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## Information and Notices

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## I

*(Resolutions, recommendations and opinions)*

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

533RD EESC PLENARY SESSION, 14.3.2018-15.3.2018

**Opinion of the European Economic and Social Committee on ‘A socially sustainable concept for raising living standards, boosting growth and employment, as well as citizens’ security in the digital era’**

**(exploratory opinion at the request of the Bulgarian Presidency)**

(2018/C 237/01)

Rapporteur: **Giulia BARBUCCI (IT/II)**

Request by the Bulgarian Presidency of the Council	Letter of 5.9.2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	23.2.2018
Adopted at plenary	15.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	187/16/10

### 1. Conclusions and recommendations

1.1. All policies put in place by European, national and local institutions should take account of the **social sustainability factor** in the same way that they do for economic and environmental sustainability. Recent proposals on the **social dimension** of Europe <sup>(1)</sup>, beginning with the Reflection paper presented by the European Commission and the European Pillar of Social Rights, represent a unique opportunity for promoting the sustainability of measures introduced at European and national level in the field of inclusive growth, employment and social policies. The EESC recommends that the proposals contained in the Commission’s current work programme — including the Social Fairness Package, the initiative on fair taxation of the digital economy and the EMU reforms — be designed to promote the sustainability of the **European social model**.

<sup>(1)</sup> OJ C 81, 2.3.2018, p. 145.

1.2. The **impact assessment of measures** introduced in the social domain should be made increasingly accurate in terms of their social sustainability and should be based on the monitoring systems and indicators already in place. The EESC recommends that the institutions conduct an evaluation of the instruments in place and new ones (starting with the Scoreboard appended to the Pillar) and verify how effective they are, the aim being to measure more accurately how the proposed policies impact people.

1.3. The EESC notes the concern expressed by the European Parliament in its Resolution of 19 January 2017 on A European Pillar of Social Rights about the need to update existing labour and social standards; with regard to this, the EESC will in due course provide its contribution to the 'Social Fairness Package', included in the Commission Work Programme 2018. The EESC also stresses the need for framework conditions in labour markets to support new and more diverse career paths and to improve employment and standards for workers throughout Europe, regardless of their terms of contract, and promote greater convergence towards improved working and living conditions, which would also contribute to overcoming regional disparities. The EESC supports the European Parliament's recommendation that the Commission and social partners should work together to present a proposal for a framework directive on decent working conditions in all forms of employment, extending existing minimum standards to new forms of employment relationships.

1.4. The EESC sees a clear connection between **competitiveness, productivity and social sustainability**: all stakeholders must commit themselves to promoting **inclusive growth** and at the same time foster conditions that are favourable for the world of enterprise, with the aim of creating more and better jobs. Labour is still the main factor for creating well-being and wealth; however, the principle needs to be re-established that the only way of building fairer societies is to generate more inclusive and sustainable growth and jobs with the aim of ensuring that people have **decent working conditions, adequate remuneration and pensions and are able to exercise their rights**. Competitiveness, productivity and working rights are principles that should once again form a seamless part of policies drawn up on labour market regulation and social rights.

1.5. The Committee is aware that democracy can be at risk if people, still heavily impacted by the effects of austerity, do not benefit from the wealth generated by growth and from productivity generated by digitalisation.

1.6. The EESC advocates — as it has done in other opinions — stepping up efforts to **iron out regional disparities** in terms of living and working conditions within the European Union. Upward convergence should not be just a slogan, but a cross-cutting principle to be taken into account and mainstreamed into all EU policies, first and foremost financial and economic ones. There can be no genuine integration whilst such stark differences in wages and effective enjoyment of social rights persist among Europe's citizens. The **Structural Funds** play a fundamental role here and they must be increasingly geared towards overcoming regional disparities.

1.7. The EESC warmly welcomes initiatives such as the Youth Guarantee, the Upskilling Pathways and strategies to tackle long-term unemployment, and calls on European and national institutions to secure the appropriate resources to facilitate and speed up transitions and to **guarantee continuity of income in an adequate manner**<sup>(2)</sup>, particularly for the most disadvantaged. It also recommends creating the right conditions to **guarantee competitiveness, job creation and smooth transitions between jobs** by means of a system of social safety nets and other accompanying measures that take account of the needs of workers and businesses.

1.8. The EESC recommends that the social partners develop inclusive collective bargaining at all levels and encourages them to consider new measures (including in the framework of the next work programme of the European social partners) aimed at increasing women's access to digital jobs, for the purpose of **eliminating gender-based wage differences**, resolutely protecting **motherhood** by means of appropriate instruments and creating the conditions for **effective gender equality** in the world of work. It also urges the institutions at all levels, the social partners and organised civil society to coordinate in introducing measures to ensure equal treatment of men and women in all spheres of society.

1.9. The EESC also believes that social sustainability is based on fair and effective opportunities for **life-long learning**, starting from early childhood, particularly considering the potential exclusion of broad segments of the population as a result of **digital exclusion**. The EESC recommends that decision makers consider measures aimed at reducing the skills deficit in key areas of the digital economy as they are essential for excellence and to increase European competitiveness. It is

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<sup>(2)</sup> OJ C 170, 5.6.2014, p. 23.

also essential to provide digital literacy training for anyone at risk of being excluded, as a result of digitalisation, from exercising their rights and accessing the social services — particularly the fundamental ones — and would urge the social partners and the institutions, in cooperation with organised civil society, to introduce prompt measures to this end. It is a task of the public authorities at all levels to guarantee that a proper digital infrastructure is available and leads to increased inclusion in order to overcome possible disparities between territories and environments.

## 2. The concept of social sustainability in the digital and global era

2.1. This exploratory opinion sets out to examine the subject of social sustainability using a **holistic approach**, ranging from the definition of the issue to its impact on political action in the social, employment and economic realms.

2.2. The effects of **globalisation**, the heavy legacy of the **economic crisis**, the **declining birth rate** and consequent **ageing of the European population**, and the **weak growth** affecting the economies of most of the Member States are elements that play a key role in identifying today's social problems.

2.3. Numerous social and economic indicators clearly reveal that whilst the policies introduced particularly at European and national level to recover from the crisis have on the one hand sought to counteract the instability caused by global factors, on the other they have too often **increased inequalities** and created **new imbalances** — including from a geographical perspective — between social classes, genders and generations. The institutions therefore have to act at all levels, in cooperation with the social partners and organised civil society, in order to put forward policies based on measures to overcome these imbalances and inequalities, mainly through more employment on the basis of sustained and more inclusive growth.

2.4. The concept of sustainability is composed of three key facets: **environmental, economic and social**. These three components are included in the European Treaties and are in turn reflected in the concept of sustainable development, which underpins the United Nations' 2030 Agenda for Sustainable Development and its 17 sustainable development goals. Eurostat, in its 2017 overview of progress towards the SDGs in the EU, states that while significant progress has been made towards the overall achievement of the environmental SDGs (SDG 7 'affordable and clean energy', SDG 12 'responsible consumption and production', SDG 15 'life on land', SDG 11 'sustainable cities and communities'), **the progress towards the more social SDGs has only been moderate** (SDG 4 'quality education', SDG 5 'gender equality', SDG 8 'decent work and economic growth', SDG 1 'no poverty', SDG 2 'zero hunger' and SDG 10 'reduced inequalities').

2.5. Although there is general agreement in accepting the **definition of social sustainability** as the ability to guarantee conditions of human well-being (security, health, education, democracy, participation, justice) equitably distributed by class and gender, it should be pointed out that this is a concept that is susceptible to possible variations according to the contexts in which it is used. Social sustainability must be introduced and implemented in the same way as environmental and economic sustainability with the objective of reducing inequalities.

2.6. In the shaping of macro-economic policies in recent years, social sustainability has frequently been incorrectly considered as **antithetical to economic and financial sustainability**. One example of this are the structural reforms promoted by the European institutions and implemented by national governments following the financial and then economic crisis of 2007-2008. Neither the institutions nor the social partners should oppose competitiveness to sustainability. In fact it has been demonstrated, for example, that the more advanced firms in terms of sustainability are likely to be more competitive internationally. Furthermore, the EU should guide the process of globalisation in the direction of bringing about sustainable development that works to the advantage of both businesses and workers.

2.7. As for the role of companies, **SMEs** have a particularly crucial role to play in achieving a sustainable and inclusive growth, which is at the same time based on the creation of decent employment and boosting competitiveness while taking into account social sustainability.

2.8. The **2030 Global Agenda for Sustainable Development and its 17 goals** represent a horizon for making innovation compatible with sustainable development by linking global initiatives with national ones. It states clearly that **the current development model is unsustainable**, environmentally, economically, and socially, thus distancing itself from the idea that sustainability is only an environmental issue. It offers an **integrated vision** of the different dimensions of development. Implementing the Agenda calls for strong engagement on the part of all components of society: institutions, organised civil society and the world of research and universities, as well as effective evaluation measures.

2.9. The EESC has on several occasions reiterated the need to establish a virtuous interdependency between financial and macro-economic policies on the one hand and social rights on the other, highlighting shortcomings in compliance with such rights, which leads to increasing disparities in the Union. In particular, the issue of social sustainability should explicitly tie in with the ongoing debate on the proposals regarding the **future architecture of the Economic and Monetary Union (EMU)** and the **Multiannual Financial Framework (MFF)**. On the basis of the current monitoring systems and indicators, impact assessments of measures introduced in the social domain should be made increasingly accurate as regards their social sustainability.

2.10. The EESC considers that the institutions will also have the task of evaluating the instruments already in place and new ones (like the Scoreboard accompanying the European Pillar) and verifying how effective they are, the aim being to measure with some accuracy the impact of the proposed policies on social rights on the public.

2.11. In order to overcome regional disparities in the EU — in some instances exacerbated by the effects of the economic crisis — it will be necessary, amongst other things, to promote new and more efficient **strategies on the use of resources**, mobilising in particular the European Structural and Investment Funds, which should give priority to promoting **sustainable growth** and **quality employment**. In its opinion on *The impact of social investment on employment and public budgets* <sup>(3)</sup>, the EESC has already called 'for a **European stimulus and investment programme** to the tune of 2 % of GDP' and a greater focus on social investment. New financial resources need to be channelled into this investment plan to supplement the existing European Structural and Investment Funds.

### 3. The European social model: sustainability and the improvement of living and working conditions

3.1. The EESC believes that the **European social model** is a unique asset in Europe's identity: through the present welfare systems, it guarantees a high level of social protection and citizenship rights to all. The Committee therefore feels that the model should not be up for discussion, but should if anything be strengthened. To this end, it is vital for the EU's policies to be designed to **guarantee continuous improvements in living and working conditions** for the people of Europe in all spheres, as provided for in the Treaties right from the very outset of the European project.

3.2. The Commission's current work programme includes initiatives such as the Social Fairness Package and fair taxation of the digital economy, and measures to reform the EMU are also under way. The EESC recommends that these proposals be designed to promote the sustainability of the European social model <sup>(4)</sup>.

3.3. The EESC considers it necessary to reach a **fair compromise between social sustainability and economic sustainability** when drawing up labour market policies. The past decade has seen an increase in disparities and inequalities between Europe's citizens in access to welfare services and openings in the labour market, and in the proliferation of non-standard forms of work (as is amply demonstrated by the statistics). This has led to an increase in the perception of uncertainty regarding the possibility of improvements in general living conditions on the part of the European public. This perception is particularly prominent among young people and women, and in all sectors of the population most at risk. In view of this, the EESC considers it vital to promote the **integration of migrants into the world of work**, as their contribution to social security systems is often a determining factor in the stability of social security systems and social security nets.

3.4. The EESC notes the concern expressed by the **European Parliament** in its Resolution of 19 January 2017 on A European Pillar of Social Rights about the need to update existing labour and social standards; with regard to this, the EESC will in due course provide its contribution to the 'Social Fairness Package', included in the Commission Work Programme 2018. The EESC also stresses the need for framework conditions in labour markets to support new and more diverse career paths in labour markets and to improve employment and standards for workers throughout Europe, regardless of their terms of contract, and promote greater convergence towards improved working and living conditions; this would also contribute to overcoming regional disparities. The EESC supports the European Parliament recommendation that the Commission and the social partners should work together to present a proposal for a **framework directive** on decent working conditions in all forms of employment, extending existing minimum standards to new forms of employment relationships.

<sup>(3)</sup> OJ C 226, 16.7.2014, p. 21.

<sup>(4)</sup> OJ C 51, 17.2.2011, p. 20.



3.5. The EESC has, in numerous opinions, examined the phenomenon of **digitalisation** and its impact on the **organisation of work and employment** <sup>(5)</sup>. We should not, however, confine ourselves to considering digitalisation only in the context of employment and the labour market. The growing use of digital instruments has brought about profound changes in our daily lives — personal, social and even in how we relate to politics, voluntary work and civil society. The EU should promote actions in terms of early childhood education and long life training, in particular on digital skills, to address the skills mismatch. Education systems — including higher education, vocational training and lifelong learning — must strive for excellence, thus allowing for leadership in research, innovation and competitiveness of European ideas, goods and services.

3.6. The EESC has stressed in a series of opinions the importance of taking into particular account the needs of **socially vulnerable at-risk groups**. It is important to provide inclusive social protection systems that pay special attention to the needs of vulnerable people and their families in order to guarantee decent living conditions and provide and maintain assisted jobs tailored to the needs of individuals.

3.7. **People with disabilities** are at the core of the United Nations Convention on the Rights of Persons with Disabilities and of the European Disability Strategy. The EESC recommends that every effort be made to achieve significant progress in all eight priority areas for action aimed at reaching the goals set by the UN Convention: accessibility, participation, equality, employment, education and training, social protection, health and international promotion of the rights of persons with a disability. As digitalisation impacts all spheres of our daily life, the EESC calls for special account to be taken of people with disabilities, who are very likely to be affected by the digital transformation. The European Union should capitalise on the many opportunities that exist for people with disabilities to promote their employability and access to decent employment, which would also enable them to contribute to the social security systems. The EESC therefore recommends creating the prerequisites for a more active use of tools for life-long training and re-qualification of people with disabilities in the new digital professions.

3.8. The EESC considers it vitally important to incorporate the issue of social sustainability into European policies on the **younger generations** and on the **future of the European social model**. The growing levels of scepticism vis-à-vis the institutions on the part of the younger generations (the most alarming sign of this being the extremely low turn-out in elections), organised civil society, political parties and the trade unions, and the rise in membership of Eurosceptic movements and the far right, can only be addressed if the EU pays greater attention to the future of the European social model and its sustainability. The EESC recommends that the EU institutions and national governments introduce all possible initiatives to increase the quantity and quality of jobs for young people, support youth mobility, ensure decent social security prospects and promote life-long education and training at all levels. Initiatives such as Erasmus+, the Youth Guarantee and all the other measures contained in the Youth Employment Initiative must be properly funded and implemented.

3.9. The EESC deems it crucial to guarantee the **social sustainability of income**, particularly for people of retirement age. It is essential for social protection systems <sup>(6)</sup> to guarantee decent living conditions and prevent people from sliding into poverty. In numerous opinions the EESC has voiced the need for pension regimes to be based on **intergenerational solidarity**. While respecting the diversity of national systems, a key concern for the EESC is to increase employment that contributes to ensuring appropriately resourced social protection systems. People working under all types of contractual arrangements, including the so-called new forms of work linked to digitalisation, should have access to and contribute to social protection systems <sup>(7)</sup>.

3.10. In its recent initiatives in the area of employment, the Commission has placed considerable emphasis on the issue of **transitions**. One of the more worrying trends in recent years has been the increase in the time lag between young people completing their studies and finding their first job, particularly when it comes to their first stable job. Moreover, the situation has also deteriorated for the long-term unemployed and for people coming up to retirement age. The EESC warmly welcomes initiatives such as the Youth Guarantee, the Upskilling Pathways and the promotion of apprenticeships as the main form of access to employment via the European Alliance for Apprenticeships and strategies to tackle long-term

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<sup>(5)</sup> SOC/570 (see page 8 of the current Official Journal); OJ C 129, 11.4.2018, p. 7; OJ C 434, 15.12.2017, p. 36; OJ C 434, 15.12.2017, p. 30; OJ C 173, 31.5.2017, p. 45; OJ C 303, 19.8.2016, p. 54; OJ C 13, 15.1.2016, p. 161; OJ C 128, 18.5.2010, p. 74.

<sup>(6)</sup> OJ C 13, 15.1.2016, p. 40.

<sup>(7)</sup> OJ C 129, 11.4.2018, p. 7; OJ C 84, 17.3.2011, p. 38; OJ C 120, 16.5.2008, p. 66.

unemployment. It therefore calls on European and national institutions to secure the appropriate resources to facilitate and speed up transitions and the necessary training to **guarantee continuity of income**, in an adequate manner, particularly for the most disadvantaged and those who are difficult to re-skill and thus enhance their employability. It also recommends creating the right environment for businesses for competitiveness, while ensuring smooth transitions between jobs by means of social safety nets and other external flexibility measures that take account of the needs of workers and businesses.

3.11. The EESC considers that one of the foundations underpinning social sustainability is **full gender equality**, recognising at the same time that, as demonstrated by Eurostat figures and many other available indicators, inequalities in this field are intolerable and constitute not only a breach of the equal treatment principles laid out in the Treaties, but also a serious obstacle to the full economic development of the EU. It therefore welcomes the initiatives recently undertaken in this area, starting with the Commission's package of measures to promote work-life balance, and recommends that the social partners develop inclusive collective bargaining at all levels and consider new measures (including as part of the next work programme of the European social partners) for the purpose of eliminating gender-based wage differences, safeguarding maternity unequivocally and with appropriate instruments and creating the conditions for effective gender equality in the world of work. It also urges the institutions at all levels, the social partners and civil society to coordinate in introducing measures to ensure **equal treatment of men and women** in all spheres of society.

3.12. A great number of studies and research projects have analysed the **new social risks** in connection with the impact of globalisation and digitalisation in the world of work. The EESC shares concerns regarding the growing fragmentation of work, automation and digitalisation, but at the same time believes that these processes, if properly regulated, can provide an opportunity to improve working conditions, make some heavy tasks less onerous and simplify others that are particularly complex.

3.13. **Consumer protection** also plays an important role in the field of social sustainability, as the role of consumers is also subject to changes due to digitalisation. European policies in this context should always be up to date and ensure instruments for an effective resolution of consumer-related problems, and pay special attention to changes due to digitalisation in sectors like transportation, energy and financial services.

3.14. The **new inequalities** and social risks in the digital era may in part be attributed to the phenomenon of **digital exclusion**, whereby some segments of the population may or may not possess the necessary IT skills and basic digital literacy to have access to information and services, some of them crucial. The EESC believes that social sustainability is also based on fair and effective opportunities for life-long training from early childhood. This is a prerequisite particularly for people living with disabilities, especially in the new digital professions. Such training should take account of the potential exclusion of broad segments of the population (in particular older people, people living in peripheral areas and in poverty, migrants, under-qualified persons etc.) as a result of digital exclusion. In the digital era it is essential to guarantee access to the internet, provide digital literacy training for anyone at risk of unemployment, and to provide the opportunity for them to exercise their rights and access the social services — particularly the fundamental ones. The Committee would urge the social partners and the institutions, in cooperation with organised civil society, to act promptly to introduce measures to this end.

Brussels, 15 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS



## Appendix

The following amendments to points 1.3 and 3.4, which received at least a quarter of the votes cast, were rejected during the discussion:

**Point 1.3:****Amend as follows:**

- 1.3 *The EESC notes the concern expressed by the European Parliament in its Resolution of 19 January 2017 on A European Pillar of Social Rights about the need to update existing labour and social standards; with regard to this, the EESC will in due course provide its contribution to the 'Social Fairness Package', included in the Commission Work Programme 2018. The EESC also stresses the need for framework conditions in labour markets to support new and more diverse career paths in labour markets and to improve employment and standards for workers throughout Europe, regardless of their terms of contract, and promote greater convergence towards improved working and living conditions; this would also contribute to overcoming regional disparities. The EESC will adopt its opinion on the proposal for a framework directive on decent working conditions in the European Union.*

**Reason**

To be given orally

**Outcome of the vote**

In favour 72

Against 121

Abstentions 9

**Point 3.4****Amend as follows:**

- 3.4. *The EESC notes the concern expressed by the **European Parliament** in its Resolution of 19 January 2017 on A European Pillar of Social Rights about the need to update existing labour and social standards; with regard to this, the EESC will in due course provide its contribution to the 'Social Fairness Package', included in the Commission Work Programme 2018. The EESC also stresses the need for framework conditions in labour markets to support new and more diverse career paths in labour markets and to improve employment and standards for workers throughout Europe, regardless of their terms of contract, and promote greater convergence towards improved working and living conditions; this would also contribute to overcoming regional disparities. The EESC will adopt its opinion on the proposal for a **framework directive** on decent working conditions in the European Union.*

**Reason**

To be given orally

**Outcome of the vote**

In favour 72

Against 121

Abstentions 9

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**Opinion of the European Economic and Social Committee on the ‘Future of work — acquiring of appropriate knowledge and skills to meet the needs of future jobs’**

**(Exploratory opinion requested by the Bulgarian Presidency)**

(2018/C 237/02)

Rapporteur: **Cinzia DEL RIO (IT/II)**

Co-rapporteur: **Milena ANGELOVA (BG/I)**

<b>Request by the Bulgarian Presidency of the Council</b>	Letter of 5.9.2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	23.2.2018
Adopted at plenary	15.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	218/0/3

## 1. Conclusions and recommendations

1.1. The progressive and fast-changing introduction of new technologies, digitalisation and robotisation in business, but also in the public sector, is having a momentous impact on the production systems, labour conditions and organisational models of the labour market and the society in general.

1.2. The New Industrial Revolution has the potential to improve productivity and life and job quality if duly accompanied with a sound mix of policies for inclusive and sustainable innovation-driven growth. The impact on jobs will be significant: new ones will be created, some will be transformed and others will be replaced at a rapid pace. Quality basic education, as well as high-standard and effective training, lifelong learning, up- and re-skilling will be the necessary tools for grasping the job opportunities of the future and fostering enterprise competitiveness.

1.3. In order to prepare and respond to these rapid technological and digital changes, the EESC, taking into account the subsidiarity principle, asks the European Commission (EC) and the Member States to design targeted policies and take tangible measures in order to improve and appropriately adapt their education and training systems, co-design national competency strategies and recognise the right to appropriate training for all age groups of people and workers and across sectors by:

- first ensuring that all EU citizens have equal access to quality early education;
- setting new common education and training benchmarks in order to narrow the gaps among EU countries and strengthen cohesion;
- reorienting education and training and strengthening VET systems in order to ensure the rapid acquisition of the necessary skills;
- supporting collective bargaining and social dialogue, in line with national industrial relations systems, in order to be able to anticipate and adapt the skills to technological and digital developments and develop on-the-job training;
- encouraging interaction between education institutions and companies;
- launching a qualification offensive to underpin the growing digitalisation of our labour markets;

- developing new measures — such as result-based incentives, setting new monitoring mechanisms to evaluate the results achieved as far as digital and lifelong training coverage is concerned, exchange and widening at EU level the collection of best national practices concerning access to and participation in training, training leave, etc. — in order to include everybody in training programmes, both those looking for a job and workers, with particular attention to low-skilled and adult workers;
- securing for all the provision of, and participation in, training in a way that simultaneously improves enterprise performance and workers' personal and professional growth and extends coverage to non-standard jobs <sup>(1)</sup>; ideally, it should be further examined whether such an individual training right should be portable, i.e. if people should be able to transfer it between employers and across countries;
- taking steps to check if and what measures are needed to establish the right to paid educational leave and considering EU measures with a view to making good practice in the area of minimum standards regarding entitlements to educational leave standard practice in some Member States <sup>(2)</sup>;
- setting up a European homogeneous system of evaluation and validation of non-formal and informal learning;
- investing at EU level with specific and targeted funds to accompany the transition and setting new result-based criteria for their allocation;
- encouraging job exchanges among enterprises in order to support 'brain exchange' opportunities and create platforms for information and best-practice sharing.

1.4. The winning future lies in the complementarity of skills, not only digital, but also of basic, technical and soft skills which require efficient school systems and well prepared teachers. But in the 'new forms of work' — characterised by the integration of material production processes and digital technologies — it is important to keep a human-centred approach.

1.5. Last but not least, the EESC asks the EC and the Member States to find ways not to leave behind but to accompany vulnerable people who will not be able to respond to the changes and the growing demands of the new technological era.

## 2. Introduction

2.1. Digitalisation, automation and new economic models such as Industry 4.0, the circular and sharing economy have given birth to **new forms of work** characterised by the integration of material production processes and digital technologies, which are performed both off- and online and which are having a significant impact on the production processes of enterprises, organisational models of the labour market, working conditions, duration of labour contracts, social protection coverage and the employment relationship.

2.2. New technologies and digitalisation have the potential to allow for better personal lives and working conditions and for a better balance between them, to improve productivity and to lead to overall better job creation if duly accompanied by a just transition approach and a sound policy mix, for inclusive and sustainable innovation-driven growth. Some existing jobs and areas of activity will evolve, some traditional jobs will disappear and new activities will be created. Three phenomena can be observed: **creation, transformation and replacement**, in a different combination and intensity in all sectors <sup>(3)</sup>.

2.3. The debate on whether this new labour context will result in **job losses or gains** is ongoing. Employment and business model disruptions in some sectors (manufacturing, transport, health, hospitality, finances and education) will be significant according to the OECD. 9 % of jobs are at risk of being displaced as over 70 % of the tasks they involve can be

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<sup>(1)</sup> OJ C 173, 31.5.2017, p. 45.

<sup>(2)</sup> OJ C 13, 15.1.2016, p. 161.

<sup>(3)</sup> As reported by Cedefop. See Cedefop (2017). *People, machines, robots and skills*. Briefing Note.

automated. Another 25 % of jobs would be transformed, since only half of the tasks involved can be automated<sup>(4)</sup>. At the same time, digitalisation has the potential to create new jobs not only in the industrial production sector, but also in services. The outcome will depend on an integrated policy agenda, on public decisions as well as on the policies that are implemented to address the challenges that new production processes and business models raise, notably as concerns equipping young people with the necessary skills, and training and up- and re-skilling both people searching for a job and the existing workforce. Whether these new processes and digitalisation will ultimately increase employment will depend on how successfully enterprises and workers in the EU **adapt** to technological developments, how the introduction and use of technologies and changes to organisational structures are dealt with jointly by the social partners, how workers' training is carried out, as well as the extent to which the EU and Member States will be able to create a **favourable policy and regulatory environment** to safeguard the interests of both enterprises and working people<sup>(5)</sup>. The role and expertise of the social partners will be critical in this process and social dialogue and collective bargaining, in line with national law and practices, will have a key role to play.

2.4. The challenge with the new forms of work is no longer linked to the need for 'innovation and digitalisation' but to the need to ensure that everybody receives the **appropriate, high quality education and training**, designed in such a way as to allow people to **promptly** acquire new knowledge, skills and competences. The issue is how we complement robots and human intelligence and keep both a **human-centred approach** over artificial intelligence (AI) and digitalisation introduction in all economic sectors, including along business value chains<sup>(6)</sup>.

2.5. Therefore, in the framework of active labour market policies and regulation, one of the most important questions is how to **re-orient education, training and lifelong learning**, on the one hand, in alignment with employers' and labour market needs and, on the other hand, towards higher and better employability in a fast-changing labour market environment, and how to adapt the content of training and education pathways for the upgrading and re-skilling, including of adult workers. This challenge affects employers and employees equally, compelling them, as well as labour market institutions, to put more effort into **forecasting, planning, financing and strategy**.

2.6. The EESC would like to call on the European Commission and Member States to address the serious problem of the increasing number of people who lack the necessary educational background and who subsequently are unable to keep up with the speed of change, thus risking **marginalisation**.

### 3. The state of play

3.1. The issue of skills — both those acquired through initial education and training and lifelong learning — has received considerable attention from EU institutions and international organisations lately and has been examined from different angles, in a scenario of rapid changes taking place in the world of work. In this opinion, only data from their **latest documents** are used.

3.2. Several of these documents, discussed below, explore the question of productivity and focus on two of its factors: **skills and new patterns of work organisation**. They all agree that one of the main challenges the Fourth Industrial Revolution poses for the labour market will be **defining** which **new skills** workers will need. Some suggestions and useful best practices have recently been discussed. The EESC would praise the e-Skills for Jobs campaign of 2015-2016 and the e-Skills Manifesto launched then by the **European Commission**. It recommends the ten essential principles outlined as good guidelines for future digital policies<sup>(7)</sup>, and reiterates the conclusions of its relevant recent **opinions**<sup>(8)</sup>. The New Skills Agenda for Europe<sup>(9)</sup>, on the other hand, launched a review of the EU's key competences framework, and the e-Skills

<sup>(4)</sup> OECD (2017). *Future of Work and Skills*. Paper presented at the 2nd Meeting of the G20 Employment Working Group. February 2017. See p. 8.

<sup>(5)</sup> *Statement of the European social partners on digitalisation*, adopted at the Tripartite Social Summit on 16 March 2016.

<sup>(6)</sup> As Cedefop points out in one of its briefing notes (see note 1, above): 'Technological unemployment is a recurring theme, but joblessness in the digital age will depend on human, not artificial, intelligence'.

<sup>(7)</sup> They are listed in the *Riga Declaration on e-Skills* of March 2015, which was issued at the launch of the eSkills for Jobs campaign 2015-2016 and the e-Skills Manifesto; cf. the Riga Conclusions of June 2015.

<sup>(8)</sup> OJ C 434, 15.12.2017, p. 36; OJ C 434, 15.12.2017, p. 30; OJ C 173, 31.5.2017, p. 45; OJ C 303, 19.8.2016, p. 54; OJ C 13, 15.1.2016, p. 161; OJ C 347, 18.12.2010, p. 1; OJ C 128, 18.5.2010, p. 74; OJ C 93, 27.4.2007, p. 38.

<sup>(9)</sup> OJ C 173, 31.5.2017, p. 45.

Manifesto of December 2016, with the review and update of digital competences being an important element in this process. The EESC appreciates the recent adoption by the European Commission of two important initiatives: the proposal for a Council recommendation on key competences for lifelong learning and the Communication on the digital education action plan<sup>(10)</sup>; it expects a prompt implementation of the guidelines they contain.

3.3. Two recent **OECD** reports<sup>(11)</sup> highlight the link between wage inequality and the use of computers, in other words the positive impact of technological change on the wages of skilled workers — which results, however, in a **widening of the wage gap** with low-skilled workers, various examples of new jobs and skill requirements, as well as the **rising demand** in particular for **ICT** specialist skills necessary for programming, and ICT generic and complementary skills. The EESC also appreciates the recent OECD report 'Key issues for digital transformation in the G20' for its comprehensive analysis of the policy challenges and the recommendations in this regard<sup>(12)</sup>, and would like to stress the importance of **sound industrial relations** for the success of the policies adopted in the G20 and at EU level. This is why the EESC also reiterates the conclusions and recommendations of its recent **opinions and studies**, especially those focusing on the effects of digitalisation on traditional businesses and industries<sup>(13)</sup>, the need for change in industrial relations<sup>(14)</sup>, the issue of working conditions of non-standard workers<sup>(15)</sup>, the impact of the on-demand economy<sup>(16)</sup>, the role of governments in policy measures and the importance of lifelong learning for the future<sup>(17)</sup>. The OECD is working on the **New jobs strategy** to be launched next year, in which one chapter will be on skills and digital divides. The EESC expresses some concerns regarding the lack of real added value to policy recommendations to governments in the narrative under discussion. As the OECD is still however in the preparatory phase of the Jobs Strategy, the EESC will follow the debate in the framework of the Skills Strategy, not least with a view to the OECD Skills Summit next June, and asks the EC to explore new common initiatives.

3.4. The **World Economic Forum**, while supporting the Fourth Industrial Revolution, warns about the potential risk, according to some forecasts, that about 5 million jobs could disappear by 2020 in 15 major developed and emerging economies with no substitution for them anticipated at the moment, and raises some points for discussion regarding **skills stability, industry gender gap and work strategies**<sup>(18)</sup>.

3.5. At the March **2016 Tripartite Social Summit**, the European social partners asked the European Commission to underpin the digital transformation of economies and labour markets, and to work together with it, in order to ensure that labour market and skills policies are designed **both for enterprises and workers**<sup>(19)</sup>.

<sup>(10)</sup> COM(2018) 24 and COM(2018) 22.

<sup>(11)</sup> T. Berger and C. Frey (2016), *Structural Transformation in the OECD: Digitalisation, Deindustrialisation and the Future of Work*, OECD Social, Employment and Migration Working Papers, No 193, OECD Publishing, Paris; and OECD (2016), *New Skills for the Digital Economy*, OECD Digital Economy Papers, No 258, OECD Publishing, Paris.

<sup>(12)</sup> OECD (2017). *Key issues for digital transformation in the G20*. Report prepared for a joint G20 German Presidency — OECD conference. For the list of recommendations, see pp. 145-149.

<sup>(13)</sup> OJ C 13, 15.1.2016, p. 161.

<sup>(14)</sup> OJ C 434, 15.12.2017, p. 30.

<sup>(15)</sup> OJ C 303, 19.8.2016, p. 54.

<sup>(16)</sup> EESC (2017). *Impact of digitalisation and the on-demand economy on labour markets and the consequences for employment and industrial relations*. Study prepared by a CEPS research team.

<sup>(17)</sup> OJ C 173, 31.5.2017, p. 45.

<sup>(18)</sup> World Economic Forum (2016). *The Future of Jobs. Employment, Skill and Workforce Strategy for the Fourth Industrial Revolution*. Global Challenge Insight Report.

<sup>(19)</sup> See above, note 2.

3.6. The EESC supports the European Parliament **resolution** of 16 February 2017 with recommendations to the European Commission on **Civil Law Rules on Robotics** <sup>(20)</sup>, especially those on **ethical principles** (human safety, health and security, freedom, privacy, integrity and dignity, self-determination and non-discrimination, personal data protection, and transparency; the need to update the European Union legal framework with a guiding of ethical principles in line with the complexity of robots) and on **education and employment** (the call to the Commission to provide significant support for the development of digital skills in all age groups and irrespective of employment status; and the need to get more women interested in a digital career, to start analysing and monitoring medium and long-term job trends more closely, to highlight the importance of foreseeing changes to society — especially from the point of view of employment and of flexibility of skills; the recognition of the great potential of robotics and AI in several areas).

3.7. The **Cedefop** briefing note 'People, machine, skills and robots' <sup>(21)</sup> suggests that, before reaching conclusions about the future, it is important to understand the different ways in which technology is changing the world of work: job substitution, job creation and job transformation; the analysis by sector of adult employees who have **experienced technological change** in the workplace during 2009-2014 — who globally represent 43 % of adult employees — is important in order to understand the scope of the present challenge.

3.8. The EESC would recall two of its **recent opinions** of last July on new forms of work <sup>(22)</sup>; in particular the importance of **social security** for those in new forms of work, such as crowdworkers, and of the new types of work environment; the relevance of lifelong learning and the need of future skills; the **fundamental role of social partners and collective bargaining**, in line with national law and practices, and the role of civil society, in general, in limiting the negative effects of these fast changes and in enhancing the positive aspects.

3.9. Last month's **Eurofound** report 'Non-standard forms of employment: recent trends and future prospects' <sup>(23)</sup> is important for the analysis of new ways of working, but also, and especially, for raising the alert regarding **social protection, income, working hours** and the unclear status of people working in non-standard contracts: the EESC agrees with what Eurofound has suggested, and calls on decision-makers to pay attention to these issues, already mentioned by the EESC in the documents mentioned above.

#### 4. The future is now: (a) Actions and proposals

4.1. In the new fast-changing work context, it is difficult to **identify new professions — and the relevant skills** — in a theoretical way. Usually the labour market, often with the involvement of enterprises and the social partners, **anticipates the definition** of new professional profiles according to its needs. **Collective bargaining** at all levels — in line with national law and practices — and **workers' participation mechanisms** at firm level are relevant tools in order to address the changes in skills and training needs and in order to help anticipate these changes and increase innovation.

4.2. In addition, the EESC underlines the fact that there are **new methods**, such as big data analysis, that can help get **rapid signals of change** in labour market needs: these techniques complement traditional forecasting and other skills anticipation tools and can help get a better understanding of quickly changing skills demand in a context of rapid adoption of new technologies.

4.3. The proliferating forms of non-standard employment in the digital economy raise the need for appropriate levels of regulation so that social protection and equal access to training and skills qualifications should be secured for all, including non-standard workers <sup>(24)</sup>. It should be further examined whether such an individual training right should be portable, i.e. if people should be able to transfer it between employers and across countries.

<sup>(20)</sup> European Parliament resolution of 16 February 2017, with recommendations to the Commission on Civil Law Rules on Robotics, A8-0005/2017.

<sup>(21)</sup> See above, note 3.

<sup>(22)</sup> OJ C 434, 15.12.2017, p. 36 and OJ C 434, 15.12.2017, p. 30.

<sup>(23)</sup> Eurofound (2017). *Non-standard forms of employment: Recent trends and future prospects*. Eurofound, Dublin.

<sup>(24)</sup> OJ C 434, 15.12.2017, p. 30.



4.4. The EESC considers that it is also crucial to improve workers' participation in lifelong learning and to determine, together with enterprises, the content of on-the-job training in a way that will bring benefits to workers and enterprises alike. Workers' equal access to job-related learning and continuing vocational training should be ensured by investing in different programmes and tools. The potential offered by online and digital learning platforms could also be exploited; however their use should be agreed by social partners respecting working time provisions and workers' free time'. It is important to recognise that lifelong learning can be formal, non-formal or informal in nature. All learning can bring added value, if well designed among the relevant actors. The validation of non-formal and informal learning is important for enhancing and proving the person's skills and competences.

4.5. The **involvement of workers** in schemes regarding the correct use of technology in the enterprise is fundamental. This will ensure that they will be given the tools and training that will allow them to manage the technology in their field, but also that they will participate in the innovation process, thus making sure that **awareness** will transform their fears of change into opportunities for personal and professional growth.

4.6. The EESC stresses the importance of taking tangible action to help national education and training systems to **adapt their programmes** as quickly as possible, so that the curricula and work-based systems can correspond better to labour market needs, and to ensure that training and education systems are effective in reaching everybody, including workers at risk of exclusion because of the new digitally driven forms of employment, such as the **low-skilled, people with disabilities** and the **rural population** in areas where broadband penetration is much lower than in metropolitan ones. It is therefore essential to **simplify** the related administrative procedures in those Member States where they are burdensome. In order to reach these objectives, the EESC calls upon the Commission and the Member States, in the framework of the European Semester process, to adopt practical measures, such as: new monitoring mechanisms at EU level in order to collect and evaluate data on the results achieved at national level as far as digital and lifelong training coverage is concerned; the setting of new benchmarks in order to reach new common basic education levels and digital skills schemes at EU level and avoid the widening of the gap among EU countries; reinforcing synergies among countries through participation in networks of e-infrastructures; fixing new result-based robust criteria for the allocation of funds and the provision of incentives in order to improve the **cohesion** among Member States of their education and training systems.

4.7. The EESC is indeed concerned about the future of **low-skilled**, and more generally of **vulnerable groups** in Europe. It fears that the New Skills Agenda action 'Upskilling pathways' may not be enough to tackle the problem. As Cedefop has shown recently <sup>(25)</sup>, the definition of this large group, comprising many different categories of disadvantaged people, is complex and poorly understood, while numbers are worrying — for instance, in 2015 one in four European adults aged 25 to 64 (about 64 million adults) still held only low qualifications, while the share of the adult population with low cognitive skills in literacy and numeracy was 18 % and 20 % respectively. Cedefop data show that this group is less likely to participate in learning activities. Given that the study has proven that investing in skills pays off, the EESC expects the European Commission to do more to ensure that vulnerable groups such as **ageing people** will be able and encouraged to participate in **adult learning initiatives** to avoid the risk of their being marginalised in the labour market. It is also important to reach out to workers in the **55-64 age group** as they are often the least likely to take part in lifelong learning. The EESC also stresses the importance of adapting machinery and new technology software so that they can also be used by **people with disabilities**.

4.8. Particular attention should also be given to **gender-specific measures** to close digital divides; persistent gender differences in the field of study may mean that women will benefit less from new job opportunities in STEM-related occupations; greater work flexibility may increase women's employment but also have a negative impact on their job quality <sup>(26)</sup>.

<sup>(25)</sup> Cedefop (2017). *Investing in skills pays off: The economic and social cost of low-skilled adults in the EU*.

<sup>(26)</sup> OECD (2017). *Going Digital: The Future of Work for Women*. Policy Brief on the Future of Work.

4.9. In this situation of rapid and continuous change, it is vital to offer everybody many and different learning opportunities that can lead to the acquisition of **valid (usable) skills** for (in) the labour market, in line with the digital dimension of the new world, protecting everybody from the risk of being excluded from the labour market or relegated to precarious forms of work. Workers' expectations and the needs of the labour markets should be reflected in the available education and training schemes, so that enterprises can grow and people can find a job or thrive in their existing job, in line with their skills, anticipations and competences. **Active worker involvement** in lifelong learning schemes and in in-work training is a *condicio sine qua non* for the growth and competitiveness of enterprises, for the employability of workers and for securing quality jobs.

4.10. The EESC also stresses the importance of increasing the provision of, and participation in, **lifelong learning** aimed at improving enterprise performance and workers' personal and professional growth. Practical measures should be adopted in order to secure the provision of, and participation in, lifelong learning for all<sup>(27)</sup> — according to identified needs — which should be provided on a proper cost- and management-sharing basis between governments, employers and workers and in collaboration with public and private institutions as well as social partners. The EESC would point out here that steps should be taken to check if and what measures are needed to establish the right to paid educational leave and that EU measures should be considered with a view to making good practice in the area of minimum standards regarding entitlements to educational leave standard practice in some Member States<sup>(28)</sup>. The EESC stresses the need for a **qualification offensive** to underpin the growing digitalisation of our labour markets, to provide incentives for investing both at company level and in the public sector, to promote public and private **investment in vocational education and training**.

4.11. The EESC stresses, furthermore, the need to guarantee **equal access to digital services** for all, especially the elderly and people with disabilities, so that the new technological goals are not an obstacle, but a real and major opportunity for all, without discrimination or barriers. It calls on the European Commission and the Member States to find instruments to guarantee adequate support for everybody in this 'new society' and, at the same time, ensure that the public sector has the resources it needs to respond to these needs. Those, in particular, at risk of losing their job due to automation should be provided with training that would allow them to be re-skilled.

4.12. The EESC invites the European Commission and the Member States to develop schemes — with the involvement of the social partners and other civil society organisations — to grant free access possibilities to training, training vouchers or co-sharing the costs for those who are not in a position to bear the costs. Where workers need to undertake additional training, it is important to achieve a **balance between working time and learning time** commitments that is acceptable to both the worker and the employer. In this respect, the EESC reiterates the importance of looking at and sharing experiences on how training is organised and provided in different Member States, including, for example, the multitude of workplace practices aiming at providing life-long learning in employment and the practice of **training leaves** — some of which are paid — which should be encouraged and supported across the EU.

4.13. The quality of investments in **inclusive growth** and the creation of **good quality jobs** are essential. The EESC therefore stresses the need to provide **adequate resources** to accompany the transition towards technological change and digitalisation, addressing the urgency of the acquisition of relevant skills and competences, not only at workplace level, but also through the development of effective training systems, in order to ensure continuous skills adaptation. The EESC considers it a priority to identify **specific funding lines** dedicated to this transition and to evaluate new result-based criteria for their allocation.

4.14. The EESC also asks the European Commission and the Member States to make the best possible use of the **Structural Funds**, particularly the European Social Fund — whose priorities for human capital investment must be confirmed and safeguarded — for the adaptation of competences, as a complementary tool. The European Commission and the Member States, together with civil society stakeholders, should develop a framework of common criteria in order to have a mutual understanding of the new skills needs and goals, taking into account: on the one hand, the differences across the European Union and the mobility not only of physical persons but also of work content; and, on the one hand, the requirement of homogeneous re- and up-skills levels in order to foster cohesion among EU countries.

<sup>(27)</sup> Communication from the Commission to the Council and to the European Parliament "Efficiency and equity in European education and training systems", COM (2006) 481 final.

<sup>(28)</sup> OJ C 13, 15.1.2016, p. 161.

4.15. Duly updated tools, such as the **European Qualification Framework** and the implementation of the **Professional Qualifications Directive**, are useful for the transparency of qualifications obtained.

4.16. Digital skills are obviously very important in the Fourth Industrial Revolution. In this context, **basic skills** (notably mathematics, physics, chemistry and biology), which are also learned in technical and professional institutes, as well as advanced language skills, have to be given a new recognised value: without them, it is not possible to take the next step towards the highly specialised technological and informatics skills needed to work in multicultural environments where digitisation and robotics are the key concepts of professionalism.

4.17. Basic knowledge is essential, as it nurtures critical thinking which is necessary for the selection of information sources and for understanding new technologies. More attention though should be placed on both technical and specialist skills as well as on soft skills; the first are needed in production processes, but the latter can help workers to manage complex and changing scenarios. A winning future lies indeed in the complementarity of skills. In particular regarding soft skills, it is also necessary to adequately train teachers and education and training providers, and to help **families** become aware of their importance.

4.18. The EESC supports an approach giving **strong emphasis on soft skills** — such as complex problem solving, critical thinking, teamwork, sense-making, novel and adapting thinking, cross-cultural competency, virtual collaboration, cognitive flexibility, etc. —, as they are key elements of human development and can help workers to think in an autonomous way, before they are asked to become digitally competent. The EESC suggests paying particular attention to the development of these skills in the revision of the **European framework for key competences**.

4.19. Dedicated **information** about the world of work and **orientation** regarding education, training and working opportunities need to be provided to young people at **school**, in order to guide their further development and career path, but **lifelong guidance** will also be essential in the future. The **choice of a profession** is a crucial decision. Guiding young people during this period by showing them the variety of training and professional careers available allows them to make informed choices.

4.20. Depending on their connection to the territory, on the one hand, and their mission, on the other, **schools, universities and training institutions** offer a mix of new knowledge and new ways of learning. The EESC considers it important to **interlink** their role and activities with the role of central and local governments and institutions, as well as with the world of work. This process must be encouraged and supported, recognising the central role of civil society organisations and social dialogue, which has to be developed starting from the local and territorial level.

4.21. The EESC asks the Commission to further develop the setting up of an updated '**good practice registry**' which has the potential to serve as facilitator for an EU-wide debate to identify guidelines and standards based on best practices in the field of vocational training.

4.22. Competences acquired through **non-formal and informal learning** pathways are ever more important. In its opinion from 2015 <sup>(29)</sup>, the EESC underlined the need for doing what is necessary so that national qualifications systems can ensure their **validation** (according to Council Recommendation 2012/C 398/01 <sup>(30)</sup>) and for highlighting the crucial role of organised civil society in this process. Appropriate validation (consisting of identification, documentation, assessment and certification) will bring their added value in the labour market, and serve to highlight individual professional awareness, i.e. knowledge of one's capabilities. It is thus crucial to encourage **employment services** and 'private/public agencies' to become much more active in this. The validation should be accessible and affordable in order to benefit both employees and employers.

4.23. The EESC flags up the ten priority actions of the **New Skills Agenda**: the Upskills Pathways initiative, making VET a first choice, the Key Competences Framework, the Digital Skills and Job Coalition, the EQF, the Skills Profile Tools for Third Country Nationals, the Europass Framework, the collection of data to address the risk of brain drain, the Blueprint for Sectoral Cooperation on Skills and, finally, the recommendation on tracking graduates are all useful tools for equipping people with the right competences.

<sup>(29)</sup> OJ C 13, 15.1.2016, p. 49.

<sup>(30)</sup> Council Recommendation on the validation of non-formal and informal learning of 20 December 2012.

4.24. For a fair transition and for active labour market policies to work, there is a need for equally efficient employment services, capable not only of managing demand and job supply, but also of offering guidance and counselling to job-seekers. The EESC calls on the Member States to invest more resources in the enhancement of the effectiveness, efficiency but also of the capacity of employment services and their staff, as well as in the design of tools to support those who are not yet in the labour market. In such a way, workers could be offered the opportunity to reach entrepreneurs able to appreciate their value and competencies in a healthy, virtuous circle of professional growth and corporate competition.

4.25. Regarding employment opportunities, it is very important for the EU to address the issue of the so-called **brain drain**, i.e. the loss by certain Member States of their highly skilled human capital. Ideally, mobility in Europe should encourage a **brain exchange** between countries, i.e. lead to an enrichment that benefits all Member States. Reality, though, is different. Certain EU countries — mainly Western and Northern European countries — are much more attractive to mobile workers from the most fragile and least structured countries — mainly Eastern and Southern European countries — due to the greater availability of jobs and their capacity to offer higher wages. It is mainly Industry 4.0, from manufacturing to services and research, but also other fields such as the medical and the research sectors, which by definition feeds much of this exodus. This leads to a significant outward flow of people, skills and talent from sending countries, which results in a loss of competitiveness, as well as in a loss of their investment in education and in national tax revenues<sup>(31)</sup>. In some cases, highly qualified mobile people fail to find jobs matching their qualifications in the receiving country labour market, and end up in jobs for which they are overeducated. This can be avoided if Europe encourages **job exchanges between enterprises from different Member States**. In more general terms, further efforts are required at EU level to promote **convergence towards inclusive economic, innovation-driven and job-rich growth** and more **social cohesion**.

4.26. Another important issue to be addressed is the **health and safety** of workers. Technological innovations are likely to replace heavy and dangerous work, thus improving the quality of work, but new pathologies may emerge, especially for isolated (tele)workers. Social dialogue at European, national and industry levels is the useful tool for examining whether and to what extent employees' health and their private lives require **additional protection** in a time of ubiquitous digital mobile communication and which measures, are appropriate in this regard. It is consequently necessary to identify the means for preventing them: one example is the so-called **'right to disconnect'**, recently recognised in France, and applied in some sector and enterprise-level agreements in certain EU countries, but not yet evaluated at EU level. This needs to be further assessed at EU level, taking into account the need to respect working time provisions and in line with the new approach towards work-life balance.

4.27. The Internet of Things (IoT), privacy and big data are other issues of primary relevance when it comes to familiarity with digitalised training and e-learning tools and data protection challenges in this respect. The role of **consumer associations** should also be emphasised here because they can effectively contribute to the design of new tools to address the major challenges linked to the need to guarantee people's privacy with respect to the purchase and use of online learning services<sup>(32)</sup>.

## 5. The future is now: (b) Examples of best practices for reskilling and upskilling workers

5.1. Recognised best practices include the Open Educational Resources (OER, i.e. digital educational materials made available with licenses that allow them to be re-used, modified and distributed) and Massive Open Online Courses (MOOC, i.e. open, network courses designed for distance learning). They are relatively recent but not new, but it is important to step up counselling and information about them. The use of OERs and MOOCs can be an important tool for **opening up access to education and training** in a resource-efficient way which enables people to balance work and family commitments.

<sup>(31)</sup> Schellinger, A. (2017). *Brain Drain — Brain Gain: European Labour Markets in Times of Crisis*. A Friedrich-Ebert-Stiftung Project 2015-2017, p. 88.

<sup>(32)</sup> OJ C 81, 2.3.2018, p. 102

5.2. The EESC considers a **European e-Competence Framework** a useful tool at European level: it provides a reference of 40 competences applied in the Information and Communication Technology workplace, using a common language for competences, skills, knowledge and proficiency levels that can be understood across Europe, including skills and knowledge requirements of ICT professionals, professions and organisations at five proficiency levels, and is designed to meet the needs of individuals, businesses and other organisations in public and private sectors, in particular training institutions and companies.

5.3. With regard to **company-based vocational training**, the dual vocational training systems in countries like Austria, Germany, Denmark and the Netherlands have to be seen as best practice given the involvement of the social partners in the ongoing adaptation of the VET systems towards the new digitally driven world of work<sup>(33)</sup>.

5.4. The EESC considers the Spanish Fundación Estatal para la Formación en el Empleo (FUNDAE), the French Organismes paritaires collecteurs agréés (OPCA) and the Italian Fondi Interprofessionali per la Formazione Continua to be examples of best practices in terms of **financing training courses in the workplace**, and believes that they contribute significantly to updating workers' digital skills.

5.5. Similarly, **individual schemes for training** can also be useful: for example, in **France** there are: the Personal Training Account (CPF), the Individual Training Leave (CIF), the Leave for Skills Assessment (CBC) and the Leave for Validation of Acquired Experience (CVAE).

5.6. In **Italy**, there are two kinds of training leave: the first is for completing school and/or university education and training activities other than those of the employers. The second is for both employed and unemployed and is meant to guarantee the **right to lifelong learning** of workers; the way in which workers are identified, the time they are allowed to dedicate and the income they receive have been defined by **collective bargaining**. Finally, again in Italy, there is the **training voucher** (*voucher formativo*): this is a kind of individual fund for training activities to strengthen the employability of people by means of professional and innovative training courses.

5.7. **Germany** is one of the countries with the highest percentage of workforce in the world and the lowest unemployment rate: according to an OECD survey, the employment percentage is not affected by the high level of automation, as workers are trained to use robots and are **accompanied to other jobs** if their jobs are replaced by robotisation. However, in some areas there is less demand for employment and people entering the labour market may lack the necessary digital skills training to find work. The German social partners decided to take up the **challenge of innovation** and started negotiating on how to tackle this challenge in the labour market.

5.8. In **France**, a law on the **right to disconnect** was approved last year and in Italy, the debate on this issue is open and recognised in some collective agreements.

5.9. The EESC considers that young people in the first stages of school education and training must be educated not only on the needs of the labour market, but also on **full active citizenship**<sup>(34)</sup>. Finally, another best practice is the inclusion in many Estonian elementary schools of a **basic programming course**.

5.10. The recent publication by the European Commission this year on *Business cooperating with vocational education and training providers for quality skills and attractive future*<sup>(35)</sup>, reports many interesting best practices implemented in several Member States which, with the necessary adaptations, could be usefully replicated elsewhere:

- the Austrian AQUA project, for matching the skills of unemployed people with the needs of employers, in particular SMEs;
- the Danish Coop Food School, for solving the increasing shortage of workers in the food industry;

<sup>(33)</sup> OJ C 13, 15.1.2016, p. 57, OJ C 143, 22.5.2012, p. 94.

<sup>(34)</sup> See the EESC opinion on the *New EU education strategy*, point 1.2 (OJ C 81, 2.3.2018, p. 167).

<sup>(35)</sup> European Commission (2017). *Business cooperating with vocational education and training providers for quality skills and attractive future*. Luxembourg, Publications Office of the European Union.



- the UK Tech Partnership, for stimulating the supply of workers in digital sectors;
  - the German Dual Study Programmes, to fill skill shortages in a bottom-up way;
  - the Italian Higher Technical Institutes, to ensure a stable pipeline of skills at local level in strategic sectors;
  - the Netherlands Techwise Twente, which targets VET institutes to ensure that skills taught are those needed by the high-tech materials sector;
  - the Serbian and German Cooperative Education, to improve the supply of workers in some sectors that suffer from skills shortages;
  - the Lithuanian and Latvian Educate for Business, through which curricula of VET programmes have been updated to align with the labour market;
  - the Finnish Valkeakoski Campus which, thanks to close dialogue with local companies, allows VET students to obtain the right digital skills within the automation and robotics fields;
  - the Slovakian, Czech Republic and UK project Step Ahead, which targets VET teachers to ensure that the skills taught are those needed by the labour market;
  - the Spanish Labour Foundation of the Construction sector, for upgrading the skills of workers in the construction sector and providing up-to-date curricula for initial training;
- and finally,
- the global Nestlé YOUth Initiative, which develops dual learning opportunities and creates curricula together with VET schools.

Each one of these initiatives is focused on one or more aspects, such as matching supply and demand, work-based learning, digital and entrepreneurial skills, mobility and social inclusion.

Brussels, 15 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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## III

*(Preparatory acts)*

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

533RD EESC PLENARY SESSION, 14.3.2018-15.3.2018

**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 — Tackling Illegal Content Online — Towards an enhanced responsibility of online platforms’***(COM(2017) 555 final)**(2018/C 237/03)*Rapporteur: **Bernardo HERNÁNDEZ BATALLER**

Consultation	European Commission, 17.11.2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	9.3.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	180/4/5

**1. Conclusions and recommendations**

1.1. Illegal online content is a complex and cross-cutting issue that needs to be tackled from a range of perspectives, both in terms of assessing its impact and harmonising the way it is dealt with in the legal framework of the Member States.

The European Economic and Social Committee (EESC) emphasises the importance of establishing a suitable and balanced regulatory framework for platforms in the digital single market that could help to establish a climate of trust, both for businesses and for consumers in general, enabling them to use platforms with confidence. Regulatory and self-regulatory policy approaches that are flexible, sustainable and respond directly to challenges should be adopted, in particular for procedures relating to the detection, investigation, notification and removal of illegal content on platforms.

1.2. As regards the adoption of criteria and measures, the EESC considers it necessary to maintain consistency with the recommendations of its previous opinions. The point of departure should be the fact that what is illegal in the real world is also illegal online. The EESC stresses the importance of technology neutrality and of coherence between rules that apply online and offline in equivalent situations, to the extent necessary and possible.

1.3. It is essential to achieve the best possible balance between upholding fundamental rights and the planned restrictions of illegal content. Such balance is also needed between online platforms of varying size and pursuing different activities.

The EESC calls on the Commission to take appropriate measures against the growing presence of violent and/or discriminatory messages on platforms, stressing the importance of protecting vulnerable people and children and combating all forms of racism, sexism, incitement to terrorism and harassment, including in the digital environment.

1.4. Attention should be paid in particular to the effectiveness of actions taken in relation to those online platforms whose headquarters are located outside EU territory.

Likewise, the Commission should review and catalogue illegal content to the extent that this is possible, so that other forms of content that are not specifically mentioned in the Communication can be incorporated.

In any event, the application of the guiding principles for detection, investigation, notification and withdrawal procedures should be encouraged in the following cases:

- (a) to defend rights that are recognised by international conventions, such as those aimed at:
  - protecting children from any digital content which may be contrary to the provisions of the Convention on the Rights of the Child,
  - protecting persons with disabilities from any digital content which may be contrary to the provisions of the Convention on the Rights of Persons with Disabilities;
- (b) to guarantee the absence of gender-based discrimination in digital content, in particular as regards the application of the principle of equal treatment of men and women in accessing and supplying goods and services and guaranteeing gender equality and human dignity in advertising;
- (c) to ensure that digital content complies with the provisions of the Digital Agenda to enhance safety and consumer rights in the digital society.

The Communication should include a reference to the significance that illegal content can have for the Single Market, so that the necessary preventive measures can be adopted to ensure that it can continue to operate in accordance with the principles that underpin it.

1.5. Ultimately, the EESC strongly welcomes the European Commission's initiative in presenting this Communication which, in general, provides a sound approach to tackling the presence of illegal content on online platforms. To this end, consideration should be given to the possibility of reviewing the content of the E-Commerce Directive, the Unfair Commercial Practices Directive and the Directive on Misleading and Comparative Advertising, on the basis, *inter alia*, of standards that are valid for the future, technologically neutral and vital to the development of European platforms, so as not to spread uncertainty among economic agents or limit access to digital services.

## 2. Background

2.1. Online platforms are a type of information society service provider that acts as an intermediary in a given digital ecosystem. They include a wide range of actors participating in numerous economic activities, such as e-commerce, the media, search engines, the collaborative economy, non-profit activities, the distribution of cultural content or social networks. There is no clear and precise definition of online platforms and it is difficult to formulate one due to their continually evolving nature. Currently, they play an important role in the internal market, a role that will only increase in the future.

2.2. The Commission has already addressed the issue of online platforms in relation to the Digital Single Market <sup>(1)</sup>, recognising that the most important challenge facing the EU today when it comes to ensuring its future competitiveness in the world is effectively promoting innovation in these economic sectors, while at the same time protecting the legitimate interests of consumers and users in an appropriate way. It had therefore been intending to revise the directives on telecommunications, privacy and electronic communications as regards the current situation of the OTT online communications services.

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<sup>(1)</sup> COM(2016) 288 final of 25 May 2016 — Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Online Platforms and the Digital Single Market, Opportunities and Challenges for Europe.

2.3. The EESC <sup>(2)</sup> has already set out its views about this Communication, highlighting that many online platforms are important elements of the collaborative economy, and has reaffirmed its findings on the collaborative economy, especially with regard to consumer protection, workers and self-employed people. It has also stressed the need to address the risk of regulatory fragmentation, as a result of which it considers it necessary to adopt a consistent approach throughout the EU.

2.4. In this Communication the Commission addresses the fight against illegal online content. It endeavours to increase the accountability of online platforms by laying down a series of principles and guidelines for online platforms to help them intensify their fight against illegal online content in cooperation with national authorities, Member States and other stakeholders.

2.4.1. The aim is to step up the implementation of good practices in the prevention, detection, removal or disabling of access to illegal content, in order to:

- (a) ensure that it is effectively removed;
- (b) increase transparency and the protection of fundamental rights online;
- (c) provide clarification for platforms on their liability when they take proactive steps to detect, remove or disable access to illegal content (the so-called 'Good Samaritan' actions).

2.4.2. The EU legal framework consists of binding and non-binding standards, notably the E-Commerce Directive <sup>(3)</sup> which harmonises the conditions under which certain online platforms can benefit from exemption from liability for illegal content that they host across the Digital Single Market.

2.4.3. A harmonised and consistent approach to removing illegal content does not exist at present in the EU, since what is considered illegal is determined by specific legislation at the EU level, as well as by national law. A more aligned approach would make the fight against illegal content more effective and would also benefit the development of the digital market.

2.4.4. The Communication examines the criteria to be established for the conduct of online platforms, competent authorities and users when it comes to detecting illegal content quickly and efficiently. To this end, the Commission considers that their cooperation with the competent authorities of the Member States should be systematically enhanced and that Member States should ensure that courts can react effectively against illegal online content, and should strengthen cross-border cooperation.

2.4.4.1. It also believes that, in order to ensure that illegal online content is removed more quickly and in a more reliable way, mechanisms need to be established to facilitate the work of 'trusted flaggers'. These are specialised entities with specific expertise in identifying illegal content, and dedicated structures for detecting and identifying such content online. The Commission will explore the potential of agreeing EU-wide criteria for trusted flaggers.

2.4.4.2. As regards communication with users, online platforms should establish an easily accessible and user-friendly mechanism to enable their users to report content hosted by them that they consider to be illegal.

2.4.4.3. With regard to ensuring high quality communications, the Commission believes that effective mechanisms need to be put in place to facilitate the submission of notices that are sufficiently accurate and substantiated.

2.4.5. The relevance of establishing proactive measures in online platforms is evaluated with regard to the exemption of liability and the use of technology for the detection and identification of illegal content.

2.4.6. The removal of illegal content is another of the issues examined in the Communication, which seeks strong safeguards that reduce the risk of removing legal content. The Commission seeks compliance with the requirement to act 'expeditiously' when withdrawing content and reporting crime to law enforcement authorities, as well as to foster transparency with regard to the platforms' content policy and 'notice-and-action' procedures.

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<sup>(2)</sup> OJ C 75, 10.3.2017, p. 119.

<sup>(3)</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on electronic commerce (OJ L 178, 17.7.2000, p. 1).

2.4.7. As for the establishment of safeguards against over-removal and abuse of the system, the Commission examines how notices are contested and the measures against bad-faith notices and counter-notices.

2.4.8. Ways of preventing the reappearance of illegal content are explored by examining the possibility of introducing measures that discourage users from repeatedly uploading illegal content of the same type in order to end its dissemination, and defending the further use and development of technologies aimed at preventing the reappearance of illegal content online, for example by using automatic re-upload filters.

2.4.9. In short, the Communication serves as a guideline but does not change the applicable legal framework or contain legally binding rules. Its objective is, firstly, to provide guidance to online platforms on the best way to live up to their responsibilities when it comes to tackling the illegal content they host. It also aims to mainstream good procedural practices against different forms of illegal content, and to promote closer cooperation between platforms and competent authorities.

### 3. General Comments

3.1. The EESC acknowledges this Communication and calls on the Commission to establish programmes and take effective measures to provide a stable and consistent legal framework for the efficient removal of illegal content. It also considers it to be timely, given the impact that digital platforms have on daily life today as well as the risks posed by their widespread use and the impact on the digital single market, the purpose of which is to avoid fragmentation between national legislations and remove technical, legal and fiscal obstacles in order to enable businesses, citizens and consumers to benefit fully from digital tools and services.

The EESC stresses the need for online platforms to combat illegal content and unfair commercial practices (e.g. the reselling of entertainment tickets at extortionate prices), through regulatory measures complemented by effective self-regulatory measures (e.g. through very clear terms of use and appropriate mechanisms to identify repeat offenders, or by setting up specialised content moderation teams and tracing illegal content) or by adopting hybrid measures.

3.2. The EESC considers that cases of illegal content should be reviewed and catalogued, so that they are not limited to those set out in the Communication (incitement to terrorism, xenophobic speech that publicly incites hatred and violence, child sexual abuse material). Other cases could be included in this regard, such as those related to clearly malicious defamation, the distribution of material that violates human dignity, or sexist content that contributes to gender violence, without going so far as to produce an exhaustive list of such cases, and with the aim of establishing a uniform set of criteria for cataloguing them.

Therefore, the application of the guiding principles for detection, investigation, notification and withdrawal procedures should be encouraged in the following cases:

(a) to defend rights that are recognised by international conventions, such as those aimed at:

- protecting children from any digital content which may be contrary to the provisions of the Convention on the Rights of the Child,
- protecting persons with disabilities from any digital content which may be contrary to the provisions of the Convention on the Rights of Persons with Disabilities;

(b) to guarantee the absence of gender-based discrimination in digital content, in particular as regards the application of the principle of equal treatment of men and women in accessing and supplying goods and services and guaranteeing gender equality and human dignity in advertising;

(c) to ensure that digital content complies with the provisions of the Digital Agenda to enhance safety and consumer rights in the digital society.

3.3. The EESC is in favour of strengthening measures to combat illegal online content, in particular as regards the protection of minors, and the removal of content related to hate speech and incitement to terrorism. It therefore requests that the need to avoid harassment and violence against vulnerable people be taken into consideration.

3.4. This is so despite the fact that the concept of illegal content in digital environments varies from one Member State to another from a legal point of view, and from one person to another from an ethical point of view. Thus, examples could be provided that are less obvious than those cited above, in which the question of whether content is illegal will depend on the interpretation and resolution of those conflicts in which there is a clash between fundamental rights, such as freedom of expression, and other recognised rights, and these rights must therefore be balanced as much as possible in order to prevent such clashes. However, the importance of taking action against the dissemination of fake news should be highlighted, which is why the EESC feels that online platforms should provide users with the tools to report fake news, so that other users can be made aware that the veracity of the content has been called into question. In addition, online platforms could develop partnerships with trusted flaggers, i.e. certified fact-checking sites in order to enhance their users' trust in the validity of the online content.

3.5. For illustrative purposes, cases of illegal content ought to be set out in such a way that, as far as possible, a common understanding may be established among Member States, thus enabling them to prioritise and determine the limits of these cases. In this regard, we propose including cases relating to the following:

- national security (terrorism, corruption, drug trafficking, arms trafficking, tax evasion and money laundering),
- protection of minors (pornography, violence, etc.),
- human trafficking, prostitution and gender-based violence, including sexist advertising,
- protection of human dignity (incitement to hatred or discrimination based on race, gender or ideology, or as regards sexual orientation),
- economic security (frauds and scams, piracy and counterfeiting, etc.),
- security of information (criminal hacking, collection of data for commercial reasons, avoidance of competition, disinformation, etc.),
- protection of privacy (cyber-bullying, leaking and use of personal data, interception of personal communication, interception of people's location, etc.),
- protection of reputation (defamation, illegitimate comparative advertising, etc.),
- intellectual property.

3.5.1. It is also necessary to spell out more clearly the concepts of 'illegal content' and 'dangerous content', in order to avoid biased interpretations of these concepts.

3.6. Due to its potential consequences, particular attention must be paid to the concentration of economic power of some digital platforms as well as to the development, processing and distribution of purely informative content, which only appears to be legal — in other words content that purports to hide illegal or even dangerous elements.

This should also be extended to anything that relates to megadata and the benefits that online platforms obtain by exploiting these data.

3.7. Moreover, given the global nature of the problem in question, it is worth noting the possibility of analysing and considering the relevant cooperation and reciprocity initiatives in an optimal and efficient manner, based on principles such as information, choice, ongoing transfer, security, integrity of data, access and implementation.

#### 4. Specific comments

4.1. With regard to the general context, this is a good moment to consider revising the E-Commerce Directive, which was adopted in 2000, as well as those on Unfair Practices (2005) and Advertising (2006). In particular, elements relating to the newly emerging economic models should be considered, as well as other situations where no conventional commercial relationship exists; in any case, the liability regime for content on platforms should be strengthened in a systematic way throughout the EU, and gaps in compliance should be eliminated. All this is needed in order to strengthen legal security and increase the confidence of businesses and consumers.

4.1.1. In any case, measures should be introduced to deal with websites that violate the provisions of these directives, including the possibility of blocking access to websites by means of transparent procedures. Moreover, adequate safeguards should be provided to ensure that restrictions are necessary and proportionate and that users are informed of the reasons for the restriction. These safeguards will also include the possibility of judicial redress.

4.1.2. With regard to detection and reporting of illegal content, the Communication states that national courts and authorities can adopt protective and other measures to remove or block access to illegal content and that this should be taken into consideration. These steps should be accompanied by measures drafted using the wording set out by the EESC for the measures laid down in the regulation on cooperation between consumer authorities<sup>(4)</sup>.

4.2. Likewise, mechanisms would need to be established for identifying who was responsible, along with response procedures enabling *ex ante* and *ex post* authorisations to be revoked. The measures to be taken in each case would also need to be set out, bearing in mind the context and available information.

4.3. Those aspects relating to the authorisation of content in connection with previous notices could also be made more specific. For example, lists could be drawn up of those online platforms that harbour illegal content, as well as those developing best practices which have official recognition. This would help increase competition for the best reputation and improve trust in the internet.

Innovation favours investments in research, development and improving workers' skills, and is of crucial importance when it comes to generating new ideas and developments. Technological innovation should be used for procedures to detect, identify and remove illegal content and prevent it from being republished, such as processing of information and digital intelligence, and the use of automatic detection and filtering technologies; however, ultimately, people's individual decisions need to be made and their actions taken in a way that guarantees fundamental rights and democratic values.

Reaffirming that a balance must be found between upholding fundamental rights and restricting illegal content, the EESC stresses that the use of current automated filter technology places a disproportionate burden on the freedom of intermediaries to conduct their business, the right of end-users to the freedom of expression and the right to protection of personal data. One-size-fits-all solutions, such as automatic re-upload filters, should not be forced upon the industry without considering the specific needs of SMEs in the IT sector. Current best practices of automated filter technology indicate that the systematic application of the human in-the-loop principle is necessary. This is a system in which final contextualised decisions on a smaller number of contestable cases are always made by humans in order to decrease the likelihood of infringing the fundamental right to freedom of expression. It should be made clear that Artificial Intelligence must not replace decisions taken by human beings on the basis of ethical assessments.

4.4. With regard to notices, the accreditation procedures for trusted flaggers should be addressed. Likewise, as regards 'ensuring the high quality of notices', the appropriateness of disseminating notices publicly should be noted.

4.5. The Communication does not provide a clear proposal as regards proactive or preventive measures, or those related to re-education, enabling a series of relevant political initiatives to be rolled out. Such precision is key when it comes to taking on the fight against illegal digital content in an integrated and efficient way.

4.6. Provision should be made for cases where decisions need to be revised, so as to ensure that they can then be reversed and any content that was deleted in error or reported for malicious reasons can be restored, including in particular out-of-court claims systems, with a code of conduct that sets out penalties in the case of non-compliance.

The EESC calls for effective systems to be put in place for complaint procedures and dispute resolution, thus simplifying the way SMEs and consumers can exercise their rights.

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<sup>(4)</sup> OJ C 34, 2.2.2017, p. 100.



4.7. As regards the withdrawal of illegal content, the effectiveness of the proposals should be increased by introducing a clearly dissuasive element such as the public disclosure of the measures adopted in the framework of the corresponding legal certainty, as this would also strengthen the standards of transparency, which is a necessary condition for the successful, effective implementation of any legislative proposal.

A high level of protection should be ensured between platforms, consumers and other economic actors. It is important to promote the transparency of the system and to encourage cooperation among the platforms themselves, as well as between the platforms and the authorities, so as to take further steps in the fight against illegal content.

4.8. Finally, the specific proposals aimed at children should be extended to other vulnerable groups in the adult population and could be adapted according to their level of vulnerability.

Brussels, 14 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Mid-term evaluation of the Copernicus programme (2014-2020)**

(COM(2017) 617 final)

(2018/C 237/04)

Rapporteur: **Mindaugas MACIULEVIČIUS**

Referral	European Commission, 18.1.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	9.3.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	178/0/2

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the results achieved so far by the Copernicus programme as notified by the Commission. Very precise satellites are already operational and sending global high quality Earth monitoring data on a daily basis.

1.2. The EESC emphasises that when assessing the achievements of the Copernicus programme, social and environmental aspects should be considered, in addition to the economic aspect. The EU has committed itself to sustainable development goals and is one of the global leaders in combating climate change, with its clear and very ambitious commitment to COP21, and the Copernicus programme is the most important system in terms of providing clear metrics and tools for measuring performance and achievements, and not only at EU level, but globally.

1.3. Copernicus is at the heart of climate change, food security, public health, disaster management, human trafficking, maritime safety, etc. The EU is the leader in monitoring and providing precise data on changes in climate, emissions of different gases, the state of agricultural and forest lands and the maritime situation. Without this data, it would be impossible for the scientific community to understand these issues and suggest ways to successfully tackle climate change, sustainably produce food, etc.

1.4. There is no real sense of ownership or pride in the Copernicus programme among European citizens. European citizens are not aware of Copernicus and its benefits just as they are often unaware of European space programmes in general. The programme and its activities should be more visible to mass media, and open to civil society and to active citizens. The EESC considers the participation of civil society in the definition of spatial strategies and programmes indispensable.

1.5. The possible Copernicus forum should be open to representatives of businesses, consumers and civil society organisations. It is necessary to 'open the club' to society and establish a real **European Space Community**. The EESC declares its interest and willingness to play an active role directly and with the national organisations represented in it, which constitute huge potential to fill in the 'missing links' identified in the EESC project *Space and Society*.

1.6. The effectiveness of the Copernicus programme should not be evaluated on economic performance only. Its greatest value comes from its environmental and social aspects. It is a tool that is a must have in order to fight climate change, sustainably feed the global population, save lives at sea, etc. It is a service that cannot be bought from third parties because of national security issues, and the current lack of similar quality services elsewhere. This represents our answer to these global challenges and our willingness as a mature global society to address them.

1.7. The involvement of SMEs and micro companies, start-ups and independent researchers is of the highest importance for making successful use of the Copernicus data. New ideas, and new fields of usage are coming from this sector. It is vital to promote the development of different initiatives and develop the tools for end-users, which generate added value. Horizon 2020 has played and should continue to play an important role. Access to finance via the European Investment Bank (EIB) and the European Fund for Strategic Investments (EFSI) is of the highest importance.

1.8. The EESC calls for more ambitious promotion of consistency and coherence with regard to Copernicus, and of awareness of it and the use of its tools for public service purposes by the various directorates-general at European level, and by national and regional authorities at Member State level. Copernicus data should be established as the independent and national standard at European level. Eurostat should be involved more in measuring progress here and the benefits provided by Copernicus.

1.9. Local small agencies on a national basis could be a good solution for disseminating the data and Copernicus as a tool at national government level. Setting up local user communities involving local SMEs, micro companies, start-ups and independent researchers, together with regional governments, civil society representatives, educational institutions and independent and public advisory services, parts of society directly working with Copernicus like farmers, foresters and environmentalists, could help to further increase usage of the Copernicus data, and enhance its performance adapted to national specificities.

1.10. Education on Copernicus is of the highest importance. The EESC welcomes specially designated Masters programmes, supporting some European university students studying for a Masters degree on Copernicus. The EESC calls for a dedicated, more ambitious programme, including all relevant technical support for dedicated Copernicus departments to be set up in all relevant European universities, professional training schools and advisory service providers. As a separate topic, the potential use of Copernicus should be introduced in all related study fields, including agriculture and forest science, engineering, the environment, marine studies, etc. The training needs of existing professionals, including end-users should be taken into account; special programmes here could be provided by national independent and public advisory services.

1.11. The availability of fast and simple data access will soon be ensured by the upcoming entry into operation of the Copernicus Data and Information Access Services (DIAS). This will obviate some critical issues that have emerged concerning the time needed to download Copernicus data. The EESC also calls for the harmonisation and full availability of *in situ* data, regulated by national legislation, to be speeded up. Standardisation and interoperability are prerequisites for the full success of the Copernicus programme.

1.12. The training of qualified engineers and technicians, the creation of new jobs and new professional skills linked to the development of the applications are a priority commitment of the EU for a sustainable and socially useful economy.

1.13. With a view to the important results and their quality, the EESC hopes that priority will be given to European launchers. Successful launches, accuracy in implementing the programmes and respecting deadlines, and the flexibility of use with the new Ariane 6 and Vega C, should reward European excellence with long-term contracts. The EESC does not share protectionist policies, but at the same time believes that European industry must be protected against unfair practices through the principle of reciprocity.

1.14. Particular attention should be paid to disseminating the opportunities opened up here to agriculture, forestry and fisheries, through targeted awareness and information programmes aimed at operators in the sector. Energy savings and savings on fertilisers and pesticides can significantly increase and improve agricultural production and water conservation. The Global Monitoring for Environment and Security (GMES) for Africa programme, which has already delivered excellent results, should in the EESC's view be strengthened and disseminated also in other developing areas.

1.15. The EESC welcomes the governance model adopted for the Copernicus programme, in particular the creation of the user forum, which should be open to representatives of operators, researchers and civil society. The next Copernicus regulation should confirm the current model of division of responsibility by skills, distinguishing the technical responsibility for the space component, entrusted to the European Space Agency (ESA), from responsibility for the services, entrusted to the 'entrusted entities'.

1.16. In parallel with improving access and data quality, the full deployment of broadband across Europe needs to be intensified, particularly in rural and peripheral areas, often overlooked by private operators. The effective implementation of the 'Digital Single Market' strategy is essential in order to maximise the opportunities offered by the Copernicus programme. The EESC fully supports this initiative of the European Commission and urges the Parliament and the Council to speed up the negotiations for the final approval of the measures still under discussion.

1.17. Data protection from increasingly frequent attacks, along with the risks posed by debris to space infrastructure, are a priority. The EESC recommends strengthening security safeguards and speeding up programmes aimed at cleaning up debris and satellites that are no longer operational<sup>(1)</sup>. The European Commission should intensify its efforts to reach a major international agreement.

1.18. The EESC advocates greater involvement of the financial system and investors in space activities, which could involve the general public by issuing special 'space bonds'. Particular attention should be paid to the financing of small and medium-sized enterprises and start-ups for the creation of services and innovative applications. The recent agreements on the mitigation of global warming open up the possibility of new economic activities relating to monitoring emissions.

1.19. The EESC also recommends keeping and possibly reinforcing funding for the Copernicus programme, which not only generates growth and development, but also guarantees European autonomy and independence in the management of its territory and its own security, and fosters innovation, research and sustainable development.

## 2. The Commission communication

2.1. The space component of the programme for the April 2014 — April 2017 period is basically in line with forecasts, except for a delay of some 10 months in launching Sentinel 2 B due to problems that emerged with the Russian Rockot launcher. In order to minimise delays, Sentinel 2 B was put into orbit by the Vega launcher developed by the ASI (Italian Space Agency) in cooperation with the ESA.

2.2. The data sent by the five orbiting satellites as of March 2017 had reached a total of 12 TB daily, far outstripping expectations, as do the registered users of the free data distribution site, which have risen to 85 000 rather than the expected 50 000<sup>(2)</sup>.

2.3. Sentinel 5P was successfully launched on 13 October 2017 with the aim of supplying data every day on the composition of our atmosphere, monitoring greenhouse gases, the ozone layer, sulphur dioxide and formaldehyde as well as volcanic ash and carbon monoxide.

2.4. From the outset, Copernicus has benefited from cooperation with other 'contributing missions', which are vital for the highest definition data that Copernicus cannot guarantee. These missions enabled the project to start before the first Sentinel satellite had been launched. In addition to data from 'parallel' missions, data from the ground-, sea- or air-borne *in situ* sensors are used and compared. The universally recognised accuracy of Copernicus data hinges precisely on the validation of data that are cross-checked with those recorded by the *in situ* sensors.

2.5. Copernicus was designed from the outset as a user-driven service, based on their needs. This approach, in tandem with the open and free use of data, underpins its growing success among service users and operators.

2.6. Copernicus governance is conducted on the basis of competences.

2.6.1. Coordination and implementation for the space component has been delegated to the European Space Agency (ESA) and partially to the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT).

2.6.2. Services are delegated to the Joint Research Centre (JRC), the European Environment Agency (EEA), the European Centre for Medium-Range Weather Forecasting (ECMWF), Mercator Océan, the European Border and Coast Guard Agency (Frontex), the European Maritime Safety Agency (EMSA) and the EU Satellite Centre. Copernicus conformity with the Inspire geospatial data programme standards ensures efficient use of all available data resources.

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<sup>(1)</sup> OJ C 327, 12.11.2013, p. 38.

<sup>(2)</sup> On 17 January 2018, there was 118 000 registered users.

2.7. The Commission gives a positive evaluation of the results achieved so far, compliance with budget estimates, the growth of user demand, and cooperation with institutions and bodies contributing to services management.

2.8. The Copernicus Committee, made up of representatives of the Member States, and the User Forum cooperate with the Commission in the overall management of the programme.

2.9. Outstanding results have been achieved in the area of communication and the dissemination of the opportunities provided by Copernicus, with specific programmes such as Copernicus Relays and Copernicus Academy, charged with boosting awareness and providing local helpdesks.

2.10. The Commission, joining forces with the ESA, has organised the Copernicus Masters, an annual competition aimed at stimulating innovation. The Copernicus start-up programme also includes the Copernicus Accelerator, which provides coaching for start-ups, the forthcoming Copernicus Hackathons (with 40 hackathons over two years), and the Copernicus Incubation programme, financially supporting 60 start-ups over a three-year period.

2.11. The Commission's future priorities are to:

- unlock the economic potential of Copernicus by turning the data provided into innovative products and services,
- ensure the future stability of the programme and free, full and open access to data,
- fully implement the space strategy for Europe in order to address the challenges of climate change and sustainable development, and monitor CO<sub>2</sub> and other greenhouse gas emissions, land use and forestry, and changes in the Arctic,
- strengthen the security that Copernicus can guarantee through border controls and maritime surveillance.

### 3. General comments

3.1. The EESC welcomes the results achieved so far by the Copernicus programme as notified by the Commission. The EESC has constantly supported European space policy as a whole, and in particular the two major programmes Galileo and Copernicus: its previous opinions on the question <sup>(3)</sup> are widely reflected in the Commission's communication.

3.2. The EESC considers the main objectives of the programme to have been achieved and in some areas surpassed.

3.3. The quantity and quality of the data gathered daily by the satellites make Copernicus one of the world's leading data producers, ensuring the European Union's independence in monitoring its territory and, at the same time, providing others parts of the world with accurate and free data. Its unexpected success has created some data flow management difficulties. The EESC recommends that the open public hubs be rapidly and effectively bolstered and the call for high-speed megadata downloads be met.

3.4. The upcoming entry into operation of the DIAS system should ensure ease of access and, in combination with the CORDA (Copernicus Reference Access Data) system, deliver to users a clear improvement in the quantity and quality of data available. The data itself should also be assessed on the cloudiness factor, as big part of the existing data could not be successfully used because of cloud cover. This would dramatically reduce the running and depreciation costs of DIAS facilities.

3.5. The EESC emphasises that when assessing the achievements of the Copernicus programme, social and environmental aspects should be considered, in addition to the economic aspects. The EU has committed itself to sustainable development goals and is one of the global leaders in combating climate change, with its clear and very ambitious commitment to COP21, and the Copernicus programme is the most important system in terms of providing clear metrics and tools for measuring performance and achievements, and not only at EU level, but globally.

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<sup>(3)</sup> Proposal for a Regulation of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (Inspire) (OJ C 221, 8.9.2005, p. 33); Earth Observation Programme (GMES) (OJ C 339, 14.12.2010, p. 14); Space component of GMES (OJ C 44, 11.2.2011, p. 153); European Earth monitoring programme (GMES) (OJ C 299, 4.10.2012, p. 72); Copernicus programme (OJ C 67, 6.3.2014, p. 88); Space strategy for Europe (OJ C 209, 30.6.2017, p. 15).

3.6. In spite of laudable initiatives by the Commission and the delegated service agencies, there is no adequate, coordinated public communication policy on the benefits stemming from the information supplied by Copernicus, therefore. 'Hundreds of millions of European citizens are unaware of the benefits of space'. The EESC has repeatedly called for a major space portal to be set up, dedicated to European space policies as a whole. This should be the first step towards the creation of the European Space Community, retracing the positive experiences of the European Coal and Steel Community, and its model of governance, which gave rise to the European Community.

3.7. One of the priorities of the European space strategy is to stimulate work and sustainable growth. Having access to the experience and market knowledge of economic operators, innovative start-ups and experts in processing data and creating new applications can contribute to the rapid development in the use of the data produced every day, with huge potential for positive economic, environmental and social effects.

3.8. The governance of the Copernicus programme has been positive, with clear responsibilities given to the Commission and the agencies involved. The next Copernicus regulation should maintain this good balance, continuing to entrust responsibility for coordinating the space component to the ESA and for managing the services to the 'entrusted entities'.

3.9. The development of space services is crucial to the development of digital services for individuals and businesses. Copernicus services also have numerous practical everyday applications: for example, farms in Austria have boosted their yields by 26 % thanks to satellite monitoring of their fields; in the Netherlands the same system has slashed spending on hydrocarbon drilling, transport and logistics; and several European cities have increased the accuracy of their air pollution measurements by 60 %, while also reducing costs <sup>(4)</sup>.

3.10. The EESC calls for the roll-out of broadband across Europe to be stepped up, particularly in rural and peripheral areas, as was approved in the Digital Single Market strategy.

3.11. The EESC calls on the Commission to make a particularly strong commitment to disseminating skills and new jobs. The creation of vocational training courses should be supported by European programmes. The spread of precision agriculture will generate better yields by saving on water, fertilisers and pesticides. Agriculture 4.0 will benefit a great deal from the possibility of using land observation data, and combining them with those of geolocation and with other technologies already available today. New professions will be created, such as territorial analyst, cyber-agronomist and developer of applications aimed at climate change mitigation.

3.12. A major problem for the rapid development of the opportunities opened by European space programmes is the issue of financing, in particular for SMEs and start-ups.

3.13. Another major problem concerns cyber security, privacy and security of space infrastructure. Daily life depends more and more on the applications of data coming from space. The EESC recommends strengthening security safeguards and speeding up programmes aimed at cleaning up debris and satellites that are no longer operational <sup>(5)</sup>. For infrastructure security, the EU should promote a major international agreement.

3.14. 'Open the club' should be the new rallying cry to public authorities and the private sector in order to make the participation of civil society effective. The fragmentation of information between various public and private operators deters SMEs in particular from becoming seriously involved in developing possible uses for the system.

3.15. The EESC welcomes the conclusions of the European Council of 1 December 2017, which closely match the points long highlighted by the Committee: the involvement of private stakeholders and a commitment to full information, a long-term vision with sufficient financial resources, development of and support for innovative businesses, greater independence for the Union and its leadership in the area of space policies, currently challenged by traditional and emerging competitors, a user-driven approach, under the non-military Copernicus control and governance, and the continuation of a free, open and accessible system.

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<sup>(4)</sup> Socio-economic impact of Copernicus in the EU by sector.

<sup>(5)</sup> OJ C 327, 12.11.2013, p. 38.



3.16. In a recent study, the Commission evaluates the benefits deriving from Copernicus in the period 2017-2035 as between EUR 67 and 131 billion. The continuation of the programme after 2021 will generate profits with factors of between 11 and 21 and will contribute to the creation of 4 000 highly skilled jobs per year.

3.17. The EESC highlights the importance of the GMES for Africa programme and the success of the recent cooperation agreements between the EU and the African Union Commission. The transfer of very useful Copernicus based data and technologies for land management, the identification and maintenance of water resources, and the improvement of agricultural yields should be a key feature of the EU's growing commitment towards Africa and developing countries.

#### 4. Specific comments

4.1. The EESC confirms its willingness to take part in support and dissemination initiatives to inform civil society of the socio-economic potential and benefits generated by the Copernicus system, as done with the Space & Society project, which it intends to continue to carry out. Bringing authorities, the agencies, public and private service supply companies and civil society together is key to the outstanding success that is expected for applications stemming from strategic projects such as Galileo and, most of all, Copernicus.

4.2. The EESC shares the Commission's concerns regarding the poor involvement of 'non-space' users, an aspect that requires far greater attention than has so far been forthcoming. The positive experience of the European GNSS Agency (GSA) could be repeated for Copernicus by entrusting a single body with the responsibility for information and the opportunities provided by the various Copernicus services. A new agency could be a solution.

4.3. The EESC believes that one of Copernicus' greatest successes is based on its origin as a user-driven programme, and particularly appreciates its inclusive governance model. For the first time in a strategic Union programme, the user community is involved alongside the Member States in strategic choices, by means of the User Forum. The EESC recommends that private users, chosen by their European associations, also be included on a permanent basis in the Forum, together with those appointed by the Member States. The EESC declares its willingness to participate in the forum. At national level too, user forums should be open to the broadest possible participation of civil society.

4.4. One of the problems that should be quickly solved is the standardisation and interoperability of *in situ* data. These issues derive from the different applications of the INSPIRE<sup>(6)</sup> directive and inconsistent legislation at national level. The EESC recommends that the Commission and Member States commit to quickly ensuring the essential harmonisation of the languages and procedures for the complete effective and free use of the data.

4.5. The EESC considers the involvement of private investors, the European and international financial system and investment funds as essential. The creation of 'space bonds' secured by guarantees that could be provided by European banking institutions such as the EIB or international institutions such as the International Bank for Reconstruction and Development (IBRD), for different space related projects, including projects in developing countries, could be a good solution.

4.6. The EESC believes that the principle of reciprocity with third countries should be applied, particularly as regards the use of launchers. A preference should be given to European launchers, which are bolstering supply with the forthcoming launch of the Ariane 6 and Vega C launchers, the result of European cooperation. These are flexible carriers, which complete the range of options available. Ariane 5, active since 1996, with a record of 82 successful launches, will operate until 2023 and was chosen as the carrier of the James Webb telescope, heir to Hubble. The international market is extremely competitive and some companies in competing countries, with protectionist policies, are proposing dumped prices to get orders in the coming years.

4.7. In addition to the economic and social activities, the EESC considers extremely important the contribution to the fight against people-trafficking, saving migrants in extreme danger, and securing the EU's own borders with effective measures to combat terrorism originating in particular from the war-torn regions of the Middle East. Security and defence of the territory respond to a growing demand from European citizens.

Brussels, 14 March 2018.

*The President*  
of the European Economic and Social Committee  
Georges DASSIS

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<sup>(6)</sup> Inspire Directive.

**Opinion of the European Economic and Social Committee on the:**

**Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — A balanced IP enforcement system responding to today's societal challenges**

(COM(2017) 707 final)

**Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — Guidance on certain aspects of Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights**

(COM(2017) 708 final)

**Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee — Setting out the EU approach to standard essential patents**

(COM(2017) 712 final)

(2018/C 237/05)

Rapporteur: **Franca SALIS-MADINIER**

Referral	European Commission, 18.1.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	9.3.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote	180/0/3
(for/against/abstentions)	

## 1. Conclusions and recommendations

1.1. The Innovation Union is one of the most valid Europe 2020 initiatives. To this end, it is crucial to foster the process of European innovation by helping businesses firmly located in Europe.

1.2. The European Economic and Social Committee (EESC) agrees with the Commission's objectives regarding the harmonisation of legal systems and the interpretation of the 2004 intellectual property rights enforcement directive (IPRED) <sup>(1)</sup>, which sets out to apply the measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights (IPR) in civil proceedings and establish how damages can be calculated to compensate IPR holders in the Member States.

1.3. The Committee draws attention to the importance of safeguarding the general interest of society as a whole by ensuring that the value created is distributed fairly between the different intellectual property stakeholders, in order to ensure prosperity in Europe, respect for the interests of IPR holders, and the health and safety of consumers.

1.4. The EESC supports the FRAND (fair, reasonable and non-discriminatory) principles in relation to standard-essential patents (SEPs). The Committee considers that similar principles can also be transposed and applied *mutatis mutandis* to copyright and related rights, to patents, to trade marks, to designs, etc.

<sup>(1)</sup> OJ L 195, 2.6.2004, p. 16.

1.5. The Committee recommends that the principles governing technical ‘standards’ be supplemented by social ‘standards’ in order to strike a balance between private actors and public investors, who act in the general interest.

1.6. More specifically, the Committee advocates a balance between the fair recognition of intellectual property rights and the development of innovations that can bring real benefits to society as a whole. Without intending to limit the fundamental right to enforce private rights through the legal system, the Committee states that, if particular interests are in conflict with the general interest, arbitration that upholds the general interest must be brought to bear.

1.7. The EESC calls for a regulation that encourages young researchers to use their knowledge and skills to set up new business projects. The EU Member States must in particular adopt measures such as affordable prices that enable young entrepreneurs to build up their innovative projects.

1.8. The EESC considers that it is important, in combating counterfeiting, to accurately identify <sup>(2)</sup> the stakeholders (businesses, creators, inventors, artists <sup>(3)</sup>, consumers <sup>(4)</sup>, intermediaries, ‘right holders’ <sup>(5)</sup>, etc.) according to the type of intellectual property right (patents and designs), and for stakeholders to consult each other in order to define the relevant DPI holder.

1.9. In the struggle against counterfeiting, it is essential to persuade consumers to behave in a more socially responsible way with regard to ‘intangible’ property, as they do where ‘tangible’ property is concerned, without compromising their right to ‘private copying’ in the field of copyright. The EESC appreciates very much the media campaigns set up by the EUIPO and the European Observatory on Infringements of Intellectual Property Rights to raise awareness about infringements of IPR, and will in future support proposals to strengthen and to repeat these campaigns.

1.10. The Committee considers that the open source principle must be correctly implemented in the field of public research. The open source concept and principle are applied in university research centres and warrant an appropriate legal framework.

1.11. The Committee supports a broader role for the European Union Intellectual Property Office (EUIPO).

1.12. In order to improve management of conflicts, the EESC recommends that a European mediation network be set up, to work in line with the decisions of the Court of Justice of the European Union.

1.13. With a view to strengthening the enforcement of intellectual property rights, the Committee supports all the Commission’s recommendations aimed at improving the legal forum instrument.

## 2. Commission proposal

2.1. Intellectual property systems are a crucial tool for innovation and growth and enable **companies, creators and inventors** to generate a **return on their investment in knowledge and creation**. Studies estimate that IPR (intellectual property right)-intensive sectors account for around 42 % of EU GDP (worth some EUR 5,7 trillion annually), generate 38 % of all jobs, and contribute to as much as 90 % of EU exports <sup>(6)</sup>.

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<sup>(2)</sup> COM(2017) 707 final, page 3, point 1: ‘measures to make it easier for IP stakeholders to benefit from a homogeneous, fair and effective judicial enforcement system in the EU’.

<sup>(3)</sup> COM(2017) 708 final, introduction fourth paragraph, second sentence: ‘This is because, since the Directive provides for minimum harmonisation (i.e. Article 2 explicitly allows national legislation to provide for means that are more favourable to rightholders) ...’.

<sup>(4)</sup> COM(2017) 712 final, page 1, second paragraph, second sentence.

<sup>(5)</sup> COM(2017) 707 final, page 3, end of the second paragraph: ‘... ensuring that patent-holders are rewarded for their investments in R&D and standardisation activities and are thus incentivised to offer their best technologies for inclusion in standards’.

<sup>(6)</sup> European Union Intellectual Property Office (EUIPO), *Intellectual property rights intensive industries and economic performance in the EU*, 2016.

2.2. The digital revolution has opened up a wealth of new opportunities, but has also exposed EU IPRs to new and greater risks by facilitating the **on-line movement** of counterfeit goods and content, confusing consumers as to what is counterfeit and what is genuine and legal, and making it more difficult to **identify criminals**. This has led to a widespread increase in the number of IP infringements.

2.3. **Counterfeit** or **pirated** goods currently account for 2,5 % of global trade and EU industry is badly affected<sup>(7)</sup>, especially in sectors where EU businesses are **world leaders**.

2.4. The present package of measures from the Commission seeks to further improve the **application** and **enforcement** of IPRs within the EU Member States, at our borders and internationally. The package contains:

- a communication on a balanced IP enforcement system responding to **today's societal challenges** (COM(2017) 707 final),
- a communication providing guidance on how to apply the directive on the **enforcement of intellectual property rights** (IPRED) (COM(2017) 708 final),
- a Commission staff working document containing an evaluation of the IPRED (SWD(2017) 431 final and SWD(2017) 432 final),
- a communication on **standard essential patents** (COM(2017) 712 final),
- a Commission staff working document on the evaluation of the Memorandum of Understanding on **the sale of counterfeit goods via the internet** (SWD(2017) 430 final).

2.5. The package set out measures in four main sections:

- (1) measures to make it easier for IP stakeholders to **benefit from a homogeneous, fair and effective judicial enforcement system in the EU**;
- (2) actions to support **industry-led** initiatives to combat IP infringements;
- (3) initiatives to **strengthen the capacity of customs and other authorities** to enforce IP rights;
- (4) measures to strengthen efforts to fight IP infringements **on a global scale**, by promoting best practices and stepping up cooperation with third countries.

### 3. General comments

3.1. The texts proposed by the Commission are relevant and cover many aspects concerning intellectual property law. The purpose of the EESC's proposals is to define actions and recommendations that strengthen the enforcement of intellectual property rights in light of the institutional mandate of the EESC, which focuses mainly on social and economic perspectives.

3.2. The three Commission documents should be taken together and cover all aspects of intellectual property rights. While emphasising the Memorandum of Understanding and the rather narrow interpretation of the standard essential patents (SEPs) and the FRAND principles, there is a risk that the consultation will be limited to innovations in the digital world. However, our comments and recommendations want to draw attention to all areas of intellectual property law.

3.3. Although the EESC agrees with the Commission's concerns regarding the impact of digitalisation on risks to IPRs, it proposes that the question of intellectual property rights, creativity and innovation is approached from the legal as well as the social point of view, with the aim of increasing the protection of these rights.

3.4. The Commission's IPR proposals are intended to boost economic growth and create more jobs in Europe. The Committee supports these aims, while considering that all innovation and creation is founded on the creativity of individuals and of the teams to which creators or inventors belong. Creativity is an inherent human capacity and a prerequisite for innovation.

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<sup>(7)</sup> According to a recent study, 5 % of all imports into the EU are counterfeit and pirated goods: this illegal trade has an estimated value of EUR 85 billion.

3.5. In this regard, the EESC recommends a clearer European framework on the transfer of rights between the various stakeholders. Under existing national and European regulations, it is not within the scope of this IPRED consultation to define in concrete terms the 'right holders' e.g. creators, companies, intermediaries or publishers, since they are defined in the EU and national material law on IPR, not in the IPRED.

3.5.1. Intellectual property law covers a diverse range of perspectives (copyright and neighbouring rights, patents, trade marks, industrial designs, geographical indications, etc.). If we ultimately want to achieve one European single market, we will have to move towards a common understanding and pay attention to more precisely defining the concept of 'holder of the right' by creating the conditions to allow all stakeholders to discuss and settle their interests and disputes. The Committee recommends that the national and the European level should be better attuned to each other in order to avoid conflicts or ambiguities. The Committee recommends that the national and the European level should be better attuned to each other in order to avoid conflicts or ambiguities.

3.6. The EESC considers that even if the directive cannot provide a uniform framework for the whole of Europe, it can do more to encourage the Member States to lay down a foundation of principles for harmonisation, e.g. by drawing up specific and tailor-made 'codes' for each intellectual property right. The EESC strongly backs applying ethical principles such as fairness, proportionality and non-discrimination to IPRs.

3.7. The EESC backs the European Commission's efforts in the field of data accessibility. It is clear that a European approach to intellectual property rights represents a major economy of scale, offering new economic opportunities in terms of growth and job creation.

3.8. The economic process takes place between the individual creator and the consumer who buys products. In between, there is a whole range of economic activity in which different interests have to find their right place. The consumer is at the end of this process. Consumers often fall prey to counterfeiting and piracy, paying exorbitant prices for counterfeit products.

3.8.1. The development of digital processes has generated numerous innovations. The pace of innovation in the digital sector is particularly rapid. This raises issues of security and confidentiality and makes the protection of 'intellectual property' considerably harder, but not impossible. All parties, especially those with an internet presence, should be identified properly so that false accounts that trade unfairly can be unmasked.

3.8.2. The EESC agrees with the Commission's proposals for granting licences and for the enforcement of rights. It regrets, however, that in the proposals concerning the resolution of conflicts of interest, the Commission addresses only legal disputes (Unified Patent Court) and does not put forward practical tools, such as a mediation centre through which stakeholders could themselves manage their disputes with regard to the general legal rules and engage in a mutual dialogue before going to court.

3.8.3. The Committee made the analysis and believes that a specific platform can give an important added value. A suitable instrument like an 'IPR-platform', preferably with a constitutional recognised status, can organise and coordinate the extra judicial dialogue between the representative stakeholders to afford mediation, arbitration and reconciliation. This platform will meet the needs by bringing the parties together around the table to discuss their concerns and different points of view and to put forward appropriate codes of conduct for adoption.

3.8.4. This platform can collect best practices that already exist in Europe and present them as a basis for others. The EESC itself represents civil society as a whole, where dialogue is conducted in Europe and in the Member States, but this remains rather general and it should be possible to connect more closely with specific professional groups, like writers, journalists and publishers, and to link researchers and institutes, so as to ensure proper allocation of property rights and avoid disputes.

#### 4. Specific comments

##### 4.1. Innovation in Europe

4.1.1. Innovation lies at the heart of the Europe 2020 strategy. Innovation from companies based in Europe must be fostered and maintained. Many innovative projects are developed in start-ups and SMEs. They often have a weak financial base and are easily bought out by large companies who, in the longer term, relocate to other continents. Their added value and jobs are consequently of no benefit to Europe.

4.1.2. SMEs are expanding across Europe at the expense of large conventional companies. Conventional companies sometimes disappear as new business projects begin to flourish. Transition processes are key to innovation in these businesses. As part of this process, particular attention should be focused on workers, enabling them to keep up by means of forward-looking and appropriate vocational training arrangements.

##### 4.2. Ethical principles

4.2.1. In the same way as the Commission proposes the FRAND principles in connection with standard essential patents, the Committee advocates applying principles and standards of fairness *mutatis mutandis* to other areas of intellectual property rights. However, the FRAND principles strictly imply a legal limitation of patent law. The principles cannot simply be adopted in other sectors but must be viewed and discussed case by case <sup>(8)</sup>.

4.2.2. Similarly, the open source principle must be implemented without penalising public research. Public institutions frequently finance scientific research. Prior to publication in specialist journals, the ensuing articles must be peer-reviewed, subjecting researchers' work to critical assessment. These journals are available in university research centres via global digital networks such as the 'Web of Science', which universities have to pay significant amounts to access. This content should be accessible for a reasonable price; universities should not have to pay again to provide their students with the benefit of access to past research papers. This double use of public funds is inefficient and clashes with the values of fairness and reasonable use.

##### 4.3. Social protection

4.3.1. 85 % of inventions are made by employees. This is a major issue for the Commission, which is setting up a balanced IP enforcement system responding to today's societal challenges <sup>(9)</sup>. The Committee emphasises that the social protection of creative workers is also part of this balance. It could significantly improve the status of artists and of researchers.

#### 5. Tools to better protect and channel stakeholder interests

##### 5.1. Organising stakeholders <sup>(10)</sup>

5.1.1. Under a cross-sector approach, best practice can be transferred to other sectors: for example, organisations representing journalists can engage in negotiations with the publishers' professional organisation on the transfer of their copyright in exchange for fair remuneration, together with the further use of their texts in other (digital) applications. Journalists will also be able to conclude agreements on the principles of press freedom, protection of whistleblowers, data confidentiality codes and reader copyright.

5.1.2. In order to develop a credible extra-legal framework, all stakeholders should consult with each other to identify how to transfer IPRs and implement codes of conduct or appropriate, viable agreements tailored to specific situations and reflecting the specific nature of each sector and the area of law in question.

5.1.3. A forum for consultation and dialogue between stakeholders could establish the scope of the negotiated agreements. There is a long-standing tradition of European consultation for the balanced expression of national and European interests. Such a consultation forum could also play a mediating role, bringing together representatives of authors, researchers, artists, NGOs, the social partners (trade unions and employers), universities, professional organisations, intermediaries and public bodies to share in the operation of the legal forum in cooperation with the Commission and the EUIPO and Observatory as European institutions.

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<sup>(8)</sup> See point 1.6.

<sup>(9)</sup> COM(2017) 707 final.

<sup>(10)</sup> See point 3.8.1.



## 5.2. Organising and informing consumers

5.2.1. Combating counterfeiting also involves informing consumers via media campaigns urging greater respect of intangible property rights, without compromising their right to 'private copying' in the field of copyright. These campaigns should also alert consumers to the danger for their health and safety of using some specific counterfeit goods.

## 5.3. Improving the effectiveness of judicial enforcement systems

5.3.1. In order to enhance the effectiveness of judicial enforcement systems, the Committee supports the Commission's proposals <sup>(11)</sup> when it calls on the Member States 'to systematically publish judicial decisions in proceedings relating to IPR infringements' and for a major role to be given to EUIPO and the Observatory. It is up to the Commission to decide which is the most suitable body for organising debate between stakeholders within an 'IPR platform', if this makes IPR policy in Europe more coherent and appropriate to the Single Market. The EESC also believes that it is worth looking at the possibility of developing other alternative dispute resolution (ADR) tools in order to safeguard the principle of fairness.

5.3.2. Without prejudice to the protection of intellectual property rights under criminal law, which has not been taken up by the Commission at EU level, the EESC endorses the work carried out by the Commission to improve global compliance with IPRs. To this end, coordination between WIPO (World Intellectual Property Organisation) and EUIPO must be stepped up.

## 6. Evaluation of the Commission communication

6.1. The EESC notes that the Commission's recommendations in this regard mainly concern the legal sphere.

6.2. Without prejudice to the working of the courts, it would be advisable to create a more robust framework for legal mediation between stakeholders so they can draw up conciliation proposals. This conciliation procedure could enable conflicts between the parties to be resolved and prevent much time being lost in complicated, costly and prolonged legal proceedings. This principle is already in place in the Unitary Patent System, which has an Arbitration and Mediation Centre. The EESC supports the Commission's efforts to further examine this issue in cooperation with the EUIPO, and welcomes and supports the idea in other areas of intellectual property rights.

6.3. The Committee supports the Commission's call for industry to undertake the necessary diligence steps to combat IP infringements. It would however be advisable firstly to provide specific institutional instruments to organise all stakeholders and bring them to the table in order to open and (where it already exists, e.g. in the form of an MoU) continue a dialogue and allocate IPRs to their lawful holders. Voluntary agreements bringing together right holders, internet platforms, online advertising, distribution and financial service providers should be improved and further developed.

Brussels, 14 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(11)</sup> COM(2017) 707 final, page 6.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation on the Research and Training Programme of the European Atomic Energy Community (2019-2020) complementing the Horizon 2020 Framework Programme for Research and Innovation’**

(COM(2017) 698 final — 2017/312 (NLE))

(2018/C 237/06)

Rapporteur: **Jacques LEMERCIER**

Consultation	European Commission, 18.1.2018 Council of the European Union, 10.1.2018
Legal basis	Article 106a of the Euratom Treaty and Article 304 TFEU
Section responsible	Single Market, Production and Consumption
Adopted in section	9.3.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	178/0/7

## 1. Conclusions and recommendations

1.1. The 2019-2020 Euratom programme carries over the research activities of the 2014-2018 Euratom programme, with which it is entirely consistent. The Commission's proposal contains very few changes, and the changes it does contain concern mainly the budget and are intended to ensure continuity of the programme.

1.2. The EESC takes note of the changes, taking its previous opinions on the subject into account <sup>(1)</sup>.

1.3. The principal objective of nuclear fission research funded by Euratom is to enhance the safety of nuclear technologies. The EESC believes that the greatest attention should be paid to nuclear safety issues. The reduction and disposal of long-lived radioactive waste, control of fissile material and radiation protection must also be included in the priorities. These lines of research must be shared in the context of the European Nuclear Energy Forum (ENEF) in which civil society — including the EESC — is represented.

1.4. The EESC reiterates and reaffirms its main point made in previous opinions, namely that: *‘the level of knowledge about nuclear technologies, their use and their consequences must be maintained and developed. Given that it plays a coordinating role in pooling resources and integrating joint efforts, the Euratom R&D framework programme offers significant European added value in this connection’* <sup>(2)</sup>.

1.5. The Committee also repeats its recommendation that the European Commission continue to promote the development of non-fossil, renewable energies and take steps to rebalance the share of nuclear energy in Member States' energy mix.

1.6. Following numerous incidents in European power stations, it has now been demonstrated that subcontracting is an element of insecurity in the maintenance of nuclear power stations. The EESC is of the view that limits should be placed on subcontracting and that it should be strictly regulated.

1.7. The EESC calls for special attention to be paid to these matters in the context of Brexit and the United Kingdom's de facto withdrawal from the Euratom Treaty.

<sup>(1)</sup> OJ C 34, 2.2.2017, p. 66, OJ C 181, 21.6.2012, p. 111 and OJ C 318, 29.10.2011, p. 127

<sup>(2)</sup> OJ C 181, 21.6.2012, p. 111 and OJ C 318, 29.10.2011, p. 127

## 2. Gist of the Commission document

2.1. The purpose of the Commission's proposal is the adoption of a new regulation carrying over all the research activities undertaken under Regulation (Euratom) No 1314/2013 of the Council on the Research and Training Programme of the European Atomic Energy Community (2014-2018) complementing the Horizon 2020 Framework Programme for Research and Innovation.

2.2. The Euratom programme proposal for 2019-2020 complements the Horizon 2020 programme. It determines the budget for direct and indirect actions, sets research and development (R&D) objectives and identifies R&D support instruments.

2.3. Under Article 7 of the Euratom Treaty, the current (2014-2018) programme is set for a period of no more than five years. The proposal is intended to ensure that the programme continues uninterrupted in 2019 and 2020. This approach will guarantee better coherence with the timeline of the Horizon 2020 programme. This is especially important given that the Horizon 2020 and Euratom programmes have mutually reinforcing objectives.

## 3. General comments

3.1. The EESC takes note of the Commission's conclusions on the interim evaluation of the 2014-2018 Euratom programme, including the fact that the analyses carried out by the Commission 'produced no conclusive finding bringing into question the strategy and format of the 2014-2018 programme or requiring it to propose a revision of the programme's scope, activities or mode of implementation in 2019-2020'.

3.2. The EESC also points out that the public consultation exercise carried out between October 2016 and January 2017 to feed into the interim evaluation of the 2014-2018 Euratom programme and the proposal for the 2019-2020 Euratom programme gave broadly positive feedback: 80 % of participants considered the programme relevant ('agreed or strongly agreed'). In addition, participants particularly appreciated the results achieved in relation to education and training, research on waste management, safety of existing reactors and nuclear fusion research. On the other hand, the programme does not appear to have leveraged private investment.

3.3. Finally, the Commission undertakes to ensure that the recommendations made by the various stakeholders are taken into account when preparing the Euratom 2019-2020 work programme or in relation to its routine activities of oversight and management of the Euratom programme, and that the recommendations on longer-term aspects are considered in the *ex ante* impact assessment for the next Euratom programme under the new (post-2020) multiannual financial framework.

3.4. The EESC takes note of the above, taking its previous opinions on the subject into account, and supports the Commission's proposal.

3.5. In line with its previous opinions, the EESC points out that the principal objective of nuclear fission research funded by Euratom is to enhance the safety of nuclear technologies. The EESC believes that the greatest attention should be paid to nuclear safety issues. The reduction and disposal of long-lived radioactive waste, control of fissile material and radiation protection must also be included in the priorities.

3.6. The EESC repeats its view that: *'the level of knowledge about nuclear technologies, their use and their consequences should be maintained and developed. Given that it plays a coordinating role in pooling resources and integrating joint efforts, the Euratom R&D framework programme offers significant European added value in this connection'* <sup>(3)</sup>.

Brussels, 14 March 2018.

The President  
of the European Economic and Social Committee  
Georges DASSIS

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<sup>(3)</sup> OJ C 181, 21.6.2012, p. 111 and OJ C 318, 29.10.2011, p. 127

**Opinion of the European Economic and Social Committee on the:**

**‘Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the follow-up to the Action Plan on VAT — Towards a single EU VAT area — Time to act’**

(COM(2017) 566 final)

**‘Proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards the certified taxable person’**

(COM(2017) 567 final — 2017/0248 (CNS))

**‘Proposal for a Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions’**

(COM(2017) 568 final — 2017/0249 (NLE))

**‘Proposal for a Council Directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States’**

(COM(2017) 569 final — 2017/0251 (CNS))

(2018/C 237/07)

Rapporteur: **Giuseppe GUERINI**

Co-rapporteur: **Krister ANDERSSON**

Consultation	Council of the European Union 23.10.2017; European Commission 17.11.2017, 13.12.2017
Legal basis	Article 113 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	28.2.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	185/9/7

## 1. Conclusions and recommendations

1.1. The EESC considers that the current EU Value Added Tax (VAT) system is highly fragmented and complex and subsequently reduces and distorts trade and investment by creating unnecessary and extensive administrative burdens and trade barriers for businesses.

1.2. The EESC believes that the VAT system should be aimed at facilitating the proper functioning of the internal market. In particular, the VAT system needs to be less fragmented and more efficiently administered, especially with regard to cross-border trade, and should be modernised in the light of increasing globalisation and digitalisation of the economy.

1.3. The EESC welcomes the European Commission's determination to close the VAT gap, as well as the recent Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law, which provides for the involvement of the European Public Prosecutor's Office in cases of VAT fraud above EUR 10 million.

1.4. The EESC considers that tax authorities should investigate how upcoming technologies can contribute to the fight against VAT fraud. Digital technologies can also be a helpful tool for simplifying the administrative burden on both businesses and tax administrations, bringing the necessary transparency. In particular Member States, should create appropriate fora for the exchange of best practices in revenue collection and on how to develop technologies to facilitate proper tax collection in cross-border trade situations. An in-depth analysis on the possibility of implementing higher VAT rates on luxury goods should be taken into consideration. Efficient refund VAT systems and tax forms and processes should be discussed along with streamlined systems for the exchange of information on fraudsters. The European Commission should contribute to setting up such institutional fora, thereby enhancing growth and reducing revenue losses.

1.5. The EESC believes that a functioning one-stop-shop ('OSS') is a vital part of a destination-based system. The Commission's initiatives, such as the proposed extension of the Mini One-Stop-Shop to all B2C services as well as B2C sales of goods, both intra-Community and from outside the Community, is therefore welcome.

1.6. The EESC calls on all the institutions involved in the process of reforming the VAT system to explore how a common system for both services and goods can be rolled out as quickly as possible, thereby alleviating the foreseeable problems arising from the existence of two systems, one for goods and another for services. Such a development would be considered positive by the EESC insofar it is consistent with the tax neutrality principle.

1.7. The EESC underlines the importance of tax neutrality between different companies, pointing out that VAT payments should not be allowed to adversely affect the liquidity of some businesses. In this respect, importers of goods should be required to pay VAT when the products are actually put on the market and not when such products are merely imported and deposited.

1.8. With regard to the certified taxable person ('CTP'), the EESC notes that the Commission deems this concept to be important for the transition towards a VAT system based on the destination principle and agrees that businesses whose tax reliability is proven should be able to benefit from appropriate simplification measures.

1.9. The EESC draws attention to the fact that since it will take some time for the Member States to agree on CTP and for the majority of companies to be certified, and since the quick fixes outlined in the proposal are so important for the functioning of the VAT system, the EESC would therefore encourage the Member States to adopt the quick fixes for all businesses before CTP is fully developed.

1.10. With reference to certain exemptions for intra-Community transactions included in the proposal amending Implementing Regulation No 282/2011, the EESC notes that the Council's request asking the Commission to simplify and clarify the legal framework on exemptions appears to be a useful tool for reducing fraud and limiting compliance costs for SMEs.

1.11. The EESC considers it important for the Commission to carry out a comprehensive regulatory impact assessment aimed at ascertaining — including in quantitative terms — the practical implications of the action plan on VAT as a whole for individuals, businesses and tax authorities.

1.12. The EESC would again point out that all efforts should be made to implement the definitive VAT system within a reasonable timeframe; otherwise there is a risk that the stated objectives could be compromised or only partially achieved, to the detriment of the internal market and of European companies and consumers.

## **2. Introduction and background**

2.1. With its communication entitled *Towards a single EU VAT area — Time to decide*, published on 7 April 2016, the Commission presented its action plan aimed at modernising the EU VAT system, and announced a number of specific proposals to that end.

2.2. In particular, the action plan provides for: **(i)** modernising the VAT system, adapting it to the new digital technologies; **(ii)** making VAT compliance easier for SMEs; **(iii)** developing an appropriate policy for setting VAT rates; **(iv)** reducing the VAT gap in the Member States and tackling tax fraud.

2.3. Since cross-border trade in the EU amounts to more than EUR 4,1 trillion (exports) and EUR 3,9 trillion (imports), a functioning VAT system is paramount for all European citizens.

2.4. On 1 December 2016, the Commission published two proposals: one on VAT for cross-border e-commerce <sup>(1)</sup> and the other on VAT rates for e-publications <sup>(2)</sup>.

2.5. On 21 December 2016, in order to reduce VAT fraud and responding to requests from some Member States in the Council, the Commission published a proposal on a temporary generalised reverse charge mechanism in relation to supplies of goods and services which exceed EUR 10 000 in value.

2.6. In October 2017, the European Commission published a further package of measures in the area of VAT. This package comprises: **(i)** a proposal to amend the current VAT Directive 2006/112/EC, introducing the notion of a CTP, as well as some corrective measures <sup>(3)</sup>; **(ii)** measures to lay the foundations for a gradual transition to the principle of taxation in the Member State of destination and the responsibility of the supplier as a general rule <sup>(4)</sup>; **(iii)** a proposal amending Implementing Regulation No 282/2011 to harmonise and simplify the rules on proving the intra-Community transport of goods for VAT exemption purposes <sup>(5)</sup>; **(iv)** a proposal amending the regulation on administrative cooperation between national authorities on VAT <sup>(6)</sup>.

2.7. Specifically, the Commission has presented four 'quick fixes' in order to decrease the administrative burden on businesses in the current system. These four quick fixes are: **(i)** simplification of VAT rules for companies moving goods from one Member State to another where they are to be stored before being supplied to a customer who is known in advance; **(ii)** simplification and harmonisation of rules regarding chain transaction situations; **(iii)** simplification of the proof of transport of goods between two Member States. These simplifications are limited to CTP businesses. A fourth quick fix, regarding the VAT number of commercial partners recorded in the electronic EU VAT number verification system (VIES), will be available to CTP and non-CTP businesses.

2.8. Looking ahead, the Commission intends to gradually replace the current transitional arrangement for the taxation of trade between Member States with a definitive agreement based on the principle of taxing the goods in the country of destination through a series of legislative measures and progressive adjustments.

### 3. General comments: combating fraud, and cooperation between national authorities

3.1. The current VAT system is highly fragmented and complex and subsequently reduces and distorts trade and investments by creating unnecessary and extensive administrative burdens and trade barriers for businesses.

3.2. The EESC believes that the EU VAT system should be aimed at facilitating the proper functioning of the internal market. In particular, the EU VAT system needs to be less fragmented and more efficiently administered, especially with regard to cross-border trade, and should be modernised in the light of increasing globalisation and digitalisation of the economy.

3.3. At the same time, the Committee shares the Commission's view that VAT fraud constitutes a significant problem — as shown by the figures estimating the loss of revenue due to fraud at EUR 151 billion — in respect of which practical and increasingly effective measures must be taken to reduce illegal practices, without however undermining the consolidation of the single market <sup>(7)</sup>.

<sup>(1)</sup> COM(2016) 757 final.

<sup>(2)</sup> COM(2016) 758 final.

<sup>(3)</sup> COM(2017) 567 final.

<sup>(4)</sup> COM(2017) 566 final.

<sup>(5)</sup> COM(2017) 568 final.

<sup>(6)</sup> COM(2017) 569 final.

<sup>(7)</sup> See EESC opinion on VAT — *Derogation — reverse charge*, particularly points 1.2 — 3.2 (OJ C 288, 31.8.2017, p. 52).



3.4. The EESC welcomes the European Commission's determination to close the VAT gap, as well as the recent Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law, which provides for the involvement of the European Public Prosecutor's Office in cases of VAT fraud above EUR 10 million.

3.5. It is therefore important to prioritise the objective of ensuring a truly internal market and combating fraud by delivering tangible results in this area without delay through closer cooperation between tax authorities with regard to the exchange of information and the development of databases and platforms for the exchange of data between the various national authorities in support of an efficient enforcement of the tax rules. In particular, the EESC urges the Commission and the national tax authorities to cooperate more closely and intensely on a daily basis to ensure that the requirements of an internal market are met and to reduce administrative costs for both businesses and tax authorities. Additionally, the European Commission and tax authorities should, in cooperation with organised civil society and other stakeholders, investigate how upcoming technologies can contribute to the fight against VAT frauds, since new technologies can be a helpful tool for simplifying the administrative burden on businesses and tax administrations, as well as for bringing the necessary transparency.

3.6. The EESC underlines the need for Member States to create appropriate fora for the exchange of best practices in revenue collection and on how to develop technologies to facilitate proper tax collection in cross-border trade situations. In particular, efficient refund VAT systems and tax forms and processes should be discussed along with efficient systems for the exchange of information on fraudsters. The European Commission should contribute to setting up such institutional fora, thereby enhancing growth and reducing revenue losses.

#### 4. Destination principle and rates

4.1. As stated in its opinion on the *Action plan on VAT*<sup>(8)</sup>, the EESC believes that the overhaul of the current system should result in a definitive VAT system that is not only clear, robust and comprehensive, but also proportionate in relation to businesses, and adapted to the fast pace of change in the economy and markets.

4.2. In this context, the Committee endorses the proposal to opt for the country of destination principle as the basis for the definitive VAT system, as it is expected to create a more level playing field for all suppliers in the same national market and result in less distortion of the EU market.

4.3. A functioning OSS is a vital part of a destination-based system. The Commission's initiatives, such as the proposed extension of the Mini-One-Stop-Shop to all B2C services as well as B2C sales of goods, both intra-Community and from outside the Community, is therefore welcome. Without a fully functioning OSS, based on home-country audits, scalable simplifications and the ability to offset incurred input VAT from all Member States, any destination-based system will dramatically increase the administrative burden, especially for SMEs.

4.4. The EESC underlines the importance of tax neutrality between different companies, pointing out that VAT payments should not be allowed to adversely affect the liquidity of some businesses. In this respect, importers of goods in specific national markets should be required to pay VAT when the products are actually put on the market and not when such products are merely imported and deposited waiting for their subsequent commercialisation.

4.5. As regards the first phase of the action plan, which focuses on certain supplies of goods, the Committee calls on all the institutions involved in the process of reforming the VAT system to explore how a common system for services and goods can be rolled out as quickly as possible, thereby alleviating the foreseeable problems arising from the existence of two systems, one for goods and the other for services.

4.6. This is particularly relevant given that in the digital economy, the dividing line between goods and services has become increasingly fuzzy and likely to change further in the current environment in which technology is evolving at a much greater pace than the rules developed by the relevant institutions. The EESC therefore calls on the European Commission to take into consideration and possibly address this matter within the ongoing reform of the VAT system.

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<sup>(8)</sup> OJ C 389, 21.10.2016, p. 43.

4.7. The EESC considers that the VAT rates policy pursued by the Commission and aimed at giving Member States greater flexibility on reduced rates should, in principle, be compatible with the country of destination principle, given that under this system there is likely to be less distortion of trade.

4.8. Giving Member States greater freedom to set their own rates must not, however, lead to the system as a whole becoming fragmented or excessively complex. Therefore, a proportionate approach needs to be taken, leading to a clear and predictable implementation framework, in the interests in particular of SMEs and in order to reduce compliance costs for economic operators in general<sup>(9)</sup>.

4.9. It follows that the number of exceptions allowed should be limited to specific and properly justified cases, so as to ensure a uniform and predictable regulatory framework.

4.10. With regard to possible exceptions, the Committee considers that the objective of supporting social innovation and strengthening the European social pillar embraced by the Commission could justify reduced rates for social enterprises and the social services sector, based on the specific initiatives that Member States will decide to undertake to this end within the new legal framework regulating VAT.

4.11. It is important that an online information tool be set up to allow businesses to keep track of the different rate systems of the 28 Member States. This tool has to be easily accessible, reliable and preferably in all EU languages.

## 5. The certified taxable person

5.1. With regard to the CTP, the EESC notes that the Commission deems this concept to be important for the transition towards a VAT system based on the destination principle and agrees that businesses whose tax reliability is proven should be able to benefit from appropriate simplification measures.

5.2. While the CTP and its use of reverse charge may have the potential to offer substantial relief for businesses, we believe that in order for businesses, and SMEs in particular, to be able to apply for this concept, it is essential that harmonised, clear and proportionate criteria and rules be implemented across the Member States to facilitate the broadest possible access to CTP status.

5.3. Since it will take some time for Member States to agree on CTP and for the vast majority of companies to be certified, and since the quick fixes outlined in the proposal are so important for the functioning of the VAT system, the EESC would encourage Member States to adopt the quick fixes for all businesses before CTP is fully developed.

5.4. The EESC also agrees that, in order to make the best use of the status of CTP properly developed electronic storage systems need to be established, which should be easily accessible to national tax authorities.

5.5. However, given the current wording of the Commission's proposal, it is not possible to put forward a more thorough and detailed assessment of this concept, since it is still vague, and it is not clear what the practical implications of implementing it will be.

5.6. At this stage, the EESC would thus simply point out that the instrument of CTP should be backed up by clear and transparent implementation criteria. In this respect, it is worth noting that setting criteria similar to those regulating the Authorised Economic Operator might result in reduced access to the CTP system and the quick fixes, involving only a tiny minority of the business community. The CTP system risks being accessible to very few businesses.

5.7. This concept must be subject, particularly in the first phase of implementation, to careful monitoring by the European Commission, to prevent the benefits generated by the use of the CTP concept in terms of tax simplification and ease of compliance being outweighed by a loss of legal certainty and regulatory uniformity in the internal market.

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<sup>(9)</sup> See the EESC opinion on the *Action plan on VAT*, (OJ C 389, 21.10.2016, p. 43), points 3.1.6 and 3.1.7.

5.8. With reference to the proposal amending Implementing Regulation No 282/2011 as regards certain exemptions for intra-Community transactions, the EESC notes that the Council's request that the Commission clarify and simplify the legal framework on exemptions appears to be a useful tool for reducing fraud and limiting compliance costs for SMEs.

#### 6. Next steps and final comments

6.1. In general, the EESC considers it important for the Commission to carry out a comprehensive regulatory impact assessment aimed at ascertaining — including in quantitative terms — the practical implications of the action plan on VAT as a whole for individuals, businesses and tax authorities.

6.2. Finally, the EESC notes — with reference to its previous opinion on the *Action plan on VAT* <sup>(10)</sup> — that it is important to implement all of the various parts of the action plan as an indivisible whole.

6.3. The Committee would again point out that all efforts should be made to implement the definitive VAT system within a reasonable timeframe; otherwise, there is a risk that the stated objectives could be compromised or only partially achieved, to the detriment of the internal market and the European companies operating within it.

Brussels, 14 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(10)</sup> OJ C 389, 21.10.2016, p. 43.

**Opinion of the European Economic and Social Committee on the communication to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions on completing the Banking Union**

(COM(2017) 592 *final*)

(2018/C 237/08)

Rapporteur: **Carlos TRIAS PINTÓ**

Co-rapporteur: **Daniel MAREELS**

Consultation	European Commission, 17.11.2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	28.2.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	180/3/4

## 1. Conclusions and recommendations

1.1. The EESC supports the measures adopted since 2012 which have made a decisive contribution to financial stability and broken the doom loop between banking systems and their sovereigns.

1.2. We therefore welcome — and also call for the concrete implementation of — the new set of measures proposed by the European Commission to complete the Economic and Monetary Union (EMU) and move towards an **optimal monetary zone**, overcoming the current resistance and achieving as soon as possible a greater precision for the completion of the third pillar of the Banking Union, through the progressive reduction and mutualisation of financial risks. Indeed, the completion of the Banking Union — and of the Capital Markets Union — should make it possible to fully establish the Financial Union, one of the fundamental pillars of the EMU.

1.3. More specifically, the EESC supports the various proposed goals for reinforcing the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM), for facilitating the gradual reduction of financial risks and finally giving way to a **pan-European deposit guarantee system** that, in addition to guaranteeing liquidity, can assume losses and complete the third pillar of the banking union.

1.4. In order for this to be possible, it will be necessary to continue in parallel with efforts to share and reduce solvency and liquidity risks in the financial sector. The Committee reaffirms its previous position on this point, as set out in its opinion on the EDIS proposals. Alongside other issues in this area, the question of non-performing loans should certainly remain at the top of the agenda, particularly now that the economy is growing again.

1.5. Given that the original proposals on a European Deposit Insurance Scheme (EDIS) have still not produced results, after more than two years, it would probably be a good idea to take a different approach. The present communication provides scope for a broader discussion and for a phased approach to implementing the EDIS, which the Committee supports. It is important not to lose momentum in implementing the Banking Union, and to take account of the conclusions drawn during the negotiations. In any case, the Committee considers it necessary for both the EDIS and the relevant risk-reduction measures to be dealt with in parallel and without delay and actually put into effect, in accordance with a clear and specific timetable.

1.6. The Committee supports the decision to provide only liquidity coverage in the first phase, increasing over the years. At the same time, the national deposit guarantee schemes that are responsible for covering losses should still be given full attention; indeed, with a view to making the subsequent transition to the second phase as smooth as possible and in the interests of mutual trust, the Committee considers it important for swift action to be taken to further streamline the national schemes as much as possible. It is also important to address legacy issues and moral hazard.

1.7. Loss coverage will be added in the second phase, but the transition is not automatic. The proposed formal decision should, in the Committee's view, be founded on the broadest possible basis, and it therefore seems appropriate for this decision to be taken not by the Commission alone, but rather together with the Council and Parliament.

1.8. The progressive increase in loss coverage by EDIS is a good thing in principle, but the mechanisms for implementing this scheme deserve greater attention in the texts.

1.9. More generally, the communication is phrased in very general terms on a number of points, and makes proposals 'conditionally'. This undoubtedly provides room for further discussion, but sometimes comes at the expense of decisiveness. There are also a number of important aspects that are omitted or somewhat glossed over. The Committee calls for swift progress to be made, together with all stakeholders, and for the proposals to be made more concrete. In addition, Member States must take up their responsibilities, and continue to work on measures adopted previously, particularly those concerning deposit guarantee schemes. This is very important, especially in the context of a phased approach as set out in the present communication.

1.10. In line with the aim to create a pan-European deposit guarantee system, the immediate operability of the European Monetary Fund, in its function as a firewall for the SRM as a lender of last resort is crucial. Likewise, the EESC also strongly supports the planned functions of this body tackling so-called asymmetric shocks.

1.11. The improvement and consolidation of the pillars of the Banking Union and the application of the **Single Rulebook** must go hand-in-hand with implementation by the financial industry of the **SDG 2030** and the Paris commitments on climate change, thereby establishing more favourable treatment in capital requirements for investments in the green economy and various long-term non-complex 'inclusive lending' operations, such as mortgages, particularly those linked with energy efficiency, installation of solar panels, etc.

1.12. Likewise, FinTech and other financial innovations (such as blockchain and smart contracts) represent a new call to action to complete and revitalise the banking union and improve the financial and digital inclusion of European citizenship, in accordance with EU strategic goals. In the current formulation of the SDGs 2030, financial inclusion already contributes 7 of the 17 objectives, while the digital inclusion that could ensure it or put it at risk in a new context affects almost all of them, explicitly or implicitly.

1.13. As already stated in different opinions, the EESC reiterates its commitment to a diverse financial ecosystem in which the large pan-European players coexist with small and medium-sized banks and other non-banking entities that focus reliably on the financing of the real economy on an equal footing, in an environment of much reduced systemic risk. Diversity, transparency and sustainability are the best antidotes against future financial crises.

1.14. In the opinion of the EESC, it is now imperative to stimulate the participation of those countries that are not part of the euro area. At the same time, each of the three pillars of the Banking Union should contribute to strengthening the global financial architecture, increasing cooperation at European and international level under its regulatory framework and providing its experiences, especially to the thirty non-European countries whose monetary reference is the euro, including the francophone countries of Africa.

## 2. History, background and summary of the new communication

2.1. The Great Recession, which began ten years ago, put the euro to the test and entailed high costs, to a greater or lesser extent, for the euro area countries. The financial rescue operations consequently also had a negative impact on sovereign risk.

2.2. The Banking Union was set up in 2012 with the aim of creating a unified and integrated financial system for implementing monetary policy effectively, enabling adequate risk spreading across the Member States, and restoring trust in the euro area banking system, as a response to the **structural defects** in the incomplete design of the euro. Thanks to the positive changes in the monetary policy of the European Central Bank (ECB) and the budgetary policies of the EU Member States, progress has been made towards an Economic and Monetary Union (EMU). The current challenge involves **introducing the euro in all 27 EU Member States** and completing the **third pillar** of the Banking Union.

2.3. In the light of populist threats and the increasing risk of a shift towards nationalism, primarily due to increased disparities resulting from asymmetric shocks in the euro area, there is a broad political consensus on the need to complete the financial union (Banking and Capital Markets Union), in order to protect the EU's **financial stability** and **territorial integrity** against, as the Commission president Jean-Claude Juncker put it, **the 'poison' of nationalism**.

2.4. Another important new challenge concerns **financial technology (FinTech)** and other innovations in the financial infrastructure, which have so far slipped under the radar of **financial supervision**. In the Commission communication of September 2017 on 'Reinforcing integrated supervision to strengthen Capital Markets Union and financial integration in a changing environment' it is stated that '[i]n developing the Financial Union, the opportunities of financial innovation have to be used to the fullest extent, but new risks also have to be managed.' An action plan is announced for the beginning of 2018 <sup>(1)</sup>.

2.5. The progress towards the Banking Union that was achieved with the establishment of the **regulatory, control and sanctioning tasks** of the **Single Supervisory Mechanism (SSM)** <sup>(2)</sup> and the **Single Resolution Mechanism (SRM)**, which together with the **'single rulebook'** set out in the *Roadmap towards a Banking Union* constitute the most important milestones, was tempered in the years of the nascent economic recovery as the euro area partners preferred to reject the synergies stemming from financial integration rather than share the risks.

2.6. We are therefore faced with a broad range of statements and proposals which, while they have delivered progress, have not led to **risk reduction and risk spreading**. The EU co-legislators have still not provided sufficiently specific answers for how to complete the Economic and Monetary Union, in particular with regard to: compliance with the 2014 directive, as strengthened by the Council in 2017 <sup>(3)</sup>; the proposal for a regulation of November 2015; the partial and further development of the Capital Markets Union; the launch of the Consumer Financial Services Action Plan (2017); the new measures for the reduction of NPLs (Non Performing Loans) <sup>(4)</sup>, etc.

2.7. The aforementioned proposal for a regulation of 2015 provided for the gradual and progressive development of a European Deposit Insurance Scheme (EDIS). In the first phase a reinsurance scheme would be used, before transitioning to a gradually mutualised system (co-insurance), and finally, in the third stage, arriving at a situation where from 2024 onwards the risk is fully borne by the EDIS. Together with this draft, the Commission announced in parallel a number of measures aimed at reducing risk in the Banking Union. Unfortunately, negotiations have not so far been successful.

2.8. There is also still work to be done on the national deposit guarantee schemes (DGSs), which could help to pave the way forward. Issues include the fact that there are still some significant differences between Member States in the implementation of the rules in the Deposit Guarantee Scheme Directive and the need to improve the exchange of information and instruments to promote coordination among national DGSs <sup>(5)</sup>.

2.9. In order to break the deadlock between the co-legislators, this communication tightens the criterion for **bail-in** and proposes, firstly, to introduce a common backstop for the Single Resolution Fund and, secondly, to create a more comprehensive roadmap for the **European Deposit Insurance Scheme**, starting with **reinsurance** (by only offering gradual liquidity coverage, while banks supply the common fund) and then, in a second phase, moving towards **co-**

<sup>(1)</sup> See COM(2017) 542 final (Section 4, p. 11 onwards).

<sup>(2)</sup> Council Regulation (EU) No 1024/2013 (OJ L 287, 29.10.2013, p. 63).

<sup>(3)</sup> On 16 June 2017, the Council reached an agreement on a bank creditors' hierarchy in insolvency proceedings in a directive based on which the Member States can introduce an explicit subordination of unsecured deposits that would have to be 'saved' in the event of bank failure.

<sup>(4)</sup> COM(2018) 37 final

<sup>(5)</sup> See communication, page 12.



**insurance**, for which the condition could be that risks relating to non-performing loans are sufficiently limited <sup>(6)</sup>. To that end, a first additional measure is proposed aimed at reducing the likelihood of business insolvency through restructuring procedures, while efforts are also being made regarding the early introduction of provisions on non-performing loans as part of the revision of the SSM Regulation. The Commission communication on the mid-term review of the Action Plan on Capital Markets Union of mid-2017 also announces short-term measures to develop a secondary market for non-performing loans <sup>(7)</sup>. Ultimately, this means that sufficient progress also needs to be achieved in terms of reducing risk in the banking sector.

2.10. The second additional measure concerns the diversification of banks' sovereign debt holdings. **Sovereign bond-backed securities** may make a contribution here and at the same time offer additional guarantees. Following the work carried out by the European Systemic Risk Board (ESRB), the Commission is considering presenting a **legislative proposal** at the beginning of 2018.

2.11. By the spring of 2019, all risk sharing measures should therefore have been introduced and the **implementation phase** should be able to begin, starting with the agreement between the co-legislators on the basic elements of the **banking package** of November 2016 and significant progress on the remainder, followed by clarification of the existing **powers of control** in order to mitigate the risks related to non-performing loans, and a proposal for the **assessment of investment firms**.

### 3. General comments

3.1. Now that the economies of the euro area countries are growing again and bank financing of the economies is also increasing, it is time to boost the resilience of our financial system, ensuring that possible financial crises do not lead to further market fragmentation <sup>(8)</sup> and pose another expensive test for the euro and European integration as a whole.

3.2. To this end, it is essential that a **'fully mutualised' Common Deposit Insurance Fund** is set up to **complete the European Union's financial structure** and tackle the current mismatch between bank supervision and resolution (which are centralised) on the one hand, and national deposit guarantee schemes (which are not harmonised) on the other hand. This also requires sufficient progress in terms of reducing risk in the banking sector.

3.3. Progress in the areas of risk reduction and deposit protection go hand in hand, and the Committee therefore reaffirms the principles it has already stated with respect to the original EDIS proposals <sup>(9)</sup>. In particular, it was stated that, since both kinds of measures have a number of important basic objectives in common relating to strengthening and completing the Banking Union, they need to be **implemented in the same way using genuinely equivalent tools and methods**. 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.

3.4. Alongside other initiatives relating to risk reduction, the issue of NPLs <sup>(10)</sup>, and their uneven distribution by country in particular, must certainly remain high on the agenda, as it is essential to make progress in this field. As has been recently stated, in overall terms progress has been made, but the averages are not everything <sup>(11)</sup>. As well as banks that are tackling the issue robustly, or at least moving in the right direction, there are still also banks that are denying the problem or not

<sup>(6)</sup> Despite the improvements, at the end of 2016 European banks had twice as many risk-weighted assets on their balance sheets (19,1 % on average across the EU, 18,8 % for the euro area) as those in the United States (Japanese banks were somewhere in between), while the European figures at the beginning of the crisis in 2008 had been better than those of the other two major powers. In addition, the percentage of non-performing loans remains three times higher than in the US and Japan.

<sup>(7)</sup> See COM(2017) 292 final, in particular 'priority action 5'.

<sup>(8)</sup> Banks have reduced their exposure to other Member States and cross-border payments still only account for 7 %.

<sup>(9)</sup> OJ C 177, 18.5.2016, p. 21.

<sup>(10)</sup> Non-performing loans.

<sup>(11)</sup> Interview with Danièle Nouy, Chair of the Supervisory Board of the ECB, in Público, 11 December 2017. See <https://www.bankingsupervision.europa.eu/press/interviews/date/2017/html/ssm.in171211.en.html>

addressing it ambitiously enough. Now that the economy is growing again, it is important to address this as a matter of priority, to resolve both legacy issues and future ones. The challenge is to achieve effective results on the ground. This is vitally important in order to make progress in implementing the third pillar of the Banking Union.

3.5. Compared with the original EDIS proposals from 2015, the present communication provides scope for a broader discussion on the European deposit insurance scheme and a more phased approach to implementing it. At a time when it is important not to lose momentum in implementing the Banking Union, and to take account of the conclusions drawn during the negotiations, the Commission's new approach is a realistic one and the Committee can support it.

3.6. The Committee supports the decision to provide only liquidity coverage in the first phase, which means that, during that phase, losses will be covered via national deposit guarantee schemes. In order to avoid making the subsequent transition to the next phase unnecessarily difficult, and in the interests of mutual trust, the Committee considers it important for it to be made clear right from the start that further action must be taken to streamline the national schemes as much as possible, so as to eliminate major discrepancies between the Member States. At the same time, it is also important to address legacy issues and moral hazard.

3.7. With regard to the transition from the re-insurance phase (see above) to the co-insurance phase, which is contingent on a number of conditions, the decision to proceed should, in the Committee's view, be founded on the broadest possible basis, and it therefore seems appropriate for this decision to be taken not by the Commission alone, but rather together with the Council and Parliament<sup>(12)</sup>.

3.8. It is also necessary to be as clear as possible about the conditions that will apply both during and after<sup>(13)</sup> the transition to the co-insurance phase, in which both liquidity coverage and loss coverage will be provided. The proposal to build this up gradually<sup>(14)</sup> is a good one, but at the same time there is some concern that the current text is still too general and too vague, and leaves too much room for different interpretations and discussions. There is a need to have more guidance and certainty on this subject right from the start.

3.9. More generally, it is worth noting that, within this broad outline, the communication is phrased in very general terms on a number of points, and makes proposals on a provisional basis. On the one hand, this provides room for manoeuvre that could be useful in future negotiations between and with the Member States, but on the other hand it means that the text seems more indecisive<sup>(15)</sup> and is not always as clear as might be hoped. A number of important aspects are omitted or glossed over, including recognition of the role of the institutional protection schemes, which the Committee has drawn attention to previously<sup>(16)</sup>. In order to resolve these issues, it is now important to work with all other stakeholders (including the Council, Parliament, Member States, Commission, etc.) to make rapid progress and to make the proposals more concrete.

3.10. The EESC urges the co-legislators to use the comprehensive package of measures to strengthen the Economic and Monetary Union<sup>(17)</sup>, published on 6 December 2017, in order to **accelerate consensus-building**.

3.11. The EESC supports the ECB's intention to ensure that banks offer harmonised services in all EU Member States<sup>(18)</sup> and thus reap the benefits of a larger market. It calls on those Member States that do not yet participate in the common currency to join the Single Supervisory Mechanism (SSM), as a first step towards their full integration into the euro area.

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<sup>(12)</sup> Without prejudice to the important role played by the supervisory authorities in this regard.

<sup>(13)</sup> See the communication, point 3.

<sup>(14)</sup> In general terms, it is currently proposed that loss coverage will be provided by the national deposit guarantee schemes and the European deposit insurance scheme, according to a key which would develop progressively, starting with a 30 % EDIS contribution as of the first year of the co-insurance phase.

<sup>(15)</sup> Many of the elements are described in the conditional mood: see the regular use of 'would' and 'could' in the description of the two phases of implementing the European deposit insurance scheme (page 10 et seq.).

<sup>(16)</sup> OJ C 177, 18.5.2016, p. 21.

<sup>(17)</sup> COM(2017) 821 final.

<sup>(18)</sup> OJ C 434, 15.12.2017, p. 51.

3.12. The completion of the EU's financial architecture must go hand in hand with digital and financial inclusion, in accordance with the **United Nations' Sustainable Development Goals for 2030**. The EESC emphasises the potential role that banks can play in the fight against climate change and the application of 13 of the 17 SDGs, through their intermediation functions between conscious savings and socially responsible investment (SRI). In this regard, the conclusion of the Basel III reforms on 7 December 2017 should be carefully reviewed to ensure that European bank lending is not curtailed in the areas that are critical for sustainable finance.

#### 4. Specific comments

4.1. The EESC supports the measures proposed by the Commission to limit the risks in the area of supervision, resolution and deposit guarantee (in the possible transition from reinsurance to co-insurance).

4.2. The EESC emphasises that harmonisation of national deposit guarantee schemes should go hand in hand with the establishment of the EDIS process. The EESC urges the Commission to set up an initiative to allow **national deposit funds** to contribute to completing the architecture of the European system, with equal treatment being ensured for non-systemically important entities<sup>(19)</sup>. The EESC supports the right of National DGSs to run alternative measures, without being contrary to competition rules, as been referred to in Art. 11 of the DGSD 2014/49/EU.

4.3. The EESC strongly supports introducing a backstop for the Single Resolution Mechanism as soon as possible, using a credit line from the European Stability Mechanism, as proposed for example by the Task Force on Coordinated Action (TFCA).

4.4. The EESC supports the strengthening of the supervisory powers under the Single Supervisory Mechanism as well as of the statutory prudential backstops (Pillar I), in order to tackle non-performing loans in a harmonised manner. In this respect, the Commission should demonstrate that in the light of the new supervisory powers the competent authorities can influence banks' provisioning policies on non-performing loans.

4.5. The aforementioned prudential regulatory protection mechanisms should be applied in each of the banks in proportion to their systemic risk profile, often linked to their business model. This would mean that small and medium-sized banks that do not generate excessive risks have appropriate requirements and are not 'overregulated'.

4.6. Likewise, the EESC recommends that capital requirements for banking obtain more favourable treatment for investments in the green economy<sup>(20)</sup> and consider the application of capital surcharges for investments in the 'brown' economy. The SSM should exercise specific supervision in this matter.

4.7. Consideration should be given to further innovating the legislation on non-performing loans by exploring whether a greater role can be played by **private credit insurance services**, which have a threefold function — prevention, compensation and recovery — and as a result of financial innovation are increasingly associated with banks. In its reports, the ECB concludes that some of these risks, such as interest rate risks, are adequately managed by most European credit institutions. It should also be noted that the US overcame the **subprime mortgage crisis** when the Federal Reserve also provided major reinsurers with access to liquidity.

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<sup>(19)</sup> On the basis of Regulation (EU) No 1024/2013 only systemically important credit institutions are subject to the Single Supervisory Mechanism.

<sup>(20)</sup> The arguments in favour of the 'green supporting factor' refer to the positive systemic value of green activities that reduce long-term environmental risks, and to the need to integrate positive externalities. See <http://www.finance-watch.org/our-work/publications/1445> and [https://ec.europa.eu/info/publications/180131-sustainable-finance-report\\_en](https://ec.europa.eu/info/publications/180131-sustainable-finance-report_en)

4.8. Finally, the EESC calls, as in various previous opinions, for competitive conditions that are fair and **technology and business model neutral**. As regards this opinion, it once again calls for a **level playing field** with respect to supervisory tasks. This means that more checks should be carried out on shadow banking, investment firms and FinTech companies, in line with the basic approach of 'same risks, same rules, same supervision'. Thanks to the rules for these new players, which have often given rise to legal proceedings, the possibilities for financial inclusion will be increased without compromising consumer protection.

Brussels, 14 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**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) 2017/825 to increase the financial envelope of the Structural Reform Support Programme and adapt its general objective’**

*(COM(2017) 825 final — 2017/0334 (COD))*

**‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 as regards support to structural reforms in Member States’**

*(COM(2017) 826 final — 2017/0336 (COD))*

*(2018/C 237/09)*

Rapporteur: **Mihai IVAȘCU**

Co-rapporteur: **Stefano PALMIERI**

Consultation	European Parliament, 14.12.2017 Council of the European Union, 21.12.2017 and 31.1.2018
Legal basis	Articles 175, 177, 197(2) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	28.2.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	183/2/9

## 1. Conclusions and recommendations

1.1. The EESC supports the proposal to increase the Structural Reform Support Programme (SRSP) budget and to include a dedicated reform delivery tool for the ‘reform commitments’. Priority should go to the reforms that have direct spill-over effects on the other Member States.

1.2. The EESC, in accordance with its previous opinions, advocates structural reforms geared towards social and economic development, including institutional capacity-building to improve administrative quality. Such reforms should be country-specific and backed by democratic support, avoiding a one-size-fits-all approach for all Member States.

1.3. The EESC highlights that structural reforms are positive not only if they reduce public expenditure in a socially sustainable way, but also when they increase it in the short term, in order to improve the Member States’ budget balance in the medium to long term.

1.4. While the increase in the SRSP budget is welcomed, its scale is insufficient considering the growing number of requests from the Member States. For 2018 alone, the requests amount to five times the proposed budget.

1.5. On the other hand, the EESC believes that it is very important that the European Commission presents its intentions regarding the distribution of the new SRSP budget transparently — which is not the case in this proposal — and develop clear selection criteria.

1.6. The EESC highlights that the increase of the financial envelope of the Structural Reform Support Programme must take place without penalising the budgets of other equally important funds.

1.7. Most importantly, a clear strategy at EU level is paramount. This should monitor the progress and level of development in each Member State, but also present visionary guidelines for the allocation of funds, taking into consideration convergence criteria. Sharing of best practices should also be stepped up, with the European Commission providing the necessary technical support.

1.8. Special attention should be given to non-eurozone Member States that are on track to join the euro area. Speeding up this process is key for the future of the European Union, as advocated by Jean-Claude Juncker in his speech on the future of Europe <sup>(1)</sup>.

1.9. The EESC suggests introducing a rule whereby no financing should be given to a Member State unless they have fully adopted the application of the Partnership principle with a real involvement of the social partners and civil society when deciding on the multiannual reform commitment packages <sup>(2)</sup>. The Partnership principle application is paramount for ensuring the delivery of evidence-based reforms, connected to the real-life situation in the economies of each Member State.

1.10. The EESC endorses the intention to provide the new reform tool with its own dedicated financing mechanism in the post-2020 multiannual framework.

1.11. The EESC recommends that on a case by case basis, certain SRSP reforms should be funded and linked with the new reform delivery tool, especially when it comes to joining the eurozone or reforms that could further increase European integration.

## 2. Introduction and general comments

2.1. Within its Economic and Monetary Union package published in December 2017, the European Commission put forward two specific proposals for regulations to be adopted under the normal legislative procedure: one on strengthening the Structural Reform Support Programme in order to boost technical support available for all Member States and to create a dedicated work stream to support non-euro Member States in their convergence process <sup>(3)</sup> and another one introducing targeted changes to the Common Provisions Regulation in order to extend the possibilities to use the performance reserve built into the existing European Structural and Investment Funds in support of national reforms <sup>(4)</sup>.

2.2. The EESC has received a total of four specific letters of referral: two from the European Parliament and two from the Council on each of these two proposals for regulations. The purpose of this opinion is therefore to set out the EESC's views on these two legislative proposals, in response to the specific institutional requests and without prejudice to further work by the Committee on the rest of the Commission's EMU package.

2.3. The EESC believes that the reform delivery tool could be an important instrument for helping Member States that do not have a good track record on spending the structural funding made available to make better use of them and reduce economic cleavages in a socially sustainable way.

2.4. A new reform delivery tool to support Member States' reform commitments under the European Semester is key. Priority should go to reforms that have direct spill-over effects on the other Member States. However, the EESC calls for active and detailed monitoring of progress on implementation, under the European Semester.

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<sup>(1)</sup> State of the Union 2017.

<sup>(2)</sup> Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds (OJ L 74, 14.3.2014, p. 1).

<sup>(3)</sup> COM(2017) 825 final.

<sup>(4)</sup> COM(2017) 826 final.



### 3. Proposals to support structural reforms in the Member States

3.1. The EESC reiterates that it is essential that the Member States ensure the application of the Partnership principle and the real involvement of the social partners and organised civil society when deciding on the structural reform strategy they want to promote, as well as during the monitoring process through the European Semester. In order to ensure that genuine application of the principle takes place in all Member States, the EESC suggests introducing a rule whereby no funds should be allocated unless they have fully involved organised civil society when deciding on the multiannual reform commitment packages.

3.2. Since the introduction of the SRSP in 2017, 16 Member States have expressed the intention to benefit from its financing. While the allocated budget was EUR 22,5 million, the 271 requests have exceeded EUR 80 million. For 2018, the Commission proposed a budget of EUR 30,5 million. However, 24 Member States have submitted 444 requests that exceed EUR 150 million in total.

3.3. The EESC welcomes the increased funding for the Structural Reform Support Programme but questions the effectiveness of the measure, considering the volume of requests from the Member States.

3.4. The EESC recommends that the increase of the financial envelope of the Structural Reform Support Programme must take place without jeopardising the budgets of other equally important funds.

3.5. The EESC considers very important that the Commission present its intentions regarding the distribution of the new SRSP budget transparently, so that every Member State can receive a fair share of the available support in accordance with the reforms that are carried out.

3.6. The European Commission needs to set clear and objective rules for selecting the reforms to be financed from the EU budget, while making sure that all Member States have equal access to the funds. Furthermore, the reforms that are put up for financing should be in line with the EU strategy and strictly monitored through the European Semester.

3.7. Given that Member States already have their own reform initiatives, the EESC recommends that the SRSP should focus on the measures that will best support the country-specific recommendations.

3.8. It must be remembered that the Member States can finance the reforms themselves and this incentive by the SRSP budget from the European Commission should not mean that they must rely only on EU financing. The functioning of the entire Economic and Monetary Union is based on subsidiarity and responsible action by each and every Member State.

3.9. Taking into consideration the limited resources, the EESC believes that the European Commission should support reforms and measures that could have a multiplier effect for the actions carried out by Member States on their own.

3.10. The EESC, in accordance with its previous opinions, advocates structural reforms geared towards social and economic development: more and better jobs, competitiveness of and competition in manufacturing and services, administrative and institutional quality, good and efficient public services and environmental sustainability<sup>(5)</sup>. Such reforms should be country-specific, consistent with National Reform Programmes (NRPs) and backed by democratic support, not a one-size-fits-all approach for all Member States.

3.11. Considering the Treaty obligation incumbent on almost all Member States to join the euro, the EESC recommends that special attention should be given to reforms aimed at expanding the eurozone and, if possible, additional funding should be allocated for these objectives.

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<sup>(5)</sup> For example, improving the business environment, the financing of companies and R&D expenditure; increasing the productivity of companies, sectors and economies; promoting the creation of good quality jobs with higher wages, and the simultaneous reduction of temporary and unstable jobs with low wages; strengthening collective bargaining, and the autonomy of the social partners in it, and social dialogue at local, regional, national and European levels; reforming public administrations to make them more effective for economic and social development, and more transparent for the public; promoting the quality of education and training systems for workers to bring about equal opportunities and results for all social groups.

3.12. The European Union is better placed than the Member States themselves to monitor the progress made by non-eurozone countries. Best practices should be shared throughout the process and the EESC recommends that a designated communication platform be established for this purpose.

#### **4. Proposal to introduce a new reform delivery tool as regards support to structural reforms in Member States**

4.1. Recognising the fact that the term 'structural reform' has become very broad, the EESC is pleased that the definition is included in the proposed regulation.

4.2. The EESC recommends that the European Commission work with the Member States to pursue different avenues for fiscal and budgetary sustainability. Some reforms could imply more public expenditure in the short term, in order to implement new processes and activities which will contribute to saving resources or collecting more revenue in the medium to long term only. Therefore, it is advisable not to look only at short-term cost cutting measures, but at ways to increase budget revenues as well.

4.3. The EESC welcomes the new reform delivery tool proposed under the post-2020 Multiannual Financial Framework, considering that the European institutions must work very closely with Member States to achieve stronger integration and convergence in the Union. The EESC calls for active and detailed monitoring of the progress on implementation, under the European Semester.

4.4. While the European Semester and the country reports developed as part of it comprise an excellent core vehicle for reform support programme evaluation, the EESC believes that further instruments must be developed to assess progress correctly. These instruments should be tailored to the specific economic requirements of each Member State.

4.5. The EESC endorses the temporary solution for financing the pilot phase of the new reform delivery tool through the performance reserve. This proposal should not interfere with existing European Structural and Investment Funds (ESI), but rather have a dedicated separate budget.

4.6. Progress made by each Member State should be monitored swiftly through the European Semester. This reporting process should give a clear picture of the progress achieved and further budgeting needs.

4.7. Given that the new reform delivery tool would complement the voluntary technical support provided via SRSP, the EESC recommends that on a case by case basis, certain reforms should be funded and linked with the new reform delivery tool, especially when it comes to joining the eurozone or reforms that could further increase European integration.

Brussels, 14 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the proposal for a Council decision on guidelines for the employment policies of the Member States**

*(COM(2017) 677 final — 2017/0305 (NLE))*

(2018/C 237/10)

Rapporteur: **Michael McLOUGHLIN**

Consultation	Council referral, 1.12.2017
Legal basis	Article 29(1) and Article 148(2) of the Treaty on the Functioning of the European Union
Plenary Assembly decision	24.1.2017
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	23.2.2018
Adopted at plenary	15.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	159/43/15

### 1. Conclusions and recommendations

1.1. The EESC welcomes the draft employment guidelines and their alignment with the European Pillar of Social Rights. The Committee believes more could be done in the guidelines to truly fulfil the promise of the Pillar.

1.2. The employment guidelines need to contribute towards a greater balancing of the macroeconomic rules and a Social Europe consistent with the Five Presidents' Report on Completing Europe's Economic and Monetary Union in 2015 <sup>(1)</sup>. The EESC believes the time to address convergence between the macroeconomic and the social situation is when there are signs of recovery.

1.3. The EESC reiterates its call for a proper social investment package as part of a European growth and investment programme worth 2 % of GDP <sup>(2)</sup>.

1.4. The Committee draws attention to many of the findings of the 2018 Draft Joint Employment Report <sup>(3)</sup> which illustrate that employment recovery is uneven among EU Member States, regions and groups of people.

1.5. The EESC supports an enhanced focus on impact and delivery in the Pillar and the employment guidelines assisted by the social scoreboard and other measures where necessary. Impact relating to these questions should be part of the discussions and planning process between Member States and the EU in the allocation of EU funding.

1.6. The Guideline 5 provisions should make clear it is not always the case that innovative forms of work lead to greater casualisation of work even though this can sometimes be assumed. Measures which support smooth transitions in labour markets, including appropriate provisions for the security of workers would help to ensure that new forms of work provide fair employment opportunities

<sup>(1)</sup> Five Presidents' Report: Completing Europe's Economic and Monetary Union, 22 June 2015.

<sup>(2)</sup> OJ C 226, 16.7.2014, p. 21.

<sup>(3)</sup> 2018 Draft Joint Employment Report

1.7. The movement of taxation away from labour to other sources in the Guidelines is welcome but the Guidelines should provide clarity on other possible sources. The EESC has produced opinions on aggressive tax planning, fraud and evasion, environmental taxes <sup>(4)</sup> which might also provide alternative revenues for suggestion in the Guidelines.

1.8. In Guideline 6 the EESC believes the specific mention of ESF should be retained.

1.9. In Guideline 7 the need for impartial dispute recognition should apply to all areas and not just unfair dismissals. Alternative dispute remedies should not take away from the parties' rights to access the courts.

1.10. In Guideline 8 action on youth unemployment needs to be maintained, particularly guaranteed funding for the Youth Guarantee and the further development of a 'Skills Guarantee'.

1.11. In Guideline 8 long-term unemployment must continue to be a focus and can be a source of labour in a tightening market.

1.12. The position of people with disabilities must be seen from a rights-based perspective but also with practical mainstream measures in the employment field with a particular emphasis on combatting discrimination as set out in the Treaties.

1.13. Provisions on gender equality need to feature in each guideline and there needs to be a strong focus on issues of low pay in addressing the gender pay gap.

1.14. Migrants and refugees should be specifically mentioned in the guidelines.

1.15. The EESC reiterates its view on the increase on the age of statutory retirement that the actual age should first be similar to the legal age <sup>(5)</sup>. It also emphasises the need to ensure the sustainability of pension systems in the Member States by addressing challenges such as increasing life expectancy, changes in labour markets affecting the financing of pensions and ensuring adequate pension levels.

1.16. The EESC welcomes the clarity that the provisions for Eurozone — and non-Eurozone Member States will be the same for the Pillar and the Employment Guidelines.

## 2. Background

2.1. The employment guidelines have been a feature of the EU policy mix since 1997. The legal basis is found in Article 148 of the Treaty of the Functioning of the European Union (TFEU) <sup>(6)</sup>: *'the Council ... shall each year draw up guidelines which the Member States shall take into account in their employment policies'*.

2.2. In 1997, the guidelines were one of the first examples of the open method of coordination in EU policy where a voluntary approach to an objective is set with strong reporting and peer review systems. The guidelines are now linked to the broad economic guidelines in Article 121 TFEU.

2.3. The 2018 Draft Joint Employment Report of November <sup>(7)</sup> is published with the draft employment guidelines and presents significant research and findings on the employment situation across the EU. According to the report, the overall employment situation in the EU is improving, youth and long-term unemployment are declining and the 75 % headline employment figure in the Europe 2020 Strategy is within reach for the EU as a whole, although not for some Member States. However, the level of improvement significantly varies across Member States, regions and groups of people. A sizeable number of people still do not see signs of recovery in their lives. The quality of jobs created and the increase of in-work poverty are also important issues to note.

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<sup>(4)</sup> EESC own-initiative opinion on Wealth inequality in Europe (OJ C 129, 11.4.2018, p. 1), EESC exploratory opinion on Taxation of the collaborative economy (OJ C 81, 2.3.2018, p. 65, OJ C 434, 15.12.2017, p. 18, OJ C 71, 24.2.2016, p. 42).

<sup>(5)</sup> OJ C 84, 17.3.2011, p. 38, OJ C 299, 4.10.2012, p. 115.

<sup>(6)</sup> TFEU.

<sup>(7)</sup> 2018 Draft Joint Employment Report.

2.4. The European Pillar of Social Rights<sup>(8)</sup> was adopted as an interinstitutional proclamation at the Gothenburg Social Summit in November 2017. The Pillar is effectively a political declaration committing the EU to 20 key principles. In effect it represents the EU's new overarching commitment to a Social Europe. The Pillar is accompanied by a social scoreboard in which there are 14 headline indicators that assess employment and social trends.

### 3. General comments

3.1. The European Union has historically sought to balance the objectives of social rights and economic growth through a mix of treaty provisions, legislation and soft social policy mechanisms and the advancement of the Single Market, though not always successfully. The global economic crisis saw significant economic reform to stave off an existential crisis for the Euro. Many point out that the EU's commitment to social policy has been in continual decline since the days of the Delors Commission. Furthermore, the political and social impact of the economic crisis as well as the associated austerity measures have been evident. Some even establish a more or less direct link with the rise of populism and Brexit. The need to return to convergence between economic integration and appropriate social policies received official endorsement in the Five Presidents' Report on Completing Europe's Economic and Monetary Union in 2015<sup>(9)</sup>. The 2018 Annual Growth Survey<sup>(10)</sup> has shown some change in the narrative with a stronger focus on equal opportunities, quality jobs and the need to look at the distributional impact of reforms. This is very much welcome.

3.2. The European Pillar of Social Rights (EPSR) is new and the EESC has already expressed its concern about a lack of clarity relating to the Pillar and its future implementation. The failures of the past in delivering on major policy commitments should be avoided in advancing policies for the well-being of EU citizens. The EESC examined the Pillar in two opinions<sup>(11)</sup> in 2017, broadly welcoming the principles and rights as well as the role of the Pillar as a compass for renewed convergence in the Member States and encouraging all parties to ensure their delivery and effectiveness. In this spirit the Committee also called for more clarity regarding the Pillar and its operation in practice. The Pillar does not have legal effect and is not part of the treaties. The Committee also saw the starting point of the Pillar as promoting 'the existing EU social *acquis* and its full and proper enforcement'. While emphasising the role of civil society and especially the specific role of the social partners in employment and labour market policies, the opinions also drew attention to relevant employment issues relating to:

- striking a fair balance between the economic and social dimensions,
- the future of work,
- particularly disadvantaged groups in the labour market,
- employment and quality job creation,
- support for new and more diverse career paths,
- the need for a 'skills guarantee',
- the need to bring the actual retirement age closer to the statutory age,
- the aim of making people work longer, accompanied by a life-cycle approach encompassing good working conditions
- fair labour mobility and fair working conditions for all,
- the need for social investment,
- the need to aspire to a binding social protection floor,

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<sup>(8)</sup> European Pillar of Social Rights.

<sup>(9)</sup> Five Presidents' Report.

<sup>(10)</sup> 2018 Annual Growth Survey.

<sup>(11)</sup> OJ C 125, 21.4.2017, p. 10 and the opinion on the Impact of the social dimension and the EPSR on the Future of the EU (OJ C 81, 2.3.2018, p. 145).

- the role of the European Semester and particularly the need for equality between employment and social goals and macroeconomic ones,
- the need to ring fence EFSI funds for social investment,
- the situation of non-Eurozone countries.

3.3. This opinion examines the Employment Guidelines and related questions in the context of the European Pillar of Social Rights. Indeed, the updating of the guidelines is also predicated on the Pillar and its methodology by the Commission. In many respects the amended employment guidelines can be seen, amongst other things, as a good first test of the Pillar. The EESC needs to examine the guidelines from the perspective of the views it has already expressed on the Pillar.

3.4. The issues of the impact and implementation of the employment guidelines have already been highlighted by the Committee in its previous opinions on the matter, in 2015 and before<sup>(12)</sup>. They are also important when it comes to assessing the employment guidelines through the lens of the Pillar. The EPSR contains a 14-point scoreboard designed to measure progress, which may provide reassurance about the effectiveness of the Pillar. Some of these indicators are however not new and were already present in the employment scoreboard of 2013. It is welcome that the scoreboard covers the Pillar, however it would be important that the overall measurements cascade down into more detailed operational elements of the Member States' employment policies. The question might also be asked whether the employment guidelines would sufficiently cover an issue or a group that is not explicitly covered in the Pillar or the scoreboard.

3.5. The employment guidelines continue to operate by means of the open method of coordination and the delivery of the Pillar is a mix of 'soft law' and EU legislation. This has always been the case for the guidelines so there is no weakening as to their effectiveness because of this. As there is a high political priority attached to the Pillar in its early days we can imagine this will carry through to the employment guidelines but longer term this may not always be the case.

3.6. The Committee has also drawn attention to the need for improvements to the scoreboard and the need for a both economic and social European Semester in its latest opinion on the Pillar<sup>(13)</sup>. The relationship between the surveillance of macroeconomic matters and employment and social policies is critical. There is a contrast between the approach on employment and the extremely hard legal powers covering the Euro such as the Two-pack and Six-pack along with the fiscal compact treaty. It is still the view of the EESC that despite advances with the Pillar and the integration of employment guidelines with the broad economic policy guidelines there remains room for alignment between these two elements. The EESC reiterates its concerns on the lack of convergence between the employment guidelines and the broad economic guidelines<sup>(14)</sup>. The tenor of the Five Presidents' Report on achieving a triple-A social score for Europe also suggests greater convergence between the economic and social aspects. The amendment of the guidelines and the application of the scoreboard provide a further alignment of policy with the Pillar which is welcomed, though this does not represent major progress relative to the overall need for convergence between the social and the macroeconomic aspects. There may even be a question as to whether some of the economic guidelines contradict the employment guidelines.

3.7. The country specific recommendations<sup>(15)</sup> can play a critical role in making the employment guidelines and the European Pillar of Social Rights effective. They provide an important opportunity to shape national policy in consistency with the guidelines and the principles of the Pillar to realise common outcomes. Despite the improving situation throughout Europe differences still remain between Member States, between regions and between different groups of people in the labour market. The country specific recommendations arising from the employment guidelines should seek to reduce these differences and increase and channel resources into doing this.

3.8. The European Pillar of Social Rights was addressed to all Member States, even though it was conceived for the euro area<sup>(16)</sup>, thus the principles of the Pillar and the indicators of the social scoreboard serve as a basis for formulating the country specific recommendations for all Member States, which is to be welcomed.

<sup>(12)</sup> OJ C 332, 8.10.2015, p. 68.

<sup>(13)</sup> EESC opinion on Impact of the social dimension and the EPSR on the Future of the EU (OJ C 81, 2.3.2018, p. 145).

<sup>(14)</sup> OJ C 458, 19.12.2014, p. 1, OJ C 173, 31.5.2017, p. 73.

<sup>(15)</sup> Country Specific Recommendations.

<sup>(16)</sup> See Preamble of the European Pillar of Social Rights.



3.9. Since the previous guidelines the idea of a 'Skills Guarantee' has gained much interest. Drawing on the Youth Guarantee approach and finding some expression in the Commission's communication on a New Skills Agenda for Europe<sup>(17)</sup> the concept notably focusses on low-skilled adults and the acquiring of literacy, numeracy and digital skills and progressing towards an upper secondary qualification<sup>(18)</sup>.

3.10. Financing the implementation of the Pillar and the employment guidelines through European funds will continue to be important in the future. Negotiations on the next Multiannual Financial Framework will soon begin and clearly huge challenges will arise particularly in constructing a budget after Brexit. The Committee has set out its views in this regard in its opinion on the Mid-term review of the Multiannual Financial Framework 2014-2020, stating that 'European added value should meet with a broad political consensus in support of EU action that can deliver real benefits for its citizens'<sup>(19)</sup>.

#### 4. Specific comments

4.1. The Commission has clearly amended the employment guidelines to be consistent with the European Pillar of Social Rights. This is very welcome. The findings and recommendations from the 2015 EESC opinion on the employment guidelines<sup>(20)</sup> largely still hold true. However, there are some specific issues where updated comment is appropriate.

4.2. The economic situation in the EU continues to improve at the moment but much more needs to be done particularly for Member States, regions and groups of people that are encountering more difficulties, and this further supports the argument for a strengthened social policy consistent with the European Pillar of Social Rights.

4.3. The EESC previously welcomed the Commission's Social Investment Package<sup>(21)</sup> believing it could make a significant contribution to a change of policy direction in favour of sustainable growth and more resilient societies. The Committee called for a European growth and investment programme worth 2 % of GDP and 'greater focus on social investment in the coordination process of the European Semester'. The EESC reiterates this request in relation to the current employment guidelines and calls for the amendment of their text to reflect this idea.

The current economic and labour market situation indeed supports a renewed emphasis on social investment.

4.4. The EESC is now even more conscious of the labour market position of specific groups of people, both in terms of labour supply and achieving more equal outcomes. The EESC regularly comments on the situation of many of these people, who remain important for the employment guidelines. Part 8 of the Commission's explanatory memorandum on the employment guidelines explicitly references the Commission Recommendation on the active inclusion of people excluded from the labour market<sup>(22)</sup>. This is a 2008 document so may be in need of revision to ensure consistency with the Pillar and the employment guidelines particularly as the tightening labour market will offer opportunities to such groups of people.

#### 5. The guidelines

5.1. There are some specific changes in the wording of the guidelines brought about by aligning them to the Pillar or otherwise. According to **Guideline 5**, Member States are now to 'encourage innovative forms of work, which create job opportunities for all in a responsible manner'. While new forms of work and innovation provide opportunities for growth, they may also have a harmful impact on people if they translate into more precarious work. A balance is needed to capture the undoubted benefits for growth, entrepreneurship and employment. At the same time a proper assessment of the impact of new forms of work is needed<sup>(23)</sup>. The employment guidelines should seek to translate the trends associated with these new forms of work into fair employment opportunities based on a balance between smooth transitions in labour markets and appropriate provisions for the security of workers. The provisions of this guideline should make clear it is not always the case that innovative forms of work lead to greater casualisation of work even though this can sometimes be assumed. Measures which support smooth transitions in labour markets, including appropriate provisions for the security of workers

<sup>(17)</sup> New Skills Agenda for Europe.

<sup>(18)</sup> See the 2016 Council recommendation 'Upskilling pathways: new opportunities for adults'.

<sup>(19)</sup> OJ C 75, 10.3.2017, p. 63.

<sup>(20)</sup> OJ C 332, 8.10.2015, p. 68.

<sup>(21)</sup> OJ C 226, 16.7.2014, p. 21.

<sup>(22)</sup> Commission Recommendation 2008/867/EC of 3 October 2008 on the active inclusion of people excluded from the labour market.

<sup>(23)</sup> See notably (OJ C 303, 19.8.2016, p. 54).

would help to ensure that new forms of work provide fair employment opportunities. In a recent own-initiative opinion<sup>(24)</sup>, the EESC called for authorities to identify the employer and the employee, oblige individuals to pay contributions to social security systems, link up electronic social security and tax databases and explore new ways of funding social security systems.

5.2. Regarding 'innovative' forms of work, a greater connection and attention should be dedicated to trends such as digitalisation and the greening of jobs related to the EU Digital Agenda and the Circular Economy Package. As Member States are encouraged to foster social innovation, the Committee draws attention to some valuable models of social innovation that were awarded with the EESC 2017 Civil Society Prize<sup>(25)</sup>.

5.3. In relation to entrepreneurship and the creation and growth of micro and small enterprises, the Committee supports their promotion, as well as the fostering of an entrepreneurial mindset<sup>(26)</sup>. An indicator measuring conditions for entrepreneurship would be of use.

5.4. Regarding the implementation of the Commission's proposals on the New Skills Agenda for Europe, the EESC in its opinion<sup>(27)</sup> has highlighted many challenges, such as the need for 'more innovative solutions in the fields of education and skills development' supporting a skills guarantee, and providing proper and enhanced funding and universal access for these.

5.5. Guideline 5 also refers to 'fair wages that provide for a decent standard of living' and to 'ensure adequate minimum wage levels, taking in to account their impact on competitiveness, job creation and in-work poverty'. This is an improved focus on issues of low pay and in work poverty compared to the previous guidelines, though the EESC still believes that a clear definition of 'quality jobs' is needed. Strengthening the effectiveness of collective agreements by enhancing their coverage for example would be of use in this regard. At the same time it is a prerequisite and of utmost importance that the subsidiarity principle as well as the autonomous role of the social partners is fully respected.

5.6. The Committee considers that too much emphasis is put on barriers from the supply side but no corresponding attention is given to the need for social investment and growth. The movement of taxation away from labour to other sources in the Guidelines is welcome but the Guidelines should provide clarity on other possible sources. The EESC has produced opinions on aggressive tax planning, fraud and evasion, environmental taxes<sup>(28)</sup> which might also provide alternative revenues for suggestion in the Guidelines.

5.7. The referencing of technological and environmental change in **Guideline 6** is welcome; more detail about the potential for green growth would also be worthwhile. Similarly the new commitment to the 'transfer of training entitlements during professional transitions' should enhance mobility. To do so the EESC stresses the need to safeguard decent existence during training wherever the training takes place. Instruments used in some EU Member States, such as grants, loans, collective agreements on paid training leave or other provisions should also be examined with a view to making good practice in the area of minimum standards regarding entitlements to educational leave standard practice in the other Member States. The Committee welcomes the new wording in Guideline 6 on the recognition of non-formal learning and increasing the take up of flexible continuing vocational training and enhanced action for adult learners. Some work has been done on broadening the provisions of Guideline 6 on barriers to female employment to more groups and making the

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<sup>(24)</sup> EESC opinion on Sustainable social security and protection/digital era (OJ C 129, 11.4.2018, p. 7).

<sup>(25)</sup> The prize recognised outstanding projects which help the integration into the labour market of people in need, such as people from migrant backgrounds, people with disabilities, the long-term unemployed, women detached from the labour market, young people, and people living in poverty. See the EESC web page on the 2017 Civil Society Prize

<sup>(26)</sup> OJ C 332, 8.10.2015, p. 20.

<sup>(27)</sup> OJ C 173, 31.5.2017, p. 45.

<sup>(28)</sup> EESC own-initiative opinion on Wealth inequality in Europe (OJ C 129, 11.4.2018, p. 1); EESC exploratory opinion on Taxation of the collaborative economy (OJ C 81, 2.3.2018, p. 65; OJ C 434, 15.12.2017, p. 18; OJ C 71, 24.2.2016, p. 42).

provisions more gender neutral. The Committee urges a certain caution in this regard in case any specific focus on gender equality might be lost. The work-life balance provisions are welcome and are to a degree already in train. In this respect the EESC reiterates its support of the Commission's legislative proposal on work-life-balance, including paid family and care leave, as expressed in a recent opinion <sup>(29)</sup> (this is missing in the final paragraph of Guideline 6). The Committee believes the specific reference to the European Social Fund should remain in Guideline 6.

5.8. **Guideline 7** contains improved language on precarious working conditions and flexible working. This is particularly the case when referring to 'preserving appropriate security and healthy, safe and well-adapted working environments'. However the provisions on 'an environment for recruitment' should not be used to reduce labour law protection. There is considerable change to the provisions on active labour market measures and the public employment services. These are broadly welcome and accord with best practice in this field. Given the importance attached to this area, for example by the OECD, it would benefit from enhanced attention in the process of the Country Specific Recommendations. The Committee welcomes new wording on social dialogue but again repeats its views on the variability of social dialogue across the EU and the impact of the economic crisis in this field which has not been reversed in a number of Member States.

5.9. The provisions on access to impartial dispute resolution should have general application rather than just to unfair dismissals. However the rights of parties to utilise the courts where alternative dispute resolution has failed should be respected. There needs to be reference to workers' involvement for example in issues like working time. Furthermore, while unemployment benefits should not act as a disincentive to take up work this should not undermine their function in safeguarding decent living standards for unemployed people. In addition, provisions on easing cross-border work need to be matched with those on ensuring fair treatment of workers and to avoid social dumping.

5.10. There are countries with less developed social dialogue and indeed those who have seen setbacks in this area due to the crisis. We welcome the efforts of the European Commission to increase the cooperation with social partners in the context of the European Semester. Given the centrality of social dialogue in the delivery of the Pillar of Social Rights and in the implementation of the employment guidelines and Country Specific Recommendations the EESC reiterates its call for it to be present in all Member States and urges all political players at national and European level not to weaken but to strengthen collective bargaining structures at all levels. In addition, the Commission has made advances in the involvement of civil society in country specific reporting and this is to be welcomed and should be built upon.

5.11. **Guideline 8** provides new wording in the area of broader social provisions. The commitments to the representation of under-represented groups are welcome as are provisions on adequate minimum income. However reference to how this minimum income is calculated, particularly the work done on reference budgets, would be most welcome. Enhanced access to social protection for all types of workers regardless of their status should also feature in Guideline 8. Further reference to in-work poverty in this guideline and the referencing in detail of particular social services is welcome as it locates the guidelines in a continuum of social policy consistent with the provisions of the Pillar and again supports the EESC's call for social investment. While the Committee repeats its views on the retirement age in this opinion, provisions now in the guidelines to 'measures that extend working lives' are welcome but it should be clear that such an extension is voluntary. The EESC will in due time express its view on the European Commission's approach on access to social security.

5.12. The situation regarding youth unemployment and the number of young people not in employment, education or training (NEETs) are still causes of concern and this is emerging as particularly intractable. The Employment and Social Developments in Europe 2017 Review <sup>(30)</sup> particularly highlighted how the economic crisis impacted disproportionately on young people and it appears the recovery is not reversing this trend sufficiently. The Youth Guarantee supported by the Youth Employment Initiative and the ESF was encouraging in translating a political commitment in to action relatively quickly but there are still issues to be resolved. As is often the case the level of dedicated funding was minimal and a lot of the resources were not new. It will be important to ensure new monies (the Youth Employment Initiative) are at very least maintained. It would be important to maintain a focus on youth unemployment even as the figures improve as often

<sup>(29)</sup> EESC exploratory opinion on Work-life balance of working parents and caregivers (OJ C 129, 11.4.2018, p. 44).

<sup>(30)</sup> ESDE 2017 review.

structural reform is needed to ensure this is not the first group to suffer if another shock occurs. More research is required to ascertain 'cause and effect' links between improved youth employment figures (where present) and the actual measures taken under the Guarantee. Similarly the quality of interventions and the uneven changes in youth unemployment need to be accounted for in relation to the Guarantee. The EESC has previously called for a continued focus on this area in the European Structural and Investment Funds (ESIF) and an enhanced role for youth organisations and social partners in delivery locally<sup>(31)</sup>.

5.13. As if often the case the long-term unemployed can take the longest to reintegrate as the labour market position improves. Specific measures for this such as flexible labour market relevant training and one to one employment guidance services will be needed. Attention needs to be given to the figures for discouraged and marginally attached workers in our statistics as these often get overlooked. An improving labour market can attract these groups back to active job seeking but dedicated and specific supports are needed and national systems have to respond to this challenge; again a focus on social investment would play a major role here. The Employment Committee's Indicator Framework for Monitoring the Council Recommendation on the integration of the long-term unemployed into the labour market<sup>(32)</sup> is most welcome and must continue to be a feature of its work and be reviewed by EPSCO.

5.14. There is a need for specific mention of the needs and situation of migrants and refugees in the guidelines<sup>(33)</sup>.

5.15. The gender pay gap and the over-representation of women in low pay roles continues to be a concern and should feature in the guidelines beyond the issue of labour supply. Action in this field is intrinsically related to the concept of decent work and minimum income which need to feature more in the guidelines process. Similarly initiatives on work-life balance and childcare will be important here. The recent EESC opinion<sup>(34)</sup> on the Commission's work-life balance proposals sees them as an important first step. This is an area for action across the guidelines and indeed across the Pillar as several different policy areas interact.

5.16. Employment issues for people with disabilities are now seen as a critical part of modern employment policies and the reference to these in the guidelines is welcome, though they are minimal and could be enhanced. The EESC works through the perspective of the UN Convention on the Rights of Persons with Disabilities (CRPD) and believes Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation<sup>(35)</sup> is central in this area. The European Disability Strategy (2010 — 2020) provides an overall framework in this area. The 4th European Parliament of Persons with Disabilities has highlighted many employment and Social Pillar issues for people with disabilities in its recent resolution on the future of the Strategy<sup>(36)</sup>. The EESC also draws attention to the EU Treaty provisions on discrimination which apply to all groups and advises against conflating 'vulnerable groups' with the concept of discrimination.

5.17. The EESC does not believe that raising the legal retirement age will solve the problems connected with demographic challenges. We need initiatives to foster extended working life, and promote intergenerational solidarity flanked by effective growth and employment policies. We need a real 'active ageing' policy, to have good working conditions, health and safety and working time policies and to increase participation in lifelong learning. We further need to boost employment rates for older people, who give up work early due to health problems, the intensity of work, early dismissals, and lack of opportunities for training or re-entering the labour market<sup>(37)</sup>.

<sup>(31)</sup> OJ C 268, 14.8.2015, p. 40.

<sup>(32)</sup> EMCO indicator framework for long-term unemployment.

<sup>(33)</sup> OJ C 264, 20.7.2016, p. 19.

<sup>(34)</sup> Opinion on Work-life balance of working parents and caregivers (OJ C 129, 11.4.2018, p. 44).

<sup>(35)</sup> OJ L 303. 2.12.2000, p. 16..

<sup>(36)</sup> European Disability Forum (EDF) Resolution on the European Disability Strategy 2020-2030 adopted by the 4th European Parliament of Persons with Disabilities on 6 December 2017; see also the European Parliament resolution of 30 November 2017 on implementation of the European Disability Strategy.

<sup>(37)</sup> OJ C 451, 16.12.2014, p. 109.

5.18. The social partners need to negotiate working conditions, e.g. adapting workplaces to the skills and state of health of older workers, taking into account the difficulty of certain jobs, improving access to further training, better preventing disabilities, making it easier to balance work and family and removing legal or other barriers to a longer working life.

5.19. The EESC reiterates its view on the increase on the age of statutory retirement that the actual age should first be similar to the legal age <sup>(38)</sup>. It also emphasises the need to ensure the sustainability of pension systems in the Member States by addressing challenges such as increasing life expectancy, changes in labour markets affecting the financing of pensions and ensuring adequate pension levels.

5.20. The EESC believes that early retirement schemes should nevertheless be maintained — for workers who have worked for long periods in arduous or hazardous jobs or who began their career very early. The EESC does not support automatic adjustment mechanisms for retirement age, based either on longer life expectancy or demographic change.

## 6. General issues

6.1. In the negotiations on the next EU budget there is a need to considerably increase investment in social infrastructure as this has multiple positive impacts on labour markets as well as on budgets — as outlined by the Committee recently <sup>(39)</sup>. This concerns in particular investments in human capital as a percentage of the overall budget if the EU is to meet its own aims of being a globally competitive economic area with a triple-A social rating including in employment priorities.

6.2. There is a need to monitor which kind of structural reforms Member States have implemented and which have had real positive impacts in the area of employment, education and life-long learning. In the 2018 Annual Growth Survey <sup>(40)</sup>, the Commission refers to the Structural Reform Support Programme (SRSP) <sup>(41)</sup>. The EESC welcomes this initiative and would like to see information provided on the employment and education reforms that have been carried out as part of this programme and the degree of involvement of the social partners and other civil society organisations.

Brussels, 15 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(38)</sup> OJ C 299, 4.10.2012, p. 115.

<sup>(39)</sup> OJ C 271, 19.9.2013, p. 91.

<sup>(40)</sup> 2018 Annual Growth Survey.

<sup>(41)</sup> SRSP.

**Opinion of the European Economic and Social Committee on the 'Joint communication to the European Parliament and the Council for a renewed impetus of the Africa-EU Partnership'**

*(JOIN(2017) 17 final)*

(2018/C 237/11)

Rapporteur: **Mihai MANOLIU**

Consultation	European Commission, 5.7.2017
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Section responsible	External Relations
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Plenary session No	533
Outcome of vote	185/2/1
(for/against/abstentions)	

### 1. Conclusions and recommendations

1.1. Given the rapid pace of change in the world today, the EESC considers that 2018 will be decisive for the development of the EU-Africa partnership. Both the European Union and Africa are experiencing profound political, economic and societal changes, and this situation offers opportunities to reshape and deepen the partnership. The EESC therefore feels that, at this juncture, when it comes to development projects carried out in Africa, the EU must place particular emphasis on involving new players, from both the economic sphere and European civil society. Supporting Africa's development should not be left up to the EU institutions alone; European society as a whole must contribute.

1.2. The European Economic and Social Committee proposes that the competent European institutions keep up their peace-keeping and security work in Africa and assist African organisations in their efforts to prevent conflict, terrorism and organised crime. The EESC endorses the Africa-EU partnership and agrees that there is a need for an approach which takes account of the current geostrategic situation facing the two continents:

- the humane and dignified management of migration flows perceived as being out of control,
- the possibility of an influx of refugees,
- insecurity at the EU's borders generated by the instability of certain political regimes and the absence of the rule of law in some African countries,
- the increasing influence wielded in Africa by other regional powers such as China — the specific interests regarding Africa's natural resources and bilateral economic relations do not spur on African countries to step up cross-border cooperation,
- unpredictable action by the US in the area of international policy, and challenges triggered by climate change.

1.3. In order to resolve the food problem, the EESC considers that the EU, together with the AU, should identify successful local farming projects and policies and support the roll-out of those models to as many African regions and countries as possible. The overwhelming demographic dynamic cannot be overlooked here: 18 million new jobs a year until 2035 will be needed. Sustainable economic development in Africa is hindered by severe constraints however — which the EU should take into account — that tie in closely with the following issues:

- its high dependency on intensive exploitation of natural resources (illegal trade in resources),



- its propensity to trigger instability as a result of war, human rights violations, social inequality, fundamentalism and climate disasters,
- the impact of climate change,
- the impact of food and water shortages,
- hygiene issues,
- epidemics and infectious diseases,
- the lack of coherent agricultural policies geared to local circumstances.

1.4. These problems lead to forced and voluntary displacements and contribute to a considerable extent to irregular migration which is often run by organised crime and increases the pressure on governance systems and political leadership in the countries of origin and transit. Europe can respond by means of a new European Consensus on Development, European neighbourhood policy and a European agenda on migration, and by developing a relationship based on the concept of partnership. Along with genuine representatives of Africa's civil society (platform, forum and volunteers) and social partners, the EESC can make a key contribution to democracy and human rights.

1.5. The EESC would ask that the future partnership take greater account of civil society, giving it a stronger role that goes from consultation to monitoring policy implementation. This is important for ensuring coherence in development policies and for ensuring effective stakeholder involvement. The EU could thus be a model of best practice for the countries of Africa as regards involving civil society in decision making and designing programmes to promote the emergence of international civil society in Africa. Moreover, where civil society is non-existent or very weak, the EU should play an active role in its development.

1.6. Given that education, the non-discriminatory transfer of knowledge and unfettered access to culture are strategically important for cooperation and the sharing of common values, as well as for opening up good prospects to a considerable number of young Africans, the EESC proposes that the future EU-Africa partnership should go in the following direction:

- successful European programmes such as Erasmus+ should be extended to Africa, thus enabling the mobility of students and teachers on both continents and facilitating an exchange of academic experience,
- partnerships between European and African universities (leading to the development of common projects and study programmes) must be encouraged and given financial support,
- only good quality education programmes and strategies to combat social exclusion can put a stop to religious fundamentalism in some African countries.

1.7. The EESC believes that the most important model that the EU can offer Africa is its own example of cross-border cooperation, and the implementation of large-scale cross-border projects, such as infrastructure projects, insofar as the African countries involved agree to cooperate among themselves on the implementation of the projects. Moreover, the EU must be aware of the know-how that it can offer, as regards policies for moving to a democratic society and a functional, competitive and inclusive market economy.

1.8. The EESC proposes that the partnership aim to promote and bring about gender equality and the empowerment of women and young people, and to recognise their contribution to peace and the construction of the state, economic growth, technological development, poverty reduction, health and wellbeing, and cultural and human development. All forms of violence and social, economic and political discrimination against women must be eliminated from the African continent, so that they have full access to equal rights.

1.9. The EESC would point out that China has recently emerged as Africa's top economic partner, which may affect the external policy goals of countries in the region and make them less interested in implementing democratic reforms. The EU therefore needs a partnership with Africa to renew and step up the trade relationship in real terms between the two continents and establish optimum conditions at local level for European investors.

1.10. The EESC recommends introducing good governance clauses in all relevant agreements between the EU and third countries or regions with a view to promoting sustainable development. A prerequisite for sustainable development is a responsible, transparent, active, fair, inclusive, efficient and participatory policy framing process which upholds the principles of the rule of law.

1.11. The EESC regrets that Africa is the world's poorest continent and the only one to see an increase in poverty. It is intolerable that over 50 % of its population lives in absolute poverty. An international campaign to combat poverty is needed, involving the chief development stakeholders and strategies and action plans aimed at disadvantaged communities. We need a new financial package which can be planned and predicted. The EESC also considers that ensuring effective follow-up to financial aid is crucial if the objectives set are to be better achieved.

1.12. The EESC welcomes Africa's wish, voiced through Agenda 2063 and the establishment of the African Union, to be treated as a single, integrated and pan-African entity. Good governance for sustainable development must be based on sound and socially and environmentally fair economic policies, the establishment of incorruptible democratic institutions which are receptive to what people need, the promotion of civil society, combating social exclusion, and the pursuit of economic cohesion. The rule of law and the supremacy of the law, human rights and equal opportunities must not be overlooked. An investment-friendly environment can lead to success.

## 2. Background

2.1. The EU and most of the countries in Africa are already linked by a comprehensive and legally binding international cooperation agreement which brings together more than half of the world's nation states. The Cotonou partnership agreement (Cotonou Agreement) was signed in Benin in 2000 with the aim of reinforcing long-term cooperation between the EU and the ACP (Africa, Caribbean and Pacific) countries in the area of politics, trade and development. The agreement has led to the setting up of a number of institutions to facilitate cooperation between ACP and EU governments, officials, MPs, local authorities and civil society, including the private sector.

2.2. Given the geographical proximity, the Global Strategy for the European Union's Foreign and Security Policy points out that promoting peace and development on the African continent is in fact an investment in the peace and prosperity of the EU. A safe and prosperous EU is extremely difficult to achieve if its neighbouring regions are underdeveloped and in conflict. The EU must therefore be deeply and actively involved in completing the African Union and in kickstarting economic growth in the region.

2.3. The EESC notes that the international arena has changed considerably recently: new global challenges have emerged, people's security has been undermined, and the fight against poverty and epidemics, climate change and desertification, migration and the sustainable management of public goods are having an impact on the policies of African countries and the EU alike.

2.4. We need a new shared political vision for Africa and the EU: it must be tangible and based on common interests and values, mutual respect and the principle of individual sovereignty, and reflect the legitimate aspirations of both parties. The shared will of both entities should be translated into an equal, conscious and preferential partnership in order to continue to promote peace (the African Peace Facility), security (Africa — a key security provider), sustainable development, human rights and regional and continental integration.

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2.7. Efficiency and mutual and individual accountability require considerable long-term human and financial resources, with both parties living up to their commitments. The EESC is of the view that civil society can be involved through a voluntary platform and support the development process. Non-state actors and local authorities must be involved as a matter of urgency, fully and at every stage, including monitoring and evaluation. They can not only provide fresh impetus for Africa's development, but also increase the legitimacy of the EU's external action, and reduce Euroscepticism in Europe. The shared vision must incorporate participatory democracy, pluralism and fundamental freedoms, all of which can be summed up as compliance with the rule of law.

2.8. Another major threat is the dwindling of Africa's natural resources, which will be an obstacle to poverty reduction. Ecosystem services, including carbon storage by rainforests, must be offset. We need a common approach to global challenges and a single, people-centric partnership, which takes a continent to continent approach, both politically and more practically during negotiations.

2.9. The EESC believes that the parties must demonstrate responsibility and coherence as regards mutual accountability, dialogue and contributions. Furthermore, the future agreement should be based on the principle of *partnership*. The partners have equal rights and responsibilities (development practices and investments). There is a discrepancy, however, as regards integration and human, technical and financial resources; EU-African political dialogue must therefore be developed and placed on a stronger footing.

2.10. Sustainable development and the eradication of poverty are a complementary goal (better coordination by donors and non-state actors) and a commitment for EU-Africa cooperation, identified in European policies in the areas of trade (free access to the EU market within economic partnership agreements), the environment and agriculture.

2.11. The EESC would point out that the global approach to conflicts must be based on responsibility, prevention, resolution, management and reconstruction. Peace is essential and the first step towards sustainable development which is fair politically, economically and socially, in accordance with the full respect of human rights. Greater vigilance is needed regarding the emergence of ethnic and religious tensions in Africa and particular attention must be paid to exports of arms (code of conduct), including arms trafficking.

### 3. General comments

3.1. The joint communication to the European Parliament and the Council **for a renewed impetus of the Africa-EU Partnership** is a coordinated and consolidated response which is in line with the **2063 Agenda** and the **Global Strategy for the European Union's Foreign and Security Policy**. The communication feeds into the reflection process, which is the starting point for future coherent negotiations on the Africa pillar.

3.2. The EESC believes that the EU has a strategic and political interest, based on established common values and shared interests, to deepen and adapt a lasting partnership with Africa. The EU should become the top foreign investor and humanitarian and trade partner, as well as a security provider.

3.3. The EU is working towards three strategic objectives:

- stronger mutual engagement and increased cooperation in the international arena, based on common values and shared interests, including in bilateral relations,
- security, on land and at sea, and the fight against international threats as an investment in security on both continents,
- sustainable and inclusive economic development in Africa to create the jobs that the continent needs and to seize the opportunities for Europe.

3.4. The EESC agrees that an ambitious common agenda can be achieved by:

- deepening coalitions on global governance issues, increased dialogue and effective cooperation, strategic partners and key allies, promoting and supporting the rule of law and justice,

- increasing cooperation on common interests based on frequent political interaction at multilateral, continental, regional, national and local level, in line with the subsidiarity principle,
- delivering a partnership centred on people, political authorities, local authorities, the social partners, the private sector and the whole civil society.

3.5. The EESC believes that the EU-Africa joint strategy must be based on a robust policy of sustainable development based on what is actually happening at grassroots level in Africa; this is a prerequisite for efficient aid to combat poverty equitably, promote healthy growth in the fields of the economy, the environment (devastating climate change) and society, based on work which is decent (long-term jobs), productive, free, able to combat poverty and social exclusion, ethical and dignified. Boosting local production, guaranteeing food security and a decent income for family farms and SMEs and establishing an internal market (property rights and less red tape and corruption) can all help combat poverty. Therefore, common policies must focus particularly on agriculture and food security. They must support sustainable farming models geared towards small-scale land owners who provide jobs by developing specific sectors. Both the EU and the AU have a duty to identify successful farming models and policies and promote them among disadvantaged communities in the same or other countries.

3.6. Combating desertification and access to water for all are determining factors for food security, migration and the existence of refugees. Africa is the continent hit hardest by climate change. The EU and the AU, along with the Member States, economic players and investors must shoulder their responsibilities (take action against climate change) and establish a flexible and effective financial framework for a new environmental approach.

3.7. The existence of free trade that respects environmental and social standards can spur on economic growth and social and political progress; it has a tangible impact as a catalyst for poverty reduction by promoting sustainable development across the board. An asymmetric approach favouring Africa's markets is needed in order to bring about regional integration and establish a reliable framework for trade and investment. Economic partnership agreements foster trade and regional integration insofar as they support development and provide derogations to enable local industries in transition to adapt to new market conditions. EU-Africa economic relations must be based on fair trade and a tailored and diversified approach leading to African integration which will generate necessary and competitive products and services.

3.8. One key factor in economic development and the eradication of poverty is the EU-Africa energy partnership which has the potential to lead to projects to supply efficient energy from renewable sources at affordable prices. In this case, Africa's climate and geographical situation can be an advantage, particularly as regards solar power. Access to energy can drive on Africa's economic and social development.

3.9. The EESC believes that commitment in the area of education and health for all is an effective and practical tool in a common development strategy aimed at people living in poverty. The strategy must contribute to mainstreaming the fundamental issue of gender equality and the empowerment of women. Vulnerable communities and refugees fleeing humanitarian crises must not be overlooked. Access to health services and the fight against counterfeit medication are pivotal in the fight against fatal diseases, a very serious issue which is on the rise. Relevant legal and criminal measures are also needed.

3.10. The EESC proposes that regular analysis be carried out of both the main causes of migration and emigrants' rights and integration, including the migration of values. We need practical solutions to secure efficient circular migration. Barriers are not a solution; dialogue founded on national and regional identity, solidarity and culture can form the basis for an agenda of sustainable development for all, insofar as this dialogue is also properly resourced.

3.11. The EESC believes that debts are a burden which undermines every effort to bring about sustainable development for all. Debt management, taken on a case-by-case basis, must take a back seat to stronger economic and social policies and more efficient governance. Managing debts and transferring them to other creditors must be key for budgetary support

(based on performance indicators) for the provision of basic social services, and thus consolidate the structure of African countries. Transparent oversight is needed, and local authorities and civil society must be given a role in this.

#### 4. Specific comments

4.1. The EESC considers that Agenda 2063 (envisioning a peaceful, secure and prosperous Africa, an Africa of good governance, democracy, respect for human rights, justice and the rule of law and an Africa where development is people-driven, unleashing the potential of its young people — in particular young women — and leaving no one behind), a transformative agenda aiming to reform Africa, must be structured around two main strands:

— **creating more resilient states and societies:**

- prevent conflicts, address crises and work on peacebuilding,
- strengthen governance systems,
- manage migration and mobility,

— **creating more and better jobs, especially for young people:**

- attract responsible and sustainable investments,
- energise Africa,
- transform African agriculture and agro-businesses, and its blue economy, including fisheries,
- promote the work of the social partners,
- advance knowledge and skills.

4.2. The creation of more resilient states and societies is based on legitimate aspirations, the AU's values and goals, its presently fragile borders and threats to its vital interests. Terrorism, human trafficking, crime and violent extremism are threats to stability and peace and symptoms of possible deep structural instability.

4.3. The EU has therefore identified the following flagship initiatives:

- establish a cooperation platform bringing together the UN and European, African and international partners,
- make an initial contribution to the AU Peace Fund,
- support African initiatives in the field of maritime security.

4.4. It is well known that good governance, security and development are the cornerstones of a strong, modern and resilient society with democratic, effective, transparent and accountable institutions. Such stable societies, which respect human rights, the core of sustainable development, operate in a predictable and stable macroeconomic framework which is able to deliver public services. In this area, the EU can contribute to Africa's development by means of the know-how it can offer through the experience built up by certain Member States as regards policies for moving to a democratic society and a functional market economy, with a social and territorial cohesion policy, as well as through its model of cross-border cooperation, involving common institutions.

4.5. The EU has therefore identified the following flagship initiatives:

- a joint AU-EU high-level conference on electoral processes, democracy and governance in Africa and Europe,
- double support to domestic resource mobilisation (Tax Initiative) by 2020,
- joint action to strengthen sustainable management of natural resources, joint EU-Africa charter.

4.6. Mobility and migration are important economic, social and security-related issues which can enrich and strengthen societies but also destabilise them if not managed properly and effectively. Migration flows and displacement are more dangerous than ever before in terms of the physical integrity of the migrants. In this regard, there is a shared responsibility and global solutions based on responsibility-sharing and solidarity laid down in a political framework which is key for addressing large movements of refugees and migrants.

4.7. The EU has therefore identified the following flagship initiatives:

- support African initiatives on regular inter-African migration and mobility (free movement, social protection schemes, portability, recognition of skills),
- increase Africa-EU cooperation in the fight against smuggling and trafficking networks.

4.8. We need a paradigm shift to create a prosperous continent, with the means and resources to drive its own development and where economies are structurally transformed through industrialisation, manufacturing and value addition to create shared growth through private sector development, entrepreneurship and decent jobs for all.

4.9. The EESC appreciates the fact that social and economic transformation must be compatible with the challenges and opportunities of major climate change and the concept of environmental sustainability. Regional markets and an investment-friendly climate need to be created to generate adequate added value through stable and predictable free trade made possible by economic partnership agreements.

4.10. The EESC flags up the need to respect good corporate governance and environmental and social standards in order to advance economic integration in Africa at regional and continental level. Opportunities must be seized to create the green, blue and circular economies, based on corporate social responsibility, social entrepreneurship and ethical business codes, with a view to establishing a continental free trade area.

4.11. The business world plays a key role in developing society: it is a major investor and innovator, generating skills and jobs, supporting economic growth and providing a source of (direct and indirect) revenue, which can generate public revenue for necessary investments in wellbeing and in key areas of infrastructure such as schools and/or hospitals; it is also a means of integration — for young people and for migrants, giving individuals the chance to develop and have a stable income.

4.12. The EU has therefore identified the following flagship initiatives:

- generate massive EU investments in Africa via the European External Investment Plan and the Compact with Africa,
- support a more predictable and conducive investment climate in Africa,
- support Africa's digital agenda.

4.13. The EESC believes that universal access to affordable energy from sustainable and renewable sources is an opportunity for decent new jobs and real development which takes account of climate change. The EU and Africa can step up their joint efforts to bring about the transition to clean energy, on the basis of a set of common values. The EU is a world champion in promoting clean energy. Africa's potential for generating electricity and using it efficiently on the basis of proper rules calls for substantial investment which can satisfy the demand, as there are possibilities for links with European transmission networks. Climate change can be offset by generating electricity from renewable sources.

4.14. The EU has therefore identified the following flagship initiatives:

- deliver the EU contribution to the AREI and reach 5 GW of renewable energy generation capacity by 2020, while giving 30 million people in Africa access to sustainable energy and saving 11 million tons of CO<sub>2</sub> per year,



- launch a new initiative to facilitate EU-Africa public-private cooperation on increased investments in Africa's sustainable energy sector via a high-level platform,
- launch a new EU-Africa Research and Innovation Partnership on climate change and sustainable energy.

4.15. The EESC would point out that agriculture, livestock, aquaculture and fisheries are an important source of income which is vital for Africa and provides a means of subsistence. Unsustainable management of resources, land property issues, maritime insecurity and not least lack of both capital and access to financing are key obstacles to sustainable development in this sector. Food production, which has considerable potential for development, can create jobs and empower people as well as ensuring food security.

4.16. It is possible to generate added value for Africa's natural resources, while pursuing a policy of industrialisation which emphasises the creation of micro, small and medium-sized manufacturing enterprises. The EESC flags up the importance of the role of responsible value chains which generate rural development and manage water and land resources strategically and sustainably. Economic partnership agreements need to be established and market opportunities for African food products seized.

4.17. The EU has therefore identified the following flagship initiatives:

- spur on value chain development by facilitating responsible investment in a sustainable agrifood sector and blue economy,
- generate EU and African investments to support research and innovation,
- expand as appropriate the network of Sustainable Fisheries Partnership Agreements between the EU and African countries.

4.18. The EESC considers that free and non-discriminatory access to education is a prerequisite for permanent sustainable development. African education and vocational education and training systems must be linked much more closely to labour market needs, in line with economic, social and demographic development. The systems must be innovative and focus on education and training in order to generate services and businesses which will create the means of subsistence needed to move from the informal to the formal economy. Africa needs to actively promote science, technology, research and innovation.

4.19. The EESC believes that we need a partnership to promote equal opportunities, reduce inequality and increase inclusiveness. Cohesion, equity, diversity and inclusiveness are key for promoting knowledge and skills for a new African culture.

4.20. The EU has therefore identified the following flagship initiatives:

- launch an African Youth facility, expanding the scope of the Erasmus+ programme,
- provide financial support for cooperation between European and African universities, and develop joint study programmes,
- establish an EU vocational education and training facility.

4.21. Erasmus+ supports cooperation between the European Union and Africa in the area of higher education. Projects involving the relevant partners in the two regions contribute, inter alia, to improving the career prospects of students, strengthening academic cooperation, and forging networks between higher education institutions. Higher education cooperation with Africa is in line with the objectives of the EU's foreign policy and, in particular, with development cooperation.

Brussels, 15 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on the European citizens’ initiative’**

(COM(2017) 0482 final — 2017/0220 (COD))

(2018/C 237/12)

Rapporteur: **Kinga JOÓ**

Consultation	European Commission, 13.9.2017 — European Parliament, 2.10.2017 — Council, 11.10.2017
Legal basis	Article 24 of the Treaty on the Functioning of the European Union
Subcommittee responsible	Subcommittee SC/049 on the European citi- zens’ initiative
Adopted in sub-committee	7.2.2018
Adopted at plenary	14.3.2018
Plenary session No	533
Outcome of vote (for/against/abstentions)	201/0/5

## 1. Conclusions and recommendations

1.1. Six years after Regulation (EU) No 211/2011<sup>(1)</sup> on the citizens’ initiative entered into force, the European Economic and Social Committee (EESC) would like to highlight that EU citizens are at the heart of the European venture and that the European citizens’ initiative (ECI) mechanism could help overcome the democratic deficit by promoting active citizenship and participatory democracy.

1.2. The 2016 EESC own-initiative opinion<sup>(2)</sup> highlighted significant technical, legal and bureaucratic problems with the design of the ECI, along with a clear excess of powers allocated to the Commission. This has limited the scope of the public debate that the ECI could generate and has led to limited legal follow-up for successful initiatives.

1.3. The EESC considers the current revision of the European citizens’ initiative Regulation (EU) No 211/2011 to be an important step towards the ECI reaching its full potential, in line with the views already voiced by the European Parliament, the Committee of the Regions and the European Ombudsman.

1.4. The EESC welcomes the following improvements contained in the new proposal by the European Commission for a Regulation on the European citizens’ initiative, namely to the effect that:

1.4.1. the group of organisers be allowed to begin collecting statements of support on the date of their choice;

1.4.2. legal recognition be granted to citizens’ committees so as to limit the criminal liability of organisers for fraud and serious negligence;

1.4.3. an online collaborative platform be set up where EU citizens can obtain information and advice about the ECI, on the understanding that this will support ECI organisers through the process of registering initiatives and collecting support. The EESC would like to be involved in the online collaborative platform and be informed of its developments. The EESC considers it important that the users of the platform are well informed about the ECI-related services that the EESC offers to ECI organisers;

1.4.4. the Commission recognise the need for the translation service offered since 2015 by the EESC to all ECI organisers, and that the Commission provide the translation of the ECI content into all of the official languages of the EU upon registration of an ECI;

<sup>(1)</sup> OJ L 65, 11.3.2011, p. 1.

<sup>(2)</sup> OJ C 389, 21.10.2016, p. 35.

1.4.5. Member States be requested to simplify, reduce and harmonise the system of national standards laid down for the collection and verification of data; and that the right to support an ECI be based on nationality, which should ensure that no EU citizens are excluded from the ECI;

1.4.6. each Member State actively promote the ECI, and establish contact points to provide information and assistance to ECI organisers on technical and campaigning issues related to the ECI;

1.4.7. the free OCS system<sup>(3)</sup> be offered by the European Commission on a permanent basis in order to simplify the collection and cataloguing of statements of support, as well as the checking of these statements by national authorities. The Committee also welcomes the fact that this tool is to be made available to people with disabilities;

1.4.8. the Commission be committed to raising public awareness about the existence of the ECI.

**1.5. The EESC submits the following comments and recommendations, in relation to the new proposal:**

1.5.1. The roles of institutional mentor and decision-maker at registration, both of which are currently performed by the Commission, should be separated. The EESC reiterates that it is willing to continue to support initiatives and would be a natural candidate for the role of facilitator and institutional mentor.

1.5.2. Following the EESC's example of inviting ECI organisers to various debates in its ECI Group, sections and plenary sessions<sup>(4)</sup>, ECI organisers should have more dialogue opportunities during and after their campaign, and dialogue with successful ECIs should not necessarily end with the Commission's formal response.

1.5.3. The EESC also considers it important to build on its annual conference, the ECI Day, as a place for dialogue, to put more emphasis on the exchange of best practices between the organisers and to create more networking opportunities for ongoing and successful organisers.

1.5.4. Successful initiatives should have appropriate follow-up. With this goal in mind, the EESC would hope to see all the EU institutions equally involved in creating opportunities for the organisers to present and debate their initiatives, in line with the EESC's example of inviting ECI organisers to various debates. The EESC sees it as particularly important that the successful initiatives be debated in the plenary sessions of the European Parliament to increase the political dimension of the European debate on ECI-related issues.

1.5.5. In view of its recommendation to guarantee a balanced division of competences between the EU institutions as regards the ECI<sup>(5)</sup>, the EESC supports the position expressed by civil society<sup>(6)</sup> that the European Parliament should continue to be the sole organiser of the public hearing for successful initiatives, with the Commission represented at an appropriate level. Public hearings at the European Parliament constitute a crucial event for organisers of successful ECIs to express their objectives, and to engage with MEPs, who are the representatives of the wider body of EU citizens.

1.5.6. The Commission should give detailed and clear reasons for all its decisions to refuse registration of an initiative, be it a partial or complete refusal.

1.5.7. The EESC welcomes the Commission's proposal to allow for registration of part of an ECI proposal. However, a single registration decision should be maintained.

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<sup>(3)</sup> OCS is the abbreviation for online collection software, which is a tool provided free of charge by the European Commission for collecting signatures online. This tool simplifies both the collection of data and the checking of those data by the national authorities. OCS complies with Regulation (EU) No 211/2011 of the European Parliament and of the Council and with Implementing Regulation (EU) No 1179/2011 of the Commission: <https://joinup.ec.europa.eu/software/ocs/description>

<sup>(4)</sup> EESC Bureau decision of 14.10.2014 on the internal criteria for inviting the organisers to plenary sessions and section meetings.

<sup>(5)</sup> Point 1.4.5 of the opinion of the European Economic and Social Committee on the European Citizens' Initiative (review) (own-initiative opinion) from 13 July 2016.

<sup>(6)</sup> The EESC held a public hearing on the new ECI proposal with civil society organisations on 12.12.2017.

1.5.8. Given the importance of the ECI for EU democracy, its recent introduction, and considering that the time that will be needed to implement the changes resulting from the current legislative review will be significant, the time period for review of the ECI should remain at three years.

1.5.9. The EESC welcomes the recognition by the European Commission of the value of and continued need for the translation service provided by the EESC since 2015. The Commission's future provision of translation services should also include the translation of the annexes to an ECI proposal. This is important to facilitate fuller public understanding of the initiative proposals<sup>(7)</sup>.

1.5.10. The EESC recognises the value of, and the need for, further debate to decide whether to lower the minimum age for supporting an ECI.

## 2. General comments

2.1. The European citizens' initiative is an innovative instrument introduced by the Treaty of Lisbon, and an important part of the current and future development of transnational participatory democracy in the EU<sup>(8)</sup>. The ECI is a right that stems from citizens' right to participate in the democratic life of the Union. The ECI should facilitate the active involvement of every citizen in the EU agenda-setting and decision-making process, by developing public debate across the EU, and by giving citizens the opportunity to directly call on the Commission to propose a legal act of the Union.

2.2. The rules and procedures that govern the ECI are set out in an EU regulation adopted on 16 February 2011 and have been in force since 1 April 2012<sup>(9)</sup>. The European Commission proposed a new Regulation on 13 September 2017 as part of the package accompanying the State of the Union.

2.3. Under the current regulation, an ECI can be organised or signed by all EU citizens who have reached the legal age to vote in European Parliamentary elections<sup>(10)</sup>. Initiatives are arranged by a citizens' committee. Organisations may promote or support these initiatives, provided they do so with full transparency.

2.4. The ECI procedure involves three steps:

2.4.1. The initial phase involves setting up a citizens' committee<sup>(11)</sup>, registering the initiative<sup>(12)</sup> subject to an eligibility assessment by the Commission<sup>(13)</sup> and certifying the system for the online collection of signatures<sup>(14)</sup>.

2.4.2. During the collection phase, a minimum of 1 million 'statements of support' (signatures) must be collected over a maximum period of twelve months and from at least seven EU countries<sup>(15)</sup>. The signatures are certified by the competent national authorities<sup>(16)</sup> and a successful ECI is then submitted to the Commission.

<sup>(7)</sup> For discussion of the importance of annexes see paragraphs 47-58 in *Izsák and Dabis v Commission* Case T-529/13.

<sup>(8)</sup> Article 11(4) of the Treaty on the European Union (TEU), and Article 24(1) of the Treaty on the Functioning of the European Union (TFEU).

<sup>(9)</sup> Regulation (EU) No 211/2011.

<sup>(10)</sup> The legal voting age is 18 years in all Member States except Austria, where it is 16.

<sup>(11)</sup> A citizens' committee must be composed of at least seven EU citizens, residing in seven different EU Member States.

<sup>(12)</sup> The initiative must be described in no more than 800 characters (100 for the title, 200 for the description and 500 for details of the objectives).

<sup>(13)</sup> Article 4(2) of Regulation (EU) No 211/2011. Most important is Article 4(2)(b), which requires that a proposed ECI does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties. For an assessment of Commission registration decisions see James Organ, 'Decommissioning direct democracy? A critical analysis of Commission decision-making on the legal admissibility of European Citizens Initiative proposals', 10 *EuConst* (2014), 422-443.

<sup>(14)</sup> Article 6 of Regulation (EU) No 211/2011. The regulation stipulates that this process is the responsibility of the competent authorities of each Member State in which statements of support are collected.

<sup>(15)</sup> The regulation stipulates that a minimum number of signatures must be collected per country, commensurate with the number of inhabitants: <http://ec.europa.eu/citizens-initiative/public/signatories?lg=en>

<sup>(16)</sup> Article 15 of Regulation (EU) No 211/2011.

2.4.3. After submission, the successful initiative is examined by the Commission, prior to a meeting with the organisers. There is a public hearing at the European Parliament. The Commission has three months in which to decide to what extent to adopt the legislative proposal in the initiative, if at all, and to respond with a communication.

2.5. To date, more than 8 million EU citizens have signed an ECI. Although 69 initiatives have been submitted, only 48 have been registered by the Commission, of which four have collected at least 1 million signatures<sup>(17)</sup>. There have been some limited responses to successful initiatives; only one successful initiative has led to a commitment from the Commission to put forward a new legislative proposal<sup>(18)</sup>.

2.6. It is now widely accepted by the EU institutions, organisers and representatives of organised civil society that, despite some positive technical changes, the ECI instrument is still far from reaching its full democratic potential. The Commission announced at the 2017 ECI Day<sup>(19)</sup> that it would carry out a full legislative review. This is an important opportunity to strengthen EU public debate, and the agenda-setting and decision-making capability of the public to influence EU policy through the ECI. There is also a general agreement that the ECI has the potential to bring EU citizens together for the causes that unite them, and to strengthen the sense of European identity.

2.7. ECI organisers have highlighted that there is also value in the ECI process itself in terms of developing networks for common causes, which complements the objective of collecting 1 million signatures.

### 3. Institutional response to the ECI

3.1. The EESC has raised the profile of the ECI at its annual ECI Day<sup>(20)</sup> and set up an ECI helpdesk<sup>(21)</sup> that has provided initiative organisers with, inter alia, translations of ECI descriptions (delivered within 3 working days of the request), printed and online publications on the ECI and various opportunities for presenting the ECIs at meetings of the EESC's ECI ad hoc Group, sections and plenary sessions<sup>(22)</sup>.

3.2. The EESC adopted its own-initiative opinion on 13 July 2016<sup>(23)</sup>, in which it recommended making the ECI more efficient, visible and citizen-friendly.

3.3. The conclusions of a European Parliament study<sup>(24)</sup> were taken up in October 2015 in a resolution<sup>(25)</sup> in which the Parliament formally requested a review of the ECI regulation and made strong recommendations for change to the Commission. The European Parliament also produced a draft own-initiative report in 2017<sup>(26)</sup> proposing changes to the ECI regulation.

<sup>(17)</sup> The following proposals have been successful: *Water and sanitation are a human right! Water is a public good, not a commodity!; Stop vivisection; One of us*; and *Ban glyphosate and protect people and the environment from toxic pesticides*: <http://ec.europa.eu/citizens-initiative/public/initiatives/successful>

<sup>(18)</sup> Communication from the Commission on the European Citizens' Initiative *Ban glyphosate and protect people and the environment from toxic pesticides*, C(2017) 8414 final. On 1 February 2018, the Commission also adopted a proposal for the revision of the Drinking Water Directive, which is in part a reaction to the Right2Water ECI.

<sup>(19)</sup> ECI Day is an annual conference organised by the EESC. ECI Day 2017 partners were the European Committee of the Regions, The ECI Campaign, European Citizens' Action Service, University of Liverpool, School of Law and Social Justice, Democracy International, Initiative and Referendum Institute Europe and People2power. The ECI revision was announced by the First Vice-President Frans Timmermans in the opening session.

<sup>(20)</sup> The first edition of the ECI Day took place on 30.3.2012, one day before the ECI Regulation entered into force. Since then the EESC has organised six editions which happen every year in April. The seventh, 2018, edition will take place on 10 April.

<sup>(21)</sup> For more details, please refer to the EESC publication: 'ECI Helpdesk at the European Economic and Social Committee'.

<sup>(22)</sup> Cf. footnote 4.

<sup>(23)</sup> EESC own-initiative opinion on the *European citizens' initiative (review)* (OJ C 389, 21.10.2016, p. 35).

<sup>(24)</sup> European Parliamentary Research Service, *Implementation of the European Citizens' Initiative. The experience of the first three years, 2015*.

<sup>(25)</sup> European Parliament resolution of 28.10.2015 on the European citizens' initiative (2014/2257(INI)). Rapporteur: György Schöpflin: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0382+0+DOC+XML+V0//EN>

<sup>(26)</sup> Draft report — Revision of Regulation (EU) 211/2011 on the citizens' initiative, 11.9.2017: <http://www.europarl.europa.eu/committees/en/afco/draft-reports.html?ufolderComCode=AFCO&ufolderLegId=8&ufolderId=09289&linkedDocument=true&urefProcYear=&urefProcNum=&urefProcCode=>

3.4. In March 2015, following an own-initiative inquiry, the European Ombudsman drew up 11 guidelines for further improvements to the ECI<sup>(27)</sup> and in July 2017 she sent an open letter to the Commission reinforcing this<sup>(28)</sup>.

3.5. In October 2015, the Committee of the Regions adopted an opinion in favour of a rapid and substantial revision of the regulation<sup>(29)</sup>, and will vote on a further opinion in its plenary session in March 2018.

3.6. The Commission published a progress report in April 2015, and a response to the European Parliament proposals in February 2016, which acknowledged the difficulties encountered by citizens who organise and support ECIs.

3.7. ECI organisers have challenged a number of Commission ECI registration decisions in the Court of Justice<sup>(30)</sup> and through complaints to the European Ombudsman<sup>(31)</sup>. Decisions in these cases have added to the pressure to change the ECI Regulation, especially in relation to the partial registration of an ECI and the Commission's duty to explain its decision.

#### 4. The EESC role and the European citizens' initiative

4.1. The EESC, as the bridge between the European institutions and organised civil society, has been involved since the beginning of the debate on the ECI. This is demonstrated by the opinions adopted to date<sup>(32)</sup>, by the support provided for the ECI, and by the establishment of an ad hoc group for monitoring the development and implementation of this right to participate in the democratic life of the Union<sup>(33)</sup>.

4.2. The EESC will continue to be actively involved in the multi-institutional engagement in the ECI process, with a dual role of facilitator and institutional mentor. EESC initiatives and competences include:

4.2.1. the 'ECI Day', organised by the EESC every year to raise the profile of the ECI, has played an important role in keeping the ECI high on the EU's institutional agenda. The ECI Day is already an important opportunity for dialogue between ECI organisers, EU institutions, and other stakeholders; to assess the state of implementation and the effectiveness of the ECI; and to exchange best practice and facilitate networking among organisers and other stakeholders; and to be a platform of dialogue for the successful ECIs. The EESC will continue to build on the success of the ECI Day and will broaden the scope and role of the conference, for example by a regular review of the follow up by the Commission in response to successful ECIs. The ECI Day is organised by the ad hoc group in cooperation with relevant strategic partners;

4.2.2. drawing up a practical guide — now in its third edition — to raise awareness and promote the ECI<sup>(34)</sup>. The ECI also takes centre stage in another Committee publication, the European Passport to Active Citizenship<sup>(35)</sup> (available in print and in an HTML version<sup>(36)</sup>), which aims to inform EU citizens of their rights and to promote transnational participatory democracy;

<sup>(27)</sup> Case: OI/9/2013/TN opened on 18.12.2013 and decision on 4.3.2015: <http://www.ombudsman.europa.eu/en/cases/decision.faces/it/59205/html.bookmark>

<sup>(28)</sup> Case: SI/6/2017/KR; letter dated 11.7.2017: <https://www.ombudsman.europa.eu/cases/correspondence.faces/en/81311/html.bookmark>

<sup>(29)</sup> Committee of the Regions, Opinion on the *European Citizens' Initiative* (OJ C 423, 17.12.2015, p. 1).

<sup>(30)</sup> In particular the successful challenges in the judgements of the Court dated 3.2.2017 in Case T-646/13 (Minority SafePack); dated 10.5.2017 in Case T-754/14 (Stop TTIP); and dated 12.9.2017 in Case C-589/15 P (One million signatures for a Europe of solidarity).

<sup>(31)</sup> Decisions in Case 1086/2017/PMC dated 4.10.2017 (Mum, Dad & Kids); in Case 1609/2016/JAS dated 18.4.2017 (Stop Vivisection); and complaints 402/2014/PMC (confidential) dated 3.3.2015 and 2071/2013/EIS dated 12.12.2014 (Stop Vivisection).

<sup>(32)</sup> EESC opinion on *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)* (OJ C 354, 28.12.2010, p. 59).

EESC opinion on the *Citizen's initiative* (OJ C 44, 11.2.2011, p. 182).

EESC own-initiative opinion on the *European citizens' initiative (review)* (OJ C 389, 21.10.2016).

<sup>(33)</sup> The EESC's ad hoc group on the ECI was set up in October 2013 to provide political guidance on the ECI and monitor developments in this area.

<sup>(34)</sup> <http://www.eesc.europa.eu/resources/docs/qe-04-15-566-en-n.pdf>

<sup>(35)</sup> <http://www.eesc.europa.eu/resources/docs/qe-04-15-149-en-n.pdf>

<sup>(36)</sup> <http://www.eesc.europa.eu/eptac/en>



4.2.3. inviting ECI organisers with initiatives falling within the scope of the Committee's policy areas to present their initiatives at the EESC<sup>(37)</sup>. These opportunities allow the EESC to provide ECI organisers with a platform to engage with representatives from civil society and social partners, and to raise the profile of the ECI as a democratic tool, whilst maintaining a neutral position regarding the specific policy issue concerned;

4.2.4. always providing an own-initiative opinion on the subject matter of a successful ECI, where it falls within the scope of the EESC's work;

4.2.5. EESC representatives should participate in every European Parliament public hearing for successful initiatives, thus contributing to the inter-institutional analysis process of how to respond to a successful ECI. The EESC should be invited to the public hearing by default<sup>(38)</sup>. The opinion of the EESC will be based on discussions in the EESC plenary session, to which the organisers are invited.

4.2.6. The EESC welcomes the online collaborative platform, and would like to be involved in and informed of its developments. The EESC also believes that it is important for users of the platform to be well informed about the ECI-related services that the EESC offers to ECI organisers.

4.2.7. The EESC shall continue to campaign for a stronger and more efficient ECI, and to raise awareness on a national and local level, such as through its own 'Going Local' initiatives.

## 5. Comments about regulation changes

5.1. The ECI was supposed to be clear, simple and user-friendly. However, many ECI organisers, representatives of civil society organisations<sup>(39)</sup>, academic commentators<sup>(40)</sup> and institutional actors have reported significant technical and legal issues relating to the ECI. The EESC welcomes the proposal from the Commission to reform the regulation in order to tackle the more complex institutional, legal and organisational issues, and to promote dialogue between citizens and the institutions. This, in turn, will enhance the EU-wide debates that the ECI process facilitates, regardless of whether an ECI reaches one million signatures or not.

5.2. The EESC strongly reiterates its support for the European citizens' initiative. The EESC considers that proper and complete implementation of the ECI could help bridge the gap between EU citizens and EU institutions and significantly improve public involvement in the democratic life of the Union. It is also an important step in the wider development of participatory democracy in the EU.

5.3. The EESC recognises the strong inter-institutional support for the ECI and welcomes the proposals for change from the European Parliament, the Committee of the Regions and the European Ombudsman. Each institution has an important role to play during and after ECI campaigns in order to provide assistance and opportunities for dialogue between the institutions and the organisers.

5.4. The EESC recommends that each Member State establish contact points to provide information and assistance to ECI organisers on technical, as well as campaigning, issues related to the ECI and actively promote the ECI on the national and local level;

5.5. The EESC would suggest the following proposals for reforming the regulation with a view to making the ECI mechanism simpler and more effective:

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<sup>(37)</sup> Cf. footnote 4.

<sup>(38)</sup> On 2.2.2014 the then EESC President Henri Malosse sent the then President of the European Parliament Martin Schulz an official letter in which he expressed the EESC's interest in being invited on a regular basis to the public hearings on the successful ECIs.

<sup>(39)</sup> C. Berg, J. Tomson, *An ECI that works! Learning from the first two years of the European Citizens' Initiative*, 2014: <http://ecithatworks.org/>

<sup>(40)</sup> Recent articles include: Organ, 'EU Citizen Participation, openness and the European Citizens Initiative: the TTIP legacy', 54 CMLRev 1713–1748 (2017); Karatzia, 'The European Citizens Initiative and the EU institutional balance: On realism and the possibilities of affecting EU lawmaking', 54 CML Rev. (2017), 177–208; and Vogiatzis, 'Between discretion and control: Reflections on the institutional position of the Commission within the European citizens' initiative process', *European Law Journal*; 2017; 23; 250–271.

5.5.1. The Commission's roles of institutional mentor<sup>(41)</sup> to ECI organisers and of decision-maker at registration should be separated. This is crucial for resolving a potential conflict of interest in the Commission and for enabling the ECI mechanism to be implemented fully and effectively. The EESC would be a natural candidate for the role of institutional mentor.

5.5.2. There should be more dialogue opportunities with ECI organisers, during and after the campaign to raise the political profile of the topics of ECI campaigns. With this goal in mind, the EESC would hope to see all the EU institutions equally involved in creating opportunities for the organisers to present and debate their initiatives, following the EESC's example of inviting ECI organisers to various debates in its ECI Group, sections and plenary sessions. The European Parliament plenary hearing is central to these dialogue opportunities.

5.5.3. Appropriate follow-up for successful initiatives must be guaranteed. With due respect for the Commission's right of initiative, the EESC would ask the Commission to expect to prepare a legislative proposal within 12 months of the end of the campaign, or to provide full justification for a decision not to present a proposal.

5.5.4. In addition to hearings held at the European Parliament and the Commission's meeting with the organisers, the Commission should also establish closer ties with ECI organisers. To this end, there should be engagement with organisers in activities that take place in relation to the subject of a successful ECI after the Commission has delivered its initial opinion.

5.5.5. In order to ensure the right balance of tasks and competences, the EESC supports the view expressed by civil society at an EESC hearing that the Parliament should continue to be sole organiser of the public hearing on the successful ECI.

5.5.6. There should be detailed and clear reasons given for all Commission decisions to refuse registration of an initiative, whether it is a partial or complete refusal.

5.5.7. The EESC welcomes the Commission's proposal to allow for partial registration. However, in the interests of adopting clear and straightforward procedures and criteria for ECI registration, a single registration decision should be maintained. The Commission could provide organisers with advice about the legal basis of their proposal in advance of submission and propose possible solutions in order to avoid inadmissibility.

5.5.8. The EESC shall follow the discussion on lowering the minimum age for supporting and taking part in an ECI. The EESC is aware that this issue raises a lot of questions, yet at the same time it recognises the need for further discussion.

5.5.9. It is important that the time period for review of the ECI remains at three years. This is because of the importance of the ECI for EU democracy, its recent introduction, and because of the time that will be needed to implement the changes resulting from the current legislative review.

5.5.10. Procedures for informing citizens and raising awareness about the ECI should be strengthened. This must be done primarily through ad hoc campaigns promoted by the Commission and the Member States. With this goal in mind, the EESC also proposes enabling the group of organisers to inform interested supporters about developments in and achievements of the campaign (provided that the supporters have authorised this contact). The same applies to the Commission, which must publicise the follow-up to successful initiatives more effectively, as well as first informing the group of organisers.

5.5.11. The EESC is pleased to see the European Commission recognising the need for the translation service provided since 2015 by the EESC. The provision of translation services should also include the translation of the annexes to an ECI proposal<sup>(42)</sup>. This is important to facilitate fuller public understanding of an initiative's proposals.

5.5.12. New methods should be explored for linking up the online collection of signatures with social and digital media in order to reach out to an ever-larger audience.

Brussels, 14 March 2018.

*The President*  
*of the European Economic and Social Committee*  
Georges DASSIS

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<sup>(41)</sup> Cf. points 1.2 and 4.3.2 of the EESC opinion on the *Citizen's initiative* (OJ C 44, 11.2.2011, p. 182).

<sup>(42)</sup> For discussion of the importance of annexes see paragraphs 47-58 in *Izsák and Dabis v Commission* Case T-529/13.



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