ EESC own-initiative opinion on *The implications of the sovereign debt crisis for EU governance* (OJ C 51, 17.2.2011, p. 15).

3.8. There are fundamental points to be made on the two documents under discussion, partly in the light of what has been said above: implementation of both documents necessitates a great deal of coordination on a number of fronts: between the internal and external instruments the euro area has for improving its structure and functioning, for the harmonisation of economic policies, and for cohesion and convergence; between the euro areas and those Member States that do not have the euro (including a procedure prepared in the event of euro area enlargement); between the various forms of external euro area representation (monetary affairs, structural policy, banking and the financial market, and economic policy). The principles underlying coordination are posited on the idea of the euro as the currency unit of the EU.

3.9. Another general point is the need to balance the procedural, administrative and legislative ideas in the documents with corresponding economic/analytical and political arguments.

4. Specific comments

4.1. In line with the General comments above, it would be good if a simple schematic diagram were drawn up showing the correlation between the new EU economic governance and the policies of the IMF and, possibly, other institutions. This should be similar to, for example, the timetable and programme for carrying out and fulfilling the European semester and would make discussion of the matter more transparent and accessible.

4.2. It would also be helpful to draft a scenario for the internal coordination of relevant EU institutions and bodies in order to achieve an effective synergy between them, in terms of flexibility of rules and procedures, especially in the preparatory and transition phases of implementing this concept and when the euro area is enlarged. To ensure the utmost in transparency and democratic accountability as called for in the Commission communication, the European Parliament should have a role in these matters consistent with the community method of decision-making.

4.3. The proposal to extend external representation of the euro area is part of a package that recasts the European Semester and brings in National Competitiveness Councils and a European Fiscal Board. These steps in particular will require the EU and the euro area to be represented at other relevant fora. It would seem useful on this front to strengthen synergies with the OECD, the G7, the G20, Bank for International Settlements (BIS) and the World Bank. These steps relate to matters linked with the creation of the Banking Union and Capital Markets Union, namely the performance and coordination of macroeconomic policies, financial regulation reform and tax transparency (where the EU and the euro area are represented by the presidents of the European Council, the European Commission and the Eurogroup, staff of the European Commission and the European Central Bank, and ministers of G7 or G20 member countries). There could be other opportunities as well, such as the Asian Infrastructure Investment Bank (AIIB), where quite a lot of EU Member States are represented.

4.4. The questions raised above suggest that making euro area representation more effective is the first and essential step towards strengthening the weight, importance and standing of the EU unit of currency in the world economy; this step should be taken in connection with the project to complete EMU and its success will very much depend on the real economic performance of the euro area and on how well the economic policies related to it are carried out.

Brussels, 17 March 2016.

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 amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme’

(COM(2015) 586 final — 2015/0270 (COD))

(2016/C 177/04)

Rapporteur: Mr Daniel MAREELS

On 18 January 2016 and 20 January 2016 respectively the European Parliament and the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme

(COM(2015) 586 final — 2015/0270 (COD)).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 3 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 17 March 2016), the European Economic and Social Committee adopted the following opinion by 197 votes to 2 with 8 abstentions.

1. Conclusions and recommendations

1.1 **Together and in parallel** with its proposal for a European Deposit Insurance Scheme (**EDIS**), the Commission published a **Communication** entitled **Towards the completion of the Banking Union** ⁽¹⁾. It is apparent that the two texts are to be considered in parallel and that the introduction of further risk sharing (see the EDIS proposal) is to be accompanied by further risk reduction in the Banking Union (see the Communication). It therefore appears that the two documents are two sides of the same coin, and the Committee therefore considers that it should express its views on the Communication as well. The EESC welcomes both the legislative proposal and the Communication.

1.2 To sum up, the Committee believes that, as the **EDIS** and the **risk reduction measures** announced have a number of fundamental and important objectives in common relating to the strengthening and completion of the Banking Union, both types of measure should be **achieved in the same manner, using equivalent instruments and methods**. These methods, which should provide the same guarantees for attaining the respective objectives, are all the more relevant, given that both kinds of measure are complementary and necessary for offering a balanced solution, acceptable to all, which is also definitive. And so, with a view to achieving real progress, the Committee considers it **essential** to ensure that both the EDIS and the relevant risk reduction measures are **dealt with in parallel and without delay and actually put into effect**, in accordance with a clear and specific timetable. Creating the right conditions to move forward is also very important for the **further completion of the EMU**, of which the **Banking Union** is an important part.

1.3 EDIS is in turn of great importance in the Banking Union, of which it forms the third pillar. The Committee has previously been strongly in favour of the further completion of the Banking Union and of the deposit insurance scheme and has urged that this be done quickly. This is with a view to strengthening the EU’s economic and financial stability.

⁽¹⁾ COM(2015) 587 final.

1.4 Stable, secure and well protected deposits are in everyone's interest, and first and foremost the interest of savers and depositors. Underpinning their confidence and offering them the best possible protection remain important for the EESC. It is now important to boost the confidence of savers and depositors in the banks and to allow them to reap the benefits of financial integration and a level playing field between banks. Moreover, stable deposits remain necessary for the financing of the economy, and of families and businesses, in particular SMEs.

1.5 For the EESC it is essential to use the EDIS to further strengthen the Banking Union, to increase its resilience against potential financial crises and to boost financial stability. An EDIS will have a positive impact on the situation of individual Member States and banks by being more able to cushion local shocks. This may discourage certain people from speculating against specific countries or banks, thus reducing the risk of bank runs. At the same time it will further weaken the link between the banks and their national sovereign.

1.6 For the banks the measures announced to reduce risk in the Banking Union are essential. They help to strengthen the Banking Union by ensuring a more level playing field between banks and weakening their links with their national sovereigns. This improves the resilience and stability of the system. The acceptance of risk-sharing mechanisms requires the actual implementation of the level playing field in terms of rules and supervision, and that in turn will contribute to the necessary mutual confidence between all parties involved in the Banking Union.

1.7 These measures require that the existing legislative framework of the Banking Union (BRRD and DGS Directive) is fully implemented by all Member States. It is positive to see that the number of Member States still needing to do more work has fallen since the publication of the EDIS proposals and the communication. And the Commission is taking action vis-à-vis the other countries.

1.8 Attention must be paid to further reducing risk in the banking sector and to achieving maximum harmonisation in the Banking Union in the areas in which action has already been taken. The prior establishment of well capitalised, stable and effective national deposit guarantee schemes (DGS) is also considered necessary. Strenuous efforts must be made to prevent potential risks of moral hazard with respect to banks, government and savers when further developing this pillar of the Banking Union. Moral hazard could seriously jeopardise the safe and efficient operation of the Banking Union. The proviso that a Member State can make use of the EDIS only if it fulfils all the conditions is appropriate here.

1.9 The Committee believes that the Commission should carry out a comprehensive in-depth impact study, possibly based on the previous similar studies carried out in the context of the DGS Directives, in view of the importance of the issue for the Banking Union, the completion of the EMU and the trust of savers and depositors. The results of this study should be published, also in order to further strengthen the legitimacy of the proposal.

1.10 Moreover, major differences persist between the countries and there continue to be a number of challenges in different areas, as is apparent from a number of recent international reports. The differences and challenges should be tackled. Without wishing to go into detail, these include the considerable volume of non-performing loans in the banking sector and the uneven distribution of those loans among the banks and Member States of the euro area.

1.11 The Committee considers that, in the process of further reducing risk, sufficient attention should be paid to the effects of this on the granting of credit. In particular, lending to SMEs, SMIs, start-ups and other young companies should remain a key priority for the EU and the Member States.

1.12 In this connection, the Committee also considers progress on the further completion of the EMU to be of great importance; this is based, inter alia, on a monetary and financial pillar, which includes the implementation of a fully-fledged Banking Union led by the EU. As the Committee has previously stated that the EMU is still fragile and faces huge challenges, it needs to be further strengthened by developing all its pillars.

1.13 The EESC believes that it is imperative in this respect to create the proper and appropriate conditions needed to make progress possible. For the Committee, everything depends on trust, and strengthening this between Member States. Trust between the Member States also requires a level playing field and coordinated approaches aimed at convergence.

1.14 Convergence has been negatively affected by the crisis and it is important in the short term to make further progress in this regard in and between Member States. At the same time, the recovery must be supported, the correction of macroeconomic imbalances facilitated and adaptability improved.

1.15 The EESC welcomes the fact that the new deposit insurance scheme is to be cost-neutral for the banking sector, but at the same time believes that it would be preferable for the proposed risk-based contribution arrangements to be directly incorporated into the EDIS proposal, rather than dealing with this issue in delegated acts. This is after all an essential element of the proposed scheme, which should in principle be laid down at the highest level.

2. Background

2.1 When the Banking Union was set up, it was decided that the pillars would be introduced gradually.

2.2 The first two steps have been taken with the introduction of the Single Supervisory Mechanism (SSM), through which the ECB exercises supervision⁽²⁾ over banks⁽³⁾ in the euro area, and the establishment of the Single Resolution Mechanism (SRM) as from 1 January 2016.

2.3 A **European Deposit Insurance Scheme**⁽⁴⁾ is now proposed as the third pillar of the Banking Union. This system builds on the existing Deposit Guarantee Schemes Directive⁽⁵⁾, which introduced national DGSs and provided for the recognition of institutional protection schemes as DGSs. The Report of the Five Presidents on Completing Europe's Economic and Monetary Union⁽⁶⁾ also proposed the launch of the EDIS in the longer term.

2.4 The new proposal⁽⁷⁾ would be developed gradually⁽⁸⁾.

2.4.1 In the first phase there will be a *reinsurance scheme* for a period of three years until 2020. In this phase a national DGS will have access to the resources of the EDIS only after it has exhausted all its own resources and on condition that the relevant rules of the DGS Directive have been fully applied by the Member State concerned. The aim is thus to weaken the link between the banks and their national sovereigns.

2.4.2 Subsequently, the system would move progressively to a mutualised approach (co-insurance). In this phase a national DGS would not have to use up all its own resources before having access to those of the EDIS, in the event that intervention is required. Access to these resources would begin at a low level (20 %) and increase over a period of four years to 80 %. This therefore involves a higher degree of risk sharing between national systems.

2.4.3 In the third phase the risk borne by the EDIS will gradually increase to 100 %. Thus, the new system will fully replace the national DGSs from 2024 onwards and would assume sole responsibility for paying compensation to depositors.

2.5 In this context, the proposal provides for the immediate establishment of an EDIS. The fund will be financed by risk-weighted contributions from the banks. The system is intended to be cost-neutral for the banking sector to the extent that the European contributions will be deducted from contributions to the national DGSs.

2.6 The system will have strict safeguards. For example, only national DGSs that comply with EU rules and are structured in accordance with those rules will be insured.

⁽²⁾ Since November 2014.

⁽³⁾ For the largest players (approximately 130) this will be done directly by the ECB, for the others (more than 6 000 banks), primarily by the national regulators.

⁽⁴⁾ Also known by the acronym EDIS.

⁽⁵⁾ This provides for the protection of EU savers' deposits of up to EUR 100 000.

⁽⁶⁾ See *Completing Europe's Economic and Monetary Union, Report by Jean-Claude Juncker in close cooperation with Donald Tusk, Jeroen Dijsselbloem, Mario Draghi and Martin Schulz*, in particular p. 11.

⁽⁷⁾ See Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme — COM(2015) 586 final — 2015/0270 (COD), published on 24 November 2015.

⁽⁸⁾ The architecture of the EDIS would follow the classic Banking Union structure: a 'single rulebook' in the form of the current DGS Directive applicable to all 28 Member States, supplemented by the EDIS, which is binding for all euro area Member States and open to other EU Member States wishing to join the Banking Union.

2.7 In parallel, the Commission has announced a number of measures aimed at reducing risk in the Banking Union ⁽⁹⁾ ⁽¹⁰⁾ in the Communication entitled Towards the completion of the Banking Union.

3. General comments

3.1 The Commission has published a Communication ⁽¹¹⁾ on further reduction of risk in the Banking Union together with the proposals on the EDIS. According to the Commission, these two publications should be considered in parallel. The introduction of further risk sharing (see the EDIS proposal) is to be accompanied by further risk reduction. The Committee therefore sees these two texts as two sides of the same coin. The following observations and comments on the new texts should be seen in that light.

3.2 The EESC has from the outset been in favour of the Banking Union and the steps which have been taken in connection with the first two pillars ⁽¹²⁾. For the Committee, it was important that this should be done without delay ⁽¹³⁾.

3.3 In the same way, the Committee has always supported further completion of the Banking Union ⁽¹⁴⁾ and the rapid addition of a third pillar on deposit protection. In that context, the Committee has already urged the strengthening and improvement of the Community system of deposit protection ⁽¹⁵⁾.

3.4 The Committee welcomes the EDIS proposals and endorses the objectives of strengthening the Banking Union, improving and harmonising the protection of deposit holders, strengthening financial stability and further restricting the link between banks and their national sovereigns.

3.5 Through the principle of risk sharing such a scheme may have a positive impact on the situation of certain Member States and banks, as it is more able than the current national systems to help, where necessary, to absorb major local shocks. This could discourage certain people from speculating against specific countries or banks, thus reducing overall risk in the whole Banking Union.

3.6 A high level of protection and maximum safeguards for savers' deposits are essential. Since the crisis significant progress had been made and the purpose of the new proposals could help to further increase confidence, since they can contribute to greater financial integration between countries and a level playing field between banks.

⁽⁹⁾ These measures include:

- Reduction of national choice and room for manoeuvre in the application of prudential rules so that the SSM can operate as efficiently as possible.
- Harmonisation of the national DGSS.
- Adoption of legislation implementing the remaining components, applicable to banks, of the regulatory framework agreed at international level, including limiting banks' leverage, ensuring stable bank financing and improving the comparability of risk-weighted assets, and making it possible to implement by around 2019 the Council's financial stability recommendations concerning the banks' Total Loss Absorbing Capacity, so that sufficient funds are available for ailing banks without the need for recourse to the taxpayer.
- Implementation of the existing rules in such a way that as little public funding as possible is used to maintain a solvent and resilient banking sector.
- Greater convergence in the insolvency laws, as set out in the Action Plan on building a Capital Markets Union.
- Initiatives with regard to the prudential treatment of banks' exposure to sovereign risk, such as reducing the exposure of banks to a specific sovereign to ensure that the risk is diversified.

⁽¹⁰⁾ See Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions 'Towards the completion of the Banking Union' COM(2015) 587 final of 24 November 2015.

⁽¹¹⁾ See point 2.7 above.

⁽¹²⁾ See the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM).

⁽¹³⁾ See, inter alia, the EESC Opinion on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards its interaction with Council Regulation (EU) No.../... conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions COM(2012) 512 final — 2012/0244 (COD)' and the 'Communication from the Commission to the European Parliament and the Council — A Roadmap towards a Banking Union' (OJ C 11, 15.1.2013, p. 34) point 1.12.

⁽¹⁴⁾ See, inter alia, the EESC Opinions on 'Completing EMU — The proposals of the European Economic and Social Committee for the next European legislature' (OJ C 451, 16.12.2014, p. 10) and 'Completing EMU: The political pillar' (OJ C 332, 8.10.2015, p. 8).

⁽¹⁵⁾ See opinions referred to in footnotes 13 and 14.

3.7 Stable deposits are a healthy and necessary source of financing for the economy, households and above all small and young businesses (SMEs, SMIs⁽¹⁶⁾ and start-ups), thus contributing to the necessary economic growth. SMEs (in the broad sense) make a vital contribution to the European economy, accounting for more than two thirds of total private employment and 85 % of the net increase in jobs. For the EESC it is clear that ensuring lending to viable SMEs is essential for economic growth and new jobs and this should therefore be a key priority at both European and national level.

3.8 When it comes to further risk reduction, the same approach as that taken for the EDIS is appropriate, and the Committee therefore welcomes the Commission document. This is certainly the case, as both texts have a number of fundamental objectives in common, such as strengthening the Banking Union and weakening the link between banks and national sovereigns, and as achieving the objectives clearly requires a combination of measures.

3.9 From the point of view of risk reduction, the existing situation cannot be ignored. Priority attention should be paid to further reducing risk in the banking sector and to greater harmonisation in the Banking Union in the areas in which action has already been taken.

3.10 First, all Member States must fully transpose and implement the existing Banking Union framework. Although when the EDIS proposal was published, a significant number of Member States had not transposed the Recovery and Resolution Directive (BRRD) and/or the DGS texts, or only partially, the situation has since improved. And the Commission is taking action vis-à-vis the other countries⁽¹⁷⁾.

3.11 The further implementation of the DGSs and the related *ex-ante* financing system poses certain challenges. Greater harmonisation and the prior establishment of well capitalised, stable and effective national DGSs are also considered necessary to limit the risk of 'moral hazard'. Attention should be paid to containing this risk at all stages of the implementation of the EDIS. In this connection, the potential dangers of excessively rapid and strict mutualisation of risks must be guarded against. The proviso that a Member State can make use of the EDIS only if it fulfils all the conditions and has implemented the existing legislation is appropriate here.

3.12 Moreover, major differences persist between the countries and there continue to be a number of challenges in different areas, as is apparent from a number of recent international reports⁽¹⁸⁾ ⁽¹⁹⁾. These need to be addressed. These issues include, inter alia, the considerable volume of non-performing loans in the banking sector and the uneven distribution of those loans among the banks and Member States of the euro area⁽²⁰⁾. An effective remedy for this situation, taking account of all other relevant elements, can be considered a prerequisite for moving in the direction of risk sharing in connection with deposit protection. Among other things, this requires a homogeneous, EU-driven supervisory mechanism.

⁽¹⁶⁾ Small and medium-sized industry.

⁽¹⁷⁾ On the DGS, see European Commission press release of 10 December 2015: Commission requests 10 Member States to implement EU rules on Deposit Guarantee Schemes (see http://europa.eu/rapid/press-release_IP-15-6253_en.htm);

On the BRRD, see press release dated 22 October 2015: Commission refers six Member States to the Court of Justice of the EU for failing to transpose EU rules on Bank Recovery and Resolution (see http://europa.eu/rapid/press-release_IP-15-5827_en.htm).

⁽¹⁸⁾ See, inter alia, EBA — 2015 EU-wide transparency exercise — aggregate report, see <https://www.eba.europa.eu/documents/10180/1280458/2015+EU-wide+Transparency+Exercise+Report+FINAL.pdf> (November 2015) and ECB Economic Bulletin, Issue 2015/5 <https://www.ecb.europa.eu/pub/pdf/ecbu/eb201505.en.pdf>

⁽¹⁹⁾ See EBA report (executive summary), pp. 6 and 7: 'The quality of assets and the levels of profitability have also improved, albeit from a low base and remain a source of concern. Non-performing exposures, for the first time published following the EBA's harmonised definition, are close to 6 % of total loans and advances across the EU, 10 % if only non-financial corporations are considered, albeit with substantial variations across countries and banks. Profitability has improved through 2015 but remains weak by historical standards and relative to banks' estimated cost of equity. EU banks aggregate return on regulatory capital is 9,1 % as of June 2015.

Finally, in terms of sovereign exposures, the data released today shows that a home bias when investing in sovereign debt is still relevant although gradually receding, as banks reported in June 2015 an increase in their holdings of non-domestic sovereign debt.'

⁽²⁰⁾ ECB Financial Stability report, November 2015, see <https://www.ecb.europa.eu/pub/pdf/other/financialstabilityreview201511.en.pdf?24cc5509b94b997f161b841fa57d5eca>, p. 74 et seq.

3.13 There are no results available from the in-depth prior impact assessment of the EDIS. This is in contravention of the transparency requirements. A comprehensive in-depth impact study, possibly based on the previous similar studies in the context of the DGS Directives ⁽²¹⁾, is certainly needed, in view of the importance of the issue for the Banking Union, the completion of the EMU and the trust of savers and depositors. The results of this study should be published, also in order to further strengthen the legitimacy of the proposal.

3.14 The additional future measures announced on risk reduction should be approached in the same way as the EDIS, as both contribute to strengthening the Banking Union, and will require action to implement them in detail as soon as the necessary conditions have been met.

3.15 In the light of the above, it is clear that the realisation of both types of measure must be approached in the same way. Both kinds of measure are complementary and necessary for offering a balanced solution which is also definitive. It is therefore essential that both the EDIS and the risk reduction measures ⁽²²⁾ be tackled and realised without delay and in parallel. This will not only ensure the greatest possible contribution to achieving the Banking Union and further completion of the EMU (see below) but will also provide the best possible guarantee of real progress.

3.16 For the Committee this issue is also of great importance in connection with the further completion of the EMU. This is, *inter alia*, based on a monetary and financial pillar, including a fully-fledged Banking Union. As the Committee has previously stated that the EMU is still fragile and faces huge challenges ⁽²³⁾, the Union needs to be further strengthened by developing all its pillars.

3.17 It has already been pointed out that, because of the links that still exist between sovereigns and banks, Member States are reluctant to create the necessary political and economic conditions, with the result that the most suitable and effective decisions are put off ⁽²⁴⁾.

3.18 It is therefore important to make it possible to progress, and here everything depends on trust and strengthening this between Member States. Trust between the Member States also requires a level playing field and coordinated approaches aimed at convergence.

3.19 Convergence has been negatively affected by the crisis and it is important in the short term to make further progress in this regard in and between Member States. At the same time, the recovery must be supported, the correction of macroeconomic imbalances facilitated and adaptability improved.

4. Specific comments

4.1 In relation to the EDIS proposal, the EESC endorses the principle that the system should be cost-neutral for the banking sector. The contribution of the banking sector was set at 0,8 % ⁽²⁵⁾ ⁽²⁶⁾ of covered deposits, following a thorough impact assessment. It is therefore important that the total contribution to the national and European systems is not increased, in order to respect cost-neutrality.

4.2 Moreover, it is important in this connection to ensure maximum harmonisation of national contributions, thus creating a completely level playing field for the national DGSs and avoiding differences between these systems.

4.3 This level playing field approach should also be adopted by the countries participating in the Banking Union and *vis-à-vis* those Member States that are not part of it. This requires, *inter alia*, the further harmonisation of the current provisions of the DGS Directive in order to achieve greater convergence between the systems in all the Member States.

⁽²¹⁾ According to statements by representatives of the Commission, the current proposals build on the impact study carried out in connection with the amendment of the DGS Directive. See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52010SC0834>. See in particular sections 7.8 and 7.11 of the document.

⁽²²⁾ With regard to these risk reduction measures, a key challenge will be to implement as a matter of priority the measures that are most relevant from the perspective described here.

⁽²³⁾ See opinions referred to in footnote 14.

⁽²⁴⁾ See first opinion referred to in footnote 14, point 4.1.2.

⁽²⁵⁾ In the context of the DGS Directive.

⁽²⁶⁾ Or 0,5 % if certain conditions are met.

4.4 Institutional protection schemes can provide financial support when their members find themselves in difficult situations and thus help prevent bank failures. The preventive action of these systems should be fully acknowledged in the new EDIS Regulation; if it is not, this could undermine the whole concept.

Brussels, 17 March 2016.

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 and the European Central Bank on Steps towards completing Economic and Monetary Union’

(COM(2015) 600 final)

and on the

‘Commission Decision (EU) 2015/1937 of 21 October 2015 establishing an independent advisory European Fiscal Board’

(C(2015) 8000 final)

(2016/C 177/05)

Rapporteur: Carmelo CEDRONE

On 11 November 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 and the European Central Bank on Steps towards completing Economic and Monetary Union

(COM(2015) 600 final)

and the

Commission Decision (EU) 2015/1937 of 21 October 2015 establishing an independent advisory European Fiscal Board

(C(2015) 8000 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 3 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 17 March 2016), the European Economic and Social Committee adopted the following opinion by 195 votes to 4 with 4 abstentions.

1. Conclusions and recommendations

1.1 The EESC thinks the Commission communication on *Steps towards completing EMU* can provide a great opportunity to launch a debate at political level and with civil society that will ‘tell it as it is’ on all euro area issues, including what has happened since Maastricht and the economic and financial crisis that has hit the euro area in particular. The aim would then be to draw up conclusive proposals which go further than the communication as it stands at present. The main points are as follows.

1.2 **Semester:** it would be more useful to draw up a proposal for the Semester as part of a comprehensive agreement on economic governance that goes beyond the status quo, changing macroconditionality and strengthening the Interparliamentary Conference, as the Committee had hoped.

1.3 **Economic governance:** comprehensive economic governance for the euro area (macro, micro, monetary, etc.) must go much further than the Commission has proposed. We need to completely change current economic paradigms. In particular, the National Competitiveness Boards should also take account of cohesion policies, social repercussions and employment arising partly from imbalances and the differences between countries, which have grown with the crisis⁽¹⁾. The European Commission and the Boards should also take into account the new factors and parameters that underpin and will continue to underpin competitiveness and competition between global economic blocs. The advisory European Fiscal Board should adopt more transparent and democratic procedures for nominating its members and for the use of its advice, which risk remaining outside the scope of any kind of democratic supervision.

1.4 **External representation of the euro area:** the proposal is both fair and necessary, but in addition to overly lengthy timeframes, there is the problem of democratic supervision of this function and the legislative changes needed to acknowledge the role of EMU in matters relating to the euro area⁽²⁾.

1.5 **Financial union:** the proposal is a good one, though it has lost political momentum and timeliness. This is the most important decision to be made, provided it is done swiftly, using the single resolution and deposit protection mechanisms⁽³⁾ and the Capital Markets Union⁽⁴⁾ to fully and rapidly implement European systems of common rules. It would be very helpful here to have a Commission proposal on the issue of sovereign and private debt to reduce risk and speculation in the euro area's financial system. In fact, the EESC has already drafted such a proposal⁽⁵⁾.

1.6 **Democratic legitimacy:** this is the communication's real weakness, at least as it stands at present, pending stage two. It is addressed very superficially and vaguely when in fact it is the core issue and at the heart of European public debate and concerns, particularly in recent months: the future of the euro area and of the EU depends on it. The issue of democratic supervision is not tackled seriously by any of the Commission's operational proposals, as pointed out previously.

1.6.1 The tripartite social dialogue could contribute to this matter, provided that the dialogue is structured and implementation of the agreements arrived at between the parties is made mandatory.

1.7 **Stage two — Completing EMU:** this is a priority and fundamental to making the rest of the proposals already put forward credible. Unfortunately, this stage is primarily posited on the presentation of a white paper at the end of 2017. Leaving everything to a white paper, through hearings and dialogues with the public, without any explanation of how they should be organised and without involving even the EESC, seems to us to be completely inadequate for the communication's most important and central issue, namely democracy and the building of the political pillar of the euro area, at least until stage two is rolled out.

1.8 The EESC also finds the Commission's **roadmap** an inadequate response to the important and urgent issues to be tackled (constant postponement and unspecified timeframes). This is why, partly on the basis of its own roadmap, which has been ready for some time, the EESC is committed to putting forward, possibly with the Commission, a plan on stage two to discuss these issues in the Member States, beginning with the euro area countries.

⁽¹⁾ EESC opinion on 'National Competitiveness Boards' (see page 35 of this Official Journal).

⁽²⁾ EESC opinion on 'Euro area external representation' (see page 16 of this Official Journal).

⁽³⁾ EESC opinion on 'European Deposit Insurance Scheme' (see page 21 of this Official Journal).

⁽⁴⁾ EESC opinions on the 'Green Paper on Building a Capital Markets Union' (OJ C 383, 17.11.2015, p. 64) and on the 'Action Plan on a Capital Markets Union' (OJ C 133, 14.4.2016, p. 17).

⁽⁵⁾ EESC opinion on 'Growth and sovereign debt in the EU: two innovative proposals' (OJ C 143, 22.5.2012, p. 10).

1.9 **The proposals:** in a number of opinions drawn up since the crisis began, the EESC has drafted proposals on various aspects of the financial crisis and the limitations of the economic policies implemented by the EU. In various own-initiative opinions, for example, it has drawn up specific proposals covering issues such as the economic, financial and monetary governance of EMU. The Committee has also framed proposals on the political governance of the euro area, well in advance of the Commission. Regarding the framework proposals on the topics covered by the communication, therefore, it refers the reader to earlier ⁽⁶⁾ and ongoing opinions on the Commission's specific proposals ⁽⁷⁾.

2. Background

2.1 This opinion aims to take a broad look at the Commission communication on the euro area. Specific aspects will be covered by other EESC opinions.

2.2 The Commission communication was drafted in response to the need to implement the second Five Presidents' Report on EMU, given that the first had been completely ignored by the Barroso Commission. The two reports were intended to remedy EMU's limitations, which the economic and financial crisis, as we know, exposed and brought to the attention of all Europeans and the rest of the world — limitations which facilitated and channelled speculation on the euro and so have been and still are the main cause of the crisis in the euro area and why it has lasted so long.

2.3 This in fact was why the EESC, before the Commission and the other EU bodies, decided to draw up specific proposals on this subject, which have only recently been heeded and properly considered and acknowledged ⁽⁸⁾. In this regard, the Committee welcomes and highlights the appreciation expressed by the Commission in a follow-up report on recent EESC opinions, in particular the fact that [the] Commission would like to thank the European Economic and Social Committee for its thorough and comprehensive opinion on the political pillar of the Economic and Monetary Union. It not only analyses the current state of play and shortcomings of the EMU but also makes very interesting proposals for completing it'.

2.4 The second Five Presidents' Report — and thus the Commission communication intended to implement it — is weaker and less bold than the already inadequate first report, possibly because the euro area crisis has become less critical or because the Member States find it difficult to share sovereignty. This is not a good thing.

2.5 Furthermore, in the wake of Islamic terrorist attacks, the question of immigrants, refugees and security has created panic among the general public and politicians in Europe. It has, among other things, deepened divisions between countries, thrown oil on rekindled nationalism and led to the borders being closed. The plan to complete EMU has been put on the back burner or sidelined altogether. It has vanished from political debate and the media, possibly to the relief of many (not just eurosceptic) politicians, who are pleased to have dodged the bullet.

2.6 However, the EESC believes that all these factors are highlighting the need to act and to continue the now even more urgent work to improve Europe, going back to the founding principles and values (peace, prosperity and social cohesion) enshrined in the Treaty. This must be done for everyone's sake, because the countries of Europe and their people must rediscover a sense of shared responsibility and regain trust in one another; they cannot afford to become divided once more as has always been the case in the past. That would be a dangerous road to go down.

⁽⁶⁾ EESC opinions on 'Completing EMU — the next European legislature' (OJ C 451, 16.12.2014, p. 10); on 'Completing EMU: The political pillar' (OJ C 332, 8.10.2015, p. 8); on 'The Community Method for a Democratic and Social EMU' (OJ C 13, 15.1.2016, p. 33), etc.

⁽⁷⁾ EESC opinions on 'Euro area external representation', on 'European Deposit Insurance Scheme', on 'National Competitiveness Boards' and on 'Euro area economic policy (2016)' (see page 16 of this Official Journal).

⁽⁸⁾ EESC opinions on 'Ten years on, where is the euro headed?' (OJ C 271, 19.9.2013, p. 8); on 'Completing EMU — the next European legislature' (OJ C 451, 16.12.2014, p. 10); on 'Completing EMU: The political pillar' (OJ C 332, 8.10.2015, p. 8).

3. General comments

3.1 In both language and proposals the communication is unfortunately cast in terms of the situation as it stands; as has occurred so many times in the past, it could remain merely a statement of good intentions and so turn into a 'boomerang'. Most of what it says upholds the policies enacted after the crisis and calls for these to be strengthened, despite knowing that some of them have worsened the economic and social situation in many EMU countries. The reasons for the failure of every attempt so far to roll out a real EMU (from the 1970 Werner report to the Four Presidents' Report of 2012) are ignored. Like the current one, these attempts were based on bureaucratic gradualism.

3.2 Strengths

3.2.1 It is, however, positive that, despite the weakness of the Five Presidents' Report, which also lacks any real roadmap, the Commission has decided to take action and start implementing it, when many Member States are close to opposing it. This is a perilous and dangerous attitude and the EESC calls on the Member States, beginning with those in the euro area, to change tack and support the Commission's initiative, remedying the weaknesses identified in this opinion in line with the proposals set out in previous EESC opinions.

3.2.2 A further positive point is the communication's focus on financial union in its many forms. This is undoubtedly the most important decision, along with completing the Banking Union, and was triggered by the crisis. However, it must be done swiftly, using the single resolution and deposit protection mechanisms and the Capital Markets Union to fully implement European systems of common rules which reduce risk for savers/account holders, for taxpayers in financing banking sector debt and for investors and businesses in continuing to operate in relatively opaque financial markets with limited sources of financing. With this goal in mind, it would have been advisable to separate commercial and investment banks, as recommended by the EESC, setting up a bad bank to deal with situations already in place.

3.2.3 One important but limited proposal regards the establishment of a 'unified external representation of the EMU', even if a long-term approach is taken to implementation, to be completed by 2025⁽⁹⁾. Short-term measures include merely strengthening the coordination arrangements introduced in 2007 between euro area representatives and the International Monetary Fund.

3.3 Critical points (weaknesses)

3.3.1 The approach pursued throughout the crisis is upheld here — to the extent that one has the impression of having read the communication many times before. The EESC has already given its views on the same points on many occasions, making proposals different from those put forward by the Commission and the Member States. The Commission continues to persist and have us believe, for instance, that: (a) the problem of remaining in EMU is just a matter of complying with the rules of accounting; (b) economic governance boils down to coordination; (c) the macroeconomic and financial sustainability of the euro area is just a matter of transparency; and d) the extremely serious matter of unemployment can be tackled just with superficial proposals, as has been done for years. The EESC considers that, on these and other issues, the Commission must exercise its power of initiative to the full and with greater conviction.

3.3.2 The same applies to the major social repercussions arising from unemployment in many euro area countries, an issue which, like competitiveness and economic and political governance, should be a priority for EMU. There are no specific proposals and no proposal for a solidarity mechanism, and it is unclear what is meant by the 'European pillar of social rights' (maybe the rights already in place in individual countries?).

⁽⁹⁾ COM(2015) 603 — 2015/0250 (NLE).

3.3.3 Regarding the **Semester**, the communication keeps to the status quo without making any real changes, to the method or anything else. The EESC had hoped for changes to macroconditionality and a stronger Interparliamentary Conference. Without such changes, Member State budgets may well remain outside the scope of any democratic supervision.

3.3.4 There is a reference to an EMU budget when talking about EMU stabilisation, but in reality this is the sum of national budgets or the national budgets themselves, which is quite different from a real euro area budget. Nor is there any mention of existing sovereign debt or a possible common sovereign debt, if necessary, or of a European tax to cover the costs of immigration, refugees and security. The whole communication really falls down on the lack of proposals for democratic legitimacy (point 6)⁽¹⁰⁾.

3.3.5 The representative bodies of society are largely ignored as actors in the consultation stage, starting with those represented in the EESC and not to mention the political level, which is practically absent or glossed over as an afterthought.

3.3.6 The EESC welcomes involvement by the social partners on other policies, as mentioned by the Commission. However, it believes that a political and procedural quantum leap will be necessary to progress from superficial to meaningful participation in the tripartite social dialogue, which will need to be regulated so that its agreements have effect. This would foster mutual trust and increase individual responsibility.

3.3.7 The preparation of stage two (completing EMU), which is a priority and fundamental for making the rest of the proposals credible, is based on the presentation of a white paper, previous hearings and public dialogues, without any explanation of how they should be organised and excluding the partners represented in the EESC. This is an insufficient basis. The national and European parliaments, for instance, should be involved.

3.4 **Risks**

3.4.1 The Commission's intentions are undoubtedly good, but the approach lacks credibility, even if the proposals for stage two are not yet ready. The communication is not a genuine about-turn, in the light of the current Treaty, in order to make good at least in part on the Maastricht deficit. There is no overall project promising change and future prospects for the euro area and Europeans.

3.4.2 Continuing along the path of what has been done to date for both economic and social policies is unhelpful; the labour market and wages cannot be taken as the sole systemic variable, disregarding or undervaluing domestic demand, macro- and microeconomic and social imbalances and current accounts.

3.4.3 Postponing the political agenda to a later stage rather than taking that as the starting point or at least tackling it in parallel, given the ongoing old and new crises, shows an excess of fear and political expediency on the part of the Member States, leading them to reject Europe rather than improving it and offering hope for the future.

3.4.4 The superficial approach to the democratic legitimacy of the Semester, other EMU policies or the other mechanisms proposed is symptomatic. It is half-hearted, given the position of the various countries, paying lip service to democracy. This is perhaps the weakest aspect of the entire proposal, at least as it stands at present, pending stage two, which must be built on requests for contributions and support from civil society and the political level.

⁽¹⁰⁾ EESC opinion on 'The Community Method for a Democratic and Social EMU' (OJ C 13, 15.1.2016, p. 33).

3.4.5 Proposing to resolve the euro area's democracy problem through dialogue with the general public without spelling out how this should be organised, how people should be involved and what tools should be used at European or national level is both superficial and deceptive. A more practical way must be found to boost public awareness and participation in the completion of the euro, through major public meetings in every city or by putting proposals, including alternative proposals, to the vote in national parliaments.

3.5 *Opportunities*

3.5.1 Capitalising on the publication of this communication and seizing the opportunity to tell European citizens the truth about how much of the current Treaty has not been implemented and its potential, and what has happened since the euro was first rolled out. Assessing what went on as regards the crisis, the mistakes made both at EU level and by the Member States, which should be more active with policies that recognise the value of people; considering missed opportunities and the real risks facing Europeans — rather than an abstract 'Europe' — if certain countries continue along their current path.

3.5.2 Telling the truth in this way is made all the more urgent and can be aided by the need to respond appropriately to a further two increasingly critical issues which are jeopardising the security of all Europeans: the migrant-refugee crisis and the threat of Islamic terrorism and the problem of security.

3.5.3 Taking this opportunity to launch a sincere and genuine discussion on the common values (civic, ethical and religious) that underpin our identity and that we are afraid to display and defend: the real basis for the rebirth of the euro area and/or any countries which desire this. This is a unique form of integration which is open not just to the 19 member countries but also to all the other EU Member States, including the new members, that wish to join a political core group. This will grow steadily, as did the first European Economic Community (1957), which comprised the six founding countries, which acted so boldly at the time and without which there would be no Europe and no 28 Member States today!

3.5.4 It could be very useful, in pursuing this goal, to involve the representative bodies of society, particularly the social partners and civil society, spurring on social and civil dialogue at European and national level. These intermediaries, with the support of the EESC and the Commission, could open an informative debate on the dangers of what is going on, the opportunities provided by the changes to various EU policies and the need to stay together, improving the foundations of our house, putting on a roof and not knocking down what we have built so far.

4. **Independent advisory European Fiscal Board (Commission decision)**

4.1 The Commission decision fails to justify the establishment of this board ⁽¹¹⁾, tasked with providing an evaluation of the implementation of the EU's fiscal framework, in particular as regards the horizontal consistency of decisions touching on budgetary surveillance; its establishment duplicates the role and responsibilities already performed by the Commission regarding the new tasks assigned by the European model of governance.

4.2 It is difficult to see what added value could be provided by this body, which will comprise five external experts who will be asked to conduct a closer analysis of budget policies at euro area and national level. It would appear to be yet another European supervisory committee advising on the budgets of EU and euro area institutions, without having any power to act in cases of non-compliance or inappropriate budget policies at these two levels.

⁽¹¹⁾ C(2015) 8000 final.

4.3 The EESC is surprised at the arrangements for appointing the members of the advisory board: suffice it to recall that three out of the five members are chosen by the president without any input from the European Parliament, as the Parliament quite rightly points out in its resolution ⁽¹²⁾. Rather than a board which will support the Commission's choices, it would therefore appear to be a form of compulsory administration by the Council of a remit currently delegated to the Commission. This could exacerbate the already precarious situation.

4.4 The Commission communication also refers to a possible link between the European advisory board on budget policies and the national fiscal councils, without spelling out the intended objectives, defining the respective remits or identifying the responsibilities and areas of cooperation.

Brussels, 17 March 2016.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹²⁾ European Parliament resolution of 17 December 2015 on Completing Europe's Economic and Monetary Union (2015/2936(RSP)).

Opinion of the European Economic and Social Committee on the 'Recommendation for a Council Recommendation on the establishment of National Competitiveness Boards within the Euro Area'

(COM(2015) 601 final)

(2016/C 177/06)

Rapporteur: Thomas DELAPINA

Co-rapporteur: David CROUGHAN

On 11 November 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:

Recommendation for a Council Recommendation on the establishment of National Competitiveness Boards within the Euro Area

(COM(2015) 601 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 3 March 2016.

At its 515th plenary session held on 16 and 17 March 2016 (meeting of 17 March 2016), the European Economic and Social Committee adopted the following opinion by 200 votes to 3 with 11 abstentions.

1. Summary and recommendations

1.1. The EESC examines the extent to which National Competitiveness Boards within the euro area can help to achieve the necessary improvement in economic policy governance by reducing divergence between EMU members and preventing it in the future, by acting as a mirror to economic and social policy and by strengthening the European focus by being linked into a euro area network.

1.2. Competitiveness is not an end in itself. It is only a sensible objective if it improves people's well-being in practice. A continuation of current policy is not an option in the EESC's view. The one-sided strategy which aimed to improve competitiveness in the EMU countries by reducing costs and increasing exports actually exacerbated the impact of the crisis if anything because it is based on too narrow a definition of competitiveness.

1.3. The Committee therefore recommends that an updated definition of competitiveness ('competitiveness 2.0') be used in future, and the concepts proposed in the WWWforEurope project funded by the European Commission are taken into account. Such a revised definition is compatible with the Europe 2020 objectives, which also include 'Beyond-GDP' objectives. There competitiveness is defined as 'the ability of a country (region, location) to deliver the beyond-GDP goals for its citizens'. Under this approach, competitiveness is based on three pillars: income, social factors and sustainability. **In the light of the above, the EESC urges that future discussions refer not to 'competitiveness boards' but to 'boards for competitiveness, social cohesion and sustainability'.**

1.4. The EESC also asks the Commission to provide clarification on a number of points so as to allow the activities of these Boards for Competitiveness, Social Cohesion and Sustainability to be evaluated. A number of technical questions such as the nomination of members, the provisions for accountability etc. still have to be answered, too.

1.4.1. The EESC agrees with the Commission approach which allows Member States to design their national boards either by setting up new institutions or adapting the mandate of existing bodies, provided they are independent and their aim is neither to interfere with the wage setting process and the role of the social partners nor to harmonise national wage setting systems. In view of the need to avoid duplicating existing work and bodies, the EESC asks the Commission to carry out a full mapping exercise (work of the IMF, OECD, existing committees, national and other potentially useful bodies, etc.). Such a comprehensive review is important as it would support decision-making by making it possible to estimate the added value of the proposed boards, to carry out a cost-benefit analysis and to gauge the need for additional bodies.

1.4.2. The EESC asks the Commission to present concrete proposals on how the following necessary requirements can be safeguarded:

- accountability, legitimacy and transparency by fully incorporating the democratically legitimate institutions such as parliaments, social partners and other representative organisations of civil society,
- representation of balanced unbiased expertise to mirror the existing diversity of opinions,
- non-binding character of proposals of the board, especially fully preserving the autonomy of the social partners,
- inclusion of the dual role of wages, which are both a cost factor for businesses and the main determinant of domestic demand, when assessing competitiveness in accordance with the new definition.

1.5. The EESC already put forward specific proposals for deepening EMU before the latest Commission package — proposals which should be implemented.

- Competing national strategies are not needed, but rather a common European strategy. It is of crucial importance here to expand macroeconomic dialogue and introduce it for the euro area. This is where coordination of economic policies and of the three key macroeconomic policy factors should take place.
- At national level, the role of the social partners must be strengthened and systems of macroeconomic dialogue developed or consolidated.
- The role of national parliaments and the EP must be beefed up to ensure democratic accountability, and their role must not be encroached upon by technocratic committees of experts.
- The EESC emphasises the importance of putting economic and social objectives on an equal footing and of carrying out a social impact assessment for all measures in conjunction with the European Semester.
- Promoting public and private investment is of crucial importance in reducing imbalances, necessitating a budget policy that is better geared to promoting growth and high quality employment.
- This affects the revenue side in that it requires appropriately designed tax systems to ensure an adequate financial basis. And it also concerns the expenditure side, where the EESC also sees a need for more growth-friendly measures. A broader-based golden rule for financing public investment in particular would seem consistent with existing measures that allow the financing costs of future investment to be spread over several generations.

2. Commission recommendation

2.1. In its Communication *On steps towards completing Economic and Monetary Union*, the Commission proposes to further consolidate the euro area by early 2017 (Stage 1 — ‘deepening by doing’, which started on 15 July 2015), and then on the basis of benchmarks for a renewed upward convergence of euro area economies, more fundamental reforms should be undertaken to move to a medium- to long-term vision for new growth perspectives (Stage 2 — ‘Completing EMU’). One of the key elements of Stage 1 is an improved toolbox of economic governance, including the proposal that the Council recommends the establishment of national Competitiveness Boards within the euro area Member States (as well as encouraging other Member States to set up similar bodies).

2.2. The Commission’s intention is that mobilising independent national expertise will encourage Member States to assume responsibility themselves for necessary measures and reforms at national level. The objective is to set up national competitiveness boards to monitor performance and policies in the field of a comprehensive notion of competitiveness, thereby contributing to fostering sustained economic convergence and to increasing ownership of the necessary reforms at national level. Member States are invited to implement the principles set out in this recommendation and after 12 months the Commission is invited to prepare a progress report on the implementation and the suitability of this recommendation, including whether adoption of binding provisions appears necessary.

2.3. The boards would monitor competitiveness trends in the individual Member States, especially factors that can affect prices and quality content of goods and services relative to global competitors in the short term. The remit of the boards would be ‘wage dynamics as well as non-wage factors and productivity drivers and dynamic considerations related to investment, innovation and the attractiveness of the economy to businesses’. The boards would analyse and assess relevant measures and formulate policy recommendations, taking account of national specificities and established practices. The boards would also provide relevant information to underpin wage-setting processes at national level. In compliance with Article 28 of the Charter of Fundamental Rights of the European Union, collective bargaining and collective agreement rights would not be affected.

2.4. The boards would enjoy structural and functional independence vis-à-vis Member State authorities. They should consult with relevant stakeholders (e.g. national actors or groups of actors, including social partners, who participate in the economic and social dialogue of the Member State on a regular basis) but should not convey only or mainly the opinions and the interests of a particular group of stakeholders.

2.5. The boards should draw up annual reports. To ensure that the euro area and Union objectives are taken into account, the Commission intends to coordinate the work of the boards, with consultation taking place between both sides while the reports are being drawn up and during fact-finding missions to the Member States. The reports would also inform Commission analyses in relation to the European Semester and the Macroeconomic Imbalances Procedure.

3. General comments

3.1. The EESC shares the European Commission’s conviction that EMU needs to be improved and deepened; it has pointed this out and made specific proposals in many of its opinions. The Committee also commends the positive steps taken by the Commission, and shares its view that closer coordination of national economic policies is absolutely essential in order to remove existing imbalances and make it less likely that imbalances will occur in future. A significant part of the value added of these national boards could be their linking into a euro area network of other such boards which would strengthen the European focus of policy debate between the Member States and the Commission.

3.2. However, this problem is not being adequately addressed by current policies: better instruments are needed to manage macroeconomic imbalances. The EESC therefore very much welcomes the Commission's recognition at last that there should be more focus on Member States' performance in relation to employment and social objectives and that 'ownership' of reform efforts should be strengthened. The Commission is also right in calling for more involvement of the social partners in drawing up the National Reform Programmes and for the national social partners to be included, through the Commission representations, in the European Semester process at national level. National boards, established with the full involvement of all the stakeholders could become a useful mirror to reflect the economic and social impact of current and prospective policy actions.

3.3. For the Member States having embarked on a single monetary policy (single currency, one interest rate) with little likelihood that it will in the medium term or ever become a full economic, social and fiscal union as in a fully federal union, the correction of imbalances by adapting the nominal exchange rate is not an option anymore. Until now, efforts to boost competitiveness in the euro area have been limited essentially to a narrowly defined objective, namely improving export performance and the current accounts, often by cutting costs which can be self-defeating. Current policy has been unable to eliminate the imbalances and the adverse consequences of the crisis. On the contrary, in some cases measures have actually reinforced them⁽¹⁾ by too much emphasis on the purely supply-side policy of austerity, which subdued demand, further increasing unemployment, public deficits and social inequality. As the emergence of imbalances might result in harsh realities if they are not addressed in a timely manner, new policy instruments are needed to avoid the whole burden of adaptation being carried only by wages and labour markets.

3.4. Although the Commission advocates in its recommendation a 'comprehensive notion of competitiveness', the EESC would point out that as far back as 2002 the Commission published a much broader definition of the term, namely 'the ability of the economy to provide its population with high and rising standards of living and high rates of employment on a sustainable basis'⁽²⁾. In the project WWWforEurope⁽³⁾ financed by the European Commission this definition has been deepened by covering 'Beyond-GDP' objectives such as social inclusion and sustainable environment in the context of the Europe 2020 strategy⁽⁴⁾. There competitiveness is defined as 'the ability of a country (region, location) to deliver the beyond-GDP goals for its citizens'⁽⁵⁾. Competitiveness is measured on the basis of three pillars: the income pillar (including disposable household income and consumer spending), the social pillar (socioeconomic impact of a system, such as risk of poverty, inequality and youth unemployment), and the environmental pillar, which measures resource productivity, greenhouse gas emissions intensity, energy intensity and the share of renewables in electricity generation. Also the digital agenda has to be taken into account. This does not imply that imbalances (such as the balance of payments' current account) can be ignored as one could see in the wake of the financial crisis.

3.5. To ensure a comprehensive definition of competitiveness ('competitiveness 2.0') is understood, the EESC suggests that future discussions take place under the heading not of 'competitiveness boards' but of 'boards for competitiveness, social cohesion and sustainability'.

4. Specific comments

4.1. There are numerous institutions and procedures at international level (including the IMF and OECD, as well as the European Commission) that monitor competitiveness and issue relevant policy recommendations. At national level, too, there are many bodies such as independent economic research institutes, statistical offices and economic and social councils which deal with such questions. The Commission notes that existing institutions and work can be drawn on when setting up competitiveness boards, since some countries already have such bodies and in other countries existing bodies could be used. It is, however, important that the boards are independent and their advisory role adequately reflects expert judgement formulated in the general interest.

⁽¹⁾ For a detailed description, see EESC opinion on the *Council Recommendation on the implementation of the broad guidelines for the economic policies of the Member States whose currency is the euro* (point 3.8 ff.) (OJ C 133, 9.5.2013, p. 44).

⁽²⁾ COM(2002) 714 final.

⁽³⁾ <http://www.foreurope.eu/>

⁽⁴⁾ WWWforEurope, Working Paper No 84: Competitiveness and Clusters: Implications for a New European Growth Strategy (February 2015).

⁽⁵⁾ *Ibid.*, p. 9.

4.2. The EESC notes the Commission recommends that a progress report be carried out within 12 months of the adoption of the Recommendation, on the basis of relevant information from the Member States, on the implementation and suitability of this Recommendation to establish national Competitiveness Boards. Prior to the establishment of the boards a mapping exercise should evaluate the activities and effectiveness of existing and potential future bodies. Such a comprehensive review including the expertise of the social partners would support decision-making by making it possible to estimate the added value of such boards, carry out a cost-benefit analysis and gauge if there is the need for additional bodies.

4.3. The Commission quite rightly keeps emphasising the need to improve the transparency and democratic legitimacy of policy by fully involving the European Parliament, national parliaments and also relevant stakeholders of civil society, in particular the social partners. The EESC therefore calls for democratically accountable bodies to be duly involved in the questions of nomination and ratification of board members, of powers, of drawing up work programmes, of delivering reports and accounts etc. which need to be clarified if the boards are set up.

4.4. Before the establishment of competitiveness boards can be endorsed, the Commission must indicate the criteria for their independence and for the representation of balanced unbiased expertise to mirror the diversity of opinions including those of the social partners in order to dispel the doubts that exist about the existence of independent neutral expertise. Also the question of responsibility in the case of incorrect analyses or forecasts from the boards needs to be clarified.

4.5. The EESC, in noting the advisory nature of such bodies, seeks clarification by the Commission to be explicit as to the non-binding nature of the recommendations made by the competitiveness boards. The non-binding issue arises in particular in relation to protecting the autonomy of wage-bargaining parties. The Commission notes in its recommendation that the right to negotiate and conclude collective agreements should not be affected, but this assurance, which concerns only the right guaranteed by the Treaty⁽⁶⁾, is too weak. Any attempt to directly influence wage setting falls completely outside the remit of competitiveness boards.

4.6. The EESC notes the wider consideration of competitiveness beyond cost competitiveness. Other considerations in preventing the build-up of imbalances have to take into account the double character of wages (cost factor for enterprises, factor determining domestic demand; see point 5.5). Furthermore a symmetric approach towards surpluses and deficits is necessary to address imbalances adequately⁽⁷⁾.

5. EESC proposals

5.1. The EESC believes in the need to deepen EMU. Since the Committee has identified many unanswered questions in its above assessment of the Commission proposal, questions that require further analysis and clarification, a summary follows of its own relevant proposals submitted to date. In recent years, the EESC has adopted a number of opinions on the subject of 'deepening the EMU'⁽⁸⁾, the most recent being opinion ECO/380 on *The Community Method for a Democratic and Social EMU in 2015*⁽⁹⁾.

5.2. The EESC puts forward proposals for future EMU initiatives by the Commission in its opinion ECO/380. The EESC is convinced that such measures will help put an end to the divergences in the functioning of labour markets, wage-setting and social systems, systems which are needed in order to stabilise EMU and to deepen it from a democratic and social perspective. The EESC's approach is based on the idea that, within the overall context of monetary, budgetary and wage policy, confidence can be developed and greater convergence achieved without undermining the independence of collective bargaining.

⁽⁶⁾ TFEU Article 153(1): 'With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields: [...] and (5): 'The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs'.

⁽⁷⁾ See EESC opinion on *Economic governance review* (OJ C 268, 14.8.2015, p. 33) (point 3.2.3).

⁽⁸⁾ In particular on the political pillar: see EESC opinion on *Completing EMU: The political pillar* (OJ C 332, 8.10.2015, p. 8).

⁽⁹⁾ And before that EESC opinion on *Completing EMU: The political pillar* (OJ C 332, 8.10.2015, p. 8).

5.3. This will require measures to promote macroeconomic dialogue and above all to establish a macroeconomic dialogue in the euro area (MED-EURO). MED was launched in 1999 in order to achieve a sustainable and growth- and stability-oriented macroeconomic policy mix, i.e. smooth interaction between wage development and monetary and fiscal policy. This forum for coordinating the three big players in macroeconomic policy could, with the direct involvement of the social partners, make a key contribution to ensuring the necessary coordination, compliance with the EMU's common stability goal, and the democratic and social development of EMU. Its findings and conclusions should feed into both the Annual Growth Survey and the country-specific recommendations.

5.4. The Committee stresses once again the importance of promoting the role of the social partners and their involvement in policy-making. Some kind of macroeconomic dialogue is also of benefit at national level. There has been strong growth in competitiveness and productivity, mostly in those countries where there are robust social dialogue and industrial relations and where a high level of social protection and social cohesion is assured.

5.5. The wage-setting system should be left to the collective bargaining partners, without any interference from outside. Their autonomy has to be fully respected and guaranteed. They have the best understanding of the actual situation in relation to wage setting and labour markets. The collective bargaining partners take into account the fact that changes to wages have effects on both costs and demand. They are well aware that aligning wage increases with medium-term national productivity growth plus the ECB's target inflation rate has a neutral impact in terms of prices, competitiveness, domestic demand and income distribution⁽¹⁰⁾. The need for strengthening the macroeconomic dialogue is fostered by the fact that this awareness differs from Member State to Member State and sometimes finds no practical expression, thus giving rise to imbalances.

5.6. In the governance of the euro area there needs to be more active involvement of national parliaments and the European Parliament. The EESC calls for a grand EP committee comprising all members of parliament from the euro area and from those countries wishing to join, combined with stronger coordination among members of parliament from the euro area on EMU issues (COSAC+).

5.7. The EESC points out that the economic policy goals must be brought more into line with the EU's social policy objectives under Article 4(2) TFEU and that possible conflicts between economic and social objectives should be resolved. All measures under the European Semester — in accordance with the horizontal social clause — must be subject to a social impact assessment⁽¹¹⁾.

5.8. In addition, the EESC believes that short-term demand management and an effective investment programme to generate income through growth, social cohesion and solidarity are essential. This implies a need for a growth- and employment-friendly budgetary policy. There must be effective tax coordination in order to ensure that countries have an appropriate revenue base. Strong action to tackle tax fraud, tax havens and aggressive tax planning is also required.

5.9. On the expenditure side too, the Committee sees scope for more growth-friendly budgetary policies. Public investment is a key tool for economic recovery. The necessary investments in cutting-edge fields and in the social field (research, education, child care, social services, public housing, etc.) not only promote growth and jobs in the short term, but also raise potential output in the long run. Investment and growth, particularly in crisis-hit countries, are key to the process of catching up and thus removing imbalances.

5.10. The EESC welcomes the Commission's proposal not to include Member State contributions to the European Fund for Strategic Investments in budget deficit calculations. Since this is a question of expenditure that boosts growth potential and whose proceeds will also benefit future generations, financing should also be spread over several generations. Using the same reasoning, the Committee therefore asks once again⁽¹²⁾ why there cannot be identical treatment of future-oriented investments using the general budget, in the form of an investment golden rule.

Brussels, 17 March 2016.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹⁰⁾ See EESC opinion on *Annual Growth Survey* (OJ C 132, 3.5.2011, p. 26) (point 2.3).

⁽¹¹⁾ See EESC opinion on *The Community Method for a Democratic and Social EMU* (OJ C 13, 15.1.2016, p. 33) (point 1.5).

⁽¹²⁾ See EESC opinion on *An Investment Plan for Europe* (OJ C 268, 14.8.2015, p. 27) (point 4).

Opinion of the European Economic and Social Committee on the recommendation for a Council recommendation on the economic policy of the euro area

(COM(2015) 692 final)

(2016/C 177/07)

Rapporteur: Michael IKRATH

Co-rapporteur: Anne DEMELENNE

On 22 December 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:

Recommendation for a Council recommendation on the economic policy of the euro area

(COM(2015) 692 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 3 March 2016.

At its 515th plenary session held on 16 and 17 March 2016 (meeting of 17 March 2016), the European Economic and Social Committee adopted the following opinion by 201 votes to 3 with 6 abstentions.

1. Conclusions and recommendations

1.1. The EESC welcomes in principle the establishment of economic priority programmes to stimulate growth in euro area countries at the start of the European Semester. However, the Committee regrets that civil society, and the social partners in particular, were not consulted on the design and national processes of the European Semester.

1.2. The EESC believes that by means of these recommendations, the existing gap between the countries of the euro area and the other Member States must under no circumstances be extended but reduced. In particular, the aim is to keep an eye on the long term to develop the euro so it becomes the common currency of all Member States.

1.3. The EESC recognises the importance of the Commission document for the deepening of Economic and Monetary Union (EMU). As already pointed out in previous opinions ⁽¹⁾, the Committee is strongly in favour of further strengthening and completion of EMU. The Member States, acting both individually and collectively, should take all necessary measures to ensure more convergence and integration, especially in the economic field. This should go in parallel with progress towards establishing a euro area fiscal union (including a dedicated budget), social union, and a unified external representation in international financial institutions.

1.4. The EESC recognises the political need to provide the euro area with a solid political and institutional foundation, which is something that has so far not been provided for since the establishment of monetary union ⁽²⁾. Individual initiatives such as the creation of a banking union or a Capital Markets Union are to be welcomed, but do not replace the solid architecture that is required.

1.5. It is further noticeable that the recent investment programmes in job offensives have not sufficiently achieved their aims. To achieve a recovery of growth and employment a mix of financial, taxation, budgetary, economic and social policies is needed. In contrast to the recommendation of the Commission, the focus of fiscal policy should be designed to be more expansionist than neutral.

⁽¹⁾ See EESC opinions on 'Completing EMU — The proposals of the European Economic and Social Committee for the next European legislature' (OJ C 451, 16.12.2014, p. 10) and opinion on 'Completing EMU: The political pillar' (OJ C 332, 8.10.2015, p. 8).

⁽²⁾ Idem.

1.6. The EESC believes that a neutral fiscal stance, although preferable to continued fiscal austerity, is not appropriate under the current circumstances. Given that recession leads to lower growth potential, fiscal policies in the euro area have to do more than usual to stimulate the euro area economy as a whole. At this point, the risks from overheating economies are much lower than the risks from continued low inflation or deflation. Therefore, the EESC recommends a fiscal stimulus focusing on public investment: this would deliver stronger demand in the short term but also expand growth potential in the long term.

1.7. Furthermore, the EESC advocates the reduction of taxation on labour insofar as it does not threaten the financial sustainability of already fragile social protection systems. The EESC recalls that modern social protection systems should be based on the principles of solidarity and equality of opportunity and not just on the promotion of employability. Furthermore, the effect of robotics and digitalisation, which will disrupt jobs and have a likely impact on tax revenues, will have to be taken into account at a fiscal level.

1.8. The EESC welcomes that the 'flexicurity' concept has been reconsidered, but temporary contracts should ideally enable transitions to permanent contracts, not precarious jobs. In order to fight against growing social inequalities, it is necessary to create jobs and to focus on the quality of work. At the same time, the potential of the sharing economy should be used and must not be undermined; new forms of employment and work should be introduced for the benefit of society, without jeopardising workers' rights and social protection systems.

1.9. During the last eight years growth in the euro area has been suffering due to weak demand and not due to weak supply. Labour market adjustment has been unbalanced and asymmetric, having taken place mostly through lower nominal and real wages and unit labour costs in the Member States worst affected by the crisis. Therefore, the EESC concludes that structural reforms *alone*, aiming at improving the supply side of economies and thereby stimulating investment and growth, cannot be the answer to the problem of weak recovery. At the very least, structural reforms that may have positive effects on demand in the short term and even under credit constraints for households and firms should be prioritised.

1.10. The EESC also calls for a coordinated effort to create a more business-friendly environment for small and medium enterprises (99 % of EU companies and about 60 % of workers, or about 65 million people) through better regulation and consistent reduction of bureaucracy, and ensuring sufficient and adequate financing ('Access to Finance')⁽³⁾ as well as a systematic facilitation of exports to markets outside the European Union. This generates business scope for investment in growth and jobs.

1.11. The EESC welcomes the initiatives for SME financing within the Capital Markets Union. Nevertheless, there is a particular need to open up new funding opportunities for micro-enterprises and start-ups such as seed capital, venture capital, crowd investing and financing, and innovative forms such as private equity. In this context, the EESC stresses the need for the planned creation of an EU venture capital fund. An evaluation is urgently required to discover the opportunities that the new models of banking⁽⁴⁾ might offer for corporate financing in the EU.

2. Background

2.1. Following the Five Presidents' Report on Completing Europe's Economic and Monetary Union, there is a renewed approach within the European Semester to strengthen the integration between the euro area and the national levels. For the first time, the Commission is publishing a recommendation for the euro area in November, together with the 2016 Annual Growth Survey, in order to integrate better the euro area and national dimensions of EU economic governance.

⁽³⁾ See the EESC opinion on 'Action plan on building a capital markets union' (OJ C 133, 14.4.2016, p. 17).

⁽⁴⁾ See for example comments in previous EESC opinions on 'Financing structures for SMEs in the context of the current financial situation' (OJ C 48, 15.2.2011, p. 33) and opinion on 'An action plan to improve access to finance for SMEs' (OJ C 351, 15.11.2012, p. 45) regarding Islamic finance.

2.2. The aim is to offer opportunity for discussions and recommendations about the euro area, ahead of country-specific discussions, so that common challenges are fully reflected in country-specific actions. This is an important change from the previous semester cycles where the euro area recommendations came towards the end of the semester, at the same time as the country-specific recommendations.

2.3. The Commission presented four recommendations on the economic policy of the euro area:

- pursue policies that support the recovery, foster convergence, facilitate the correction of macroeconomic imbalances and improve adjustment capacity,
- implement reforms that combine flexible and reliable labour contracts, comprehensive life-long learning strategies, effective policies to help the unemployed re-enter the labour market, modern social protection systems and open and competitive product and services markets. Reduce the tax wedge on labour, particularly on low-earners, in a budgetary-neutral way to foster job creation,
- maintain the planned broadly neutral fiscal stance in 2016. With a view to 2017, reduce public debt to restore fiscal buffers while avoiding pro-cyclicality, in full respect of the Stability and Growth Pact, and
- facilitate the gradual reduction of banks' non-performing loans and improve insolvency proceedings for businesses and households.

3. General comments

3.1. For the first time, the draft euro area recommendations are published at the start of the European semester cycle alongside the Annual Growth Survey (AGS), the Alert Mechanism Report (AMR) and the draft Joint Employment Report. The EESC agrees that this new process can help to better take into account euro area wide considerations in the design of national policies presented in stability programmes and national reform programmes.

3.2. The EESC regrets that the social partners and civil society at large were not consulted on the design of the draft euro area economic recommendations and that national processes are not yet adjusted to this new semester process. In the framework of the EU Semester, social dialogue can be a driving force for successful, sustainable and inclusive economic, employment and social reforms. Social partners at all levels should agree with the relevant public authorities on a real, timely and meaningful involvement in the EU Semester. In addition, the EESC strongly recommends a continuous and close cooperation between the ECO section of the EESC and the ECON Committee of the EP in the future.

3.3. The EESC supports the focus on a coordinated approach by all Member States of the euro area but also across monetary, fiscal and structural/supply-side policies. Further, the EESC suggests that the focus of structural reforms should be put on political measures, so that the economic recovery can be supported in the short term. As far as the flexibility of labour markets is concerned, this should not result, as in previous years, in a loss of purchasing power in the workforce, so that domestic demand will not be compromised as a key growth driver. This means that the competition is to be led through increased quality and productivity growth through innovation and not through low prices and wages.

3.4. Although the EESC recognises the enormous challenges of further strengthening and developing the euro that are required at this time and will be required in the near future to provide lasting protection for the euro and for the euro area, it believes the following objectives are desirable:

- establishment of a unified external representation of the euro area in international fora (International Monetary Fund, OECD, etc.)⁽⁵⁾,

⁽⁵⁾ See EESC opinion on 'Euro area external representation' (see page 16 of this Official Journal).

- establishment of a euro fiscal union,

- establishment of a social union, meaning that the social partners need to be included even more by the Commission, the Council and Parliament in all legislative initiatives.

3.5. In view of the EU Multiannual Financial Framework (MFF) 2014-2020 mid-term review and in preparing the reflection on the MFF post-2020, the EESC suggests that the euro area must have a dedicated budget that should: (i) provide a temporary but significant transfer of resources in case of regional shocks; (ii) counteract severe recessions in the area as a whole; (iii) ensure financial stability. In the same vein, the euro area must have — as a first step towards an economic government — its own finance minister with a dedicated own-resources system guided by the principle of simplicity, transparency, equity and democratic accountability.

4. Specific comments

4.1. *Macroeconomic imbalances*

4.1.1. The EESC agrees with the Commission that structural reforms in the Member States should continue according to country-specific circumstances in order to foster convergence and facilitate the correction of macroeconomic imbalances. However, there must be a balance between structural reforms and investment in productive activities leading to the creation of jobs.

4.1.2. The EESC welcomes the European Commission recommendation that Member States with large current account surpluses should implement as a priority measures that help to channel excess savings towards the domestic economy and thereby boost domestic investment. However, such measures should not be limited to the supply side (for example, reforms in product markets) but also include more decisive government initiatives on the public investment front as the current Juncker plan ⁽⁶⁾.

4.1.3. The EESC believes state subsidies should align in particular with innovative SMEs. In order to provide this category of enterprise with easier access to finance, it is the responsibility of the state, on the one hand to grant financing that provides an impulse, and on the other hand to provide a system of public guarantees and warranties. The relevant interaction between the state, SMEs and universities and research institutions is an important element of the investment system.

4.1.4. The EESC highlights the fact that exports represent a key growth driver for the SMEs in the euro area. In addition to the favourable euro-dollar rate caused by the ECB monetary policy, Free Trade Agreements are essential in order to increase exports. Although the EESC supports the current focus on negotiating TTIP it also equally recommends concluding an agreement that will facilitate market access for European companies in their trade with high-growth emerging markets. It is important to ensure that human rights and ILO standards are respected, along with consumer rights and environmental regulations in force within the EU.

4.2. *Labour, product and services markets*

4.2.1. The EESC notes that although, as the European Commission reports, labour markets continue to gradually improve, there is no mention of the fact that the employment rate in the euro area at 68,9 % in 2015 is still well below the Europe 2020 headline target of 75 %. The EESC notes that according to evidence provided by the European Commission services (Labref database), there does not seem to be any positive relation between the number of labour market reforms implemented at any stage (before or after the crisis) and the labour market performance of Member States ⁽⁷⁾.

⁽⁶⁾ OFCE, ECLM, IMK, AK-Wien, INE-GSEE (2015), *The Independent Annual Growth Survey 2016*, Paris.

⁽⁷⁾ ETUI/ETUC (2015), *Benchmarking working Europe 2015*, Brussels, ETUI, p. 26.

4.2.2. Structural reforms in the labour markets must favour social investment, that is to say measures which support the continuous training of employed and unemployed workers and ensure that their financial security — particularly of the unemployed — is promoted. Furthermore, the EESC supports the reduction of taxation on labour, provided it is compensated by other sources of public revenue. In the medium term, higher labour market participation can also contribute to this process.

4.2.3. To solve the European competitiveness and sustainability problem, the EESC recommends establishing a digital holding following the model of the very successful Airbus Group. This multinational cooperation includes several subsidiaries of different EU Member States and is a key player in the European economy and industry.

4.2.4. US digital dominance already represents a new form of global dominance. Particularly dramatic effects can be seen in the financial sector, where the big American investment banks have already created the strongest capital ties with the innovative FinTechs, which in turn threaten the European model of the classic retail banks ('boring banks') and can successfully compete against them in their core functions.

4.2.5. To design and develop the details of a comparable model of a European Digital Holding the EESC suggests the short-term creation of an interdisciplinary project group. This group should include representatives of the Commission (Commissioner Oettinger) and the EU Parliament (ITRE Committee) and be run with the involvement of the EESC. As regards the question of financing, it is important from the outset to pay attention to compatibility with the Juncker Investment Plan. Strong impetus for growth and new jobs will be opened up by close cooperation between the competence units of the digital holding with the SMEs themselves.

4.3. *Fiscal policies*

4.3.1. The EESC welcomes the European Commission emphasis on considering the fiscal stance for the euro area as a whole when shaping guidelines for national fiscal policies. However, the EESC notes, without prejudice for the independence of the ECB, the remarkable absence of an analysis of the developments in the monetary policy developments in the euro area in assessing the appropriateness of a neutral fiscal policy stance. This is at least odd, given that members of the ECB governing council have been repeatedly and publicly referring to the fiscal policies of the euro area ⁽⁸⁾.

4.3.2. This is a worrying omission insofar as the euro area is currently in a situation where the capacity of the monetary policy to stimulate demand is severely limited. Demand has been weak for so long that inflation (even when not taking into account oil prices) is well below the ECB target of 2 %, while the main policy interest rates of the ECB are almost zero, not allowing any further substantial reductions. The euro area economy is in a so-called 'liquidity trap' and is at risk of falling into a 'deflation trap' should inflation not pick up soon. If that happened, then the euro area economy would remain in stagnation for many years, eventually threatening the political viability of the euro.

4.3.3. The unconventional policy of quantitative easing pursued by the ECB in earnest since early 2015 does not seem to have made a considerable difference ⁽⁹⁾ in stimulating demand. Under such circumstances and given the presence of 'hysteresis' phenomena mentioned above (where recession leads to lower growth potential), fiscal policies in the euro area have to do more than usual to stimulate the euro area economy as a whole ⁽¹⁰⁾. Given the fiscal policy limitations in Member States at the south of the Eurozone, fiscal policies in Member States with below target inflation, low public borrowing costs, comparatively low public debt/GDP ratios and current account surpluses should expand to push inflation above the ECB target of 2 %, so that on average inflation in the euro area can accelerate again to approach the target. At this point, the risks from overheating economies are much lower than the risks from continued low inflation or deflation.

⁽⁸⁾ The most prominent example was the speech 'Unemployment in the euro area' by President Draghi at Jackson Hole in August 2014 (<https://www.ecb.europa.eu/press/key/date/2014/html/sp140822.en.html>).

⁽⁹⁾ <http://epthinktank.eu/2015/12/10/the-ecbs-quantitative-easing-early-results-and-possible-risks/>

⁽¹⁰⁾ Theodoropoulou S. (2015), *How to avert the risk of deflation in Europe: rethinking the policy mix and European economic governance*, Brussels ETUI.

4.3.4. Given, however, concerns about public debt sustainability, against a background of demographic developments, expansionary fiscal policies, especially in Member States with large current account surpluses, can and should expand by increasing spending on public investment. A fiscal stimulus focusing on public investment would deliver stronger demand in the short term but also expand growth potential in the long term. Such public investment could focus not just on infrastructure but also on education and skills policies ('social investment').

4.4. *The financial sector*

4.4.1. The EESC calls for the creation of a European insolvency law, on the one hand to open up the possibility of debt relief for households and on the other hand to make it easier for start-ups to deal with business failure. In this way households will have increased purchasing power and the start-ups will be encouraged.

4.4.2. A still unsolved but serious problem is the fact that there are approximately EUR 900 billion of non-performing loans in existence in the euro area banks. It is only by reducing them that the banks will be able to expand their lending to businesses and households, thereby increasing the effectiveness of the loose monetary policy of the ECB to enhance the growth outlook and strengthen market confidence. The relevant political and regulatory institutions of the euro area should be required to submit relevant concepts on this topic.

4.4.3. As one of the central aims as a consequence of the financial crises, there was a consensus to decrease significantly sovereign risks in the balance sheets of the European banks. The present situation of most of the banks shows that the sovereign risks have dramatically increased. The EESC underlines that the first priority should be to reduce these sovereign risks in the balance sheets to guarantee future stability of the banking and financial sector, also in the light of the recent EDIS proposal⁽¹⁾.

4.4.4. The EESC notes that for any positive effects on demand to materialise, households and businesses should not be liquidity constrained. Restoring positive credit flows would help stimulate demand but also help to increase the effectiveness of the monetary policy of the ECB in improving the growth outlook and strengthen market confidence. The relevant political and regulatory institutions of the euro area should be required to submit relevant concepts on this topic.

4.4.5. Furthermore, the EESC calls for the reform agenda and for the regulatory bodies to lay more emphasis on greater transparency and on the supervision of non-banks or shadow-banks in order to sustainably secure the stability of financial systems and restore their function for the real economy, in particular in the field of securitisation⁽¹²⁾. It should be ensured that securities are not to be used as speculative investment instruments by hedge funds and financial institutions who have yield-maximising objectives to meet (vulture funds).

4.4.6. Since the financial crisis was in large part caused by the speculative activities of the investment banks, the speculative banking business remains a latent threat to financial market stability. It still has not been thoroughly examined how highly speculative trading activities such as high frequency trading can take place when the objective is more stable markets in the world, and it is necessary to strictly separate the low-risk investment practices and the lending business from the high-risk activities of investment banking. To this end, there are already a number of models such as the Vickers model and the Volcker-Rule. The EESC recommends the establishment of a Glass-Steagall Act in the European Union, as other financial markets (such as the USA and the BRICS countries) are discussing to reinstall it to improve the stability of the banking sector. This would avoid risks for savers and tax payers.

Brussels, 17 March 2016.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹¹⁾ See EESC opinion on 'European deposit insurance scheme' (see page 21 of this Official Journal).

⁽¹²⁾ See EESC opinion on a legal framework for securitisation (OJ C 82, 3.3.2016, p. 1).

Opinion of the European Economic and Social Committee on the ‘Proposal for a regulation of the European Parliament and of the Council on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013’

(COM(2015) 701 final — 2015/0263 (COD))

(2016/C 177/08)

Rapporteur: Ioannis VARDAKASTANIS

On 2 December 2015, the European Parliament and, on 20 January 2016, the Council decided to consult the European Economic and Social Committee, under Articles 175(3) and 304 of the Treaty on the Functioning of the European Union, on the:

Proposal for a regulation of the European Parliament and of the Council on the establishment of the Structural Reform Support Programme for the period 2017 to 2020 and amending Regulations (EU) No 1303/2013 and (EU) No 1305/2013

(COM(2015) 701 final — 2015/0263 (COD)).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 3 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 16 March 2016), the European Economic and Social Committee adopted the following opinion with 153 votes in favour and 3 abstentions.

1. Conclusions and recommendations

1.1 The EESC welcomes the initiative aimed at enhancing the capacity of the European Union (EU) to support structural reform at national level through a specific funding mechanism such as the Structural Reform Support Programme (SRSP).

1.2 The EESC regrets that the total budget allocated to this fund falls far short of what is needed for the macroeconomic policy reforms in the EU; it further regrets that the funding for the SRSP comes from existing ESIF (European Structural and Investment Funds) resources, and calls for a balance to be struck between the financial needs in the area of technical assistance in the ESIF and the financial needs in the area of technical support for the SRSP. The EESC calls for future reforms of the EU Multiannual Financial Framework to create a self-supporting structural reform support programme.

1.3 In order to ensure the success of the SRSP, the EESC strongly recommends that the following conditions be guaranteed:

- Member States’ contributions to the structural reforms pertaining to the SRSP are considered under the ‘structural reform clause’ of the Stability and Growth Pact,
- the SRSP remains voluntary for Member States and does not involve compulsory, stigmatising procedures,
- central focal points are designated in order to ensure complementarities between programmes and funds and better use of funds to avoid overlaps.

1.4 The EESC calls strongly for the inclusion of social partners and civil society in the SRSP, ensuring:

- that the process of identification and initiation of the support includes broader consultation of the social partners and civil society, in line with national regulations,

- incorporation of more stringent provisions requiring social and civil partners to be included in the design and monitoring of reform policy programmes at all levels: national, regional and local,
- that the eligible actions include capacity building for social and civil society players involved in policy reform programmes.

1.5 The EESC stresses that, in view of the division of powers and responsibilities applying in each Member State and the Country Specific Recommendations often addressed to local and regional authorities, the programme must be open to local and regional authorities, which must be directly involved in putting together the structural reform project in question.

1.6 The EESC regrets that the list of indicators seems to be insufficient, requiring both updating and incorporation of the existing indicators from the ESIF.

1.7 The EESC stresses that the Member States can extend the 'Specific objectives and scope of the Programme' to other policy areas, such as combating poverty, human rights, transport policies, ICT and the implementation of sustainable development goals.

1.8 The EESC believes that the SRSP could make use of the current existing monitoring mechanisms for the ESIF, in order to ensure higher quality monitoring and evaluation, better coordination with the ESIF and the best value for money from the control mechanisms already in operation.

1.9 To this end, the EESC supports the amendments to Regulations (EU) No 1303/2013 and (EU) No 1305/2013 as proposed by the European Commission, provided that they include a provision ensuring that funds transferred to the new programme comply with the participatory requirements for social partners and civil society and are subject to the same monitoring mechanism as in the ESIF Common Provisions Regulation (CPR).

1.10 The EESC considers that while useful, such minor support measures can only be palliative. In order to resolve the problems generated by the ongoing crisis, the Commission and national governments should overhaul the economic policy in force in the euro area since the crisis began. This is the only way to facilitate structural reforms, avoid the damage done to date and avoid turning Europeans 'against' the EU.

2. General comments

2.1 The EESC considers that the European Union could add value to the policy reforms undertaken at national level and therefore welcomes the initiative, which will enhance its capacity to support policy reform linked to the implementation of economic governance processes (in particular the Country Specific Recommendations), economic adjustment programmes, and reforms undertaken by the Member States at their own initiative, as specified in Article 3 of the current proposal.

2.2 The EESC believes that the support programmes for Greece (Task Force for Greece) and Cyprus (Support Group for Cyprus) have proved to be useful for the countries targeted, and that opening up the possibility of requesting such a support mechanism for all Member States will enhance overall capacity for institutional, structural and administrative reforms.

2.3 However, the EESC regrets that in the past the EU's capacity to support technical assistance for policy reform was reduced. The consequence was that the EU did not have the capacity to deal fast enough with situations requiring policy reform in times of crisis, and as a result other international organisations became active and took the lead.

2.4 The EESC also regrets that the current proposed programme is financed from existing EU funds instead of creating a self-supporting programme, which would not diminish other funds focusing on structural reforms. Moreover, the EESC considers that the SRSP initiative as planned does not have the capacity to meet the demand from Member States for technical support owing to its financial limitations.

2.5 The EESC points out that this technical assistance programme cannot and should not be overestimated, and that it should be seen as a means to help Member States achieve macroeconomic balance under the semester process. The funding is insufficient to provide real impetus for the macroeconomic challenges faced by Member States striving for convergence.

2.6 The EESC also stresses that Member States' contributions to the structural reforms pertaining to the SRSP should be considered under the 'structural reform clause' of the Stability and Growth Pact as a way to achieve growth, combating poverty, fighting unemployment and bringing prosperity.

2.7 The EESC believes that it is important to change the attitude to structural reforms to avoid stigma or punishment and prevent them creating a bureaucratic trap. The new approach should encourage reforms and understanding between countries; the EESC is therefore pleased to see that the programme incorporates a positive approach and highlights the voluntary nature of the mechanism as a means to ensure that the programme is not used and/or perceived as an instrument of control or for overcoming national authorities' responsibilities in their reform programmes. However, it highlights the need for the countries to be required to record the support and the success of the programme with sound, democratic, accountable reporting processes.

2.8 The EESC welcomes the fact that the Structural Reform Support Programme (SRSP) is launched following a request from a Member State, but highlights the need for the process of identification and initiation of the support to include broader consultation of the social partners and civil society, in line with national regulations.

2.9 The EESC stresses that, in view of the division of powers and responsibilities applying in each Member State and the Country Specific Recommendations often addressed to local and regional authorities, the programme must be open to local and regional authorities. Moreover, the EESC calls on the Commission to verify that, where requests for technical assistance submitted by the national authorities concern areas which fall within the remits of regional or local authorities, the latter have been directly involved in putting together the structural reform project in question and have endorsed it.

2.10 The EESC also welcomes the proactive approach of the SRSP, which extends the scope of support to all Member States regardless of their economic situation, and therefore highlights the fact that the programme needs to be seen as a mechanism for long-term structural support and not just as a response to economic and/or financial downturns.

2.11 The EESC emphasises the need to keep Article 5 'Specific objectives and scope of the Programme' as a non-exhaustive list in order to maintain the flexibility needed to address policy reforms. The EESC believes that the proposed list is quite comprehensive, but it suggests extending the list to other policy areas such as combating poverty, promoting human rights, transport policies, ICT and the implementation of sustainable development goals by the Member States.

2.12 The EESC strongly believes that policymaking in the European Union has to be carried out with the active participation of the general public, as a 'partnership which involves all partners as defined in Article 5(1) of the Common Provisions Regulation (CPR) in the preparation, execution and *ex post* evaluation of projects undertaken in the framework of EU cohesion policy contributes directly to the success' of the European Structural and Investment Funds (ESIF). The EESC therefore believes that the new SRSP should incorporate more stringent provisions for social and civil partners to be included in the design of reform policy programmes at all levels: national, regional and local. This will help close the gap between policymakers and the public.

2.13 The EESC believes that the SRSP could make use of the current existing monitoring mechanisms for the ESIF; this could ensure higher quality monitoring and evaluation, better coordination with the ESIF and the best value for money from the control mechanisms already in operation.

2.14 The EESC believes that the SRSP needs to be implemented in compliance with the ESIF Common Provisions Regulation (other than Articles 25, 58 and 91), which provides a more developed support structure than the current proposed programme.

2.15 The EESC recommends that the eligible actions (Article 6) include capacity building for social and civil society players involved in policy reform programmes.

2.16 The EESC is keen to ensure that the new budget envelopes, sourced from the ESIF, strike a balance between the financial needs in the area of technical assistance in the ESIF and the financial needs in the area of technical support for the SRSP, in order to ensure proper technical assistance capacity for both funds.

2.17 The EESC recognises the importance of the crosscutting approach taken by the SRSP in order to support reforms, but calls on EU and national authorities to avoid overlaps with sector-specific programmes. The EESC therefore believes that there is a need to designate central focal points in order to ensure complementarities between programmes and funds and better use of funds in order to avoid overlaps. Article 13 should be enhanced in order to incorporate more elements into the coordination mechanism.

2.18 The EESC is keen to receive more information in the future about the coordination mechanisms that will be created for this fund.

2.19 The EESC regrets that the list of indicators seems to be insufficient and highlights the importance of appropriate indicators for monitoring and evaluating the programme, but would point out that the ESIF includes an extensive list of indicators that could complement those proposed by the SRSP. There is a need to update the EU indicators for measuring the impact of the reforms in order to ascertain their degree of success, linking them with a context of economic and social progress. Indicators should also reflect whether the impact remains national or brings real European added value.

2.20 The EESC welcomes the provision for the co-financing rate to rise to 100 % of eligible costs, as this will facilitate access to the programme for Member States.

2.21 The EESC believes that the SRSP is an initial step that needs to be consolidated and reinforced in future reforms of the EU Multiannual Financial Framework, in order to create a self-supporting programme with no need to undermine the budget envelopes of other existing EU support funds.

2.22 To this end, the EESC supports the amendments to Regulations (EU) No 1303/2013 and (EU) No 1305/2013 as proposed by the European Commission, strongly urging the latter to take on board the conclusions and recommendations included in this opinion.

2.23 However, the EESC proposes that the amended Regulations should provide for the funds transferred to new programmes to comply with the participatory requirements and be subject to the same monitoring mechanism as the ESIF. This should equally be reflected in the proposed SRSP regulation, and the current text amended to include specific provisions and references to the ESIF CPR monitoring system.

Brussels, 16 March 2016.

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 implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives’

(COM(2015) 624 final)

and the

‘Proposal for a directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism’

(COM(2015) 625 final — 2015/0281(COD))

(2016/C 177/09)

Rapporteur: Cristian PÎRVULESCU

On 22 December 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 implementing the European Agenda on Security: EU action plan against illicit trafficking in and use of firearms and explosives

(COM(2015) 624 final)

and the

Proposal for a directive of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism

(COM(2015) 625 final — 2015/0281(COD)).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 24 February 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 17 March), the European Economic and Social Committee adopted the following opinion by 145 votes to none, with 3 abstentions.

1. Conclusions and recommendations

1.1 The Committee encourages the Member States to pool resources to combat both trafficking in firearms and ammunition and terrorism. However, increasing the number of European and national safeguards can have a cumulative effect and harm fundamental rights. If fundamental rights are harmed, the EU will fail to achieve its fundamental task.

1.2 The European Economic and Social Committee considers that the proposal for a directive and the communication are necessary to make Europe more secure for everyone who lives there, as the fight against terrorism is a competence shared between the Member States and the EU. This throws open the debate on the potential compulsory measures which the directive could attempt to impose on Member States. The Member States are responsible for doing everything possible to prevent and combat all forms of organised crime and terrorism in particular, irrespective of its motivation. Likewise, the EU institutions are responsible for helping to coordinate and harmonise efforts to curb the spread of this type of violent crime.

1.3 The EESC stresses and urges that the principle of proportionality — which is absolutely fundamental to any state governed by the rule of law — must be respected by all state authorities and courts. In order to prevent misinterpretation or abuse of the necessary security measures, the EESC, in accordance with Resolution 1566 of the UN Security Council, notes that an accusation of terrorism can only be made when threats or acts used to cause death or serious bodily injury, hostage-taking or serious infrastructure damage are intended to provoke a state of terror, intimidate a population or coerce a government.

1.4 These legislative changes are part of a broader effort, which faces difficulties in the current international political situation, to tackle a type of threat which by its nature targets the very foundations of Europe's democratic systems. The spread of fear, divided public opinion, the encouraging of stereotypes about specific groups, the undermining of the balance between public authorities, and defence and security institutions gaining at the expense of democratic and representative institutions — this is what terrorist action aims to achieve, and we must stand firm and act boldly to stop it. The Committee believes that it is possible to be both *secure* and *free* in Europe.

1.5 The Committee considers that it is dangerous for any democracy to legislate against anticipated crimes (criminalising offences or crimes which have not yet been committed). Article 3(2)(i) of the proposal must be removed to avoid confusion between justice and security. Similarly, Article 15 of the proposal for a directive does not guarantee public freedom or the presumption of innocence. The Committee is also concerned about the issue of proving intention and considers that all the cases listed in Articles 5 to 13 must be submitted to a judge so that the charges can be confirmed.

1.6 The Committee considers that tools to prevent radicalisation must be developed as part of a broader programme which factors in the social, economic, cultural, religious and political causes of the spread of this type of threat, and that they must be coordinated with action to combat and punish terrorism. However, radicalisation does not automatically mean predisposition or instigation to violence. Prevention policies and programmes must target individuals and groups most predisposed to use violence for the purpose of terrorism. The role of civil society is crucial in dealing with the conditions which foster radicalisation and the predisposition to use violence.

1.7 In addition to clarifying legislation and improving cooperation between the Member States in the abovementioned areas, steps must be taken to coordinate Europe's foreign policy in the Middle East and North Africa, a region which has recently undergone major changes, many of them violent and which, in some cases, have led to instability and conflict. In recent years, the terrorist threat has become so serious because of open conflict zones which act as a hub and provide inspiration and training for many European citizens. The existence of extended conflicts in this region, even frozen conflicts, will also encourage groups and individuals to organise terrorist action. The Committee considers that a clearer commitment to stabilisation, development and democratisation efforts in this region must be a priority. Priority must be given to combating poverty, corruption and political and social exclusion.

1.8 The Committee considers that drastically curbing access to firearms, ammunition and explosives must be a priority for the Member States and the European institutions. The recent attacks in Europe have shown that people involved in terrorist activities can acquire dangerous firearms on the black market where there is a wide range available. Links between terrorist groups and organised crime are a major threat to the security of people in Europe and elsewhere.

1.9 The Committee supports the clarifications to the legislation on the victims of terrorism. The victims of terrorism must be supported swiftly and efficiently, both immediately after the event and in the medium and long term. We also need to gain a deeper understanding of the social, economic and psychological effects of terrorist attacks on communities, individuals and industries. The Committee urges the European Commission to look into these aspects and to propose the necessary measures based on the resulting findings. The recent attacks can affect industries such as tourism and transport, and the European and national institutions have a responsibility to develop support programmes. The Committee points out that preventing and combating terrorism has a price tag, and the EU must consider providing financial support for Member State action in this area.

2. The current situation: reconciling the need for greater security with fundamental rights

2.1 As it pointed out in its opinions on the Hague programme, the Stockholm programme and the communication on *An open and secure Europe*, the Committee believes that policies on freedom, security and justice must be based on and begin by ensuring seamless and non-discriminatory protection for the fundamental rights guaranteed by the European Convention on Human Rights and the EU Charter of Fundamental Rights ⁽¹⁾.

2.2 With regard to combating terrorism, the Committee considers that in the current international situation, the current legal framework needs to be revised in order to criminalise acts associated with terrorist activities. The Committee notes that in the section on fundamental rights (chapter 3 of the explanatory memorandum), the proposal for a directive excludes any form of arbitrariness and, as in previous opinions on this subject, points out that fundamental rights and the need to maintain a stable, functional democratic environment despite this threat must be given priority ⁽²⁾.

2.3 The Committee flags up the importance of maintaining the Schengen area, the embodiment of the principles enshrined in the Treaty. The Committee urges the Member States not to resort to ways to limit movement inside the EU.

2.4 The Committee is fully aware of the extremely challenging current geopolitical situation, and notes that the proposal for a directive does not contain definitions clear enough to guarantee the rights recognised by the Charter of Fundamental Rights and enshrined in the Treaty. The Committee points out that there is too great a margin for interpretation and that in the current circumstances, terms are interpreted not by judges but by prosecutor's offices and law enforcement. The Committee also points out that there might be a temptation, at national and European levels, to shift exceptional measures into common law, as could be suggested by a proposal for a directive in an area of shared competence.

2.5 The Committee welcomes implementation of the interoperability of digital information systems, insofar as they are designed to help curb terrorists. The Committee therefore believes that the Schengen Information System (SIS) is a key part of the EU's information mechanism and urges decision makers to do their utmost to ensure that all Member States participate in it.

3. General and specific comments

3.1 *The EU action plan against illicit trafficking in and use of firearms and explosives*

3.1.1 *General comments*

3.1.1.1 The Committee endorses the proposals set out in the communication. Institutional cooperation between the Member States must be significantly improved, both as regards information exchange and linking up existing databases. Particular emphasis should be given to training programmes for national authority staff, which have not been a priority to date.

3.1.1.2 The Committee considers that interoperable databases and encouraging national agencies to collect data are key to correctly analysing the control of the use of firearms and explosives.

3.1.1.3 The Committee welcomes the focus on disrupting illicit firearms supply via the internet (open and darkweb) and on the risks stemming from technological innovation, such as 3D printing.

3.1.1.4 Although further efforts are needed as regards using and harmonising the use of detection tools, the Committee wishes to flag up the danger involved in creating a market for them. Businesses wanting to sell these tools might exaggerate the potential security risks and thus encourage people to be afraid. Similarly, the Committee would not endorse making detection tools general practice; they should be used selectively on the basis of need and risk.

⁽¹⁾ OJ C 451, 16.12.2014, p. 96.

⁽²⁾ OJ C 218, 23.7.2011, p. 91.

3.1.1.5 The Committee would encourage the Commission to support close cooperation between Europol, INTERPOL, the main iTRACE actors and other relevant bodies, such as customs and firearms import-export licensing authorities, to optimise operational cooperation, traceability and the prevention of firearms being diverted onto the illicit market.

3.1.1.6 The Committee is pleased that the Commission intends to enhance operational activities and enlarge the scope of the EU-South East Europe Action Plan, and to strengthen cooperation with Middle East and North African countries (MENA). Cooperation with third countries is very important in this area as well.

3.1.1.7 The Committee points out that there are institutional problems in most of these countries, particularly as regards police integrity. In addition to cooperation on firearms, the EU must promote and support institutional reform in these countries.

3.2 *The directive on combating terrorism*

3.2.1 *General comments*

3.2.1.1 The Committee considers that laws and institutional procedures must continuously adapt to security situations and risks. Recent events have shown that terrorism is becoming international, owing to communication infrastructure and the existence of conflicts in the Middle East and North Africa.

3.2.1.2 Financing, training, inciting and travel for the purposes of terrorism are all actions related to terrorist acts. The Committee urges the EU institutions and Member States to abide by the proportionality principle, and to reflect the seriousness and intention of these actions when criminalising and combating them.

3.2.1.3 The Committee also endorses the criminalisation of actions encouraging or coordinating terrorist acts; such actions are generally carried out by people who do not act directly but rather work through other people.

3.2.1.4 At the same time, the Committee is concerned at the capacity and varying degrees of willingness of the Member States to safeguard fundamental rights and ensure that the provisions of the Constitutions and international treaties are upheld in practice. The establishment of a state of emergency in France following the terrorist attacks at the end of last year enabled the state to introduce a number of measures questioned by civil society organisations from the point of view of fundamental rights⁽³⁾. The Committee urges national authorities to carry out their remit proportionately and efficiently and to avoid measures which will have unintended effects. Terrorism can only be prevented and combated by respecting the rule of law, fundamental rights and international treaties. The Committee considers that some form of continuous monitoring of Member State action on terrorism is needed, and therefore asks the European Commission to consider establishing procedures to identify and remedy any inappropriate measures. One option would be to use the mechanism for checking compliance with the rule of law (established by the European Commission) which identifies misconduct and stipulates procedures for correcting it.

3.2.1.5 With a view to efficient coordination of action to prevent and combat terrorism and deal with the effects of terrorism, and a uniform approach including compliance with fundamental rights, the Committee asks the Commission and the other European institutions to consider establishing a European anti-terrorism agency.

⁽³⁾ See report on *France: Abuses under State of Emergency. Halt Warrantless Search and House Arrest*, Human Rights Watch (HRW), 3 February 2016 and the report on *Devant l'urgence, que deviennent les principes de l'Etat de droit?* (Dominique Guibert), European Association for the Defense of Human Rights (AEDH).

3.2.2 *Specific comments*

3.2.2.1 With regard to the definition of terrorist offences (Title II, Article 3), there is a danger that terrorism and related acts may be defined much too broadly.

3.2.2.2 For instance, Article 3(2)(d) states that ‘causing extensive destruction (...) to an infrastructure facility, including an information system’ could be considered terrorism. It is unclear whether hacking could be considered a terrorist act. There have been cases where such action aims to disseminate documents of public interest, and even if obtaining and publicising such documents is a criminal act, it does not fall under the standard definition of terrorism.

3.2.2.3 Article 3(2)(i) states that ‘threatening to commit’ a terrorist act is equivalent to committing one. This point is extremely problematic, particularly where the proportionality principle is not upheld. A threat cannot equate to commission, because it is a potential act and not an act which has been committed. The Committee proposes that Article 3 (2)(i) of the proposal for a directive be removed.

3.2.2.4 With regard to ‘public provocation to commit a terrorist offence’ (Title III, Article 5), the offence is not defined clearly. As freedom of the press and freedom of speech are guaranteed, it is unclear when informing the public of a terrorist attack ceases to be information and becomes provocation. Similarly, with the rise of social media platforms, where each user also generates content, it is extremely difficult to track and identify correctly what constitutes information as opposed to provocation.

3.2.2.5 With regard to criminalising travelling abroad for terrorism (Title III, Article 9), the definition of ‘for terrorism’ is extremely unclear. The situation is quite clear when someone organises an attack or takes part in training, but it is far from clear when someone takes part in an uprising, armed rebellion or civil war as in Syria or Libya. Does participation in a quasi-conventional war constitute travelling abroad for terrorism⁽⁴⁾? There may be other cases of European combatants fighting alongside insurgent groups which are classified as terrorist groups by the national governments of the country in which they are fighting or by third governments.

3.2.2.6 One related issue is that it is extremely difficult to determine whether a group is ‘terrorist’ in nature. Analytical and institutional issues come into play. The EU has its own system for listing and delisting terrorist organisations, particularly those on the autonomous list operated separately from the UN list⁽⁵⁾. National practice and definition of a terrorist organisation may differ from European practice, and in this case coordination between Member States and EU institutions, particularly those which are competent in this regard (such as Europol) is necessary.

3.2.2.7 With regard to Articles 12 to 14, it is not clear why these offences should be criminalised separately from criminalisation under the penal codes applicable in the Member States. The terrorist intent of these offences may be identified as an aggravating factor which, under the proportionality principle, weighs heavily during sentencing.

3.2.2.8 With regard to relationship to terrorist offences (Article 15), it is problematic that, for an offence mentioned under Article 4 and Title III to be punishable, there is no need for a terrorist offence to have been actually committed. How can terrorist intent be established? — that is to say, whether a specific act is part of a chain leading to a committed act rather than isolated acts? This could be detrimental to fundamental rights.

⁽⁴⁾ An interesting case in point would be European combatants fighting in Syria alongside Kurdish soldiers who are opposing Daesh, a group which is at the heart of religiously-inspired global terrorism. One Dutch national, a former soldier in the national army, is being investigated by the Netherlands authorities having been charged with murder after fighting in Syria alongside the Kurdish forces (YPG). Following the transposition of the directive into Netherlands legislation, it is unclear whether the legal framework for similar acts will be changed.

⁽⁵⁾ *EU Terrorist Listing: An Overview about Listing and Delisting Procedures*, Martin Wahlisch, Berghof Peace Support, 2010.

3.2.2.9 The Committee questions the relevance of the proposal in Article 17 on penalties for natural persons, which calls on Member States to establish criminal penalties 'which may entail extradition'.

3.2.2.10 The proposal refers to a period of 12 months for the transposition of the directive. In order to speed up implementation, the Committee encourages the Member States to reduce this period as far as possible.

Brussels, 17 March 2016.

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 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

(COM(2015) 667 final — 2015/0313 (COD))

(2016/C 177/10)

Rapporteur: Mr Jan SIMONS

On 27 January 2016 and 21 January 2016 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee under Article 100(2) of the Treaty on the Functioning of the European Union (TFEU) on the:

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency

(COM(2015) 667 final — 2015/0313 (COD)).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 March 2016.

At its 515th plenary session, held on 16 and 17 March 2016 (meeting of 16 March), the European Economic and Social Committee adopted the following opinion by 175 votes with 2 abstentions.

1. Conclusions and recommendations

1.1. The EESC welcomes the Commission's proposal to amend Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (EMSA), as it fits in with general efforts to monitor the EU's external maritime borders much more effectively than in the past.

1.2. However, in line with the resolutions it adopted in September and December 2015 on the massive arrival of refugees, it would once again stress that time is of the essence in implementing the proposed measures. The situation whereby the flow of refugees continues to claim human lives at sea, the irregular influx of migrants persists and Member States take unilateral measures by introducing permanent border controls cannot and must not be allowed to continue.

1.3. The Committee strongly recommends amending the title of the European Border and Coast Guard Agency in the draft regulations to read European Border Guard Agency. The border guard agency supports only one of the coastguard functions, while many others are already supported by EMSA. Using the term 'coast guard' in the name of the border guard agency will almost certainly lead to unnecessary confusion, and could also ultimately result in duplication of activities.

1.4. The Committee welcomes the proposal to expand the activities of EMSA, an agency that in recent years has made a real contribution to improving maritime safety and preventing and tackling pollution by ships; however, it has serious doubts as to whether EMSA has the human and financial resources to perform these additional activities properly.

1.5. It is concerning that small boats made of rubber or wood cannot, or cannot easily, be detected on satellite images. The Commission believes that this limitation can be overcome using remotely piloted aircraft systems (RPAS, also referred to as drones). The Committee endorses this because it enables full surveillance, among other things in order to avoid the loss of human life.

1.6. The Committee finds it equally concerning that Member States are introducing permanent border controls that, according to research, generate significant costs. In its opinion, a cost-efficient and cost-effective coastguard system would enable Member States to forgo permanent controls and allow Schengen to be restored to its former glory.

1.7. In the Committee's view, closer cooperation and information exchange between the three EU agencies in question, and between them and the national bodies carrying out coastguard functions, should result in an efficient and effective coastguard system. However, the Committee calls for a decision to be taken quickly: the urgency of the problems allows no delay.

2. Introduction

2.1. On 15 December 2015, the Commission published a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (COM(2015) 667 final), and the Council and the European Parliament then asked the European Economic and Social Committee to give its opinion on the text, in accordance with Article 100(2) of the Treaty on the Functioning of the European Union.

2.2. The Committee is happy to do so, as it sees the proposal to amend Regulation (EC) No 1406/2002 as a major step towards strengthening European cooperation in the field of coastal border control services and improving cooperation and coordination between the relevant EU agencies in order to achieve synergies to make their operation more efficient and cost-effective. This will enable the EU agencies to provide the national authorities carrying out border control and coastguard functions with high-quality, cost-effective information.

2.3. This is urgently necessary as, according to the Commission, there are currently more than 300 civilian and military authorities in the Member States responsible for carrying out coastguard functions in areas such as maritime safety, border control, fisheries control, customs control, environmental protection, etc.

2.4. These national authorities are supported in the exercise of their functions by a number of EU agencies, including the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (also known as Frontex), EMSA and the European Fisheries Control Agency (EFCA).

2.5. This legislative proposal is part of a set of measures proposed by the Commission to 'reinforce the protection of Europe's external borders' and to strengthen European cooperation in the field of coastal surveillance. The other proposals relate to a Regulation establishing a European Border and Coast Guard and an amendment to Regulation (EC) No 768/2005 establishing a European Fisheries Control Agency, similar to the present proposal.

2.6. The associated Commission communication on a European Border and Coast Guard and effective management of Europe's external borders (COM(2015) 673 final) indicates that the Commission's proposals were based on the enormous number of illegal crossings of the EU's external borders.

2.7. According to the Commission communication (COM(2015) 673 final, section 1 and footnote 1), more than 1,5 million irregular crossings of the EU's external borders took place from January to November 2015, with the result that streams of refugees and migrants continued their journeys across the EU without being identified or registered.

2.8. This resulted in the Schengen Agreement coming under pressure. Some Member States have chosen to reintroduce temporary controls at their internal borders — a situation that cannot continue in the long term.

2.9. A very recent study by the French government think tank France Stratégie shows that rolling back Schengen could cost up to EUR 100 billion in economic damage. In the longer term, trade between the 26 Schengen countries could decline by 10 % to 20 %, and gross national product in the Schengen countries could fall by 0,8 %.

2.10. In its communication of May 2015 on migration (COM(2015) 240 final), the Commission noted that shared management of external borders needed to be introduced, in line with Article 77 of the Treaty on the Functioning of the European Union.

2.11. In addition, Commission President Jean-Claude Juncker announced, in his State of the Union address in September 2015, that he would present proposals for a 'fully operational European border and coast guard system' by the end of 2015, and indeed he did so on 15 December 2015. The present communication is one of those proposals.

3. General comments

3.1. In its resolution on the current refugee crisis, adopted on 16 September 2015, the Committee called for immediate responsible and collective European action to address the massive arrival of refugees.

3.2. In the same resolution, the Committee expressed concern that the Schengen Agreement and the free movement of goods and persons were being undermined. This was highlighted once again in the resolution on refugees adopted by the Committee on 10 December 2015, which stated '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'.

3.3. In the Committee's view, it is vitally important for action to be taken in the short term to improve cooperation in the field of border controls, including control of coastal borders. It therefore endorses the Commission's proposal to amend Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency, and particularly endorses the idea — though not the proposal as it stands — of establishing a European Border and Coast Guard, based on Frontex, that would work in close cooperation with the European Maritime Safety Agency (EMSA) and the European Fisheries Control Agency (EFCA).

3.4. Indeed, the Committee does not understand why the Commission's proposal on the 'new' Frontex refers to the 'coast guard': EMSA has already developed various unique maritime-related information systems and gained experience in them and, under the Commission's proposals, will also be given additional tasks in this field in the future.

3.5. According to experts in the field, this can be concluded from the budget proposals. For example, it can be concluded from the financial data that EMSA will hire RPAS (drone) services, which will add an additional layer of data to EMSA's system that covers more than just border control data.

3.6. The Committee therefore recommends avoiding the term 'coastguard', in order to avoid possible misunderstandings. Moreover, current cooperation between the three agencies already shows that the division of labour has proved to be efficient and effective in practice.

3.7. The Committee stresses that the national authorities responsible for carrying out coastguard functions should be able to reap the benefits of this improved cooperation in the short term in the form of improvements in data sharing and operational surveillance at the EU's external borders.

3.8. The Committee welcomes the fact that EMSA is taking the lead in significantly improving RPAS (drone) surveillance capabilities at the European Union's external maritime borders. Not only will this facilitate more efficient and effective controls; RPASs (drones) can also be used for a variety of purposes.

3.9. In its opinion on the amendment to the Regulation establishing a European Maritime Safety Agency⁽¹⁾, the Committee stated in its conclusions that it welcomed the role played by EMSA in improving maritime safety in the Member States. It also stated, even back then, that it considered it very important for EMSA's tasks and competences to be extended in a sensible way.

3.10. In order for EMSA to perform these additional tasks properly, it is vital for the agency to have adequate human and financial resources. The EU budget provides for EMSA's budget to be increased by EUR 22 million per year until 2020, and for 17 temporary staff members to be recruited. The Committee doubts whether this will be enough. Although the parties directly involved, including EMSA, consider it to be sufficient, the Committee believes that it leaves no scope for dealing with the inevitable disasters, and thinks that it would make sense to establish a financial buffer.

3.11. The Committee is deeply concerned about the fact that it is difficult, with current technologies, to trace refugees in small wooden or rubber boats. Satellite information is only available at certain times according to the flight track of the satellites. According to the Commission, these limitations could be overcome by using RPASs (drones).

3.12. Given the extent of the flow of refugees, the Committee considers it essential, from a humanitarian point of view and in the interests of efficient and effective coastal surveillance, to ensure that all vessel movements at sea can be detected so that rescue services can be deployed promptly.

3.13. The Committee believes that, of the three agencies, EMSA was the right choice to be given a leading role in organising RPAS (drone) services.

4. Specific comments

4.1. The Committee is in favour of improving cooperation between the EU agencies and with the national coastguard bodies, which should result in cost-efficient and cost-effective surveillance of the EU's external maritime borders.

4.2. Given the huge scale of the flows of migrants, this needs to take effect in the near future. In the Committee's view, any procrastination in the implementation of measures — for whatever reason — would be unacceptable. On the contrary, all of the Commission's proposals, and not just the EMSA proposal under discussion, should be adopted and implemented without delay — taking account of the Committee's comments, of course.

4.3. The Committee is in favour of expanding EMSA's activities, because EMSA is an organisation that, in recent years, has proved successful in guaranteeing a high level of maritime safety and security and has played a significant role in tackling pollution by ships.

4.4. Expanding EMSA's activities should result in improvements to the dissemination of real-time maritime surveillance data between the three EU agencies and national coastguard authorities, in the use of RPASs (drones) for surveillance of the EU's external maritime borders, in the availability of data collected by satellite, in better communication services in support of joint operations, and in much more focus on and investment in education and training.

4.5. The Committee wonders why the Commission devotes a section to the fact that the European Space Agency (ESA) will stop providing Satellite Automatic Identification System services (SAT-AIS data) free of charge, without also referring to the financial sections of its proposal, in which funds are allocated for this purpose as from 2017, while 2016 is expected to be covered via the Copernicus programme. The Committee trusts that the latter plan will be confirmed.

Brussels, 16 March 2016.

The President
of the European Economic and Social Committee
Georges DASSIS

⁽¹⁾ OJ C 107, 6.4.2011, p. 68.

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