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## Information and Notices

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## I

(Resolutions, recommendations and opinions)

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

534TH EESC PLENARY SESSION — RENEWAL SESSION, 18.4.2018-19.4.2018

**Opinion of the European Economic and Social Committee on ‘Funding the European Pillar of Social Rights’**

**(own-initiative opinion)**

(2018/C 262/01)

Rapporteur: **Anne DEMELENNE**

Plenary Assembly decision	15.2.2018
Legal basis	Rule 29(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	26.3.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	155/3/4

### 1. Conclusions and recommendations

1.1. The principles of the European Pillar of Social Rights (the ‘Social Pillar’) and the need for its implementation, along with the implementation of the 2030 Agenda for Sustainable Development, should constitute one of the guiding lines in the negotiations on the next EU multi-annual financial framework post-2020.

1.2. Making a reality of the Social Pillar will require improvements in Member States. The Social Scoreboard, produced alongside the Pillar, points to shortfalls and substantial divergences across the EU. Overcoming these shortfalls will require commitment from all levels, including Member States, social partners and civil society actors. It will also require a robust budgetary base, investment and current spending. Consideration needs to be given to how this will be financed.

1.3. Spending needs are particularly large in lower-income countries and in countries that suffered income declines in recent years. All face some degree of constraint from EU rules on budgets and debt levels. Scope for more spending can be created within Member States and with the help of various EU-level programmes.

1.4. Private sector investment can make a contribution in some areas — such as expanding digital access — when appropriate regulatory conditions are created. Private sector investment will however not be enough and cannot ensure against exclusion of the socially weakest, seen as an important issue within the Social Pillar.

More public investment within Member States can be facilitated by reference to a Golden Rule for public investment with a social objective, which would allow more flexibility in budget rules <sup>(1)</sup> with a view to achieving the aims of the European Pillar of Social Rights.

1.5. More public investment can also be supported by the use of existing EU instruments, especially the European Structural and Investment Funds (ESIF), which can be more clearly focused towards objectives highlighted within the Social Pillar. Public investment can also be supported by the European Investment Bank, helped by the European Fund for Strategic Investments (EFSI), which has enabled it to maintain its level of credits over recent years. This support should explicitly include objectives linked to the Social Pillar, as is consistent with its mandate.

1.6. Appropriate taxation policies, including effective fight against tax fraud, tax avoidance and aggressive tax planning, should allow Member States and the EU to raise additional means to contribute to the financing of the Social Pillar. Ensuring efficient use of additional funding requires the implementation of the action programmes and roadmaps on the implementation of the Social Pillar as an integral part of the European Semester and in particular in the development of National Reform Programmes and Convergence Programmes. In this regard, the EU should also explore new avenues for means to increase its own resources.

1.7. The implementation of the Social Pillar requires the active ownership, responsibility and participation of relevant stakeholders at all the different levels: the European institutions, the Member States and regional and local authorities, as well as the social partners and other civil society stakeholders.

## 2. Background

2.1. The European Pillar of Social Rights, proclaimed and signed by the EU Council, the European Parliament and the European Commission on 17 November 2017, is intended as a step towards reinforcing social rights and delivering a positive impact on people's lives in the short and medium term. Delivering on the Social Pillar is a shared commitment and responsibility of the EU, the Member States and the social partners.

2.2. It reflects a stated recognition from leaders of 27 Member States of the need to address economic and social insecurity as a matter of priority <sup>(2)</sup>. Reasons for the urgency of the Social Pillar include the poor economic and social performance in many countries since 2008; new opportunities and new challenges arising from globalisation, climate change, large-scale migration, digitalisation and ageing populations; increased diversity in economic and social levels within the EU in the wake of the financial and economic crisis; and political developments in many countries that imply a threat to future European unity and cohesion. Raising the EU to a 'social triple-A rating' was presented as 'just as important as an economic and financial triple-A rating' by the European Commission president-elect to the European Parliament in October 2014 <sup>(3)</sup>. Achieving such an aim evidently requires an acceptance of responsibility at all levels within the EU. Fulfilling such an aim could be expected to improve cohesion, political and social stability and economic performance, without forgetting the importance of automatic stabilisers in the event of economic shocks.

2.3. As recognised by the EESC <sup>(4)</sup>, the Social Pillar is a political declaration of intent as there is still no clear roadmap for its implementation. In this regard, the Pillar remains incomplete and the recognition of new rights and obligations is lacking. In the context of a strong economy and fair taxation, adequate financial resources have to be made available at Member State level with the support of the European Union. It will be a crucial aspect for the implementation of the Social Pillar.

<sup>(1)</sup> Lessons learned for avoiding the severity of austerity policies in the EU, pt. 1.6, not yet published; Euro area economic policy 2018, points 1.8 and 3.6, not yet published; OJ C 327, 12.11.2013, p. 11; Annual Growth Survey 2018, pt. 1.4, not yet published; OJ C 226, 16.7.2014, p. 21.

<sup>(2)</sup> European Pillar of Social Rights, booklet, p. 6, (ISBN 978-92-79-74092-3).

<sup>(3)</sup> [http://europa.eu/rapid/press-release\\_SPEECH-14-1525\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-1525_en.htm)

<sup>(4)</sup> OJ C 81, 2.3.2018, p. 145.

2.4. The European Commission is to present its proposals for the next multi-annual financial framework (MFF) in May 2018. It is essential that the Social Pillar, as well as the UN Sustainable Development Goals, serve as one of the guiding lines for the European institutions and the Member States in the preparation of the next long-term EU budget to apply from 2020.

2.5. Proper implementation of the Social Pillar will depend on appropriate policy reforms within Member States, for example, to create appropriate mechanisms for quality job creation, for enhancing skills and for ensuring efficient use of public resources. The EESC, in accordance with its previous opinions, advocates structural reforms geared towards social and economic development: more and better jobs, sustainable growth, administrative and institutional quality, and environmental sustainability<sup>(5)</sup>. Such reforms should be country-specific, consistent with National Reform Programmes (NRPs) to improve well-being and backed by democratic support, not a one-size-fits-all approach for all Member States<sup>(6)</sup>.

2.6. Proper implementation of the Social Pillar will also require a strengthening of the financial resources available<sup>(7)</sup>. Currently, EU expenditure on social matters represents only on average 0,3 % of total public social expenditure in the EU, with the great bulk provided from Member States' budgets<sup>(8)</sup>. The departure of the United Kingdom from the EU will have major consequences for the EU budget. The EESC stresses that sufficient resources must be made available for the implementation of social policies. It supports the European Parliament's demand that the current 1 % ceiling for the EU's expenditure should be increased to 1,3 % of GNI<sup>(9)</sup> and believes that an increase in the EU's own resources, for example by an increase in VAT, would be particular unfair in a social context. The EESC also stresses the need to target more resources towards supporting cohesion policy, support for working people and citizens in general. Particular attention will be devoted to the acquisition of skills by workers as a source of economic strengthening. At the same time, the EESC agrees that increased funding should not be limited only to security, defence and external border control. The European Social Fund is an important driver for more convergence and the EESC reiterates its demand that it should not be reduced if the future challenges are to be met in view of the next EU multi-annual financial framework<sup>(10)</sup>.

2.7. The Social Scoreboard that accompanies the European Commission's presentation of the Social Pillar<sup>(11)</sup> is intended as a tool for monitoring progress towards the target of a fairer Europe with a stronger social dimension. It has been criticised for the choice of some indicators, for time periods used for comparison and in some cases for the accompanying interpretations<sup>(12)</sup>. The EESC has previously called for it to be improved<sup>(13)</sup>.

2.8. In some cases clearly inappropriate indicators have been used. This applies for the case of progress in reducing the gaps in pay and employment between men and women. Both have suffered from declining working hours, but it is larger for men than women, so that a smaller gap (the indicator used in the Scoreboard) does not reflect clear improvement. Moreover, time periods for assessing progress vary, sometimes showing only one year and sometimes a longer period, going back to before the crisis that broke out in 2008. The longer time scale is more appropriate for indicating what the longer term trends are. Indicators also need to be interpreted flexibly and adapted over time, making use of evolving expertise and

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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.

<sup>(6)</sup> Support to structural reforms in the Member States, point 3.9, not yet published.

<sup>(7)</sup> OJ C 81, 2.3.2018, p. 145.

<sup>(8)</sup> Reflection Paper on the Social Dimension of Europe, p 24

<sup>(9)</sup> European Parliament's resolution of 14 March 2018 on the next MFF: Preparing the Parliament's position on the MFF post-2020 — (2017/2052(INI)), co-rapporteurs: Jan Olbrycht, Isabelle Thomas, point 14.

<sup>(10)</sup> OJ C 81, 2.3.2018, p. 145; OJ C 81, 2.3.2018, p. 131.

<sup>(11)</sup> <https://composite-indicators.jrc.ec.europa.eu/social-scoreboard/#>

<sup>(12)</sup> Galgoczi, B. et al, 'The Social Scoreboard Revisited', ETUI, 2017.

<sup>(13)</sup> OJ C 81, 2.3.2018, p. 145.

data from sources such as Eurofound. Revision and updating of indicators should be the result of an open discussion, involving the social partners and other civil society stakeholders.

2.9. Despite reservations, the scoreboard gives an indication of the scale of the task ahead if the stated objectives are to be achieved. It shows inadequacies within all Member States and substantial divergences of levels among Member States which can lead to increasing social inequalities. An acceptable level of incomes, living standards, social security, welfare provision, educational attainment and digital access is clearly not achieved across all Member States.

2.10. Figures on levels of employment and unemployment demonstrate the extent of divergences. The employment rate in Greece was 56 % while it reached 81 % in Sweden. The unemployment rate in Greece was 23 % against 4 % in Germany, the lowest level in the EU. These figures from the scoreboard suggest wide divergences in social conditions across the EU with much higher levels of unused potential in some countries than others.

2.11. Many other indicators point in the same direction. Thus, for example, the proportion of early leavers from education reaches 20 % of the 18-24 population in Spain, but less than 3 % in Croatia. This latter is also a deceptive figure on the general position of young people: the youth unemployment rate indicator shows Croatia to be one of the worst in the EU. The proportion of the population at risk of poverty reaches 40 % in Bulgaria against an EU average of 23 %.

2.12. The NEET<sup>(14)</sup> rate (percentage of 15-24 year olds not in employment, education or training) varies from 20 % in Italy to under 5 % in the Netherlands. Activation support (including training, employment incentives and similar measures) is taken by 54 % of those who want to work in Denmark but less than 3 % of those who want to work in Bulgaria.

2.13. The proportion of children aged 0-3 in full-time child care ranges from 1,1 % in Slovakia to over 77 % in Denmark. Unmet health needs, usually because of financial constraints, are reported by over 12 % in Estonia and Greece but are minimal in Austria.

2.14. Over the EU as a whole, 44 % lack adequate digital skills, ranging from 74 % in Bulgaria to 14 % in Luxembourg.

2.15. Making the Social Pillar a reality would therefore improve social and labour market conditions for many citizens and would thus also enhance the EU's economic potential. It implies upward convergence for the countries that are currently lagging behind. Some indicators show improvements over very recent years but not all and, even there, large gaps remain.

2.16. Making the Social Pillar a reality will be an enormous challenge, requiring commitment from Member States supported by the European Union. It will also require full involvement of social partners and encouraging and promoting their joint actions, specifically the conclusion and improved coverage of collective agreements, particularly in the area of employment security, the quality of work, wage conditions and health and safety at work. Civil society organisations, with their experience and knowledge of problems, can also make a crucial contribution. There can also be an important contribution from private business through public-private partnerships, investment in the development of skills and qualifications within enterprises.

### 3. Policy areas

3.1. Steps to further implementation can include new legislative and non-legislative measures, including ensuring that policies already decided actually are implemented within Member States, the use of the European semester and the Country Specific Recommendations issued within that process<sup>(15)</sup>. Involvement of social partners at all levels is essential for successful implementation of these initiatives.

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<sup>(14)</sup> 'Not in education, employment or training'.

<sup>(15)</sup> OJ C 81, 2.3.2018, p. 145.



3.2. Country Specific Recommendations in 2015 and/or in 2016 covered areas referred to in the Social Pillar notably in relation to pensions, public services, social care, healthcare, childcare, housing, enhancement of skills, active labour market policies and education.

3.3. However, for such recommendations to have meaning, they must be based on an assumption that the necessary funding will be available. The EU can play a positive role here through its various programmes and by flexibility in rules on state budgets and state debt levels.

3.4. The issues of investment and finance arise in various ways across all the areas covered by the Social Pillar. The Social Scoreboard also helps to demonstrate the need for investment in specific areas across all, and especially lower-income, Member States. Financing the Social Pillar therefore links in with issues of macroeconomic policy, with economic governance policies oriented towards social convergence and not social divergence, with discussions on the management of the Eurozone and with policies to promote investment, including social investment.

3.5. EESC has already argued for the many positive effects of well planned, effective and efficient future-oriented social investment which, as accepted in the European Commission's Social Investment Package, should be viewed not as a cost but as an investment in Europe's growth and employment potential. The EESC has regretted that more has not been done to effectively implement these objectives. Social investment offers economic and social returns over time, in terms of increased employment or labour incomes, improved health, reduced unemployment, better education, less poverty and social exclusion, etc. It also improves individuals' prosperity and well-being, while boosting the economy by ensuring a more skilled workforce, higher productivity and employment. Such investment, especially when enhancing sustainable growth, would also contribute to strengthening people's skills and qualifications, improve their opportunities in society and the labour market, as well as stimulating the economy, helping the EU to emerge from the crisis stronger. Moreover, it would ensure more efficient and effective public spending, leading to savings in public budgets in the medium to long-term<sup>(16)</sup> finances. The EESC has also highlighted the long-term cost of failing to act and invest in the social sphere. The EESC has in this respect also stressed the importance of investment in robust social security systems given also that they act as an automatic stabiliser<sup>(17)</sup>.

3.6. Themes listed in the Social Pillar that cannot be addressed without more investment or current spending include: the right to quality and inclusive education, training and lifelong learning; support for job search; improving gender equality and reducing the gender pay gap; prevention of in-work poverty; access to care services; affordable early childhood education; adequate social protection; adequate unemployment benefits; pensions ensuring an adequate income; dignity in old age; affordable preventive and curative healthcare of good quality; affordable long-term care services of good quality; social housing or housing assistance of good quality; and access to water, sanitation, energy, transport, financial services and digital communications.

3.7. The main EU funds for economic and social growth are the European Structural and Investment Funds (ESIF), the Youth Employment Initiative (YEI), competitiveness programmes and the European Fund for Strategic Investments (EFSI). Investment can also come from Member States' own budgets and from private sources.

3.8. The European Structural and Investment Funds are the most substantial source with complex processes for overseeing and assessing investment identified in a previous EESC opinion as a means to achieve more investment in the real economy. They have led to increased public-sector investment in lower-income countries, but have not been sufficient to compensate for falling investment from other sources or to ensure rapid convergence in economic and social levels. It is important to ensure that these funds are strengthened and increased in order to support efforts to implement the Social Pillar. The EESC reiterates its support for a review of regulations governing ESIFs and for improved evaluation of the effectiveness and efficiency of their contribution<sup>(18)</sup>.

3.9. It is possible to ensure that investment is targeted in line with the aims of the Social Pillar, both in terms of the activities undertaken and in terms of conditions to ensure fair employment practices and support for otherwise excluded groups.

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<sup>(16)</sup> OJ C 125, 21.4.2017, p. 10.

<sup>(17)</sup> OJ C 226, 16.7.2014, p. 21.

<sup>(18)</sup> OJ C 303, 19.8.2016, p. 94.

3.10. The EFSI provides a guarantee to the European Investment Bank enabling the latter to maintain levels of credit which would otherwise have faced reduction. It, like EIB projects in general, can support projects consistent with the Social Pillar. In some cases it does (supporting some social entrepreneurship and some health and social care). The bias has been towards more typical commercial projects, such that social benefits are a by-product rather than an objective.

3.11. The EESC has called for reinforcement of the social dimension of EFSI deployment such as in education, training and vocational training for skills and lifelong learning, developing the creative and cultural industries, innovation in healthcare and medicine, and social services, social housing and childcare, tourism and environmental protection infrastructure. The Investment Plan for Europe should clearly support the COP21 commitments<sup>(19)</sup>.

3.12. There is also little emphasis on assessing and overseeing projects on employment conditions, inclusion of disadvantaged groups and investment in the physical infrastructure for social services.

3.13. There was an initial commitment to avoid any geographical considerations in the allocation of the EFSI resources and a number of lower-income countries are receiving very little, despite demonstrably high levels of need. Appropriate changes to the rules can ensure that priority is given to the less developed countries in the second phase of action.

3.14. Financing implementation of the Social Pillar will also depend heavily on resources available at the Member State level. It will require funding from state budgets for investment and also for running costs of activities over future years. This can be constrained by EU budget and debt rules<sup>(20)</sup>. As already stressed repeatedly by the EESC<sup>(21)</sup>, consideration should be given to ways of enhancing the flexibility allowable within these by means, for example, by means of a 'Golden Rule' which would allow public investment with a social objective in order to achieve the aims of the Social Pillar notably by: increasing income levels, stronger social cohesion and preventing the exclusion of otherwise disadvantaged groups who cannot otherwise play a full part in society, while generating sustainable economic growth.

3.15. Business and corporate responsibility is also key in financing social goals. Private investment alone will not address the Social Pillar objectives, but there should be scope for private investment additionally to public responsibility to contribute in many of the areas concerned (including, for example employment, improving digitalisation skills and social care) especially with appropriate regulatory frameworks and some financial support from public sources, such as the European Structural and Investment Funds and/or the EIB.

3.16. The need for financial resources to implement the Social Pillar should be recognised and planned for. Appropriate institutional frameworks already exist. Terms of reference for the European Structural and Investment Funds (ESIFs) and the EFSI should be clarified to make explicit reference to the Social Pillar and costs associated with furthering its aims should be allowed for in the EU budget and in the Member States' budgets.

3.17. Finally, in the context of the fight against tax fraud, against tax havens and aggressive tax planning, and for the reduction of unfair tax competition between Member States<sup>(22)</sup>, measures relating to fair taxation undertaken by the European Commission (regarding multinationals and individuals) should be strengthened<sup>(23)</sup>, as well as measures to combat misappropriation and fraud concerning EU-budget resources. In relation to the search for new sources of tax revenue to finance the Social Pillar, fully respecting the principle of subsidiarity, it would be appropriate to promote kinds of taxation that take into account the contributive capacities of each, while respecting the incentives for sustainable economic growth.

<sup>(19)</sup> OJ C 75, 10.3.2017, p. 57.

<sup>(20)</sup> OJ C 177, 18.5.2016, p. 35.

<sup>(21)</sup> Lessons learned for avoiding the severity of austerity policies in the EU, point 1.6, not yet published; Euro area economic policy 2018, points 1.8 and 3.6, not yet published; OJ C 327, 12.11.2013, p. 11; Annual Growth Survey 2018, point 1.4, not yet published; OJ C 226, 16.7.2014, p. 21.

<sup>(22)</sup> OJ C 81, 2.3.2018, p. 131.

<sup>(23)</sup> Annual Growth Survey 2018, pt. 3.3.4, not yet published.

3.18. As regards the financing of the EU budget, the EESC agrees with the analysis in the report on Future financing of the EU by the High Level Group on Own Resources, that calls for an EU budget which consists predominantly of autonomous, transparent and fair own resources <sup>(24)</sup>. Furthermore, the EESC takes the view that an increased budget should be achieved.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(24)</sup> OJ C 81, 2.3.2018, p. 131.

**Opinion of the European Economic and Social Committee on ‘The LeaderSHIP 2020 strategy as a vision for the maritime technology industry: towards an innovative, sustainable and competitive maritime industry in 2020’**

**(own-initiative opinion)**

(2018/C 262/02)

Rapporteur: **Marian KRZAKLEWSKI**

Co-rapporteur: **Patrizio PESCI**

Plenary Assembly decision	1.6.2017
Legal basis	Rule 29(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Consultative Commission on Industrial Change (CCMI)
Adopted by CCMI	4.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	197/1/2

## 1. Conclusions and recommendations

1.1. The EESC recommends that all Commission services step up their efforts to assume responsibility for the completion of the LeaderSHIP 2020 strategy (LS 2020) and for the preparation and implementation of the next strategy for the sector (LeaderSHIP 2030), in cooperation with stakeholders.

1.2. As it was adopted in 2013, the conclusions and recommendations of LeaderSHIP 2020 have been determined by the consequences of the economic crisis of 2008. However, many changes have taken place in recent years, with serious challenges and new opportunities emerging for the maritime industries in Europe. The EESC therefore calls on the Commission to provide stronger support for the maritime industries in coping with its challenges and opportunities.

1.3. With the publication of the LS 2020 strategy, the Commission and stakeholders agreed on 19 recommendations, aimed at putting the strategy into practice. At the hearing, stakeholders from the sector completed a survey evaluating the extent to which these recommendations had been implemented. The survey's findings are discussed in section 3.

1.3.1. The EESC notes that, four years after the strategy was published, progress towards implementing all recommendations has been uneven — the average implementation rate is only 25 %. Recommendations relating to the RDI pillar have been implemented relatively well. Rather less successful, but still effective, has been the implementation of recommendations under the ‘employment and skills’ pillar, with the exception of informal learning. This is followed by the roll-out of measures on ‘improving market access and fair competition’. Progress on such measures is rated at only 20 %. The pillar with the weakest level of implementation (an average of 15 %) is ‘access to finance’, with the exception of measures to promote EIB financing. The EESC calls on the Commission and stakeholders to step up the strategy's roll-out and to carry over key, outstanding recommendations to the sector's new strategy (LeaderSHIP 2030) which has been proposed by stakeholders.

1.4. The hearing highlighted that the European maritime technology (MT) sector is a key strategic sector for Europe, and that it is in relatively good shape, despite the many difficulties the sector had been confronted with, especially after the economic crisis. In contrast, Asian shipyards are suffering a lot, inter alia as a result of vigorous state aid policies. However,

due to their current problems, Asian competitors, and particularly China, will increase pressure on Europe. The EESC recommends that the European Commission adopt a framework that would enable a genuine global level playing field for the European MT sector.

1.5. The Chinese government and banks will provide all financial support to their state-owned companies in order to implement the recently announced strategy to take over Europe's position as a leader in building high end ships, such as cruise ships, and high tech maritime equipment. Against this backdrop, the EESC recommends that the European Commission adopt a strong industrial and manufacturing policy, based on reciprocity, enabling the European maritime technology industry to survive competition.

1.6. The maritime industries are currently challenged by regulatory and societal pressures. On the regulatory side, this sector is pressured to improve its environmental, safety and security performance. On the societal side, digitalisation, automation, cybersecurity or the Internet of Things are potentially disruptive technologies which may fundamentally change the future of the maritime sector. At the same time, these challenges create interesting opportunities for the European MT sector. The EESC therefore recommends that the European Commission stimulate investments of the European MT sector in RDI — for instance through a PPP — to cope with the sector's needs. RDI is key for the European MT sector to stay ahead of global competitors.

1.7. The European MT sector has an increasing interest in exploiting the economic potential of seas and oceans in a sustainable manner. Offshore wind, ocean energies or aquaculture are only few examples. To fully exploit this potential and to open up new opportunities (e.g. energy storage at sea), the EESC recommends that the European Commission support the European maritime technology sector with a Blue PPP.

1.8. Contrary to Asian competitors, access to finance is a significant problem for European shipyards and European maritime equipment manufacturers. Existing European financial tools are either insufficiently known or not fit for use in such a capital-intensive sector at all. The EESC therefore calls on the European Commission to launch a dedicated financial instrument that would enhance investment in a capital risk intensive sector, such as the European MT industry.

1.9. The EESC believes that the navy sub-sector has a very important role to play in maintaining the 'critical mass' of the entire European shipbuilding sector and is, additionally, a driving force behind research and innovation in the MT sector and beyond. The EESC therefore calls on the Commission to ensure that the maritime defence industry forms one of the pillars of the follow-up to the LeaderSHIP strategy.

1.10. To remain competitive and innovative, the European MT sector needs to implement new technologies and to have the rightly skilled and trained workforce. The EESC advises the Commission to provide strong support to the social partners from the shipbuilding sector to continue with their work at the European Skills Council for the Maritime Technology Sector. The EESC brings to the attention of the EC the need to promote industry-led initiatives and expertise to solve the skills mismatches in the sector.

1.11. The EESC has taken note of the findings of the report on *New trends in the shipbuilding and marine supply industries*<sup>(1)</sup> and calls upon the European Commission to cooperate with SEA Europe and IndustriALL and other stakeholders to implement the recommendations made in this report.

## 2. Background to the opinion

### *Current status of the European maritime technology industry*

2.1. The European maritime technology industry covers all businesses involved in the design, construction, maintenance and repair of vessels and other maritime structures, including the entire supply chain of systems, equipment and services, supported by research and educational institutions. European firms are innovation leaders and produce around half of the world's marine equipment each year.

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<sup>(1)</sup> 'New trends in the shipbuilding and marine supply industries'.

2.2. European shipyards are successful in the building, repairing, maintenance and conversion of very complex and technologically advanced civil and naval ship types, such as cruise ships, ferries, offshore vessels and installations, frigates, submarines, etc. They also produce and deliver technologies associated with the development of 'blue growth' (offshore energies, aquaculture, seabed mining, etc.). They create an annual turnover of approximately EUR 31 billion, directly employing over 200 000 people, and there are currently around 300 shipyards in Europe<sup>(2)</sup>.

2.3. Producers and suppliers of marine equipment from the EU are global market leaders. They comprise around 22 000 large, small and medium-sized companies which deliver various materials, systems, technologies and equipment or provide engineering and consultancy services. They generate an annual turnover of approximately EUR 60 billion, and they directly employ over 350 000 people. Their share of the global market is about 50 %.

2.4. The European maritime technology sector invests 9 % of its profits from sales in research, development and innovation — the highest rate of investment in RDI to be found in Europe.

2.5. The global shipbuilding industry is facing one of its most serious crises in years with 2016 being the worst year so far but worse is expected to come in the coming two to three years. Reduced demand for goods transport in Asia caused order books to shrink dramatically. Europe is unique in that it has been able to keep orders growing since 2012, without financial support or subsidies. At the same time, European maritime equipment manufacturers are facing the negative consequences of the dramatic shrinkage of Asian order books.

2.6. In 2016, European shipyards' new orders were worth more than the units already delivered. European contracts for new vessels were worth USD 14,7 billion, representing 55 % of the value of new orders across the globe.

2.7. The competitiveness of East Asian countries is largely based on national protectionist policies, including subsidies, other financial support, local content requirements, etc. Moreover, contrary to Europe, these countries consistently order their new buildings at their own shipyards. In contrast, European shipowners have shifted their orders for the building of cargo vessels as well as offshore support vessels from Europe to shipyards in Asia. Hence, the European order book has changed over the last decade, towards the building of sophisticated vessel types with higher added value. Interestingly, this evolution took place at a time that the European shipping industry itself benefited from financial or fiscal support schemes.

#### *Context of the LeaderSHIP 2020 strategy*

2.8. The LeaderSHIP 2020 strategy<sup>(3)</sup> has its origins in the LeaderSHIP 2015 initiative, launched in 2003 with the aim of ensuring a coordinated response to the challenges faced by the European shipbuilding industry. The main emphasis was on knowledge-based activities and the need for a better return on investment in shipyards in terms of research, development and innovation.

2.9. In 2008, the European shipbuilding sector was hit by the global economic crisis. The crisis is still having an effect on the sector to this day. A strong response was therefore needed, in the form of the new LeaderSHIP 2020 strategy (LS 2020).

2.10. The 2013 document detailing the LS 2020 strategy was developed by a broad group of stakeholders headed by industry representatives, the European Commission, Parliament and the social partners (SEA Europe and IndustriALL).

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<sup>(2)</sup> SEA Europe — The Voice of Maritime Civil & Naval Industries in Europe, 2017 newsletter.

<sup>(3)</sup> [http://ec.europa.eu/growth/sectors/maritime/shipbuilding/ec-support\\_en](http://ec.europa.eu/growth/sectors/maritime/shipbuilding/ec-support_en)

2.11. The strategy pinpoints the attributes of this industry: innovative, 'green', specialised in high-tech markets, energy efficient, and capable of expanding into new markets.

2.12. The report presenting the LS 2020 strategy identifies the following four pillars:

- Employment and skills
- Improving market access and fair market conditions
- Access to finance
- Research, development and innovation (RDI).

### 3. Evaluation of progress towards implementing the LS 2020 strategy recommendations

3.1. The assessment of the extent to which the LS 2020 strategy's recommendations have been implemented was carried out on the basis of a survey completed by participants at a public hearing. The findings of the survey are set out below.

3.2. There has been moderate progress on measures under the 'employment and skills' pillar of LS 2020. The recommendations implemented most effectively were 'to create a MT sector sub-group within the ESCO system' and 'to promote the TM sector', with a score of 30 %. Plans for a study on informal learning were viewed as poor, with a score of 0. The remaining recommendations in this group received a score of 15-20 %.

3.3. Implementation of recommendations under the second pillar, on 'improving market access and fair competition', was viewed as rather limited. Three measures are underway: the OECD Working Party on Shipbuilding; closer cooperation between industry and the EC on issues relating to the protection of intellectual property and compliance with IMO regulations; and making use of various trade policy instruments and supporting efforts to conclude free trade agreements. Around 20 % of these measures are considered to have been implemented. The implementation of the other measures in this group is negligible.

3.4. As regards the pillar on access to finance, stakeholders noted progress on one point only: 'explore and promote EIB financing opportunities and possibilities for broadening the lending it provides', which got a score of 20-30 %. Implementation of the recommendation to 'examine the possibility of a "blue PPP"' is rated at 15 % and the recommendation on the evaluation of 'opportunities for long-term financing by the Commission' has hardly been put into practice at all (5 %).

3.5. The recommendations on RDI provide grounds for mild optimism. Three of the recommendations are halfway — or even more than halfway — to being fully implemented. The assessment of this group of recommendations is as follows:

- examine the feasibility of PPP projects in the field of RDI for the maritime technology sector — 50 %,
- the Commission's incorporation of provisions covering RDI into EU regulations in view of the expiry of the Framework on State Aid to Shipbuilding — 60 %,
- examine the possibility of allocating structural funds to diversify the MT sector, especially in the context of regional strategies for smart specialisation — 45 %,
- development by the MT industry of a comprehensive PPP at EU level to focus maritime research on, among other things, zero-emissions and energy-efficient ships — 30 %.



#### 4. General and specific comments on the implementation of the priorities of the LeaderSHIP 2020 strategy

##### *Employment and skills*

4.1. There is a strong need to rectify skills shortages, to upskill workers and to provide relevant training and retraining with the aim of maintaining a critical mass of expertise and know-how in the European MT industry. Thus, it is important to support and continue the work initiated by the social partners with the Skills Council project <sup>(4)</sup>. Moreover, it is essential that the social partners are involved and consulted by the European institutions in the policy making process and about any EU initiative affecting the sector and that the professional organisations representing employers and employees continue to be involved in dialogue, including in the context of the social dialogue.

4.2. Workers must have appropriate training to be able to cope with the challenges of Industry 4.0 and future technological change (e.g. digitalisation). Future workers in the maritime technology industry will need to have skills enabling them to handle the opportunities and challenges of the blue economy.

4.3. Efforts to improve the attractiveness of the sector need to be stepped up. Various career paths for workers in this sector need to be identified and brought together, and the mobility of students (i.e. Erasmus for the maritime technology sector) needs to be increased. The European Commission should continue to fully support the activities of SEA Europe and IndustriALL at European level within the framework of the social dialogue committee.

##### *Improving market access and fair competition conditions*

4.4. European industry is still confronted by unfair competition from third countries, both in the shipbuilding industry and — increasingly — in the marine equipment sector. The crisis in Asia, caused by production overcapacity, mainly as a result of massive state subsidies, means that the public authorities of these countries wish to support local shipyards as well as local marine equipment manufacturers, which means increasing exports and thus additional competitive pressure on European shipyards and marine equipment manufacturers.

4.5. Asian shipyards are now focusing their attention on the successful European markets for more advanced types of vessel, such as cruise ships and passenger ships. Furthermore, in its recent 'Made in China 2025' and 'China Manufacturing 2025' official documents, China announced that it is aiming to become the world's leading producer of high end ships, including cruise ships, and high tech marine equipment, meaning that it will be directly competing with successful European markets. This policy receives full governmental support through state aid. It also poses a threat to the European maritime technology industry.

4.6. The US market remains closed due to the Jones Act. If this law were to be loosened and the US market opened up, the European shipbuilding industry would gain some interesting opportunities. The EU should push for this, despite the fact that the current political climate in the United States is more inclined towards protectionism.

4.7. Like China, the United States, Japan and South Korea, European and Member States' decision-makers should realise that the European shipbuilding industry and marine equipment manufacturing are strategic sectors of the European economy that call for special attention and a dedicated approach, for both commercial and naval purposes.

4.8. The European Commission should endeavour to conclude a comprehensive OECD agreement (including China) setting out rules on subsidies and — potentially — pricing discipline, and should support efforts in this direction.

4.9. Reciprocity between Europe and third countries is essential and should therefore be a guiding principle in both bilateral and multilateral trade negotiations, and issues linked to market access. It is the cornerstone to making the European industry, including the MT sector, more competitive towards its global competitors. Hence if European businesses encounter protectionist measures in a third country, the EU should take the same steps with companies from those countries wishing to trade with Europe. Only in this way would there be fairer competition for European shipyards and the European maritime equipment industry.

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<sup>(4)</sup> Sectoral council on skills.



*Access to finance*

4.10. The Commission frequently presents the EFSI — a financial tool in the Juncker plan — as a (financial) instrument for industry, but its scope and benefits are not fully known (it is mainly oriented towards SMEs). This tool, and its benefits for the maritime technology industry, should be better explained and disseminated.

4.11. The shipbuilding industry requires large amounts of capital, but European shipyards have recently been finding it harder to access financing. Meanwhile, foreign shipyards benefit from significant financial incentives, including state aid. The Commission should therefore consider creating a specific system to make it easier for the capital-intensive European shipbuilding industry to access financing.

4.12. Use should be made of financial incentives (e.g. through European financing programmes, like the Connecting Europe Facility, incentives for shipowners to invest in environmentally friendly vessels, equipment or technology), with a return on investment in Europe.

4.13. The adoption of a dedicated sector-specific regime, which would provide for incentives that would enhance the global competitiveness of the European MT sector, whilst avoiding situations generating tension amongst EU Member States, should be explored. In this respect, best practice examples from other sectors, in particular from the shipping sector, can to some extent serve as a source of inspiration.

4.14. The EU, together with Norway, should consider establishing a specific programme to stimulate environmentally friendly and energy efficient short sea shipping by means of the European shipbuilding industry and marine equipment sector. The EESC calls for use to be made of the Committee's exploratory opinion, drawn up for the Maltese Presidency, on 'Nautical and maritime tourism diversification strategies' <sup>(5)</sup>.

4.15. Consideration should also be given to setting up a financing programme to enable European recycling facilities to scrap larger ship types.

4.16. For the high-tech TM sector in the EU, financial instruments supporting public procurement for the navy are a powerful driver and provide a key contribution to retaining a 'critical mass' of production for the entire EU shipbuilding sector, while at the same time promoting research and innovation throughout the sector and related areas. In this context, the EESC welcomes the positive role played by the European Defence Action Plan, drawn up recently by the Commission.

*Research, development and innovation*

4.17. The European Commission should establish a contractual public-private partnership for the maritime industry to allow the sector to further invest in meeting the shipping industry's regulatory and societal challenges and in untapping the economic potential of Blue growth activities. A specific (European) innovation support programme should promote European innovations.

4.18. Europe should furnish financial support for European research and development. Similarly, European innovations should be appropriately protected in terms of intellectual property rights. The European Patent Office should effectively monitor European patents, including in the European MT sector, and impose penalties in the event of infringements.

4.19. The future (9th) Framework Programme should provide sufficient (financial) support to the maritime industry to enable it to cope with major future (International or European) regulatory or societal challenges, such as the greening of shipping <sup>(6)</sup>, digitalisation, breakthrough technologies, and connected or automated shipping.

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<sup>(5)</sup> EESC opinion (OJ C 209, 30.6.2017, p. 1).

<sup>(6)</sup> As an international industry competing on a global level, the shipping and maritime technology industries prefer international solutions — through the International Maritime Organisation in London — with regard to the greening of shipping.

4.20. The EESC believes that the future 9th Framework Programme should also include a chapter on the financial support of European industry to enable it to make full use of the economic potential of the blue economy in Europe.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on ‘Economic and social cohesion and European integration of the Western Balkans — challenges and priorities’**

**(exploratory opinion)**

(2018/C 262/03)

Rapporteur: **Andrej ZORKO**

Co-rapporteur: **Dimitris DIMITRIADIS**

Consultation	Bulgarian Presidency, 5.9.2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union Rule 30 of EESC Rules of Procedure
Section responsible	REX
Adopted in section	28.3.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	189/2/1

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the fact that the EU integration of the Western Balkan countries and their economic and social cohesion is one of the Bulgarian Presidency's priorities.

1.2. The EESC is convinced that the enlargement of the European Union, and in particular the spread of its democratic values and legal standards to the Western Balkan region, is in the interest of both the Western Balkan countries and the EU. The enlargement policy is a key component of the EU's global strategy and also the cornerstone of Europe's stability and prosperity. Therefore, the EESC proposes that the integration of the Western Balkan countries be one of the top priorities of the EU in the future, provided that these countries continue on their path towards fulfilling the necessary conditions for EU accession <sup>(1)</sup>.

1.3. The EESC welcomes the EU-Western Balkans heads of states and governments summit to be held on 17 May in Sofia. In cooperation with our partners, the EESC will be co-organising the Western Balkans Civil Society Conference (15 May, Sofia) ahead of the summit. The EESC is committed to organising, ahead of each such a summit, a joint event with representatives of civil society organisations <sup>(2)</sup> from the Western Balkans and the EU. The EESC invites the EU institutions and EU Member States to regularly involve heads of states from the countries of the Western Balkans in EU summits, as proof that the EU considers this region to be part of its future.

1.4. The EESC hopes that the summit in Sofia will confirm the renewed momentum for the EU's commitment to the region and encourage other future presidencies to keep the integration of the Western Balkan countries high on their priorities. The enlargement of the EU to the countries of the Western Balkans should go in parallel with the reinforcement of the political project of the EU and its institutions.

<sup>(1)</sup> The basic principles of the EU strategy towards the Western Balkans were set out by the Commission on 6 February 2018 in its Communication 'A credible enlargement perspective for and enhanced EU engagement with the Western Balkans', COM(2018) 65 final.

<sup>(2)</sup> In accordance with the established terminology of the EESC, the concepts 'civil society' and 'civil society organisations' in this opinion include social partners (i.e. employers and trade unions) and any other non-state actors.

1.5. The EESC calls the heads of states at the EU summit in Sofia to set out their clear commitment to more consistent and direct support for civil society organisations at all levels. It should also promote more direct public support for independent media.

1.6. The EESC encourages the heads of states at the EU summit in Sofia to assume a proactive role in bilateral disputes by promoting targeted cooperation with both the OSCE and the Council of Europe and by supporting civil society's role in solving such bilateral disputes.

1.7. The EESC is also convinced that the effective enlargement of the European Union and the promotion of its values in the countries of the Western Balkans ensure security and stability, enhance social and economic development and prosperity, consolidate democracy and the rule of law, facilitate the free movement of people and goods, stimulate investment policy and foster mobility.

1.8. The EESC believes that respect for the rule of law and minority rights is of paramount importance for the democratic, economic and social development of the countries of the Western Balkans.

1.9. The EESC also believes that the role of education and of a free and independent media is very important in order to overcome the disputes of the past and enhance democratic values.

1.10. The EESC notes that the EU accession process remains a key motivation for reforms in the countries of the Western Balkans. The EESC points out the lack of attention given to the economic and social effects of the reforms carried out, considering the major difference in people's economic and social security between EU Member States and candidates for membership. Therefore, the EESC recommends that social, economic and territorial cohesion be assessed when evaluating the fulfilment of EU membership criteria.

1.11. The EESC considers that infrastructure, transport and energy issues must be a high priority in the negotiations with the Western Balkan countries. The EESC also believes that the creation of a digital society and the development of digital skills in all Western Balkan countries should benefit both the public and private sector. The EU can and should contribute to improving infrastructure and to rolling out a broadband network in these countries, which in some cases is far below the EU average.

1.12. The EESC proposes that the EU institutions consider having a functioning social and civil dialogue at national level as one of the criteria for EU membership.

1.13. The EU should draw up a specific roadmap for negotiations with the Western Balkan countries, with a precise timeline and tangible commitments for each Western Balkan country. It would also be necessary to draw up a communication strategy for EU Member States, which would highlight the benefits of the EU's enlargement policy on Western Balkan countries, particularly in terms of ensuring peace, stability, prosperity and economic and social development.

1.14. The EESC encourages the Commission to include respect for minority rights and gender equality among the top priorities in the EU accession negotiations with the countries of the Western Balkans.

1.15. The EESC welcomes the Commission's new strategy for the Western Balkans 'A credible enlargement perspective for and enhanced EU engagement with the Western Balkans'<sup>(3)</sup>, published on 6 February 2018, and its six flagship initiatives that range from strengthening the rule of law, reinforcing cooperation on security and migration through joint investigation teams, the European Border and coast guard, expanding the EU Energy Union to the Western Balkans, lowering roaming charges and rolling out broadband in the region.

1.16. The EESC expresses its readiness to engage with civil society from the Western Balkans in order to contribute to taking concrete action in the areas of rule of law, security and migration, socio-economic development, connectivity, digital agenda and reconciliation and good neighbourly relations, as stipulated in the Action Plan in Support of the Transformation of the Western Balkans for 2018-2020.

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<sup>(3)</sup> COM(2018) 65 final, 6.2.2018.

1.17. The EESC is convinced that the Commission could develop specific programmes that would enable the countries of the Western Balkans to achieve faster social convergence. Uneven and slow progress in addressing these issues is clearly an important factor contributing to the slow progress of their EU integration in general. A new impetus for Europeanisation is urgently needed.

1.18. Social partners and other civil society organisations, both at EU and national level, must be meaningfully involved in the entire process of the EU integration of the Western Balkan countries. It is necessary to strengthen the capacities of civil society organisations through technical and economic support, by facilitating their access to European funding sources (Commission, European Investment Bank, EBRD, etc.), and by informing them in a timely and detailed manner about the accession negotiations process.

1.19. The EESC encourages social partners and other civil society organisations in the countries of the Western Balkans to work closely together during the EU integration process, both at national and at regional level.

## 2. Political situation

2.1. The Western Balkans is still a politically unstable region, but it is also a growth region with considerable potential.

2.2. The EESC recommends that the Commission, the Council and the European Parliament intensify their communication efforts to explain the benefits and challenges of enlargement policy to European citizens and civil society organisations should be a close partner and conveyor of messages in this process <sup>(4)</sup>.

2.3. It is extremely important that the integration of the Western Balkans continues to be a priority for the EU in the future — not only during the Bulgarian Presidency — and that the EU actively contributes to the stability and peace of the Western Balkans and offers the perspective of accession to the Euro-Atlantic organisations. Such memberships can also contribute to stability in the region by guaranteeing its security and prosperity, and offer the prospect for nations to be reunited in a borderless Europe.

2.4. The EESC welcomes the announcement of the EU summit in Sofia with the participation of the leaders from the EU and the Western Balkan countries, but believes that the summit should also give a more active role to representatives of civil society organisations at EU level.

2.5. The EESC welcomes the recently announced 'Berlin Process Plus' agenda <sup>(5)</sup> which provides special funds for developing businesses, vocational training, infrastructure, and technology, and projects including transport links between the least-connected countries of the region. This 'Marshall Plan' is expected to accelerate a customs union and a common market in the Balkans. Nevertheless, this regional cooperation should not cause a delay in the enlargement process or be seen as its substitute.

2.6. The EESC notes that in the countries of the Western Balkans, there is a desire and readiness for reforms that would entail integration into the European Union, but points out that success remains dependent on the extent to which state institutions are able to effectively implement and enforce them, as well as on the achieved degree of ownership of the process by civil society organisations and the population in general. A specific roadmap for EU accession negotiations with a precise timeline and tangible commitments for each country of the Western Balkans could motivate these countries to implement necessary reforms faster.

2.7. The EESC stresses that it has developed very good links with society organisations in the Western Balkans and that it is well aware of the situation in these countries. The EESC is convinced that civil society Joint Consultative Committees (JCCs) should attempt to fill 'empty niches' that are not covered by other bodies in the negotiation process and focus on a selected number of areas. In this respect, the EESC asks for a better exchange of information between JCCs and the Commission, the Council and the European Parliament. The EESC calls for strengthening the role of these JCCs <sup>(6)</sup>.

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<sup>(4)</sup> OJ C 133, 14.4.2016, p. 31.

<sup>(5)</sup> <http://shtetiweb.org/berlin-process/>

<sup>(6)</sup> OJ C 133, 14.4.2016, p. 31.

2.8. Corruption, the impact of organised crime, the general weakness of state institutions and of the rule of law, bilateral disputes, and discrimination against minority groups also represent major and continuing problems for both participation and integration.

2.9. The Copenhagen Criteria are the rules that define whether a country is eligible to join the European Union<sup>(7)</sup>. The criteria require a state to have the institutions to guarantee democratic governance and the rule of law, respect human rights, have a functioning market economy, and accept the obligations and mission of the EU.

2.10. All Western Balkan countries cannot join the EU at the same time. The EESC welcomes the fact that Serbia and Montenegro are the current front-runners in the process of integration. It also expresses the expectation that the former Yugoslav Republic of Macedonia and Albania will start negotiations with the EU as soon as possible. It welcomes the fact that Bosnia and Herzegovina submitted the answers to the Commission's *questionnaire* and that the Commission is currently assessing the possibility of granting it EU candidate status.

2.11. Western Balkan countries are still affected by the wounds of wars and conflicts, ethnic hatred, irredentist designs, and frozen conflicts which might erupt again. It is necessary to strongly encourage the settlement of the most pressing bilateral issues before their accession to the EU, although insisting on solutions to all outstanding issues could delay this process.

2.12. The EESC also believes that civil society can play an important role by bringing the younger generations from different countries together and opening public dialogue on a number of issues that are crucial for the region. Economic development, the improvement of living standards, and employment and social security are conducive to peaceful regional coexistence.

2.13. The Western Balkan countries could set up national councils for European integration that would bring high-level political authorities and key civil society organisations together on a regular basis, with a view to making the process of EU integration more transparent and publicising it more widely<sup>(8)</sup>.

2.14. The EESC has already identified the role of civil society during the accession process and very clearly indicated that civil society engagement in the accession process consists of: (1) direct involvement in the actual negotiations (i.e. screening, preparation of national positions, overseeing progress); (2) social and civil dialogue related to policy formulation and legislative harmonisation with the *acquis*; (3) participation in the programming of pre-accession funding; (4) independent monitoring of progress and the social effects of the reform processes. The performance of these roles requires adequate financial support, through national government and EU pre-accession funding<sup>(9)</sup>.

2.15. The EESC notes that the EU's interest in quickly and effectively integrating the Western Balkan countries into the EU has decreased, due to other political priorities and the lack of a European enlargement strategy, but also due to different policy approaches by the Member States. In recent years, due to disappointed expectations, Euroscepticism in Western Balkan states has grown. This has weakened the impact of accession criteria and slowed down reforms. This is particularly noticeable in terms of ensuring the rule of law, the freedom of the media and the prevention of corruption.

2.16. Western Balkan countries are reforming, but at very different paces. Much more should be done to battle rampant corruption, organised crime and money laundering. Judicial independence is also crucial for a healthy democracy.

2.17. The EESC deems it necessary to strengthen the fight against terrorism in the Western Balkan countries and strongly supports the Western Balkan Counter-Terrorism initiative (WBCTi)<sup>(10)</sup>.

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<sup>(7)</sup> [https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/accession-criteria\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/accession-criteria_en)

<sup>(8)</sup> OJ C 133, 14.4.2016, p. 31.

<sup>(9)</sup> OJ C 133, 14.4.2016, p. 31.

<sup>(10)</sup> <http://wbcti.wb-iisg.com/>, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa\\_ii\\_2016\\_039-858.13\\_mc\\_pcve.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa_ii_2016_039-858.13_mc_pcve.pdf)

2.18. The EESC believes that cooperation between the Western Balkan countries and the EU and its relevant agencies (such as Europol) should be further expanded in order to accelerate the enlargement process. This measure is particularly urgent in areas such as security and migration.

### 3. Economic stability and prosperity

3.1. Economies in the Western Balkans continue to grow, with real GDP growth in the region expected to expand by 2,6 % in 2017. This is expected to increase to 3,0 % in 2018, driven by private consumption and investment, as well as a gradual recovery of credit, remittances and major infrastructure projects. Compared to the situation in 1995, living standards have increased considerably in all six Western Balkan states. Despite that, the six countries still remain among the poorest in Europe. Moreover, economic convergence of Western Balkan states has lost momentum since the crisis and lags behind the convergence shown by new central-eastern and south-eastern European Member States.

3.2. The process of economic convergence in the Western Balkans is extremely long. It is therefore imperative to create an environment that will enable/speed up foreign investment, and to adopt appropriate economic reforms, boost competitiveness and create high-quality jobs.

3.3. The EESC welcomes the progress made in terms of the economic integration of the Western Balkans, as leaders of the region have vowed to deepen ties and work together towards joining the European Union, and it calls for greater involvement on the part of social partners and other CSOs in drawing up economic reform programmes (ERPs), as well as joint conclusions with specific recommendations for each country in the region<sup>(11)</sup>.

3.4. The EESC is convinced that candidate countries need stronger reform incentives. In particular, it is necessary to encourage closer regional cooperation in order to facilitate the fulfilment of the criteria for EU membership.

3.5. The EESC believes that it is necessary to leverage the new inflows of FDI into manufacturing sectors by supporting local supply chains and upgrading the skills and technological capacity of SMEs.

3.6. Energy and transport should be a factor for the development and interconnectivity of the region. This would ensure that the citizens of the countries of the Western Balkans are given a clear idea of the social, economic and environmental benefits of accession to the EU. For example, energy efficiency and energy saving are factors in generating activity for businesses and in creating green jobs as well as traditional jobs.

3.7. The EESC supports the Transport Community Treaty signed by the EU and the Western Balkan countries on 12 July 2017 and encourages the parties to further develop it. In this regard, the European Commission, the European Investment Bank and the countries of the Western Balkans should concentrate their investments to connect the EU TEN-T Core Network and the infrastructure of the Western Balkans. A shared programme, with the identification of available funds and the definition of a common schedule, is therefore now necessary.

3.8. The improvement of infrastructure will reduce transport and energy costs and facilitate large investments in the area. Moreover, the promotion of the digital upgrading of the Western Balkans will contribute to business development, increased productivity and improvements in quality of life.

3.9. The EESC also believes that investment in complementary approaches to traditional economic policies (circular economy, social economy, mainstreaming of sustainable development goals (SDGs)) can ensure overall growth and employment.

3.10. The EESC observes that in all Western Balkan countries, the state still retains an outsized role, while the private sector is smaller than in the seven small transition economies of Europe<sup>(12)</sup>.

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<sup>(11)</sup> Final declaration from the 6th Western Balkans Civil Society Forum.

<sup>(12)</sup> World Bank Group, *The Western Balkans: Revving up the Engines of Growth and Prosperity*, 2017.



3.11. The EESC believes that the state needs to become a more efficient and reliable provider of public services and to ensure a favourable environment for private enterprises.

3.12. The EESC is of the opinion that small and medium-sized enterprises, which make up the majority of businesses, could become the engines of economic growth in all six Western Balkan countries. In order for this to be achieved, a reduction in bureaucracy, a more transparent public administration, fighting corruption and a fully independent judiciary are necessary.

3.13. The EESC supports the conclusions of the 6th Western Balkans Civil Society Forum and expresses deep concern about the shrinking space for civil society in an increasing number of countries in the Western Balkans. It notes that the EU and its Member States committed themselves to promoting space for civil society and enhancing support for building the capacity of CSOs to strengthen their voice in the development process and to advance political, social and economic dialogue.

3.14. The EESC points out that civil society organisations must be meaningfully involved in the economic, social, public and legislative reform process in all Western Balkan countries. It is necessary to strengthen their capacities through technical and financial support, by facilitating their access to European funding sources and by informing them in a timely manner about the accession process.

#### 4. Social stability — unemployment — emigration

4.1. Since the economic crisis, income and especially social convergence between poorer and richer countries in the EU has been slowing down and in certain cases has gone into reverse. This is undermining the EU's own ambitions and calling into question its attractiveness for future members. Poverty, high unemployment, informal economy, low wages, corruption, malfeasance, emigration of skilled workers, discrimination against minorities and brain drain are affecting all Western Balkan countries.

4.2. Although the Western Balkan countries show convergence towards EU28 levels, their pace is rather slow and lags behind the EU region. Data shows that full convergence with EU living standards can take as much as 40 years.

4.3. Wage convergence has not been established within the countries of the Western Balkans. In some countries, the wage gap with the EU has even increased, which affects the economic and social security of people in the Western Balkan countries. Most countries of the Western Balkans have not experienced any increase in real wages since the crisis. Although statutory minimum wages exist in all Western Balkan states, these in many cases do not cover a minimum subsistence level for families.

4.4. The EESC also notes that as a result of high unemployment, labour migration from all six Western Balkan countries is still a dominant issue. It is estimated that a quarter of the population in all six Western Balkan states has moved abroad. Even if remittances from migrant workers are an important source of income and contribute to the domestic economy in the short term, mass migration and population loss have severe long-term consequences for these countries' economic development potential<sup>(13)</sup>.

4.5. With the exception of Montenegro, in the Western Balkan region, low-skilled young people and women were most affected by decreases in employment levels. It is also crucial that in 2015 more than 70 % of the unemployed in all six Western Balkan countries were out of work for more than a year on average<sup>(14)</sup>.

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<sup>(13)</sup> 'Unemployment in the Western Balkans region is significantly higher than the EU28 average with some improvements in the last few years. In particular, Bosnia and Herzegovina, FYROM and Montenegro suffer from persistently high unemployment, but even the 13,5 % current unemployment rate in Serbia, best in the region after recent improvements, is much too high in comparison with the EU Member States. Despite staggeringly high unemployment, about 230 000 jobs were created in the region in the 12 months through June 2017 (a 3,8 % increase); more than half were in the private sector. As a result, employment (in terms of number of jobs, but not in worked hours) returned to pre-2008 levels in all Western Balkan countries except Bosnia and Herzegovina', World Bank Group, Western Balkans Regular Economic Report, No 12, Fall 2017.

<sup>(14)</sup> World Bank Group, *Western Balkans Labor Market Trends 2017*.



4.6. The EESC is convinced that the EU and Western Balkan countries should pay more attention to the quality of life and social security of these states' citizens. The EESC suggests that consideration should be given to the possibility of applying the principles of the European Pillar of Social Rights when assessing the fulfilment of conditions for EU membership. The Commission could also develop specific programmes that would allow the countries of the Western Balkans to achieve faster social convergence.

4.7. The EESC also expresses the expectation that there is a need to further strengthen competitiveness and to enhance structural reforms in all six Western Balkan countries in order to reinforce the labour market and to slow down emigration. Civil society organisations should be genuinely consulted when developing structural reforms <sup>(15)</sup>.

4.8. The EESC emphasises that labour market trends in the region reveal high inactivity rates among women and urge governments to provide support to ensure that higher employment levels for women are achieved. The EESC also encourages the Commission to include gender equality among the top priorities in the EU accession negotiations with the countries of the Western Balkans.

4.9. The EESC is convinced that respecting minority rights and their culture is fundamental for the development of a democratic civil society in all Western Balkan countries.

4.10. The EESC believes that the role of education in all Western Balkan countries, including equal access to education systems, is crucial in terms of promoting European values, cultivating tolerance towards minorities, fighting against prejudices, and strengthening social cohesion.

4.11. The EESC also believes that a 'social cohesion agenda' must remedy skills gaps and skills mismatches by improving the efficiency and effectiveness of education systems. Enhanced financial support for vocational education programmes would help address the skills mismatch in the labour market and reduce the high levels of unemployment.

4.12. The EESC welcomes initiatives by state educational and cultural institutions, academia or civil society organisations on reconciliation, good neighbourhood relations, and a critical approach to the past.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(15)</sup> As outlined in EESC opinion EU Enlargement Strategy (OJ C 133, 14.4.2016, p. 31) and in the final declaration of the 6th EESC's Western Balkans Civil Society Forum held in Sarajevo, 10-11 July 2017.

**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 — Completing the Better Regulation Agenda: Better solutions for better results**

(COM(2017) 651 final)

**(own-initiative opinion)**

(2018/C 262/04)

Rapporteur: **Bernd DITTMANN**

Plenary Assembly decision	15.2.2018
Legal basis	Rule 29(2) of the Rules of Procedure
Section responsible	Single Market, Production and Consumption
Adopted in section	9.3.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	185/0/0

### 1. Conclusions and recommendations

1.1. The EESC is of the view that the Better Regulation Agenda should become a permanent programme in delivering high-quality Union legislation without undermining key policy objectives or creating deregulation pressure. It should be continued, further developed and improved by the new Commission after 2019.

1.2. The EESC calls on the Commission to provide a detailed roadmap of the forthcoming Better Regulation evaluation and clarify which form of involvement of the EESC and stakeholders is envisaged.

### 2. The Commission's Communication on Better Regulation

2.1. On 24 October 2017 the Commission issued the Communication *Completing the Better Regulation Agenda: Better solutions for better results*<sup>(1)</sup> (hereafter 'the Communication').

2.2. In this Communication, the Commission takes stock of the implementation progress of the Better Regulation Agenda (hereafter 'the Agenda') since its adoption in May 2015.

2.3. In 2018, the Commission will evaluate the better regulation system *en bloc*. The present opinion serves as a response to the Communication as well as input to the preparations for this forthcoming evaluation.

### 3. General remarks

3.1. The EESC welcomes the Commission's continued commitment to Better Regulation and its on-going efforts to implement the objectives set out in the Agenda in May 2015 as outlined in the Communication. Better Regulation is a process subject to constant improvement and requires commitment and contribution from all actors involved.

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<sup>(1)</sup> COM(2017) 651 final.

3.2. Better Regulation should help create accountable, participatory and transparent policymaking processes that deliver simple, clear, coherent, fit-for-purpose and easily implementable rules. This is an essential precondition to ensure public trust in the EU and its institutions. It should help create effective and consistent regulatory frameworks that enable innovation and sustainable growth and support the completion and proper functioning of the Single Market.

3.3. Better Regulation should not result in over-bureaucratisation of EU policymaking. Political decisions must not be replaced by technical procedures.

3.4. In a previous opinion<sup>(2)</sup>, the EESC emphasised that Better Regulation 'is not intended to be about "more" or "less" regulation in the EU, or about deregulating specific policy areas or giving other areas greater priority and thus calling into question the values for which the EU stands: social protection, environmental conservation and fundamental rights<sup>(3)</sup>. Better Regulation is first and foremost a tool for ensuring that evidence-based political objectives can be achieved effectively, in the light of these values, without environmental or consumer rights or social standards being restricted or the shifting of responsibilities within the institutional structure by the establishment of new bodies. Better Regulation cannot and must not be substituted for political decisions'.

3.5. The EESC acknowledges the implementation progress of the Agenda to date. It welcomes in particular the more methodical use of impact assessments and *ex post* evaluations; the more systematic consultation of stakeholders; the revised Better Regulation guidelines and toolbox; the REFIT programme and REFIT Platform; and the appointment of the Regulatory Scrutiny Board (RSB).

3.6. The EESC is actively involved in Better Regulation, notably through its participation in the REFIT Platform and drafting of *ex post* evaluations. It refers to its many opinions in this context<sup>(4)</sup>. Nevertheless, the Committee is not accounted for in the Agenda or in the Communication. The Committee is not part of the Interinstitutional Agreement on Better Law-making either. This shows that the Commission and the legislators continue to take insufficient account of the role and function of the Committee as enshrined in the Treaties and of the knowledge and expertise of its members and the civil society they represent.

3.7. Participation in the Better Regulation programme and its respective instruments and procedures requires financial and human resources that not all civil society organisations have at their disposal (e.g. the generation of data, participation in public consultations, etc.). The same holds true for small enterprises. The EESC calls upon the Commission to ensure that the Better Regulation programme remains open and accessible to all organisations and interests, irrespective of their size and their financial and human resources.

#### 4. Specific remarks

4.1. The EESC is the institutional voice of organised European civil society and serves as intermediary between the EU legislators and civil society organisations and social partners. The EESC has gathered considerable experience with and expertise on all issues relating to Better Regulation. It wishes to remind the Commission here of some of its specific recommendations on aspects covered by the Communication as well as on other aspects which it deems necessary to stress.

4.2. The EESC believes that the Communication provides a good general overview of the implementation progress of the Agenda in the respective areas of Better Regulation. However, it remains too vague on the exact measures the Commission envisages to develop the better regulation programme further. Furthermore, the Communication fails to provide a reference to and outline of the forthcoming evaluation of the better regulation programme in 2018, its key focus areas, and which form of involvement of the EESC as well as stakeholders is planned.

<sup>(2)</sup> OJ C 13, 15.1.2016, p. 192.

<sup>(3)</sup> COM(2015) 215 final.

<sup>(4)</sup> Cf. *inter alia*: Ad hoc group on Monitoring the application of EU legislation; OJ C 487, 28.12.2016, p. 51; OJ C 303, 19.8.2016, p. 45; OJ C 13, 15.1.2016, p. 192; OJ C 345, 13.10.2017, p. 67; OJ C 13, 15.1.2016, p. 145; OJ C 434, 15.12.2017, p. 11; OJ C 291, 4.9.2015, p. 29; OJ C 230, 14.7.2015, p. 66; OJ C 43, 15.2.2012, p. 14; OJ C 248, 25.8.2011, p. 87; OJ C 18, 19.1.2011, p. 95; OJ C 128, 18.5.2010, p. 103; OJ C 277, 17.11.2009, p. 6; OJ C 100, 30.4.2009, p. 28; OJ C 204, 9.8.2008, p. 9.

#### 4.3. Proportionality and subsidiarity

4.3.1. The EESC welcomes the Commission's focus on key priorities and 'being big on the big things'. It reiterates that the Union should only act where the principles of subsidiarity and proportionality are respected and where common action adds value for all.

4.3.2. As stated in its opinion <sup>(5)</sup>, the EESC is 'in favour of clarifying the principles of subsidiarity and proportionality which are sometimes used as arguments by opponents of legislative initiatives, without sufficient substantiation of their underlying reasoning'.

4.3.3. The EESC takes note of the appointment of a **Task Force on Subsidiarity and Proportionality** <sup>(6)</sup>. It calls upon the Task Force to take due account of the Committee's opinions and recommendations on this issue.

4.3.4. The EESC calls for improved monitoring of subsidiarity and proportionality and stronger involvement of Member States and their parliaments in *ex post* assessments.

4.3.5. The EESC calls upon the Commission to better promote tool No 5 of the Better Regulation Toolbox ('legal basis, proportionality and subsidiarity') across its services (horizontally and vertically) to increase compliance with this tool when drafting impact assessments.

#### 4.4. Impact Assessments (IAs)

4.4.1. The EESC refers to the suggestions it made in its opinion <sup>(7)</sup> on how to improve the European impact assessment ecosystem.

4.4.2. IAs should be the standard procedure for any new legislative proposal including delegated and implementing acts. Where proposals are not put forward with an IA, the Commission needs to explain in detail the reasons and provide all data and evidence that led to and/or supports its proposal.

4.4.3. The Better Regulation Guidelines explicitly refer to the fact that impact assessments can and must be undertaken for legislative initiatives as well as delegated and implementing acts. We encourage the Commission therefore to evaluate in greater detail and with greater transparency towards stakeholders and the EESC the need to perform an IA on these acts. The fact of having performed an IA on the legislative text from which the delegated and implementing acts stem cannot suffice to justify the non-performance of an IA on the derived acts. Each individual act must be evaluated on its own merits, especially because delegated and implementing acts can have crucial repercussions on stakeholders and civil society overall.

4.4.4. The **Better Regulation Guidelines and Toolbox** <sup>(8)</sup> are the central handbook for Commission services when conducting IAs. However, the EESC points out that the guidelines and toolbox are developed primarily for the specific use of EU services and their specifications cannot offer stakeholders the possibility to understand how to properly use the tools necessary for impact analysis. Therefore, the EESC asks the Commission to make those tools accessible to the greater public with an operational version.

4.4.5. However, the EESC observes a lack of compliance with these guidelines resulting in deficient IAs. This is confirmed and substantiated by the 2016 annual report of the **Regulatory Scrutiny Board** (RSB) <sup>(9)</sup>. The EESC thus encourages the Commission to more strongly promote the Better Regulation principles across its services, e.g. through mandatory regular staff training programmes.

<sup>(5)</sup> OJ C 487, 28.12.2016, p. 51.

<sup>(6)</sup> C(2017) 7810.

<sup>(7)</sup> OJ C 434, 15.12.2017, p. 11.

<sup>(8)</sup> SWD (2017) 350 and [https://ec.europa.eu/info/better-regulation-toolbox\\_en](https://ec.europa.eu/info/better-regulation-toolbox_en)

<sup>(9)</sup> Regulatory Scrutiny Board, Annual Report 2016, [https://ec.europa.eu/info/sites/info/files/2016-rsb-report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/2016-rsb-report_en.pdf) Cf. especially p. 13 and p. 15.

4.4.6. The RSB 2016 annual report shows that Commission services only partly implement the Board's recommendations after receiving an initial negative opinion. The EESC thus proposes that the RSB have a **suspending veto** in cases where it issues a double-negative opinion compelling the Commission service to revise its IA until the necessary quality requirements are met. The RSB should not have any veto on political decisions.

4.4.7. The EESC supports the **'think small first' principle** and encourages the Commission to strengthen the focus on SMEs, including micro and very small enterprises, in its impact assessments.

#### 4.5. *Transparency, legitimacy and accountability*

4.5.1. On the **Transparency Register**, the EESC welcomes the 2016 Commission proposal for a legally-binding Interinstitutional Agreement for a mandatory Transparency Register which besides the Commission and Parliament would also cover the Council.

4.5.2. The EESC welcomes the fact that the public consultation for important initiatives will now be available in all official languages, with all others being held at least in French, German and English. The EESC reminds the Commission of the need to provide translations of impact assessment summaries in all official languages <sup>(10)</sup>.

4.5.3. **On stakeholder** engagement, the EESC refers to its opinion <sup>(11)</sup> and to the REFIT Platform opinion <sup>(12)</sup> which the EESC representatives in the REFIT Platform helped draft. The EESC welcomes the efforts made by the Commission to improve its stakeholder consultation mechanisms but believes that additional efforts are necessary to increase participation, openness and accountability, and the effectiveness and coherence of such consultations. To this end, the EESC encourages the Commission to consider and fully implement the suggestions outlined in the two above-mentioned opinions.

4.5.4. Given its representative function, the EESC is well suited to help identify stakeholders most affected by a proposed policy measure and help gather experience with legislation already in place. The Commission should consult the EESC more closely when developing consultation strategies and identifying relevant target groups, both *ex ante* and *ex post*.

#### 4.6. *Simplifying legislation and tackling unnecessary costs*

4.6.1. In its opinion <sup>(13)</sup>, the EESC states that 'European legislation is an essential factor in integration, not a burden or cost to be reduced. On the contrary, when proportionate it is an important guarantee of protection, promotion and legal certainty for all European stakeholders and citizens'.

4.6.2. At the same time, the EESC states in its opinion <sup>(14)</sup> that it is 'essential to avoid needless regulatory costs. Regulatory costs need to be proportionate to the benefits they create'.

4.6.3. The EESC firmly supports the **'evaluate first' principle**. As it stated in its opinion <sup>(15)</sup>, the EESC can 'play a useful role as an intermediary between legislators and those using EU legislation. The EESC (...) continuously adapts its working methods to help assess the quality of the application of Community law. Thus it has recently decided to take an active part in the evaluation of the legislative cycle, carrying out its own *ex post* evaluations of the *Community acquis*'.

<sup>(10)</sup> OJ C 434, 15.12.2017, p. 11 (point 4.3.1).

<sup>(11)</sup> OJ C 383, 17.11.2015, p. 57.

<sup>(12)</sup> REFIT Platform Opinion on submissions XXII.4.a by the DIHK and XXII.4.b by a citizen on Stakeholder consultation mechanisms. Date of Adoption: 7.6.2017.

<sup>(13)</sup> OJ C 303, 19.8.2016, p. 45.

<sup>(14)</sup> OJ C 487, 28.12.2016, p. 51.

<sup>(15)</sup> AHG ECA Putting EU law into practice landscape review. Ad hoc Group on 'Monitoring the application of EU legislation', OJ C 81, 2.3.2018, p. 81.

4.6.4. As stated in its opinion <sup>(16)</sup>, the Committee ‘advocates a **qualitative approach** which operates on an equal footing with quantitative analysis, taking into account research into the expected benefits of the legislation’. Besides regulatory costs, regulatory **benefits**, including net benefits, should also be quantified where appropriate and should be more systematically be taken into account in Commission impact assessments.

4.6.5. The EESC is of the view that certain costs are indispensable to achieve policy objectives. Costs should only be reduced when it is proven that they are not necessary to achieve the policy objective. The EESC shares the Commission’s view that the reduction of unnecessary costs should be based on evidence from a ‘case-by-case’ assessment and not on simple numerical targets, so that the intended objectives of the legislation are fully maintained.

4.6.6. On **REFIT**, the EESC refers to its relevant opinions <sup>(17)</sup>. The EESC participates in REFIT through its membership in the **REFIT Platform** with three members from its three Groups who attend the Platform meetings on a rotating basis. The members work closely to identify political priorities for the EESC and prepare joint positions for the Platform meetings on the basis of agreed positions set out in past opinions.

4.6.7. The EESC reiterates that the focus of the work of the REFIT Platform is *ex post*. The Platform is tasked to examine suggestions made via the Lighten the Load website and develop suggestions on how to simplify already existing EU legislation. The Platform should not be used to propose new legislation.

4.6.8. The EESC notes that the specific interests of SMEs are not explicitly represented in the REFIT Platform. The Committee therefore calls upon the Commission to invite an appropriate representative to take part in the REFIT Platform Stakeholder Group.

#### 4.7. *Assessment of alternative approaches for simplification and reducing costs*

4.7.1. On setting regulatory **burden reduction targets** in the area of better regulation, the EESC is of the view that regulatory burden reduction targets should be set *ex post* in the context of the REFIT programme and based on comprehensive evaluation including civil society and stakeholder dialogue.

4.7.2. Considering the difficulty in obtaining the necessary data to establish scientifically sound baseline calculations for setting *ex ante* regulatory burden reduction targets, the EESC is **not in favour** of setting such targets, either for individual sectors or for the economy as a whole. The same holds true for politically set numerical targets such as the *one-in, one-out* principle.

#### 4.8. *Implementation and enforcement of Union law*

4.8.1. On implementation and enforcement of Union law, the EESC refers to its numerous opinions <sup>(18)</sup>.

4.8.2. The **applicability** of Union legislation needs to be considered early in the policymaking process as part of the impact assessment. The EESC urges the Commission services to adhere strictly to the impact assessment guidelines outlined in chapter IV of the Better Regulation Toolbox (‘implementation, transposition and preparing proposals’). Special attention should be given to the specificities of the different national political and legal systems, and the different resources and capacities Member States have available to transpose and apply European law.

<sup>(16)</sup> OJ C 434, 15.12.2017, p. 11.

<sup>(17)</sup> OJ C 230, 14.7.2015, p. 66; OJ C 303, 19.8.2016, p. 45.

<sup>(18)</sup> Ad hoc group; OJ C 303, 19.8.2016, p. 45; OJ C 291, 4.9.2015, p. 29; OJ C 18, 19.1.2011, p. 95; OJ C 175, 28.7.2009, p. 26; OJ C 204, 9.8.2008, p. 9; OJ C 325, 30.12.2006, p. 3; OJ C 24, 31.1.2006, p. 52; OJ C 24, 31.1.2006, p. 39.

4.8.3. Regulatory burden is generated mostly at national level because of the transposition and application of Union law by Member States' authorities (overregulation). In its opinions <sup>(19)</sup>, the EESC states that most failures to apply or implement Union law properly arise from failure to transpose directives. The EESC therefore advocates having recourse to regulations rather than directives to avoid inconsistent regulatory frameworks across the EU <sup>(20)</sup>. The existing level of protection of citizens, consumers, workers and the environment must however not be decreased in any Member State.

4.8.4. The EESC believes that proper implementation of Union legislation is a **joint and coordinated effort** by the principal actors, i.e. the Commission, the European Parliament, the Council and the Member States, involving to the utmost extent possible the regional and local level as well as civil society and stakeholders. The EESC considers the Commission to be the leading actor in coordinating this effort and, as stated in its opinion <sup>(21)</sup>, in 'promoting confidence between enforcement authorities in supporting networks of public authorities, the systematic assessment of their performance and the identification and spread of best practices'.

4.8.5. In its Communication the Commission proposes several measures to improve the implementation of Union legislation. These include establishing a more systematic approach to monitoring and evaluating the performance of legislation in the context of the Interinstitutional Agreement on Better Law-making; supporting Member States with implementation plans; and developing country reports mapping national strengths and weaknesses regarding implementation. The EESC welcomes the Commission's special attention to this issue and the proposed measures but finds it regrettable that none of them appear to envisage including the EESC.

4.8.6. As called for in its opinion <sup>(22)</sup>, 'when particular directives are being transposed, the Committee would like to provide its own distinct input into the European Parliament's own-initiative report on the implementation of EU legislation by Member States by homing in on the additions made by the Member States when transposing'.

4.8.7. Lastly, the EESC welcomes the strategic approach the Commission has set out to its **infringement policy** in its Communication '*EU law: Better results through better application*' <sup>(23)</sup>. It encourages the Commission to **more quickly and rigorously** pursue cases where Member States incorrectly transpose EU legislation or fail to do so at all.

#### 4.9. Working with the other institutions

4.9.1. The EESC represents the organised end-users of Union law and as such should be seen by the Council, the European Parliament and the Commission as a partner and resource to assess the practicability of legislative projects from a hands-on and empirical perspective.

4.9.2. Considering the active role the EESC plays in Better Regulation and law-making as outlined above, the Committee strongly urges the Commission, European Parliament and Council to include the Committee formally into the Interinstitutional Agreement on Better Law-making.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(19)</sup> Ad hoc group; OJ C 13, 15.1.2016, p. 192.

<sup>(20)</sup> OJ C 18, 19.1.2011, p. 95.

<sup>(21)</sup> OJ C 24, 31.1.2006, p. 52.

<sup>(22)</sup> OJ C 303, 19.8.2016, p. 45.

<sup>(23)</sup> C(2016) 8600 (OJ C 18, 19.1.2017, p. 10).



## III

(Preparatory acts)

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

534TH EESC PLENARY SESSION — RENEWAL SESSION, 18.4.2018-19.4.2018

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

**Communication from the Commission to the European Parliament, the European Council, the Council and the European Central Bank — Further steps towards completing Europe's economic and monetary union: a roadmap**

(COM(2017) 821 final)

**Communication from the Commission to the European Parliament, the European Council, the Council and the European Central Bank — New budgetary instruments for a stable euro area within the Union framework**

(COM(2017) 822 final)

**Communication from the Commission to the European Parliament, the European Council, the Council and the European Central Bank — a European Minister of Economy and Finance**

(COM(2017) 823 final)

**Proposal for a Council directive laying down provisions for strengthening fiscal responsibility and the medium-term budgetary orientation in the Member States**

(COM(2017) 824 final — 2017/0335 (CNS))

**Proposal for a Council regulation on the establishment of the European Monetary Fund**

(COM(2017) 827 final — 2017/0333 (APP))

(2018/C 262/05)

Rapporteur: **Mihai IVAȘCU**

Co-rapporteur: **Stefano PALMIERI**

Consultation	European Commission, 12.2.2018 and 28.2.2018
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	26.3.2018
Adopted at plenary	19.4.2018
Plenary session No	534



Outcome of vote 152/3/2  
(for/against/abstentions)

## 1. Conclusions and recommendations

1.1. The EESC appreciates the proposed roadmap for completing the European Economic and Monetary Union (EMU) but its support is not full and enthusiastic, since a number of social, political and economic issues, highlighted in our previous opinions, were not taken into consideration. The completion of the EMU requires first of all strong political commitment, efficient governance and better use of the available finances, in order to actually cope with both risk reduction and risk sharing among Member States. For these reasons the EESC underlines that the principles of responsibility and solidarity at EU level should go hand in hand.

1.2. The EESC is extremely disappointed that the two institutional consultative committees of the EU — the EESC and the CoR — are omitted from the communication and that the role of the European Parliament remains rather limited. Furthermore, there is no mention of enhanced participation of the social partners and organised civil society in the European Semester evaluation.

1.3. The EESC has repeatedly argued that there is a clear lack of strategic vision for the future and of a capacity to respond adequately to other economic and financial crises. The EMU package should be evaluated and implemented, bearing in mind that Europeans need more and better Europe.

1.4. The Social Union, as advocated by the EESC, is missing from the list of unions making up the EMU, while no commitment to integrate the European Pillar of Social Rights is visible.

1.5. The EESC is obliged to warn again that, the longer the current savings-oriented policy continues without an effective investment plan, the more Europe's prosperity is at risk.

1.6. 'Fixing the roof while the sun is shining' is vital and needs to be done rapidly, following an up-to-date evaluation of the reasons why 'the roof is broken' and of the responsibility for this. The EESC highlights the need to develop new financial instruments for crisis prevention and countering pro-cyclical measures.

1.7. The completion of the Banking Union and of the Capital Markets Union should remain top priority on the agenda. The current proposal contains absolutely nothing about the European Deposit Insurance Scheme, although the EESC has already delivered an opinion on the subject <sup>(1)</sup>. Furthermore, steps must be taken to immediately and effectively address the problem of non-performing loans (NPL).

### 1.8. *European Monetary Fund (EMF)*

1.8.1. The proposed task of the new EMF — to provide a common backstop for the Single Resolution Fund — is extremely important and fully supported. However, the EESC highlights the need to make sure that this measure will not act like a golden parachute, encouraging banks to take unnecessary and dangerous risks.

1.8.2. It is of paramount importance for the EMF to have a more active role in the EU context, like the International Monetary Fund internationally: supporting economic development and absorbing shocks, not just preventing bank crises.

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<sup>(1)</sup> European Deposit Insurance Scheme (OJ C 177, 18.5.2016, p. 21).

### 1.9. *Treaty on Stability, Coordination and Governance (TSCG)*

1.9.1. The TSCG should be incorporated into EU law, together with the transformation of the ESM into the EMF, without cherry-picking opportunities for the Member States.

1.9.2. While acknowledging the flexible interpretation given to the Stability and Growth Pact (SGP), the EESC considers that it is not enough and recommends that discussions should be opened at EU level on excluding value-adding strategic public investment from the scope of application of the SGP. This should be seen not as a cost, but rather as a source of future revenue, making for a smooth business cycle and ensuring both the creation of quality jobs and the reduction of inequalities, in line with calls made in previous EESC opinions<sup>(2)</sup> and with the United Nations Sustainable Development Goals (SDGs)<sup>(3)</sup>.

1.9.3. Public investment — including social investment — would indeed deliver stronger demand in the short term but also expand growth potential in the long term, thus also addressing the question of public debt sustainability.

### 1.10. *New budgetary instruments*

1.10.1. The EESC fully supports the proposal to introduce a dedicated convergence facility for the Member States on their way to joining the euro. Technical support must be targeted at obtaining real convergence.

1.10.2. To reduce the existing divergence among EU economies, the macroeconomic stabilisation function is particularly important as Member States are less and less able to act independently due to EMU constraints.

### 1.11. *Minister of Economy and Finance (MEF)*

1.11.1. The EESC supports the creation of a Minister of Economy and Finance for EMU as a first step to enhancing the coherence of policies that are currently fragmented. Such a person should represent the euro area in international bodies, manage in full transparency the proposed dedicated euro area budget, and define the desired aggregate fiscal stance of the euro area and how it should be achieved.

1.11.2. However, the Commission's proposal takes the risk of excessive consolidation of executive power in the hands of one person. The EESC therefore calls for further reflection and enhancement of the democratic accountability of the proposed minister.

## 2. **Introduction and general comments**

2.1. After years of crisis management, in which the intergovernmental method was preferred in order to overcome the institutional deficiencies of an incomplete Economic and Monetary Union (EMU), the EESC welcomes this renewed approach of using the community method, the only one capable of ensuring the democratic legitimacy of the decision-making process at EU level and deepening EU integration. Within this framework, the completion of the EMU requires strong political commitment, efficient governance and better use of the available financial resources.

2.2. The EESC appreciates that the proposed roadmap is ambitious in scope and time and goes in the right direction, as indicated in its previous opinions<sup>(4)</sup>. However, its support is not full and enthusiastic, since a number of social, political and economic issues — also highlighted in previous opinions — were not considered in this package.

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<sup>(2)</sup> Euro area economic policy (2016) (OJ C 177, 18.5.2016, p. 41); Euro area economic policy (2017) (OJ C 173, 31.5.2017, p. 33); and Euro area economic policy 2017 (additional opinion) (OJ C 81, 2.3.2018, p. 216).

<sup>(3)</sup> The Sustainable Development Goals.

<sup>(4)</sup> CCI/Major economic policy reforms (OJ C 271, 19.9.2013, p. 45); Completing EMU — the next European legislature (OJ C 451, 16.12.2014, p. 10) and Completing EMU: The political pillar (OJ C 332, 8.10.2015, p. 8).

2.3. First, the role of the European Parliament (EP) remains too limited and the two institutional consultative committees of the EU — the EESC and the CoR — are omitted. There is no mention of an enhanced social and civil dialogue on the European semester through more active involvement of the social partners and civil society. The EESC has suggested in a previous opinion that ‘for reasons of democratic accountability and ownership, the process of the European Semester should involve the European Parliament, national parliaments, the social partners and civil society. The social dimension must be included on a par with the economic dimension’<sup>(5)</sup>.

2.4. The speedy and efficient finalisation of the Banking Union is of paramount importance in ensuring a competitive European business environment and creating a real single European currency.

2.5. Moreover, the social union, as advocated by the EESC, is missing from the list of unions comprising the EMU. There is no commitment to integrate the European pillar of social rights, announced in November 2017 in Gothenburg<sup>(6)</sup>, in the euro area governance. Social rights should enjoy the same level of importance as economic freedoms, in order to enforce the concept of ‘social market economy’ enshrined in the Treaty.

2.6. In addition, the Commission seems to be reluctant or afraid to use the term ‘political union’, replacing it instead with weaker and less explicit terms such as ‘democratic accountability’ and ‘strengthened governance’. This is not justified if it is clearly explained that ‘political union’ does not necessarily mean a single political entity, but rather a series of small steps which recognise the need for common political governance at EU level in certain domains. This concept has been very clearly explained by the EESC in its opinions<sup>(7)</sup>.

2.7. The Economic and Monetary Union Package should be evaluated and implemented bearing in mind that Europeans need more and better Europe. The EESC has repeatedly argued that there is a lack of strategic vision for the future and of a capacity to respond adequately to the economic and financial crisis. The basic principle of EU economic governance should be that of achieving greater added value at EU level than through Member States acting individually<sup>(8)</sup>.

2.8. Despite the on-going recovery, the effects of the economic crisis are still present in our day-to-day life and in the current policies of the Member States. The EESC has warned that the longer the current savings-oriented policy — primarily focused on making spending cuts — continues without an effective investment plan to generate revenue through growth, social cohesion and solidarity, the more it will become clear that Europe’s economic integration and prosperity is at risk from growing social inequalities<sup>(9)</sup>.

2.9. Furthermore, the capital markets are far from being integrated and are not yet capable of absorbing symmetric and asymmetric shocks, as was the case with the United States. Given the evolution of Brexit negotiations and the forthcoming withdrawal from the European Single Market of one of the largest capital markets in the world, further fragmentation is anticipated. Steps must be taken to counter this.

### 3. Establishment of the European Monetary Fund (EMF)

3.1. The EESC welcomes the transformation of the European Stability Mechanism (ESM) into the EMF, believing that the institutional anchoring proposed will further increase confidence in the EU’s ability to respond to future financial and economic crises.

3.2. The EESC highlights the need to develop new financial instruments for crisis prevention and foster anti-cyclical measures. The ‘fixing the roof while the sun is shining’ metaphor applies here just as it does to the entire package. As the EMF will succeed the ESM, with its current financial and institutional structures, it is very important to develop its abilities

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<sup>(5)</sup> Deepening EMU by 2025, point 1.5 (OJ C 81, 2.3.2018, p. 124).

<sup>(6)</sup> European Pillar of Social Rights

<sup>(7)</sup> Completing EMU: The political pillar (OJ C 332, 8.10.2015 p. 8) and Deepening EMU by 2025 (OJ C 81, 2.3.2018, p. 124).

<sup>(8)</sup> EU finances by 2025, points 1.2 and 1.3 (OJ C 81, 2.3.2018, p. 131).

<sup>(9)</sup> The community method for a democratic and social EMU, point 1.2 (OJ C 13, 15.1.2016, p. 33).

and capabilities under the direct surveillance of the Commission, the Council and the European Parliament, and in close cooperation with the European Central Bank.

3.3. A very important new feature in the Commission's proposal is the ability of the EMF to provide a common backstop to the Single Resolution Fund, as agreed by the Member States in 2013. While acknowledging that the backstop will offer increased credibility to the banking sector, the EESC highlights the need to ensure that the proposed measure will not act as a golden parachute, encouraging banks to take unnecessary and dangerous risks.

3.4. The EU does not need to strengthen financial control over the Member States but rather make the existing financial instruments more effective and sustainable. The new EMF should have a more active role in the EU context, like that of the International Monetary Fund internationally, supporting economic development across the EU and absorbing symmetric and asymmetric shocks, not just preventing banking crises.

3.5. Notably, the EMF should be able to rapidly intervene and counter any asymmetric shocks which cannot be dealt with at Member State level and which could potentially spread to other EU countries, thus endangering the integrity of the euro area and the Single Market. Member States whose currency is not the Euro, but who are part of the Banking Union, should also be able to benefit from the EMF, subject to their subscription and contribution to the authorised capital stock.

3.6. Rising levels of non-performing loans continue to weigh on banks' balance sheets and represent a huge burden for the further financing of the EU economy. They contract the credit supply, distort the allocation of credit, worsen market confidence and slow down economic growth. Measures to reduce the levels of NPL are immediately required and should remain a top priority on the European institutions' agenda.

3.7. The need to boost the credibility of the new EMF should be accompanied by measures to prevent crises and protect taxpayers from liability for the debts of insolvent banks.

3.8. The EMF should act in cooperation with the European Central Bank (ECB), since the former could help stave off speculative attacks on Member States, while the latter can only activate financial resources to fend off attacks on large economic systems. In this respect, the EESC regrets that in the package the Commission has not proposed opening a debate on improving the ECB's statute in order to introduce growth and full employment as a second target of monetary policy, in addition to price stability.

3.9. The EESC supports the consultative role given to the European Parliament regarding the appointment process of the managing director of the EMF and the yearly reporting obligation towards the Parliament, Council and Commission.

3.10. The current proposal contains absolutely nothing about a European Deposit Insurance Scheme — the Commission did in fact make a proposal on the subject in November 2015 but the legislators have not been able to agree on it so far, although the EESC has already delivered its opinion<sup>(10)</sup>.

#### **4. Integration of the Treaty on Stability, Coordination and Governance (TSCG) into the EU legal framework**

4.1. The EESC strongly believes that the TSCG and the ESM were both established at the height of the crisis as intergovernmental solutions which broadly embody the principles of responsibility and solidarity at EU level. In the Committee's view, these principles go hand in hand and we cannot advance in one without the other. They must be therefore incorporated together and enjoy equal standing under EU law, without cherry-picking by the Member States. Responsibility and solidarity should come together as a package.

4.2. While the proposed directive to integrate the TSCG into EU law takes into account the flexible interpretation given to the Stability and Growth Pact (SGP) rules by the Commission, the EESC has already argued that this flexibility is not enough and that discussions should be opened at EU level on a fully-fledged rule which excludes value-adding public investment from the scope of the SGP, generally referred to as the 'golden rule'.

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<sup>(10)</sup> European Deposit Insurance Scheme (OJ C 177, 18.5.2016, p. 21).

4.3. The EESC therefore considers problematic the proposal that the TSCG, and especially the Fiscal Compact, be integrated into the EU legal framework without any additional flexibility, especially concerning public investment or social considerations. Where necessary, this kind of investment should be targeted towards improving productivity and competitiveness, through financing projects related to research and development, physical and social infrastructure, the digitalisation of the economy and the continuous development of skills to cope with technological change and global openness.

4.4. Balanced budgets that do not allow debt-financed public investment will negatively affect economic development (through increases in taxes and cuts in public spending). Public investment — at its lowest level in the EU for the last 20 years — should not be seen as a cost, and therefore as part of public deficits, but rather as a source of future revenue, in order to make for a smooth business cycle and ensure growth and job creation.

4.5. The EESC endorses the Report of the High-Level Task Force chaired by Romano Prodi and Christian Sautter, about boosting investment in social infrastructure in Europe, in order to accelerate job creation and improve people's wellbeing, health, housing and skills <sup>(11)</sup>.

4.6. If an agreement is reached that future-oriented productive public investment will receive more favourable treatment, the integration of the TSCG together with the EMF into EU legal framework has the potential to strengthen our fiscal toolbox and foster more effective, legitimate and democratic governance of the EMU.

## 5. New budgetary instruments for a stable euro area

5.1. The macroeconomic stabilisation function is particularly important as its absence was one of the causes of the strategic crisis in the EU. While Member States are less able to act independently and change the labour market and welfare system, no social safety net has yet been put in place at EU level enabling everyone to reap the benefits of growth and global competition <sup>(12)</sup>.

5.2. The EESC totally supports the proposal to introduce a dedicated convergence facility for the Member States that are on their way to joining the euro area. This would strengthen the role of the euro area internationally and would increase the use of the Euro as a currency. Technical support must be targeted to obtaining real convergence, so as to counter and mitigate any risks to the general welfare of the citizens and economies of the euro area candidate countries.

5.3. Sound fiscal policies and investment-oriented spending must be the way forward, bearing in mind that high ratios between public debt and GDP are often the result of economic crisis and recession. The EESC therefore calls for a smooth mechanism that can be rapidly activated in the event of a downturn and considers the proposed rate of 1 % of GDP adequate.

5.4. The EESC is in favour of creating a euro area budget as part of the EU budget. This would avoid creating new institutions that could drive a political wedge between euro area and non-euro area countries. Serious reform of the EU budget is in any case needed.

5.5. An autonomous and substantial euro area budget, with its own dedicated tax revenue, would provide a temporary but significant transfer of resources in the event of regional shocks, counteract severe recessions in the area as a whole and ensure the necessary financial stability, with a macroeconomic stabilisation function to safeguard investment and prevent unemployment and insecurity, as has already been argued by the EESC <sup>(13)</sup>.

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<sup>(11)</sup> L. Fransen, G. del Bufalo and E. Reviglio, *Boosting Investment in Social Infrastructure in Europe. Report of the High-Level Task Force on Investing in Social Infrastructure in Europe*, European Economy Discussion Paper, No 74, January 2018.

<sup>(12)</sup> EU finances by 2025, point 3.3.1 (OJ C 81, 2.3.2018, p. 131).

<sup>(13)</sup> EU finances by 2025, point 3.3 (OJ C 81, 2.3.2018, p. 131).

## 6. European Minister of Economy and Finance

6.1. The EESC has repeatedly argued <sup>(14)</sup> the necessity of a Minister of Economy and Finance for EMU, as a first step to enhancing the coherence of policies that are currently fragmented due to the number of different institutions involved. Such a person should represent the EMU in international bodies. He or she should manage his or her own dedicated budget, guided by the principles of simplicity, transparency, equity and democratic accountability. The minister should also be in charge of defining the desired aggregate fiscal stance of the euro area and how it should be achieved.

6.2. The functions and attributes described in the Commission's communication are more in line with those of a euro area finance minister than one for the entire EU. But in the Commission's proposal, the position is not that of a real and effective minister of finance and the misnomer could create mistaken expectations and confusion.

6.3. The EESC considers that the merger of a position in charge of euro area representation at EU level with that of the president of the Eurogroup, the chair of the Board of Governors of the new EMF and the vice-president of the European Commission would be an excessive consolidation of executive power in the hands of one person. Moreover, the EESC considers it undemocratic to propose that the Eurogroup president should automatically receive two mandates in order to synchronise his Eurogroup mandate with that of the European Commission.

6.4. The EESC fears that, in its current form, the proposed structure would confuse the role of the Commission with that of the Council, undermining the fine balance between Community interests and national interests on which the EU is built. The EESC therefore calls for further reflection and enhancement of the democratic accountability of the proposed minister.

6.5. It is also unclear in the communication if more ministerial positions will be created or if this is just one individual case. This position will only make sense when the EU has its own budget and its own revenues from taxation, accompanied by instruments and policies to manage the budget, and hence being able to foster economic growth and social equality.

Brussels, 19 April 2018.

*The President  
of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(14)</sup> Restarting growth, point 3.2 (OJ C 143, 22.5.2012, p. 10); Completing EMU: the political pillar, points 4.3.1 and 4.3.4 (OJ C 332, 8.10.2015, p. 8); Euro area economic policy (2016), point 3.5 (OJ C 177, 18.5.2016, p. 41); Euro area economic policy (2017), point 1.13 (OJ C 173, 31.5.2017, p. 33) and Deepening EMU by 2025, point 1.11 (OJ C 81, 2.3.2018, p. 124).

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

**'Proposal for a Regulation of the European Parliament and of the Council on the prudential requirements of investment firms and amending Regulations (EU) No 575/2013, (EU) No 600/2014 and (EU) No 1093/2010'**

*(COM(2017) 790 final — 2017/0359 (COD))*

**and on the**

**'Proposal for a Directive of the European Parliament and of the Council on the prudential supervision of investment firms and amending Directives 2013/36/EU and 2014/65/EU'**

*(COM(2017) 791 final — 2017/0358 (COD))*

*(2018/C 262/06)*

Rapporteur: **Jarosław MULEWICZ**

Consultation	European Parliament: COM(2017) 790 final: 18.1.2018 and COM(2017) 791 final: 18.1.2018  Council of the European Union: COM(2017) 790 final: 14.2.2018 and COM(2017) 791 final: 14.2.2018
Legal basis	Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Economic and Monetary Union and Economic and Social Cohesion
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Outcome of vote (for/against/abstentions)	193/2/3

## 1. Conclusions and recommendations

1.1. The EESC welcomes the Commission's proposals and hopes that they will contribute effectively towards meeting the goals set by the Commission.

1.1.1. The EU needs stronger capital markets to promote investment, unblock existing and provide new sources of financing for companies, offer better financial opportunities for households, and strengthen the Economic and Monetary Union. The Commission is committed to putting in place all the elements completing the Capital Markets Union by 2019.

1.1.2. The second goal relates to Brexit and the need to attract investment firms to the EU. The UK's decision to withdraw from the Union creates the need to update the regulatory framework in the EU to attract financial firms. Acting as an important hub for capital markets and investment activities, the UK has the largest number of European Economic Area (EEA) investment firms, with roughly half of them based there. The next most important hubs are Germany, France, the Netherlands and Spain. Most EEA investment firms are small or medium-sized. The European Banking Authority (EBA) estimates that some eight investment firms, concentrated in the UK, control around 80 % of the assets of all investment firms in the EEA.

1.1.3. The third goal is to create a dedicated legal framework for investment firms. The current prudential framework focuses on credit institutions and the risks associated with them. Investment firms do not take deposits or make loans. This means that they are a lot less exposed to credit risk and the risk of depositors withdrawing their money at short notice. Their services focus on financial instruments, which unlike deposits are not payable at par but fluctuate according to market



movements. However they do compete with credit institutions in providing investment services, which credit institutions can offer to their customers under their banking licence. Credit institutions and investment firms are therefore distinct types of institution. However, systemic investment firms do not escape the scope of CRR/CRD IV<sup>(1)</sup>, but are treated as financial institutions. Such firms, by virtue of becoming credit institutions, should therefore continue applying Regulation (EU) No 575/2013 and Directive 2013/36/EU and be subject to supervision by the authorities, including the ECB in the framework of the Single Supervisory Mechanism, in charge of credit institutions.

1.1.4. With the fourth goal the Commission aims to create a single EU integrated regulatory framework for investment firms. Because of their different business profiles, investment firms are subject to many legal exemptions according to the country, which creates regulatory complexity for many firms, especially those operating in many countries. This creates additional risk. Implementation of the current legal framework by the Member States gives rise to fragmentation in the overall regulatory landscape for investment firms, with scope for harmful regulatory arbitrage. This could threaten the integrity and functioning of the single market. The prudential rules for investment firms proposed by the Commission apply to a majority of small and medium-sized investment firms in all the EU Member States.

1.2. The EESC notes that, however unintended, the relocation of the UK-based investment firms would be to Member States which are in the banking union or euro area, and in particular to financial centres in euro area countries such as Germany, France, Luxembourg, the Netherlands and Ireland. Member States that do not belong to the euro area would be overlooked.

1.3. The EESC is pleased that SMEs are expected to be among the main beneficiaries of the Directive and the Regulation. A more proportionate and appropriate prudential framework for them should improve conditions for conducting business and eliminate barriers to entry. This applies in particular to capital requirements and administrative burdens. The EESC notes that the rules may encourage innovative firms seeking to grow through digital means. This includes facilitating access to finance for SMEs which are not banks or investment firms themselves. A more suitable prudential framework should help free up capital from unproductive regulatory procedures and allow small investment firms to offer better services to their customers, including other SMEs. This should contribute to helping investment firms act as intermediaries in mobilising investments from savers across the EU and thereby facilitating non-bank sources of finance for European companies.

1.4. The proposed Directive and Regulation on the prudential requirements and supervision of investment firms establish the necessary norms and requirements for initial capital and existing capital, supervisory powers, publication and remuneration. This diminishes risk, which is inherent in the financial operations of investment companies. The question remains of the extent to which the risk borne by investment companies will be passed on to the individual investors and companies that are their clients. If firms act exclusively as agents for their clients and limit their services to investment advice or portfolio management, the risk inherent in the financial instruments will mostly reside with the client.

1.5. It remains to be seen whether the unilateral introduction by the EU of a specific legal framework for investment firms in the Union, without taking account of markets such as the USA, Japan, China and India, and in the light of globalisation and electronic markets, will trigger a flight of investors from Europe. Owing to the complexity of the MiFID II legal framework and the need to register financial products, between 20 % and 50 % of products are no longer offered. Therefore, in the case of a specific legal framework for investment firms, the new rules should be monitored and amended in a flexible way if financial markets respond negatively. The EESC shares concerns that financial transactions, amounting to 54 % of global GDP, pose a considerable risk. However, they also offer a major opportunity for development finance. If the

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<sup>(1)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1). Together with Directive 2013/36/EU (Capital Requirements Directive, or CRD IV) (OJ L 176, 27.6.2013, p. 338), this provides the current prudential framework for investment firms.



legal framework is not amended in a flexible way, then, despite the best of intentions, investment firms from the United Kingdom will move to the USA instead of the EU.

## 2. Background

2.1. There are many different types of investment firms in the EU, with different services and different clients. EBA data show that at the end of 2015 there were 6 051 investment firms in the European Economic Area (EEA). Most investment firms are SMEs. The EBA estimates that about eight investment firms control 80 % of the assets. These are firms that are based in the United Kingdom. According to EBA information, around 40 % of EEA investment firms are authorised exclusively to provide investment advice. 80 % of EEA investment firms limit their activities to investment advice, reception and transmission of orders, portfolio management and execution of orders. Around 20 % are authorised to carry out dealing on their own account and underwriting, the services which are currently subject to the most stringent prudential requirements.

2.2. Acting as an important hub for capital markets and investment activities, the UK has the largest number of EEA investment firms, with roughly half of them based there, the next most important hubs being Germany, France, the Netherlands and Spain. Most EEA investment firms are small or medium-sized. Currently, investment firms identified as systemic are typically subsidiaries of US, Swiss or Japanese banking groups/broker-dealers.

2.3. Until now, the EBA has broken down investment firms into 11 categories, primarily determined by the investment services they are authorised to undertake under MiFID <sup>(2)</sup> and by whether they hold money and securities belonging to their clients. Investment firms which conduct a broad range of services are subject to the same requirements as credit institutions in terms of capital requirements for credit, market and operational risk, and potentially liquidity, remuneration and governance rules, while firms with limited authorisations (typically those which are considered less risky, i.e. investment advice, reception and transmission of orders) are exempt from most of these requirements. The EBA is proposing a new categorisation of investment firms: instead of 11 categories, there would be three main ones. Under the initial recommendations, systemic investment firms constitute Class 1 and would remain in the CRR/CRD IV. Class 2 firms are those which either: deal on own account and incur market and counterparty credit risk; safeguard and administer client assets; hold client money or are above given size thresholds (assets under management under both discretionary portfolio management and non-discretionary (advisory) transactions higher than EUR 1,2 bn; client orders handled of at least EUR 100 m/day for cash trades and/or at least EUR 1 bn/day for derivatives; balance sheet total higher than EUR 100 m; total gross revenues higher than EUR 30 m). These firms are required to calculate their capital requirements in relation to the new risk factors (K-factors). Class 3 firms are those which do not conduct the above activities and which are below all the above thresholds. Class 3 firms are not required to meet a capital requirement set in relation to the K-factors.

2.4. The EU regulatory framework for investment firms consists of two main parts: first, the Markets in Financial Instruments Directive (MiFID) and, as of January 2018, MiFID II/MiFIR <sup>(3)</sup>, which set out the conditions for their authorisation and organisational and business rules. Second, they are subject to the prudential framework under the Capital Requirements Regulation and Capital Requirements Directive CRR/CRD IV, in the same way as credit institutions. This is because they can compete with credit institutions in performing these investment services, which credit institutions can

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<sup>(2)</sup> Markets in Financial Instruments Directive: Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

<sup>(3)</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349) and Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 684/2012 (OJ L 173, 12.6.2014, p. 84).

offer to their customers under their banking licence. Credit institutions are in turn subject to the key provisions of MiFID, aligning the conditions for the provision of investment services between investment firms and credit institutions both in terms of the investor protection and conduct provisions of MiFID and in terms of the key prudential requirements of the CRR/CRD IV.

2.5. As mandated under the provisions of the CRR, a review of the prudential framework for investment firms was carried out in consultation with the EBA, the European Securities and Markets Authority (ESMA) and the competent national authorities. Following a call for advice by the Commission in December 2014, the EBA published a report on the current prudential framework for investment firms in December 2015, calling for changes to the current approach. Following a second call for advice by the Commission in June 2016, the EBA in November 2016 published a discussion paper on a potential new prudential regime for the vast majority of investment firms. The paper was open for comments for three months. Taking account of the feedback and the additional data it had gathered from investment firms together with national competent authorities, the EBA published its final recommendations in September 2017, inviting comments from stakeholders. The precise calibration of the recommendations for new capital requirements was supported by a detailed data-gathering exercise involving investment firms. This was carried out by national competent authorities on behalf of the EBA in two stages in 2016 and 2017.

2.6. The EBA report provides a comprehensive and publicly available analysis of the status quo, with data on numbers and types of investment firms in the Member States. The report also puts forward a new regime for the majority of investment firms by carving them entirely out of the CRR/CRD IV framework and leaving only systemic investment firms within the scope of the latter, in accordance with the revised approach for identifying them in the proposal. The proposal is also consistent with MiFID and MiFID II/MiFIR. By setting prudential requirements that are tailored to the business and risks of investment firms, it clarifies when and why these requirements apply. As such, it would overcome some cases of arbitrary application of prudential requirements which currently arise because the requirements are set in relation to banking investment services listed in MiFID rather than to business conducted by investment firms.

2.7. The findings of the EBA review<sup>(4)</sup> were discussed with Member States in the Financial Services Committee in March and October 2017 and in the Expert Group on Banking, Payments and Insurance in June and September 2017. Account was also taken of stakeholder input received on the Commission's inception impact assessment published in March 2017. Finally, the Commission also considered input received previously in the wide-ranging call for evidence on the efficiency, consistency and coherence of the overall EU regulatory framework for financial services. Given the detailed public consultation and data collection undertaken by the EBA, the Commission considered it unnecessary to run a general public consultation in parallel. It instead consulted stakeholders in a targeted fashion. The consultation included:

- a round table with industry stakeholders (investment firms, investors, law firms, consultants) on 27 January 2017 on the EBA's draft proposals for a future regime;
- a workshop on the costs of the current regime on 30 May 2017;
- a workshop on the EBA's draft final recommendations on 17 July 2017.

2.8. The EBA estimates that the new rules would increase capital requirements in aggregate for all non-systemic EU investment firms by 10 % compared with current requirements, and that they would decrease them by 16 % compared with total requirements applied as a result of Pillar 1 add-ons. The way in which these impacts would be distributed among investment firms depends on their size, which investment services they provide and how the new capital requirements will apply to them. On available own funds, the EBA considers that only a few firms — just a small number of investment advisors, trading firms and multiservice firms — would not have sufficient capital to comfortably meet the new

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<sup>(4)</sup> EBA report on investment firms, response to the Commission's call for advice of December 2014 (EBA/Op/2015/20). As set out in the relevant articles of the CRR mandating the review, this was carried out in consultation with the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the national competent authorities represented in these European Supervisory Authorities (ESAs).

requirements. However, for firms in this group whose increases would be over twice their current requirements, a cap could be granted for a number of years.

2.9. The Treaty on the Functioning of the European Union gives the EU the power to lay down appropriate provisions concerning the establishment and functioning of the internal market (Article 114 TFEU). Directives are issued to make it easier for persons to take up and pursue commercial activities across the EU (Article 53 TFEU). This extends to legislation dealing with the prudential supervision of providers of financial services, in this case investment firms. The provisions of the proposed Directive under discussion replace those in CRD IV, which are also based on Article 53 TFEU as they relate to investment firms. The provisions of the proposed Regulation replace those in Regulation (EU) No 575/2013, which are also based on Article 114 TFEU as they relate to investment firms.

2.10. The new rules will not have implications for the EU budget.

### 3. Observations and comments

3.1. The EESC welcomes the fact that the proposal sets out requirements for the appointment of prudential supervisory authorities, the initial capital and existing capital of investment firms, liquidity, concentration risk, the supervisory powers and tools for the prudential supervision of investment firms by the competent authorities, reporting and publication requirements and public disclosure, supervisory review and evaluation, corporate governance, and remuneration. Thus the Directive sets out rules for the supervision and control of investment firms and reduces all types of risk inherent in the business activities of investment firms. The Directive applies to all investment firms covered by MiFID II as of January 2018.

3.2. The EESC draws attention to the fact that the proposal requires Member States to appoint an authority to exercise powers of prudential supervision under the Directive. Member States may either bestow these on an existing authority under CRD IV or vest them in a new authority. Competent authorities should have powers to review and evaluate the prudential situation of investment firms and, where necessary, to require changes in areas such as internal governance and controls, and risk management processes and procedures, as well as where necessary powers to set additional requirements, including in particular capital and liquidity requirements.

3.3. In the EESC's view, it is important that the competent authorities are to cooperate closely with the public authorities or bodies responsible in their Member State for the supervision of credit institutions and financial institutions. Member States will have to ensure that competent authorities, as parties to the ESFS (European System of Financial Supervision), cooperate when ensuring the flow of appropriate and reliable information between themselves and other parties to the ESFS. In particular they should exchange information about: the management and ownership structure, compliance with capital requirements, concentration risk and liquidity of the investment firm, the administrative and accounting procedures and internal control mechanisms of the investment firm, and any other relevant factors that may influence the risk posed by the investment. In the EESC's view, this will make the European investment market more transparent.

3.4. Competent authorities may provide the EBA, ESMA, the European Systemic Risk Board (ESRB), the central banks of the Member States, the European System of Central Banks (ESCB) and the ECB in their capacity as monetary authorities, and, where appropriate, public authorities responsible for overseeing payment and settlement systems, with confidential information where that information is necessary for the performance of their tasks. The EESC believes that this will lead to the creation of a European information system on investment firms which should, in theory, prevent firms that act dishonestly from carrying out financial operations.

3.5. The initial capital requirements, especially for SME investment firms not holding clients' money or securities, increase slightly from EUR 50 000 to EUR 75 000. Systemic investment firms' initial capital requirements are regulated by the CRR/CRD IV directives. The EESC notes again that the proposal for a Directive on the prudential supervision of investment firms creates an opportunity for SMEs and SMEs growing through digital means in particular.

3.6. Based on data from over 1 200 firms, 80 % of firms meet the proposed liquidity requirements. Around 70 % of firms have over three times the amount available. The EESC therefore believes that the new rules will not remove the vast majority of existing investment firms from the market.

3.7. Remuneration policy in investment firms must be transparent and linked to the risks borne and profits generated. Remuneration systems must be controlled and approved by the supervisory bodies. Member States would require investment firms to disclose their remuneration policy and would ensure that investment firms provide competent authorities with information on the number of natural persons who receive remuneration of EUR 1 million or more per financial year. In such cases authorities must be provided with information on job responsibilities, the business area involved, the main elements of salary, bonus, long-term award, and pension contribution. The information would be forwarded to the EBA and published. The EESC believes that this is an appropriate course of action which seeks to link remuneration to the business performance of investment firms.

3.8. The EESC is pleased to note that branches of foreign investment firms are subject to checks and would be required to provide annual information on the name, nature of activities and location of any subsidiaries and branches, the turnover, the number of employees on a full-time equivalent basis, profit or loss before tax, the tax on profit or loss, and public subsidies received.

3.9. The EESC also supports the fact that, under Article 33 of the proposal for a Directive, the competent authorities would be required to take appropriate action where the review and evaluation referred to in point (e) of paragraph 1 of said article has shown that the economic value of the equity of an investment firm has declined by more than 15 % of its capital. This would generally be done by the investment firm increasing its own capital.

#### 4. Specific comments

4.1. The EESC believes that, with the extension of MiFID to all derivatives markets in 2007, some specialised firms dealing in commodity derivatives were carved out entirely from the MiFID and prudential rules. The business of many of these firms involving financial instruments tends to revolve around hedging the risks of their parent companies related to the physical production, transmission, storage or purchase of the underlying physical commodities. Depending on the sector (e.g. energy, agriculture) their volume of hedging activity can be substantial, implying a major impact from capital requirements under the current framework. These firms will now operate under the proposed Directive on the prudential supervision of investment firms.

4.2. In the EESC's view, it is important that the proposals for a Directive and a Regulation introduce new risk metrics (K-factors) and the possibility of phasing in and capping higher requirements. K-factors capture risk to customer (RtC) and, for firms that deal on their own account and execute client orders in their own name, risk to market (RtM) and risk to firm (RtF).

4.3. The EESC notes that in its opinions on *Banking reform — Capital requirements and resolution framework amendments* (ECO/424)<sup>(5)</sup> and on the *MiFID & MiFIR* (INT/790)<sup>(6)</sup>, and in other earlier opinions on CRR/CRD IV, it was always supportive of prudential rules for EU capital markets.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(5)</sup> OJ C 209, 30.6.2017, p. 36.

<sup>(6)</sup> OJ C 303, 19.8.2016, p. 91.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Recommendation on a European Framework for Quality and Effective Apprenticeships’**

(COM(2017) 563 final — 2017/0244 (NLE))

(2018/C 262/07)

Rapporteur: **Imse SPRAGG NILSSON**

Co-rapporteur: **Vladimíra DRBALOVÁ**

Consultation	European Commission, 17.11.2017
Legal basis	Article 29 (1) of the TFEU
Plenary Assembly decision	17.10.2017
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	27.3.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	194/0/4

## 1. Conclusions and recommendations

1.1. The EESC appreciates the timeliness of this Recommendation, as significant apprenticeship reforms are taking place in most of the Member States and commends the European Commission's desire to establish a European common understanding of what constitutes a quality and effective apprenticeship.

1.2. The Committee concurs that the European Commission's chosen legal instrument encourages the coordination of a common effort to improve the quality and effectiveness of apprenticeships. At the same time it leaves flexibility at national level.

1.3. The EESC notes that the definition and criteria drawn up by the European Commission in the proposal for a Council Recommendation respect the diversity of the national schemes in the field of apprenticeships.

1.4. The EESC welcomes the fact that the proposal for Recommendation invites Member States to promote the active involvement of social partners in the design, governance and implementation of apprenticeship schemes in line with national industrial relations systems and education and training practices.

1.5. The Committee believes that the design, governance and implementation of apprenticeship schemes should also include the active involvement of those who are not traditionally seen as natural stakeholders in this field, but are equally relevant to the process, such as youth and parent organisations, students' unions, and apprentices themselves.

1.6. The EESC acknowledges the positive role that apprenticeships can play in increasing skills and employability, particularly for young persons, but highlights that unemployment is a complex phenomenon and a holistic approach is needed to tackle its root causes beyond the issue of skills mismatch.

1.7. The EESC believes that the proposal for Recommendation should have a stronger emphasis on the ways in which apprentices can foster greater ownership of the design and governance of their apprenticeship pathways. Giving apprentices an ability to influence their learning experience would create more productive learning experiences, which also benefits the placement provider.

1.8. The Committee calls for clear links and effective coordination and synergies with the initiatives already launched by the EQAVET<sup>(1)</sup> network and related to EURES<sup>(2)</sup>.

1.9. The EESC calls for initiatives that explore the potential of transnational mobility of apprentices in the EU. These should take into account progress made in Member States, particularly with regard to the challenges involved in creating the necessary conditions for supporting apprentices' mobility.

1.10. The EESC welcomes the intention to monitor the implementation of the Recommendation with the support of the Advisory Committee on Vocational Training (ACVT), as well as through the European Semester, and suggests the development of indicators to assess the impact at national level. The Committee stands ready to assess the implementation of the Recommendation in Member States, from the perspective of organised civil society.

## 2. Context of the proposal for a Council Recommendation

2.1. The proposal for a European Framework for Quality and Effective Apprenticeships follows up on the 2016 New Skills Agenda for Europe<sup>(3)</sup> and contributes to the implementation of EU's priority on jobs, growth and investment. The proposal complements the principles enshrined in the European Pillar of Social Rights and supports its implementation at national level. Quality and effective apprenticeships are also crucial to the successful implementation of the Youth Guarantee, and the proposal is a response to the increasingly pressing call to ensure better quality placements under the Youth Guarantee initiative.

2.2. In the framework of the EU social dialogue programme of integrated projects 2014 — 2016, the European social partners undertook separate projects on apprenticeships: the ETUC focused on the quality of apprenticeships and BusinessEurope, UEAPME and CEEP focused on cost-effectiveness. Their work resulted in a joint statement, 'Towards a Shared Vision of Apprenticeships'<sup>(4)</sup>, expressing the importance of both the quality and cost-effectiveness of apprenticeships.

2.3. In July 2013 the European Alliance for Apprenticeships (EAfA) was established as a unique platform which bring together governments and stakeholders (businesses, social partners, chambers, VET providers, regions, youth representatives and think tanks) with the goal of strengthening the quality, supply and attractiveness of apprenticeships in Europe<sup>(5)</sup>.

2.4. The proposed instrument, a Council Recommendation, respects the principles of both subsidiarity and proportionality. As a legal instrument, it signals the commitment of Member States to the measures laid down in the Recommendation and provides a strong political basis for cooperation at European level in this area. Since apprenticeships are usually underpinned by a work contract or other contractual relationships, apprentices are therefore considered both work-based learners and workers. Therefore, the legal basis for this initiative lies in Articles 153, 166 and 292 TFEU.

2.5. The overall objective of the Recommendation is to '*increase the employability and personal development of apprentices and to contribute to the development of a highly skilled and qualified workforce, responsive to labour market needs*'<sup>(6)</sup>. The specific objective is to '*provide a coherent framework for apprenticeships based on a common understanding of what defines quality and effectiveness, taking into account the diversity of vocational education and training (VET) systems in Member States*'.

<sup>(1)</sup> EQAVET — the European Quality Assurance in Vocational Education and Training.

<sup>(2)</sup> EURES — the European job mobility portal.

<sup>(3)</sup> COM(2016) 381 final.

<sup>(4)</sup> European Social Partners, Joint Statement, Towards a Shared Vision of Apprenticeships, 30 May 2016.

<sup>(5)</sup> European Alliance for Apprenticeships.

<sup>(6)</sup> COM(2017) 563 final.



2.6. For the purpose of the Recommendation, apprenticeships are understood as follows: *'formal vocational education and training schemes that combine substantial work-based learning in companies and other workplaces with learning based in education or training institutions, that lead to nationally recognised qualifications. These are characterised by a contractual relationship between the apprentice, the employer and/or the vocational education and training institution, with the apprentice being paid or compensated for her/his work.'*

2.7. To ensure that apprenticeship schemes are responsive to labour market needs and provide benefits to both learners and employers, the proposal establishes and recommends criteria for quality and effective apprenticeships in two complementary areas. In the first area, 'learning and working conditions', the specific criteria are: written contract, learning outcomes, pedagogical support, workplace component, pay and/or compensation, social protection, and health and safety conditions. In the second area, 'framework conditions', the specific criteria are: regulatory framework, involvement of social partners, support for companies, flexible pathways and mobility, career guidance and awareness raising, transparency, quality assurance and graduate tracking.

### 3. General comments

3.1. The EESC welcomes and supports the proposed Recommendation that follows on from and completes recent initiatives at all levels focused on the re-launch of quality and effective apprenticeships in the European Union.

3.2. In the 2017 Rome Declaration, the Heads of State and Government pledged to work towards a *'Union where young people receive the best education and training and can study and find jobs across the continent'*. An essential part of the pledge was to provide young persons with skills that can ease their access to the labour market. An effective way to do this is through apprenticeships.

3.3. It is clear that apprenticeships cannot be the solution to unemployment. Apprenticeships can be useful to upskill / reskill unemployed persons of all ages with a view to reintegrate them into the labour market. Apprenticeships should also be offered to persons of migrant background as an effective policy approach of promoting social inclusion and an integrated workforce. At the same time, it should be avoided that the apprenticeships are geared towards low-skilled jobs and poor training — that could damage the reputation of apprenticeships.

3.4. As a form of work-based learning, apprenticeships allow individuals to acquire formal qualifications, as well as trade-specific skills and competences that match the needs of the labour market, thus enhancing their employability and employment perspectives<sup>(7)</sup>. The learning experience should result in resilient skills and competences that can be used beyond the specific apprenticeship placement. It is a way to support the personal development of individuals and help them to acquire technical, digital, soft and social skills in an integrated way.

3.5. They can be particularly effective tools to ease the transition from education and training into work<sup>(8)</sup>. This transition period is increasingly lengthy for many young persons, and greater attention should be given to shortening it. Therefore, training opportunities such as apprenticeships should be made even more relevant, by laying down quality standards and introducing effective schemes.

3.6. While apprentices are most often young learners, the Committee would like to emphasise that apprenticeship schemes should be designed to make them appealing to adults. Apprenticeships for mature learners provide the possibility to gain qualifications that increase employability and create new opportunities for career development.

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<sup>(7)</sup> EESC opinion on 'Improving the performance of national dual training systems' (OJ C 13, 15.1.2016, p. 57).

<sup>(8)</sup> Evidence shows that 60-70 % of apprentices move directly into a job following their apprenticeship, and in some cases this increases to 90 % (EC page on apprenticeships).



3.7. Employers face increasing shortages of workers with relevant skills to fit their needs and stay competitive. Apprenticeships can equip apprentices with the skills that enhance their employability, and which at the same time are needed by the labour market. If there is a match between the skills that are needed by both apprentices and employers, the apprenticeship schemes can be attractive for both parties. Furthermore, apprenticeships allow employers to train and invest in people, and to retain, over time, qualified and motivated employees<sup>(9)</sup>.

3.8. The EESC acknowledges that companies are analysing the ways in which they can engage in apprenticeship schemes to make them more attractive and beneficial for them. Furthermore the Committee underlines that effectiveness of apprenticeships is a multifaceted concept, not solely a cost-benefit analysis. On the one hand, effectiveness is about recognising that apprenticeship providers invest in creating a learning experience, and 'expect return on investment over time in terms of a better skills fit, which encourages and fosters the supply of apprenticeship places'<sup>(10)</sup>. On the other hand, it is about effectively transferring persons into the labour market in a qualitative manner.

#### 4. Design and implementation of apprenticeship schemes — a partnership approach

4.1. In many countries, existing apprenticeship systems and their attractiveness need improvement. Challenges include negative public perception of apprenticeships, learning value, lack of attractiveness for employers, and limited or absent partnership with organised civil society in the design, implementation and evaluation of schemes.

4.2. Apprenticeships are first and foremost an educational opportunity and should therefore be based on a learner-centred approach, and be shaped around the best interests of learners, their capacities and possibilities, while also taking into account the needs of the labour market. This would mean ensuring that apprentices reach their full potential and achieve their learning objectives, which would also benefit employers.

4.3. The views of apprentices should be taken into account in decisions that may directly affect them and their rights before, during and after their placements. They should have a say in the learning objectives of their placement, and have the opportunity to give feedback on the quality and effectiveness of their apprenticeship. The lack of representative structures hinders apprentices' opportunity to have their voices heard.

4.4. Apprenticeships have the potential to help young persons, as well as adults, to acquire full competency and capabilities in an occupation or profession and enhance their employability. However, in many cases such potential is not harnessed, as the quality of apprenticeships is lacking, its learning value is not prioritised and apprentices' rights are not upheld as they should be.

4.5. Moreover, the EESC believes that a dynamic labour market needs competences more than skills. Therefore, learning outcomes should be focused on resilient competences, rather than short-term skills.

4.6. Apprenticeships should include a strong work-based dimension, where at least half of the educational time is spent on practically learning the specifics of the trade, and whenever possible this should be coupled with international experience.

4.7. Work-placement trainers, mentors or supervisors should be duly certified and provided with the necessary skills, both pedagogical and trade-specific, to train apprentices. Furthermore, they should be provided with access to continuous training in accordance with the principle of life-long learning.

4.8. A synergy between the quality, effectiveness and attractiveness of apprenticeships can only be ensured through close cooperation amongst all relevant stakeholders — training providers, social partners and other civil society organisations, apprentices, at national, regional and local levels.

4.9. Structures should be set up at all levels of government, with the involvement of all relevant socio-economic stakeholders (e.g. apprenticeship providers, employers' organisations, trade unions, chambers, youth organisations, students' unions, apprentices), with clear processes and roles aimed at influencing and taking part in decisions related to the design, implementation and monitoring of apprenticeship schemes.

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<sup>(9)</sup> Cedefop, 2015, Briefing note — Making apprenticeships work for small and medium enterprises.

<sup>(10)</sup> ACVT opinion on 'A shared vision for quality and effective apprenticeships and work-based learning', 2 December 2016.

## **5. Promoting apprenticeships**

5.1. To counteract the fact that apprenticeships are perceived as a less attractive or less prestigious educational path, particularly for young persons, it is necessary to promote apprenticeships as a valuable choice and as a learning opportunity of equal quality and not as an active labour market instrument.

5.2. Promoting apprenticeships should be paired with efforts to address gender stereotypes based on traditional social roles, which still negatively affect apprenticeship placements, take-up and promotion and advertising.

5.3. All relevant stakeholders, from policy makers to social partners, civil society organisations and educational institutions, play a crucial part in increasing the attractiveness of apprenticeships and they need to work together. Promotion of a better narrative concerning apprenticeships must go hand-in-hand with, and be conditional on, improving the quality and effectiveness of the schemes.

5.4. Public authorities should invest more resources in implementing measures to promote apprenticeships at the local level to potential apprentices and encourage employers to provide apprenticeship opportunities.

5.5. The EESC considers that there is the possibility to use the ESF to help establish or further develop quality and effective apprenticeship schemes in Member States which require greater financial and technical assistance to achieve the objectives of the framework.

5.6. It is fundamental to provide employers, and in particular SMEs and micro-companies, with the financial and non-financial support they need to establish quality and effective apprenticeship placements and schemes.

5.7. The process of building a new image of apprenticeships should be based on a fair, inclusive, non-discriminatory and innovative approach. The most disadvantaged persons in our society should have access to the best support and guidance to a quality education and work-based learning that fits their interests and aspirations. Measures should be put into place at all levels to tackle discrimination based on migrant status, socio-economic background, ethnicity, religion, age, gender or other status, hindering equal access to apprenticeship opportunities.

## **6. Learning and working conditions**

6.1. The EESC believes that apprenticeships should be underpinned by a written and legally binding document, be it a learning agreement or written contract, between the employer, the apprentice and the educational or training institution. This document should clearly outline rights and obligations of all parties, and include a description of the learning objectives, tasks, as well as other relevant information on the placement (including but not limited to length, working hours, remuneration, etc.).

6.2. The EESC strongly believes that apprentices have a right to decent remuneration and/or compensation, to be negotiated through collective agreements or in line with national or sectoral requirements. Adequate pay or compensation can enable more people to take up apprenticeships, particularly those from low-income backgrounds, and can help avoid the misuse of apprenticeships as unpaid, excessively flexible employment.

6.3. The EESC reiterates the importance of ensuring that apprentices are adequately and promptly informed of any health and safety risk posed to them while undertaking their apprenticeship, and that apprentices are fully covered by health and safety regulations.

## **7. Monitoring and evaluating apprenticeship schemes**

7.1. All apprenticeship providers should commit to quality standards. Mentoring by a competent supervisor should always be provided to apprentices before, during and after their apprenticeship, in order to make sure that learning objectives are achieved, the rights of the apprentice are upheld, and quality is ensured.

7.2. A monitoring system should be put in place to observe the progress of apprentices in reaching their learning objectives, as well as the quality and effectiveness of the learning experience. The results of such an evaluation process should be shared with the apprentices and the apprenticeship providers to enable them to improve if needed. Where possible, this monitoring system could be utilised as a method of measuring the amount of apprenticeships that later lead the learner into employment.

#### **8. Recognising qualifications**

8.1. Apprenticeship schemes should lead to official qualifications, recognised at national, European and international level, in accordance with the European Qualification Framework. Recognised qualifications would enhance apprentices' employability and mobility in the country and within the EU. They should offer permeability and allow apprentices to enter higher education after their apprenticeships are concluded.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on the Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services**

(COM(2017) 647 final — 2017/0288 (COD))

(2018/C 262/08)

Rapporteur: **Raymond HENCKS**

Consultation	European Parliament, 29.11.2017 Council, 22.11.2017
Legal basis	Article 91(1) of the Treaty on the Functioning of the European Union
Committee Bureau decision	17.10.2017
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	200/0/4

## 1. Conclusions and recommendations

1.1. The EESC supports the Commission's aim of improving mobility for citizens who travel long distances by coach or bus, encouraging the use of sustainable modes of transport, and making it possible to offer services that are more in line with the needs of the population, particularly those on the lowest incomes.

1.2. However, the proposal to extend the scope of the common rules for access to the international market for coach and bus services to cover all regular services for hire or reward, including national services, run by a non-resident carrier, is considered problematic in some Member States.

1.3. Applying the new rules on access to the market for regular international and national coach and bus transport services over a distance of less than 100 km or 120 km as the crow flies to urban and suburban services could, according to those countries, seriously undermine the fulfilment of the mission and public service obligations of a service of general economic interest (SGEI).

1.4. The proposal for a regulation does not take account of the substantial differences between Member States in how they organise their coach and bus transport services and pricing, particularly of urban and suburban services, which are often provided free of charge or at reduced rates for all or for specific categories of travellers, in response to social and environmental needs and constraints which require specific and different rules. However, there are also Member States that have a more deregulated access to public transport markets.

1.5. The proposed provision that, for international and national transport services (including urban and suburban services) over distances of less than 100 kilometres as the crow flies, access to the market may only be refused if the service offered would compromise the economic equilibrium of a public service contract could in some cases be difficult to reconcile with the need for a service of general interest that is affordable and of appropriate quality for all. All the market can do, in compliance with the legislation on fair competition, is offer a price determined on the basis of costs. However some Member States do have a fully or partly deregulated market, with reasonably good results. The proposal would in such cases risk a step backwards.

1.6. The EESC questions if the proposal for a regulation complies with Article 5(3) of the Treaty on European Union (TEU) on the subsidiarity principle, insofar as Protocol 26 to the Treaty on the Functioning of the European Union (TFEU) gives national, regional and local authorities wide discretion in providing, commissioning and organising SGEIs in order to ensure a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights. However, as the long-haul national bus and coach services above 100 km are already deregulated in some Member States the strive for free market access for bus services as such could not be put in question.

1.7. The EESC stresses that, if pursuant to such an application of the subsidiarity principle, the Member States are allowed the wide discretion afforded to them by the Treaty to organise their SGIs in line with the needs of the population, this of course will mean that also Member States with deregulated bus and coach markets can continue, and that the Commissions aim of a single market for such services will not be reached.

1.8. Finally, the EESC stresses that establishing new coach and bus routes may entail a risk of adversely affecting public services using more sustainable modes of transport. The EESC finds it therefore reasonable that authorities can safeguard that services are using efficient low carbon vehicles that do not increase emissions, particularly rail services. The EESC therefore urges the Commission to link market liberalisation of road transport to a more clear usage of the polluter pays principle in all modes of transport.

## 2. Introduction

2.1. In accordance with Article 4(2)(g) of the TFEU, the European Union has shared competence with the Member States in the area of transport, and establishes, inter alia, under Article 91 TFEU:

(a) *common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;*

(b) *the conditions under which non-resident carriers may operate transport services within a Member State; [...]*

2. *When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.*

2.2. By amending Regulation (EC) No 1073/2009 on access to the international market for coach and bus services the Commission intends, according to its own statements, to improve mobility for citizens who travel long distances and to encourage the use of sustainable modes of transport, and it should make it possible to offer services that are more in line with the needs of the population, particularly those on the lowest incomes.

2.3. Some European languages do not make a distinction between 'coach' and 'bus'. Distance is often one of the main criteria used in the regulation of long-distance coach services: for example, they must be more than 50 miles in the United Kingdom, and more than 100 kilometres in France and Sweden.

2.4. In some Member States, the market for long-distance coach services is already at least partially liberalised. For example, the liberalisation of the German market was subject to two conditions: the routes must cover a distance of at least 50 kilometres and must not compete with rail. In France, the 'Macron Law' allows any operator to provide regular services for distances over 100 kilometres.

## 3. Current EU rules

3.1. Regulation (EC) No 1073/2009 of 21 October 2009 applies to the transport of more than nine people by coach and bus in the form of regular international passenger transport services, as well as, under certain conditions and on a temporary basis, the admission of non-resident carriers to operate national road passenger transport services in a Member State.

3.2. Carriage from Member States to third countries is largely covered by bilateral agreements between the Member States and those third countries. However, the EU rules apply on the territory of Member States crossed in transit.

3.3. EU rules do not apply to urban and suburban coach and bus services. Cabotage operations by non-resident carriers within a Member State are permitted with the exception of transport services that serve the needs of an urban centre or conurbation, or those that provide transport between such a centre and its surrounding areas. Cabotage operations may not be carried out independently of an international service.

3.4. By contrast, the arrangements on the posting of workers for the purposes of providing a service do apply to coach and bus transport companies carrying out cabotage operations.

3.5. Each year Member States must inform the Commission of the number of carriers holding a Community licence as of 31 December of the previous year and of the number of certified true copies corresponding to the vehicles in circulation on that date. On 31 December 2016, there were a total of 34 390 Community road passenger transport licences and 300 155 bus and coach licences, of which approximately 46 000 were used mainly for long-distance passenger transport.

#### **4. New measures proposed by the Commission**

4.1. The scope of application has been extended considerably and applies to all regular (international and national) coach and bus transport operations across the whole of the EU, operated as regular services by non-resident carriers.

4.2. The current regulation, which defines 'cabotage operations' as 'national road passenger services for hire and reward carried out on a temporary basis by a carrier in a host Member State', has been amended by deleting 'temporary'. As a result of this, cabotage services are considered to be regular services.

4.3. From now on, regular cabotage operations are subject to holding a Community licence. Temporary cabotage transport operations are only permitted if they are covered by a contract concluded between the organiser and the carrier, and if they are occasional services.

4.4. With regard to regular services, the new regulation distinguishes between international and national passenger transport services over distances of less than 100 kilometres as the crow flies and such services carrying passengers over distances of 100 kilometres or more as the crow flies.

4.5. For regular international transport services carrying passengers and some regular national services over distances of 100 kilometres or more as the crow flies, market access has been fully liberalised.

4.6. For regular international and national transport services (including urban and suburban services) over distances of less than 100 kilometres as the crow flies, access to the market may be refused if the service offered would compromise the economic equilibrium of a public service contract. The aforementioned distance of less than 100 km may be increased to 120 kilometres if the regular service to be introduced will serve a point of departure and a destination that are already served by more than one public service contract.

4.7. Express services — i.e. services that carry passengers at specified intervals along specified routes without intermediate stopping points — are henceforth considered to be 'regular services', on a par with transport services that pick up and set down passengers at predetermined stopping points.

4.8. An independent monitoring body for coach and bus passenger transport has been set up and will be responsible for:

— carrying out economic analyses of whether a proposed new service would compromise the economic equilibrium of a public service contract. The conclusions of the regulatory body will be binding on the authorising authorities in the area of access rights to the international and national market, and its decisions will be subject to judicial review,

— collecting and providing information on access to terminals,

— deciding on appeals against decisions of terminal operators.

4.9. Technical adjustments regarding Community licences, authorisations to access the market and other certificates shall be made by Commission delegated act.

4.10. Carriers have a right to access the parking spaces for use by coaches and buses (terminals) in accordance with equal, transparent and non-discriminatory conditions.

## 5. General comments

5.1. Extending the scope of this regulation to cover all regular services for hire or reward run by a non-resident carrier means that the latter may operate regular national services under the same conditions as resident carriers and that when it is continuous and permanent, a cabotage operation is considered to be a regular service. In light of this, the regulation under consideration applies to all regular international and national coach and bus transport service operations.

5.2. For international and national transport services over distances of 100 kilometres or more as the crow flies, the market is thus fully liberalised and potential public service contracts can no longer be taken into consideration in order to refuse access to the market.

5.3. Access to the market for regular international and national coach and bus transport services over a distance of less than 100 km or 120 km as the crow flies may be refused if the economic equilibrium of a public service contract would be disturbed and if the independent supervisory body responsible for carrying out the relevant economic analysis agrees.

5.4. In a change from the current regulation, the Commission's new proposal no longer explicitly excludes urban and suburban coach and bus transport services, which will therefore be subject to the new rules.

5.5. Moreover, the authorities responsible for granting market access may not reject an application solely on the grounds that the carrier offers lower prices than those offered by other road carriers, even though it has been established that private sector carriers, which are not bound by public service obligations, offer prices (e.g. EUR 1 for a long-distance journey) that clearly fall under the heading of dumping. The general, unrestricted wording of this provision could be seen as *carte blanche* for unfair competition.

5.6. The proposal for a regulation does not take account of the substantial differences between Member States in how they organise their coach and bus transport services and in pricing, particularly of urban and suburban services, which are often provided free of charge or at reduced rates for all or for specific categories of travellers, in response to social and environmental needs and constraints which require specific and different rules. However, there are also Member States that have a more deregulated access to public transport markets.

5.7. The EESC questions if the proposal for a regulation complies with Article 5(3) of the Treaty on European Union (TEU) on the subsidiarity principle, and finds the arguments set out in the justification statement (as provided for in Article 5 of Protocol 2 on the application of the principles of subsidiarity and proportionality) not totally convincing. However, as the long-haul national bus and coach services above 100 km are already deregulated in some Member States the strive for free market access for bus services as such could not be put in question.

5.8. However, passenger transport is also a service of general economic interest (SGEI), as provided for by the Treaty and, as such, is subject to Article 106(2) of the TFEU, which states that '*undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.*'

5.9. This article refers to the primacy of good performance, which does not depend on an approach based on economic equilibrium.

5.10. The common values applicable to the activities of SGEIs, which are covered in Protocol 26 on services of general interest (SGIs; in reference to Article 14 TFEU) are, *inter alia*: the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest, a high level of quality, safety and affordability, equal treatment and the promotion of universal access and of user rights.



5.11. Economic equilibrium is therefore not one of the values that SGEIs must adhere to. It could in some cases also be difficult to reconcile economic equilibrium with a service that must be affordable for all. The market can, only offer a price determined on the basis of costs and thus cannot guarantee access for all to a service at an affordable price. However, it should also be noted that some Member States do have a fully or partly deregulated market, with reasonably good results. The proposal would in such cases risk being a step backwards.

5.12. The supervisory body established by the regulation under consideration would only be able to assess whether or not the conditions of Article 106(2) of the TFEU and the conditions of Protocol 26 have been met, a power (finding a clear error) which up to now has fallen exclusively under the remit of the Commission, subject to an appeal to the European Court of Justice.

5.13. In contrast with the Commission's new proposal, Article 8(4)(d) of the current Regulation (EC) No 1073/2009 (which the Commission proposes to delete) is in line with the Treaty, maintaining that: *'a Member State decides on the basis of a detailed analysis that the service concerned would seriously affect the viability of a comparable service covered by one or more public service contracts conforming to Community law on the direct sections concerned'*.

5.14. The EESC therefore believes that there is no need to amend the aforementioned provision established by Article 8, but instead that, in line with the subsidiarity principle, the Member States should retain the wide discretion accorded to them by the Treaty to organise their services of general interest in accordance with their needs, with the exception of clear errors found by the Commission.

5.15. The EESC stresses that establishing new coach and bus routes may entail a risk of adversely affecting public services using more sustainable modes of transport — particularly rail services. There can therefore be no question of abandoning railway services along the same section for purely economic reasons.

5.16. The EESC notes, with this in mind, that the purpose of legislation on the Single European Railway Area is to create a European railway area that is able to compete, sustainably, with other modes of transport.

5.17. However, it is clear that competition between rail and road remains largely unfair, due to the fact that rail charges, to be paid by rail operators, and operating costs are around three times higher than costs incurred by coach service operators. Up to now, there has been no significant follow-up to the Commission's announcement of *'measures to internalise the external costs of transport in a coordinated and balanced manner across modes so that the charges reflect the level of the external cost imposed on society at large'*.

5.18. The EESC therefore urges the Commission to link market liberalisation of road transport to a more clear usage of the polluter pays principle in all modes of transport.

Brussels, 19 April 2018.

*The President*  
of the European Economic and Social Committee  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States**

(COM(2017) 648 final/2 — 2017/0290 (COD))

(2018/C 262/09)

Rapporteur: **Stefan BACK**

Consultation	European Parliament, 29.11.2017 European Council, 4.12.2017
Legal basis	Article 91(1) of the TFUE
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	159/1/3

## 1. Conclusions and recommendations

1.1. The EESC supports the initiative to update Directive 92/106/EEC ('the Directive') to render the combined transport concept more efficient and attractive and render transport more sustainable in accordance with the aims set out in the 2011 White Paper on transport policy and the undertakings made under the Paris Agreement.

1.2. The EESC is in favour of extending the scope of the Directive to domestic operations to further reduce road transport.

1.3. The EESC also takes favourable note of the efforts to simplify the Directive to make the concept more attractive and improve legal certainty.

1.4. The EESC finds particularly useful the simplification of the delimitation of road transport legs, including the flexibility option opened to Member States which enables adaption to local conditions. Nevertheless, the EESC points out that the limit of 20 % of the distance between the initial loading and the final unloading points could lead to road transport distances well above the 300 kilometres beyond which the 2011 White Paper on transport favours a successive modal shift away from road transport.

1.5. To facilitate access to information on the implementation of the Directive in each Member State and facilitate planning of combined transport operations, the EESC suggests an obligation on each Member State to make all pertinent information regarding the implementation of the Directive available on a dedicated website.

1.6. The EESC approves the clarification and simplification provided by the exhaustive enumeration of the documentation that should be available for compliance control as well as by the provision that those documents may be produced in electronic form. The EESC suggests that wherever applicable, any national decisions authorising a longer road leg should also be part of the documents to be produced.

1.7. The EESC appreciates the proposed obligation on Member States regarding investment in transshipment terminals and in particular the obligation to coordinate investments with neighbouring Member States. The EESC nevertheless questions whether the objective of a maximum distance of 150 kilometres from any location in the EU to the nearest terminal is realistic, bearing in mind the situation in areas with low population density and sparse rail and harbour networks, and therefore suggests that a clear flexibility option should be provided.

1.8. In the EESC's opinion, to increase certainty and speed up the effects of incentives to this transport, support measures to combined transport shall be considered compatible with the internal market and shall be exempted from the notification requirement according to State aid rules provided that support is less than a pre-defined ceiling.

1.9. The EESC questions the usefulness of the proposed provision in Article 1(2) second paragraph which seeks to exclude certain inland waterway and maritime transport legs from being taken into account for combined transport operations. The EESC considers that this proposal is unclear and prone to diverging interpretations and also questions its usefulness since no similar selection criteria, clearly based on the idea of excluding choices that do not need encouragement, have been considered necessary with respect to rail transport.

1.10. The EESC also finds it difficult to understand why the so-called 'cabotage exemption' in Article 4 of the Directive remains unchanged. As a matter of transport policy, the EESC on this point first refers to the currently pending proposals regarding market access in international road transport of goods with respect to cabotage and the current debate on market access and competition, including social aspects. The EESC also points to the general principle that service provision in a country other than that where the service provider is established should be done on a temporary basis. In the opinion of the EESC, there is nothing to prevent a provision stipulating that road haulage legs within the framework of a combined transport operation are separate transport operations, except where the entire transport operation is carried out with one lorry or one vehicle combination including the tractor and that Regulation (EC) 1072/2009 applies to all operations. Article 4 of the Directive should be amended accordingly.

1.11. The EESC finds it surprising that the provision in Article 2 of the Directive which requires Member States to liberalise the combined transport operations referred to in Article 1 from all quota systems and systems of authorisation by 1 July 1993 is not included in the proposals to amend the Directive. As it now stands and in view of the extended scope of the Directive, this article could be interpreted as having a wider effect than probably intended, in particular regarding market access. The EESC would therefore suggest that this article be rephrased or deleted.

1.12. The EESC takes note that the proposal to amend the Directive remains silent as to the applicability on combined transport of Directive 96/71 EC on the posting of workers. The EESC assumes that this directive will also apply with respect to combined transport operations and that this applies also with respect to the proposed *lex specialis* on posting in road transport proposed by the Commission (COM(2017) 278).

1.13. The EESC would also underline the significant potential of digitalisation for facilitating and promoting combined transport. A few examples of possible ways forward have been mentioned above. The potential for development in this field is considerable for transport as a whole, including in combined transport.

1.14. The EESC recommends that the possibility of a solution concerning transport costs, similar to Council Regulation (EC) 1405/2006, should also be examined by the Commission with respect to Cyprus and Malta.

## 2. Background

2.1. On 8 November 2017, the European Commission presented the second part of its mobility package headed by the keynote communication 'Delivering on low-emission mobility' (COM(2017) 675).

2.2. The second part of the package includes the following proposals:

— A proposal for new CO<sub>2</sub> standards for cars and vans post-2020 with a proposal for the revision of Regulation (EC) 715/2007 with enhanced emission standards.

- A proposal for the revision of the Clean Vehicles Directive 2009/33/EC to strengthen the provisions promoting public procurement of such vehicles.
- A proposal to amend Directive 92/106/EEC on combined transport to further promote such transport with a view to encouraging transport concepts that reduce road transport.
- A proposal to amend Regulation (EC) No 1073/2009 on access to the international market for bus and coach services in order to open up this market further and so promote cheaper public transport by bus in order to reduce car travel.
- The package also contains an action plan on alternative fuels infrastructure in order to boost investment in the construction of such infrastructure, and so facilitate cross-border mobility in the EU using such fuels.

2.3. The package includes a combination of supply- and demand-oriented measures to put Europe on the path to low emission mobility and strengthen the competitiveness of the European automotive and mobility ecosystem. It aims to provide greater policy and regulatory certainty and create a level playing field.

2.4. The proposal covered in this opinion amends Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States (the Directive) (COM(2017) 648) (the proposal). It contains the following main elements:

- Combined transport no longer needs to be cross-border in nature. The Commission estimates that there is considerable potential for domestic combined transport in Member States.
- The minimum distance requirement for non-road transport is eliminated. On the other hand, a new provision provides that sea or inland waterway transport may not be taken into account if there is no alternative.
- Every load unit that complies with the criteria set out in ISO6346 or ENI 13044 or a road vehicle that is transported by rail, inland waterway or sea can be used in combined transport.
- The current rule on limitation of road transport is modified to provide that the first and/or final road transport leg within the EU may be a maximum of a direct line of 150 km or 20 % of the distance as the crow flies in a direct line between the first loading point and the last unloading point. This limitation does not apply to empty load carriers nor to transport to or from the pick up or delivery point.
- Member States may authorise longer distances than indicated in the preceding point to make it possible to reach the nearest terminal with adequate equipment and capacity.
- For road transport to be accepted as part of a combined transport operation, the operator must demonstrate that the transport is part of a combined transport operation. The proposal indicates what information should be provided regarding the transport operation as a whole and with respect to the different parts of it. Additional information may not be requested. The information may be provided through different transport documents including in electronic form. It must be possible to produce the information during a roadside check.
- Duly justified deviations from the planned route shall be accepted.
- Member States are obliged to undertake the measures needed to support investments required in reloading terminals, in coordination with bordering Member States.
- Each Member State must appoint one or several authorities to be responsible for the implementation of the Directive and to serve as contact point for implementation issues.
- The proposal also requires the Member States to comply with a reporting duty with respect to the development of combined transport.

- The current exemption from the rules on cabotage remains valid with respect to road transport operations (road legs), part of a cross-border transport operation between Member States, that occur entirely on the territory of a Member State. The Commission justifies this exemption by stating that consultations undertaken have demonstrated that this provision helps make combined transport solutions more attractive. The Commission also refers to the Court of Justice judgment in Case 2/84 (*Commission v Italy*) which takes the view that combined transport should be considered as one single interconnected international transport operation.
- In the reasons given for the proposal, the Commission also points out that the rules on the posting of workers will apply to national combined transport, as they do to cabotage. No clear statement is made however with respect to the rules on the posting of workers and international combined transport operations.

### 3. General comments

3.1. The EESC supports the initiative to update the Directive on combined transport as a way to render the combined transport concept more efficient and attractive. This will make transport more sustainable, reduce road transport and GHG emissions, and contribute both to the objectives set out in the 2011 White Paper on transport policy and compliance with the undertakings of the EU and its Member States under the Paris Agreement.

3.2. The EESC approves the move to broaden the scope of the Directive, by including domestic operations with currently untapped potential to develop combined transport and hence reduce road transport.

3.3. The EESC also takes favourable note of the simplification of the regulatory framework for combined transport, intended to make the concept more accessible and improve legal certainty, both of which should make this concept more attractive.

3.4. In this context, the improved clarity of the criteria describing the delimitation of road transport legs is particularly useful: the criteria are simple, clear and seem to leave no room for diverging interpretations. The EESC nevertheless concludes that the limit of 20 % of the distance as the crow flies between the initial loading and the final unloading points could lead to road transport distances that are above the 300 km limit beyond which the 2011 White Paper on transport favours a modal shift away from roads, particularly in regions with sparse networks or long distances between terminals. However, the EESC considers that the overall interest of making the combined transport concept interesting for users and the added value of a clear and simple definition takes priority, and therefore approves the proposed solution.

3.5. The EESC also appreciates the element of flexibility granted to Member States to extend the road transport legs as required to make it possible to reach the geographically nearest transport terminal which has the necessary operational capacity for loading or unloading in terms of transshipment equipment, terminal capacity and appropriate rail freight services.

3.5.1 The EESC notes that it seems to be left up to the Member States to decide whether this authorisation should be granted through a generally applicable provision or on a case-by-case basis. The EESC underscores the importance of transparency, and therefore considers that national provisions on this matter as well as, wherever applicable, decisions in specific cases should be made available on a dedicated website, in accordance with the second paragraph of the new Article 9a, referred to in Article 1(7) of the proposal.

3.6. In order to facilitate planning of combined transport operations and make the concept more attractive, the EESC would suggest that all pertinent information regarding implementation of the Directive in each Member State be made available on a dedicated website in each Member State and that a provision to that effect be introduced into the second paragraph of Article 9a of the proposal.

3.7. The EESC approves the clarification in Article 3 of the proposal regarding the documents that are to be provided for the purpose of checks on compliance, the ban on requiring further documentation and the option to provide the documents required in electronic form. This provision facilitates operations and enhances legal certainty. Nonetheless, the EESC questions whether a copy of the decision taken should not also be available, in cases where a longer road leg has been authorised by a Member State under the third paragraph of Article 1(3) and where this authorisation is in the form of a dedicated decision.

3.8. The EESC notes with satisfaction the emphasis on investment in transshipment terminals and the obligation to coordinate such investments with neighbouring Member States and with the Commission to ensure balanced and sufficient geographical distribution, particularly in the TEN-T network, and to give priority to ensuring that no location in the EU is more than 150 km from such a terminal. The EESC doubts however that this aim is realistic in areas with low population density and a sparse rail and port network.

3.9. Support to combined transport needs to be notified to the European Commission and requires to be authorised according to State aid rules before being disbursed. Due to the lengthy procedures, the beneficiary of the aid most often receives the aid after 3 years from the moment the national public authority decided the aid and sometimes, when the schemes need to be modified, the beneficiary risk to lose all benefits. To reduce uncertainty and speed up the process, the EESC considers that aid less than a certain ceiling, for instance 35 % of the total costs, should be automatically considered compliant to the Treaty and be exempted from notification.

3.10. The EESC would also draw attention to the possibilities offered to further develop combined transport through digitalisation. The proposal takes a step by allowing the use of electronic documents and the creation of dedicated websites in all Member States.

#### 4. Specific comments

4.1. The EESC notes that the second paragraph of Article 1 of the proposal excludes from a combined transport concept any inland waterway or maritime transport for which there is no equivalent road transport alternative or which is unavoidable in a commercially viable transport operation. This provision appears to be linked to the elimination of a minimum distance requirement for inland waterway and maritime transport and delivers on the statement in recital (9) of the preamble that 'It would therefore be useful to remove that minimum distance while maintaining the exclusion of certain operations such as those including deep sea shipments or short-distance ferry crossings.' The EESC has doubts about both the substance and wording of this provision.

4.1.1 It appears that one of the effects of the 100 km requirement on inland waterway and maritime transport, as the Directive now stands, is to exclude short ferry transport and deep-sea shipping, as distinguished from short sea shipping. This follows from the fact that the 100 km requirement applies to transport carried out inside the EU. The proposal made in the second paragraph of Article 2 is clearly intended to have the same effect.

4.1.2 It seems however that the provision now proposed is likely to create uncertainty as to when it applies, possibly to the point of creating a regulatory obstacle to the implementation of combined transport projects.

Thus, the criterion of 'no equivalent transport alternative' leaves open whether the equivalence should be assessed by time required, length in kilometres or cost. Likewise, the criterion 'unavoidable in a commercially viable transport operation' leaves a wide scope of interpretation.

4.1.3 The EESC therefore questions the usefulness of the proposed provision, particularly since no similar selection criteria, clearly based on the idea of excluding choices that do not need encouragement, have been considered necessary with respect to rail transport.

4.2. The EESC also finds it difficult to understand why the so-called 'cabotage exemption' in Article 4 of the directive remains unchanged. As a matter of transport policy, the EESC would here refer firstly to the pending proposals regarding market access in international road transport of goods with respect to cabotage and the current focus on market access and competition, including social aspects. The EESC also bears in mind the general principle that service provision in a country other than that where the service provider is established should be performed on a temporary basis.

4.2.1 The EESC takes note of the two arguments invoked by the Commission in favour of the solution chosen. One is that answers given by businesses during consultations show that the current solution is seen as making combined transport attractive. The other is that a combined transport operation, under the definition provided by the Directive in its current wording, is to be seen as a single international transport operation. In support of this argument, the Commission invokes the case-law of the Court of Justice, specifically Case 2/84 (*Commission v Italy*).



4.2.2 In the opinion of the EESC, the argument based on Court of Justice case-law is simply founded on the fact that the Court was bound by the choice of the legislator to define combined transport in a way that allows it to be seen as one operation or journey. It is therefore merely a matter of whether the legislator decides to see the combined transport operation as a whole or as a number of different operations undertaken in the framework of a transport concept. In any case, the EESC points out that when the Directive was adopted, the legislator found it necessary to provide for free market access for hauliers 'regarding the initial and/or final road haulage leg which form an integral part of the combined transport operation and which may or may not include the crossing of a frontier'.

4.2.3 In the opinion of the EESC, there is nothing to prevent a provision stipulating that road haulage legs within the framework of a combined transport operation are separate transport operations and that Regulation (EC) 1072/2009 applies to all road transport operations. Article 4 of the Directive should be amended accordingly.

4.3. In this context, it is also surprising to note that the provision in Article 2 of the Directive requiring Member States to liberalise the combined transport operations referred to in Article 1 from all quota systems and systems of authorisation by 1 July 1993 is not included in the proposal, in particular taking into account the fact that the scope of the Directive is to be extended to cover national combined transport.

4.3.1 With the scope of the Directive extended to cover national combined transport operations, this provision will also apply to such operations. The wording of the provision is fairly wide and could be interpreted as dispensing combined transport from the rules on admission to the profession in Regulation (EC) 1071/2009 and from all restrictions to market access as far as combined transport is concerned.

4.3.2 The EESC assumes that such effects are not intended and would therefore suggest either deleting this article or rephrasing it in order to make it clear that the dispensation from quota systems and authorisations applies without prejudice to rules on access to the profession or market access, with respect to each mode involved.

4.4. The EESC further notes that the proposal makes no mention of the applicability of the posting of workers directive to combined transport operations, with the exception of a reference in the explanatory memorandum to the applicability of the proposed *lex specialis* on posting of workers in road transport. This would mean that the rules on posting of workers under Directive 96/71/EC would apply to road transport in the context of national combined transport.

4.4.1 The EESC assumes that the rules on posting of workers also apply to any posting within the framework of a combined transport operation which fulfils the criteria set out in Article 1 of Directive 96/71/EC and in the proposed *lex specialis*, when and if it is approved.

4.5. The EESC takes note of the concerns over the cost of long sea links on peripheral islands such as Cyprus and Malta and the pertinence in that regard of the support regime established through Council Regulation (EC) 1405/2006 to compensate for transport costs with respect to agriculture on certain smaller Aegean islands, as raised by the EESC. The EESC suggests that the possibility of a similar solution for Cyprus and Malta should also be examined by the Commission.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles’**

(COM(2017) 653 final — 2017/0291 (COD))

(2018/C 262/10)

Rapporteur: **Ulrich SAMM**

Consultation	European Parliament, 30.11.2017 Council of the European Union, 4.12.2017
Legal basis	Article 192 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	206/0/2

## 1. Conclusions and recommendations

1.1. The EESC endorses the rationale for the Clean Vehicles Directive — as part of the Clean Mobility Package — although it will have only a small impact compared to the general efforts needed to achieve the EU's climate objectives and in particular the decarbonisation of transport, since this directive is limited to **public procurement** only. The directive aims to promote certain vehicle categories (emission zero at tail-pipe) which are the cleanest (rather than merely clean) technologies via demanding minimum targets for public procurement of such vehicles.

1.2. The EESC would criticise the lack of clarity in this directive, in particular a **scattering of information**, with different definitions, and the complicated counting methods for ‘clean vehicles’ over two distinct time periods during which the definitions for emission thresholds will very likely change again. This complexity will raise serious **uncertainties** among the stakeholders.

1.3. The EESC doubts, in view of the uncertainties about emission thresholds, that the **transition period** until 2025 will really help to bridge the technology gap until zero emissions at tail-pipe becomes broadly available and believes that this will tend more to irritate the decision-makers in public procurement. As a consequence, procurements might either be greatly delayed or even accelerated, but with old technology, which would then block possible future investments into new zero emission technology.

1.4. For **heavy-duty vehicles** the uncertainties are greatest. There are no emission standards available to be used in the transition period and the zero at tail-pipe technology is less mature compared to light vehicles. For the first phase of the transition period natural gas with additions from biomethane are accepted but with a reduced weighting factor, while for the subsequent phase there are no thresholds or definitions given at all and no information is given on how to derive the new emission thresholds. The EESC concludes from these facts that the directive is **premature** concerning heavy vehicles and recommends separating this part from the present proposal and dealing with it at a later stage.

1.5. The EESC welcomes the general **technology-neutral** approach, open towards new developments, which we can expect in view of the ongoing strong R&D efforts which are supported by the EU. But the EESC would like to note, however, that the directive does not follow this approach fully. Propulsion technologies other than electric vehicles with batteries also provide great potential for clean mobility. The EESC regrets that this is not well enough acknowledged by the directive, like for example 100 % fossil-free fuels or maybe in future synthetic fuels from waste or CO<sub>2</sub>, which are produced with excess electricity.

1.6. In view of the ongoing developments in modern transport technology, for the years to come the EESC recommends therefore a **more flexible approach** rather than fixed emission thresholds and procurement targets. A mid-term review of the minimum targets for example seems to be the least to be done to allow for an adaptation of the values at a later stage.

1.7. A major share of public procurement is related to **local public transport** bodies which are in the hands of cities and municipalities, the financial scope of which is quite limited. The EESC would like to raise strong concerns about the **proportionality** of this approach because it does not reflect at all on the additional financial burden for these public bodies and does not compare the proposal with other industry policy options. It is not evident, therefore, that an extra burden in public procurement for mainly cities and municipalities is the most efficient way to trigger industry activities and market developments.

1.8. The EESC emphasises that any additional costs can lead to a significant **burden for citizens** through higher ticket prices, higher local taxes or even a reduction of the public transport offering. Moreover, the strong efforts towards clean air already made by cities and municipalities, including through extending the use of public transport, should be acknowledged and not hindered by new rules for procurement which demand minimum targets for whole Member States but are hard to meet and control at the level of municipalities with their large variety of small and large public transport bodies.

1.9. As sub-contracting also falls under the scope of the Commission proposal, the EESC is concerned about the consequences the proposal may have on **small and medium enterprises**; in fact, many small local bus companies contribute to the provision of transport services in larger urban areas as sub-contractors to the local public transport operators; these companies may not have the vehicles available that are requested by this directive and might then no longer qualify as a sub-contractor.

1.10. The EESC concludes that the main obstacle to the modernisation of public transport and the public procurement of clean vehicles is the **lack of financial support** and urges the Commission to reconsider the present proposal with a focus on financing, in particular by taking into account existing instruments. The specific financial support must take into account the diversity of countries, cities and regions in terms of economic strength and share of population living in urban areas with the overarching objective of harmonising the procurement of clean vehicles in all Member States.

1.11. The EESC notes that besides the need to have more clean vehicles in public transport, it is essential to convince more citizens to use this transport by making it much more attractive (connections, comfort), rather than focusing on low ticket prices.

## 2. Introduction

2.1. The EU is committed to a **decarbonised energy system** as described in the '**clean energy package**', which aims to accelerate, transform and consolidate the EU economy's clean energy transition in accordance with the EU's COP21 commitments, while retaining the important goals of economic growth and job creation.

2.2. The EU has already done a lot. **Greenhouse gas emissions** in the EU were reduced by 23 % between 1990 and 2016, while the economy grew by 53 % over the same period. This success has been achieved in many sectors except in **transport** — a sector which contributes about 24 % of Europe's greenhouse gas emissions (in 2015) and which has even seen a growth in emissions as the economic recovery in Europe goes on. Furthermore, the urgency regarding limiting air pollution in cities puts additional pressure on the need for clean transport.

2.3. Consequently the EESC endorsed the **European strategy for low-emission mobility**<sup>(1)</sup>,<sup>(2)</sup> including its aims and methods, which are in line with the 2011 **EU transport policy white paper**<sup>(3)</sup>. Moreover, the '**Clean Energy for all Europeans**' package of November 2016 and the strategy '**Europe on the move**' (2017) included action to accelerate the deployment of clean vehicles which has been welcomed by the EESC<sup>(4)</sup>,<sup>(5)</sup>.

<sup>(1)</sup> COM(2016) 501 final.

<sup>(2)</sup> OJ C 173, 31.5.2017, p. 55.

<sup>(3)</sup> COM(2011) 144 final.

<sup>(4)</sup> OJ C 246, 28.7.2017, p. 64.

<sup>(5)</sup> OJ C 81, 2.3.2018, p. 195.

2.4. The recent **Clean Mobility Package** <sup>(6)</sup> now includes specific legal initiatives such as the **Clean Vehicles Directive** (covered by this opinion), new CO<sub>2</sub> standards for vehicles, an action plan for the trans-European deployment of alternative fuels infrastructure, the revision of the Combined Transport Directive, the Regulation on Passenger Coach Services and a battery initiative as an important strategy for the EU's integrated industrial policy.

2.5. Among the many instruments to decarbonise transport **public procurement** of clean vehicles as a demand-side stimulus can play an important role. Public procurement can provide a trigger for market development, as for example in the market segment of urban buses. Public fleet procurement of clean vehicles might also influence private purchases of clean vehicles.

### 3. Shortcomings of the current (old) directive

3.1. In order to promote the public procurement of clean vehicles the Commission introduced in 2009 **Directive 2009/33/EC** on the promotion of clean and energy efficient road transport vehicles, which has been welcomed by the EESC <sup>(7)</sup>, <sup>(8)</sup>.

3.2. Public bodies in Europe, however, have purchased rather small volumes of low- and zero-emission and other alternatively fuelled vehicles under the scope of the Clean Vehicles Directive. For example for the time period of 2009-2015, an approximate average of only 1,7 % of all new buses represented battery-electric, fuel-cell electric, plug-in hybrid or natural gas vehicles.

3.3. Some Member States or single regions or cities have already put ambitious public procurement frameworks in place that set minimum procurement requirements for clean, i.e. low- and zero-emission or other alternative fuels vehicles. However, this is not sufficient to set enough incentives and market stimulus within the whole Union.

3.4. An *ex-post* evaluation carried out in 2015 identified significant shortcomings in the directive. The directive had little effect on the market uptake of clean vehicles across the EU because it has so far not stimulated the public procurement of clean vehicles. The main shortcomings identified are:

- The directive does not clearly define 'clean vehicles'.
- The directive does not cover practices other than direct purchase by public bodies and does not address the renting, leasing or hire-purchase of vehicles, nor transport service contracts other than for public passenger transport.
- The monetisation methodology described in the directive has been rarely used by public bodies because it is too complex.

3.5. As part of the impact assessment, stakeholders were consulted in 2016 and 2017 about various options proposed to improve the directive. As a result, a set of amendments have been proposed to provide a definition of clean vehicles, and minimum procurement targets for light-duty vehicles as well as for heavy-duty vehicles. Such harmonised criteria applied at EU level are not in place yet.

### 4. Proposals for a revised directive

4.1. The revision ensures that the new directive provides a definition of clean vehicles and now covers all relevant procurement practices with more simplified and effective procedures. The important new elements are:

- definition of clean vehicles based on a zero-emission at tail-pipe approach for light-duty vehicles and on alternative fuels for heavy-duty vehicles,

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<sup>(6)</sup> COM(2017) 675 final.

<sup>(7)</sup> OJ C 51, 17.2.2011, p. 37.

<sup>(8)</sup> OJ C 424, 26.11.2014, p. 58.

- a transition period until 2025 during which low-emission vehicles are also considered as clean vehicles, however counted only with a weighting factor of 0,5,
- provision to adopt a delegated act under this directive to adopt the same approach for heavy-duty vehicles as for light duty vehicles after legislation about emission standards for such vehicles has been adopted at EU level in the future,
- extension to forms of procurement other than purchase, namely vehicle lease, public service contracts for public road transport services, non-scheduled passenger transport and hire of buses and coaches with driver,
- definition of minimum procurement targets at Member State level differentiated by Member State and by vehicle segment categories,
- discarding of the methodology for monetisation of external effects,
- introduction of a reporting scheme for Member States on the implementation of the directive every three years, starting with an intermediate report in 2023 and full reporting in 2026 on the implementation of the target for 2025.

## 5. Specific comments

5.1. The EESC endorses the rationale for the Clean Vehicles Directive, although it will have only a small impact compared to the overall efforts needed to achieve the EU's climate objectives, since this directive aims only at public procurement and not the private or commercial purchase of vehicles. Nevertheless, the directive might play an important role since public investments can provide a role model and help to develop the infrastructure, which could also be used by the private sector and thus also trigger private investments. Public investments in clean vehicles also have an immediate impact on clean air for citizens, in particular in city centres (for example in the vicinity of bus terminals).

5.2. The EESC would criticise the **lack of clarity** in this directive<sup>(9)</sup>, in particular the scattering of information, with different definitions, and the complicated counting methods for 'clean vehicles' over two distinct time periods (until 2025 and 2025-2030), during which the definitions for emission thresholds will very likely change again. This complexity will raise serious uncertainties among the stakeholders.

5.3. The only simple rule in the directive is the definition and counting of vehicles with **zero emissions at tail-pipe**. This mainly relates to 100 % electric vehicles; however, it also allows for a deviation from this principle by accepting gas-fuelled heavy vehicles as 'clean' provided this gas is 100 % biomethane. All of the other rules are more complex like the counting of certain vehicles only as half a vehicle and the variety of fuel types depending on vehicle category and emission standards which are subject to changes in the near future.

5.4. For a **transition period** (until 2025), **light-duty vehicles** below a certain threshold of emissions at tail-pipe are considered also as 'clean vehicles'; however, they are counted only with the weighting factor 0,5. The thresholds are 40 CO<sub>2</sub> g/km for vans and 25 CO<sub>2</sub> g/km for passenger vans, which at present can only be achieved by plug-in hybrids. These thresholds will be changed as soon as the new Worldwide Harmonized Light Vehicles Test Procedure (WLTP) is implemented, which will be well before 2025. Thus the transition period is split into two parts. The consequences of such a change are unpredictable for the stakeholders based on the information given in the directive. The EESC doubts, in view of these uncertainties, that the transition period until 2025 will really help to bridge the technology gap until zero emissions at tail-pipe becomes broadly available and believes that this will tend more to irritate the decision-makers in public procurement. As a consequence, procurements might either be greatly delayed or even accelerated, but with old technology, which would then block possible future investments in new zero emission technology.

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<sup>(9)</sup> COM(2017) 653 final Annex 1.

5.5. For **heavy-duty vehicles** the uncertainties are even greater. There are no emission standards available to be used in the transition period and the zero at tail-pipe technology is less mature compared to light vehicles. For the first phase of the transition period, natural gas with additions from biomethane are accepted but with a reduced weighting factor, while for the subsequent phase there are no thresholds or definitions given at all. The Commission wants to implement these thresholds via a delegated act once they are defined, but there is no information given about the criteria for deriving these new emission thresholds. The EESC concludes from these facts that the directive is **premature** concerning heavy vehicles and recommends separating this part from the current proposal and dealing with it at a later stage.

5.6. The EESC welcomes the general **technology-neutral** approach, open to new developments, which we can expect in view of the ongoing strong R&D efforts which are supported by the EU. But the EESC would like to note, however, that the directive does not follow this approach fully, as, for example, liquid fossil-free fuels are excluded.

5.7. The promotion of battery driven **electric vehicles** (EV) is currently being strongly pushed forward in many countries worldwide together with an increasing number of car manufacturers. The ramping up of the market for electric vehicles, however, depends on many factors that the automotive industry can only influence to a limited extent like battery costs, battery recycling, charging infrastructure, fuel prices and public-sector procurement, as promoted by this directive.

5.8. Propulsion technologies other than EVs with batteries also provide great potential for clean mobility. The EESC regrets that this is not well enough acknowledged by the directive. For example, **100 % fossil-free fuels** (like bio-diesel HVO100 widely used in Sweden and other countries) or maybe in future **synthetic fuels** from waste or CO<sub>2</sub>, which are produced with excess electricity available in increasing amounts with the ongoing extension of fluctuating renewable energy sources.

5.9. In view of the ongoing developments in modern transport technology, for the years to come the EESC recommends, therefore, a more **flexible approach** rather than fixed emission thresholds and procurement targets. A mid-term review of the minimum targets for example seems to be the least to be done to allow for an adaptation of the values at a later stage.

## 6. Climate protection or industry policy

6.1. It is obvious that this directive — in spite of its title — is not primarily targeting clean vehicles, climate protection and clean air; rather it is aimed at public procurement and industry policy, with a view to promoting certain vehicle categories which are the cleanest (rather than merely clean) technologies to be procured. A closer look at the various types of 'clean vehicles' and alternative fuels as defined in this directive unveils this discrepancy. Some types of fuels may help to improve the air quality in cities but they are not beneficial for the climate, for example when the electricity or the hydrogen for EVs comes from coal power plants. Vice versa, low emission vehicles with natural gas from biomethane, while being climate friendly, may nevertheless contribute to local air pollution. In the 2030 timeframe of the directive, completely fossil-free biofuels, although not accepted in this directive, will play a crucial role in fulfilling the EU's climate targets. Moreover, the zero at tail-pipe approach does not at all reflect the carbon footprint of a vehicle over its whole lifetime.

6.2. The main focus of the directive is on **industry policy by using the public procurement** of clean vehicles as a demand-side stimulus to provide a trigger for market development, as for example in the market segment of urban buses. The Commission assumes that public fleet procurement of clean vehicles can also influence private purchases of clean light vehicles since consumers will be influenced by an increase in citizens' confidence that the technologies are mature and trustworthy and most importantly by an improved public recharging and refuelling infrastructure (smart charging) available for private users, in particular for people who do not have a private garage.

6.3. The EESC would, however, like to raise strong concerns about the **proportionality of this approach**. The proposal claims to be in accordance with the principle of proportionality. It does, however, not reflect at all on the **additional financial burden** for the public bodies and does not compare the proposal with other industry policy options. It is not evident, therefore, that an extra burden in public procurement for mainly cities and municipalities is the most efficient way to trigger industry activities and market developments. Strong concerns have been expressed by local public transport

organisations as well as representatives from cities and municipalities. The main points raised by these stakeholders are:

- significant additional money is necessary for investments, which is far beyond their capacities,
- many cities have already done a lot for clean transport, but the directive ignores all these efforts,
- modern Euro VI diesel buses are ignored, although they have been set as a new standard in 2011 <sup>(10)</sup> and can bring cost-efficient reductions of public transport emissions,
- plug-in hybrids are not accepted after 2025,
- the infrastructure for electric charging of buses and trucks is quite distinct from charging light vehicles like private cars, therefore the synergy is rather limited,
- exemptions have to be made for fire brigades, police, ambulance vehicles,
- in some municipalities, public procurement involves rather low numbers of vehicles (fewer than 10) with which the minimum targets are hardly likely to be met,
- the proposed reporting can only be realised with acceptable administrative efforts when a 'clean vehicles' category would be introduced into the official car registers.

6.4. A major share of public procurement is related to **local public transport** bodies which are in the hands of cities and municipalities, the financial scope of which is quite limited. Any additional investment in the most advanced technology at higher costs (and risks) can lead to a significant burden for citizens through higher ticket prices, higher local taxes or even a reduction of the public transport offering. Moreover, the strong efforts towards clean air already made by cities and municipalities, including through extending the use of public transport, should be acknowledged and not hindered by new rules for procurement which demand minimum targets for whole Member States but are hard to meet and control at the level of municipalities with their large variety of small and large public transport bodies.

6.5. As sub-contracting also falls under the scope of the Commission proposal, the EESC is concerned about the consequences the proposal may have on **small and medium enterprises**; in fact, many small local bus companies contribute to the provision of transport services in larger urban areas as sub-contractors to the local public transport operators; these companies may not have the vehicles available that are requested by this directive and might then no longer qualify as a sub-contractor.

6.6. The EESC concludes that the main obstacle to the modernisation of public transport and the public procurement of clean vehicles is the **lack of financial support** and urges the Commission to reconsider the present proposal with a focus on financing, in particular by taking into account existing instruments like the strategic and structural funds (EFSI, ESIF) and the Connecting Europe Facility (CEF) and, most importantly, to define the right priorities for the next MFF. This specific financial support must take into account the diversity of countries, cities and regions in terms of economic strength and share of population living in urban areas with the overarching objective of harmonising the procurement of clean vehicles in all Member States. The EESC also notes that besides the need to have more clean vehicles in public transport, it is essential to convince more citizens to use this transport by making it much more attractive (connections, comfort), rather than focusing on low ticket prices.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(10)</sup> Commission Regulation (EU) No 582/2011.



**Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council amending Directive 2009/73/EC concerning common rules for the internal market in natural gas**

(COM(2017) 660 final — 2017/0294 (COD))

(2018/C 262/11)

Rapporteur: **Baiba MILTOVIČA**

Referrals	European Parliament, 29.11.2017 Council of the European Union, 22.11.2017
Legal basis	Article 194 of the Treaty on the Functioning of the European Union
Sector responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	149/1/3

## 1. Conclusions and recommendations

1.1. Civil society as a whole can only flourish under the consistent rule of law. Therefore the European Economic and Social Committee, though noting some points of difference with the Commission and regretting the original oversight that created the legal void which this Directive seeks to fill, supports the intention of the amendments proposed to the 2009 Gas Directive, which, it is anticipated, will lead to better market integration and security of supply.

1.2. These proposed amendments to the Gas Directive <sup>(1)</sup> have resulted in extensive debate and disagreement at Member State level. The Committee believes that important issues of principle and solidarity are involved that need to be addressed unambiguously.

1.3. Political and economic sensitivities need to be fully recognised — which is not presently the case — but equally the EU will need to decide whether the goal of a coherent, sustainable and equitable energy market for all Member States is achievable in the present political climate. What is at stake in the short term is a challenge to some Member States to forgo what they perceive as being in their own national interests in favour of support for clear and consistent regulatory principles applied, in the context of energy supply and security, to the single market. In the long term, the challenge is different and there is a risk of locking in a costly fossil fuel infrastructure which, by facilitating increasing dependency, may reduce the EU's capacity to meet its climate commitments.

1.4. The Committee notes that eliminating external dependency is a long-term programme that requires further development of interconnectivity of gas supply between Member States, improving storage capacity and adding capacity for alternative supply options such as liquefied natural gas (LNG), and recognising the increasing role for renewable energy.

1.5. The Committee considers that one area of regulatory uncertainty (regarding future construction programmes due to lack of clarity about the proposed derogation process) may be a risk to investment security and block free market competition among national and regional authorities in attracting investment. This needs to be evaluated alongside the significant improvements in the gas market through regulatory processes that have been established in the last two decades.

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<sup>(1)</sup> OJ L 211, 14.8.2009, p. 94.



1.6. Previous views expressed by the Committee in numerous opinions on energy and climate policy in recent years<sup>(2)</sup> have stressed that only through clear and effective governance — and a significant degree of political pragmatism and goodwill — can these sensitive issues pertaining to energy supply be resolved. This proposal from the Commission is in accord with those views and should be progressed swiftly.

1.7. The Committee notes, however, that there may be a range of legal challenges to the amendments and that there will certainly be significant political disagreements and also commercial concerns from some industry stakeholders. The absence of an impact assessment in these circumstances is therefore regrettable.

1.8. The Committee supports the proposed Gas Directive amendments which aim to ensure that within the EU's jurisdiction the fundamental principles of the EU energy legislation, such as third-party access, tariff regulation, ownership unbundling and transparency would be applied to EU gas interconnectors with third countries. In this regard, the Committee believes that necessary amendments to the Gas Directive should be adopted without further delay and should not leave any legal uncertainties regarding full applicability of the EU law to existing and planned interconnectors.

1.9. The Committee is of the opinion that any possibilities for exemption from the application of the main provisions of the Directive should be strictly limited and restricted in time (e.g. max 10 years), granted only in exceptional cases after a comprehensive assessment by the Commission to ensure that any exemptions would not contradict Energy Unions goals and negatively affect competition and effective functioning of the Union's internal gas market or the security of gas supply in the Union.

## 2. Introduction

2.1. Gas remains one of the main primary energy sources for the EU and the efficient functioning of the internal market for gas plays an important part in both the economy and the energy security of many EU Member States. It is also true that the EU's dependency on energy imports of all types has been steadily increasing over the last 25 years, from 44 % in 1990 to 53 % in 2015. It is necessary to import nearly 70 % of the natural gas used in the EU, 90 % of which arrives by pipeline from third countries. The largest supplier is Russia, which accounts for some 40 % overall, though in some countries of eastern Europe this proportion is considerably higher.

2.2. Recognising that this dependency can also create vulnerability, one of the major aspects of the Gas Directive has been to improve the interconnectivity of gas supply between Member States, to improve storage capacity and to add capacity for alternative supply options such as LNG. The continuing objective for the Energy Union is to increase internal resilience while recognising that eliminating external dependency is a long-term programme.

2.3. The Gas Directive established common rules for the transmission, distribution, supply and storage of natural gas between EU Member States, but does not apply to pipelines connecting Member States with third countries. By proposing a number of amendments, this Directive seeks to extend the principles of the Gas Directive to existing and future pipelines, up to the borders of the EU. Some of those pipelines, for example those entering from the territory of the Energy Community, are already subject to the Gas Directive, but there are existing gas pipelines which will be impacted by this proposal that enter the EU from Norway, Algeria, Libya, Tunisia, Morocco and Russia, and the proposal may also have an impact — post-Brexit — on pipelines connecting the UK with EU Member States.

2.4. Clearly, EU law applies only in EU jurisdictions and not in third countries but these amendments will ensure that it does apply to any legal and contractual arrangements made between a Member State and a third country at the point of entry of a pipeline into the EU jurisdiction. Nevertheless, the individual Member States who undertake such agreements with third country suppliers would be able to grant derogations from many of the key principles of the Gas Directive for existing pipelines. New pipelines, planned or under construction at the point this Directive enters into force, would be subject to all requirements of the internal market for natural gas. Should national authorities and the Commission find an exemption request to be justified, a project-specific regulatory framework could nevertheless be granted. In effect, this

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<sup>(2)</sup> OJ C 487, 28.12.2016, p. 70; OJ C 487, 28.12.2016, p. 81; OJ C 246, 28.7.2017, p. 34.

would give the European Commission a significant if not determining role concerning the regulatory and market access terms of any agreement on a new pipeline. These powers can be seen as an essential compliance mechanism in shaping the overall energy supply market and in maintaining the balance between affordability, security and sustainability. This approach is recognised by the Committee as being consistent with the governance framework of the Energy Union and its overall objectives.

### 3. Gist of the Commission's proposal

3.1. The extension of the principles of the Gas Directive is considered important because the process of creating an internal market in natural gas for the EU needs to deal with the reality that gas transmission systems are similar to a natural monopoly. The huge investment required to establish such massive infrastructure undertakings creates an exceptionally high entry barrier to other market operators. There is therefore a requirement for measures ensuring an obligation of third party access, the separation of gas production and supply activities from activities of gas transmission via the unbundling of transmission system operators, and the obligation on national regulatory authorities to set or approve non-discriminatory and cost-reflective tariffs for the use of transmission systems.

3.2. The proposal sets out a number of amendments to the Gas Directive which fall under four broad headings:

- **specifying a wider scope:** the definition of 'interconnector' is extended to pipelines from/to third countries,
- **unbundling rules:** alternative unbundling models are facilitated,
- **consultation requirements:** EU regulatory authorities to consult with the relevant authorities of third countries on the application of the Gas Directive up to EU borders,
- **derogation:** a Member State may grant a derogation from the provisions of some of the articles of the Gas Directive for existing gas pipelines to and from third countries.

### 4. General comments

4.1. It is important to note that although the main objective of the proposal is to improve the medium- to long-term effectiveness of the internal energy market, it can be argued that, in practice, these amendments may introduce, in the short term, a degree of regulatory uncertainty. This is because Member States may choose to seek a range of derogations from some requirements of the Gas Directive for existing pipelines. However, it should be noted that such uncertainty would eventually be resolved by full and consistent application of the Gas Directive requirements, including the core principles of this directive, i.e. unbundling, third-party access and tariffs based on all construction and operation costs.

4.2. A number of new pipeline projects are also under development — in particular, the Nord Stream 2 project is the one that has aroused significant opposition among some EU Member States. This new element of regulatory uncertainty may have an impact on construction programmes and introduce delay. It is also argued that the amendments would block free market competition among national and regional authorities in attracting foreign investment. However, in the development of the single market there have been many instances of forgoing national control in the interests of EU citizens as a whole, recognising that extensive benefits result from solidarity of action.

4.3. High-pressure, long-distance pipelines are complex and costly pieces of infrastructure where costs have to be recouped over many years. Even though there may be some potential for using such assets for innovative low carbon gas (bio/hydrogen) delivery there is a substantial risk of locking in a costly fossil fuel infrastructure which, by facilitating increasing dependency, may reduce the EU's capacity to meet its climate commitments.

4.4. It is possible that some Member States could regard the amendments as limiting their sovereignty to some degree. This is because a Member State will not be able to deviate from EU law through a bilaterally negotiated intergovernmental agreement in the area covered by the Gas Directive, an area not previously regulated by the EU. The Committee agrees that it is logical and appropriate for this legal void to be filled.

4.5. The Committee, regarding the points set out above, is concerned that the Commission felt that an impact assessment was not required. It is evident that in this politically sensitive area where economic factors come into play evidence must be tabled to underpin the arguments being made for the proposed amendments. Some of this evidence, it can be noted, is contained in the staff working document or in-depth analysis conducted by the Commission such as Impact Assessment of the Gas Directive.

4.6. Greater clarity from the Commission is also needed on the ways in which the internal market is benefited. There remain gaps in the implementation of the Third Energy Package in several Member States but it is not obvious how these amendments will affect implementation.

4.7. Nevertheless, it is also clear that the proposal is seeking to create the possibility of a significant intervention, where necessary and at agreed EU policy level, which could restrict creating further dependency on Russian gas and thereby stimulate diversity of supply. The Committee believes this is an objective which will further the best interests of the EU.

## 5. Specific comments

5.1. This proposal should be understood as part of the programme to enhance coherence, solidarity, security, competitiveness, and market regularity in the EU's energy policy — as represented by the Energy Union. In this context there is a medium-term objective of reducing dependency on a dominant gas supplier by increased utilisation of the EEA indigenous gas sources and of LNG Terminals, improved energy efficiency and an increasing role for renewables. In the short term there is modest scope for substituting natural gas in some areas of power generation such as some cogeneration plants. It is especially significant for district heating schemes. Quickly controllable gas-fired power plants and cogeneration plants are also used to cushion the natural fluctuations in renewable energy, making an important contribution to the security of supply in the electricity sector and also ensuring the security of supply in the heating sector. There is little scope for natural gas substitution in the residential and commercial sector as it is unrealistic for the sector to maintain alternative equipment/infrastructure.

5.2. It should also be noted that governments of the Member States repeatedly announce that 'interconnectivity' (integration with neighbours, establishing a common natural gas market, development of regional natural gas infrastructure such as the Baltic Connector, etc.) will ensure preconditions for fair competition among gas suppliers, better service quality and wider choice for all consumers of natural gas. In markets where natural gas consumption is dropping year by year, only a few suppliers are interested in providing a service to household consumers.

5.3. In the ongoing debate about natural gas supplies to the EU, the phrase 'energy security' is being interpreted in two different ways. On the one hand, it is argued that greatly increasing the capacity of pipelines bringing gas to Europe will enhance energy resilience by allowing additional natural gas supplies to meet any shortfall caused by the continuing fall in production of all types of fossil fuels within Europe (coal, oil and gas). It can also play a role in meeting shortfalls caused by intermittency in the supply of renewable electricity and can play an important role in the energy transition. Natural gas, having the lowest carbon footprint of the fossil fuels, is clearly a priority choice when renewables or nuclear energy are either inappropriate or unavailable.

5.4. On the other hand, it is argued that Europe's vulnerability might be increased if capacity growth in natural gas encourages reliance on supply from a country (Russia) whose interests may significantly diverge from those of the EU and which may use the supply of gas as an economic and foreign policy bargaining chip. The Member States' economic and political interests are in some degree of conflict on this point and it is difficult to see how these two interpretations can be reconciled in the short to medium term.

5.5. On balance, the Committee's view, expressed in numerous opinions in recent years and in particular in those pertaining to the establishment and functioning of the Energy Union, has been that only through an effective and agreed governance mechanism will the agreed climate and energy security objectives of the EU be achieved. This includes mitigating the risk of overdependence on one energy supplier.

5.6. This Directive seeks to deal with a legislative grey area and ensure that the rules and principles of the single market are applied and an unregulated area comes within the scope of EU law with greater involvement of the European Commission in exploring issues of common interest.

5.7. Gas Directive amendments aim to ensure that within the EU's jurisdiction the fundamental principles of the EU energy legislation, such as third-party access, tariff regulation, ownership unbundling and transparency, would be applied to EU gas interconnectors with third countries. In this regard, the Committee believes that necessary amendments to the Gas Directive should be adopted without further delay and should not leave any legal uncertainties regarding full applicability of the EU law to existing and planned interconnectors.

5.8. The Committee is of the opinion that any possibilities for exemption from the application of the main provisions of the Directive should be strictly limited and restricted in time (e.g. max. 10 years) and granted only in exceptional cases after a comprehensive assessment by the Commission to ensure that any exemptions would not contradict the Energy Union's goals and negatively affect competition and the effective functioning of the Union's internal gas market or the security of gas supply in the Union.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards the broadest use of alternative fuels — an Action Plan on Alternative Fuels Infrastructure under Article 10(6) of Directive 2014/94/EU, including the assessment of national policy frameworks under Article 10(2) of Directive 2014/94/EU**

(COM(2017) 652 final)

(2018/C 262/12)

Rapporteur: **Séamus BOLAND**

Consultation	European Commission, 18.1.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	170/1/3

## 1. Conclusions and recommendations

1.1. This opinion mainly concerns the provision of alternative fuels infrastructure in the EU in light of EU commitments under the Paris Agreement. It is therefore an addition to the many previous transport opinions adopted by the EESC. The EESC strongly recommends that implementation of the Action Plan on Alternative Fuels Infrastructure be prioritised by the EU and by all stakeholders.

1.2. The EESC strongly welcomes the European Commission's initiatives to decarbonise the transport sector, particularly its determination that the provision of alternative fuels infrastructure should be accelerated so that there are zero greenhouse gas and air pollutant emissions by 2050.

1.3. However, the EESC is concerned that the national policy frameworks agreed by each Member State as instruments to achieve decarbonisation are currently falling significantly short of their stated aims and objectives. Because of that, the Action Plan on Alternative Fuels Infrastructure is likely to fail. The EESC strongly recommends that the Commission and Member States recognise this as a matter of urgency.

1.4. Therefore the EESC recommends that the national policy frameworks be reviewed as a matter of urgency by the Commission with a view to ensuring that they will meet the stated targets.

1.5. The EESC recommends that any obstacles, including loss of tax revenue from fossil fuels, should be identified and eliminated by each of the Member States.

1.6. The EESC notes the significant financial commitment made by the EU for the provision of alternative fuels infrastructure. However, it is concerned that the estimates of the financing required are too low and that the leveraging of funding from the private sector is falling behind. The EESC recommends an urgent review of the financing that is projected to be raised and, where necessary, for appropriate action to be taken to correct a situation in which the necessary financial targets are not met.

1.7. The EESC notes the commitments of the shipping and aviation industry to meet the decarbonisation targets agreed by all stakeholders. However, it recommends that the necessary dialogue between the Commission, the Member States and these two industries be stepped up in the short term.

1.8. The EESC is extremely concerned about the low level of consumer involvement and interaction with relevant stakeholders. It therefore strongly recommends that consumers have a much more prominent role in all aspects of rolling out alternative fuels.

1.9. The EESC recommends that research be carried out to identify new rare earth sources. It also recommends that the Commission, in partnership with the Member States, maintain up-to-date information on the latest technologies for transport.

1.10. While the EESC welcomes the prioritisation of measures in urban areas, there is a need to devise programmes that are also suitable for rural transport. Therefore, the EESC recommends that such programmes could include the establishment of infrastructure based on the use of biofuels, mainly originating from agricultural waste, as well as waste from other sources, and use of technology that supports biodigesters. Such programmes could include the creation of infrastructure based on the use of advanced biofuels originating from agricultural, forestry or other waste sources.

## 2. Introduction

2.1. This opinion concentrates on the action plan as it applies to the provision of alternative fuels infrastructure in the EU. The EESC has already adopted opinions on the wider mobility package as well as other aspects of transport. Consequently this opinion will not examine the wider area of transport in terms of climate change. The importance of providing an infrastructure that will facilitate the switch from conventional fuels to sustainable fuels, in line with the European Commission strategy to achieve compliance with the Paris agreement, cannot be understated.

2.2. In November 2017, the Commission took decisive steps forward in implementing the EU's commitments under the Paris Agreement, which stipulated a binding domestic reduction in CO<sub>2</sub> of at least 40 % by 2030. The 'Clean Mobility Package' included an action plan and investment solutions for the trans-European deployment of alternative fuels infrastructure. The aim is to support national policy frameworks by supporting investments in the transport network (the trans-European transport network or 'TEN-T') in urban areas. This will ensure the availability of alternative fuels infrastructure for road users.

2.3. The action plan also directs Member States to include objectives to reduce emissions caused by shipping and aviation.

2.4. The EESC — in at least 15 recent opinions dealing with transport in terms of decarbonisation, COP21 and many other environmental sustainability issues — has consistently supported improving public access to alternative fuels infrastructure.

2.5. As part of the EU's declared ambition to become a world leader in decarbonisation, the European Commission has put forward proposals to achieve a rapid transition from high-emission fuels in the transport sector to low- or non-emission fuels by 2025.

2.6. The action plan on alternative fuels infrastructure is a package of proposals designed to seamlessly and completely reduce emissions in the transport sector following a timeline oriented around the years 2020, 2025 and 2030.

2.7. By current EU estimates, as many as 95 % of road vehicles and vessels use conventional fuels. This is despite the availability of a number of EU funding instruments (for fossil fuels or biofuels) which are not covered by the action plan.

2.8. However, due to the availability of EU funding, some progress in the provision of alternative fuels infrastructure has been made. The European Alternative Fuels Observatory has recorded 118 000 publicly accessible recharging points for electric vehicles. There are 3 458 refuelling points for compressed natural gas and, at the end of September 2017, there were 82 points for hydrogen vehicles. However only two Member States provide over 100 charging points for electric vehicles per 100 000 city inhabitants.

2.9. All Member States were due to report on progress by the end of 2017. Two failed to do so (Malta and Romania). A significant majority of the remaining Member States have demonstrated that they are falling behind in relation to their targets and, based on current predictions, will fail completely to meet them.

### 3. National policy frameworks

3.1. Following Directive 2014/94/EU, Member States have established national policy frameworks which must provide minimum infrastructure coverage by 2020, 2025 and 2030, depending on the fuel in question. Each national policy framework sets targets and objectives, and Member States were required to report to the Commission by 2017.

3.2. The Directive focused on fuels where failures of market coordination are relevant, such as electricity, hydrogen and natural gas (LNG and CNG). Biofuels are also considered to constitute an important alternative and are likely to account for the majority of alternative fuels on the market in the short to medium term. The main components necessary for building an infrastructure which would protect the use of biofuels are already in existence.

3.3. The national policy frameworks (NPFs) are designed to provide minimum alternative fuels infrastructure coverage by 2020, 2025 and 2030 in each of the Member States. The main elements of this infrastructure are electricity, compressed natural gas (CNG), liquid natural gas (LNG), and hydrogen.

According to estimates of infrastructure investment needs by Member States under Directive 2014/94/EU, the following figures apply:

- *Electricity*: up to EUR 904 million by 2020 (NPFs require targets for 2020 only).
- *CNG*: up to EUR 357 million by 2020 and up to EUR 600 million by 2025 for CNG road vehicles (based on the total cost of the 937 (by 2020) and 1 575 (by 2025) new CNG refuelling points planned under the national policy frameworks).
- *LNG*: up to EUR 257 million by 2025 for LNG road vehicles. For LNG for waterborne transport, up to EUR 945 million in the TEN-T Core Network Corridor seaports by 2025 and up to EUR 1 billion in the TEN-T Core Network Corridor inland ports by 2030.
- *Hydrogen*: up to EUR 707 million by 2025 (see COM(2017) 652 final).

3.4. Only 8 out of 25 Member States were assessed as fully compliant in terms of meeting their targets, while two Member States had not submitted reports by November 2017. The Commission's assessment is extremely critical of progress made and particularly of the level of ambition, as demonstrated by a range of conflicting policies in different countries, which undermine their commitments to achieving their own objectives to provide alternative fuels infrastructure.

3.4.1. The EESC notes that some of these countries have improved their efforts since the figures were published.

3.5. The overall conclusion reached by the Commission is that the NPFs have failed badly to demonstrate real progress in terms of the meaningful deployment of alternative fuels infrastructure.

3.6. The damning nature of the assessment, and the attention drawn in the Commission staff working document to the limited impact of NPFs, would indicate that targets will be missed by some distance and that there is, at the very least, a need for an urgent review.



#### 4. Background and gist of the Commission Communication

4.1. The action plan aims to assist the national policy frameworks, to help create an ‘interoperable EU backbone infrastructure by 2025’. The aim is to create core transport corridors that can be used for long distances and across borders, provided there is agreement by all stakeholders.

4.2. The EU wishes to accelerate deployment in two areas. Firstly, in the TEN-T core and comprehensive networks. Secondly, the priority is to better meet infrastructure needs in urban and suburban areas.

4.3. The measures are intended to benefit consumers, industries and public authorities on the basis that responsibility is shared between public authorities and industry. There should be a sustainable level of available vehicles and vessels to ensure continuity in supply and demand.

4.4. Electricity as an alternative fuels infrastructure has become the main priority across the EU. However, progress in deploying the necessary infrastructure for electric vehicles by 2020 is low; estimated 2020 shares range between 0,1 % and 9,2 % of the vehicle stock in different Member States (SWD(2017) 365 final).

4.5. The Communication makes it clear that there is a need for an integrated approach in terms of a common policy framework across the EU for vehicles, electricity grids, economic incentives, and digital services. Otherwise the achievement of a transition to low- and zero-emission mobility will be uneven and will create a multi-speed approach between Member States.

4.6. The plan stresses the need to inject significant public and private investment. It advocates the ‘blending of non-repayable grants with repayable debt finance’ as a way of meeting the high level of funding required.

4.7. Two separate forums — the Sustainable Transport Forum and the European Sustainable Shipping Forum — with similar roles, aimed at achieving the participation of Member States, civil society and other relevant stakeholders, have been established by the Commission.

#### 5. Challenges with alternative infrastructure provision

5.1. The EESC points to various challenges with providing infrastructure for alternative fuels, and laments the lack of urgency shown by all stakeholders in addressing these.

5.2. There is a severe lack of charging infrastructure necessary for recharging and refuelling vehicles and vessels across the EU. The EESC believes that one of the main contributory factors to this is insufficient smart grid development, which creates a situation where consumers are unable to participate in the transition.

5.3. Given the slow progress by all parties in implementing measures, the EESC concludes that there is a varying commitment to alternative fuels infrastructure among the Member States, as borne out by the Commission’s evaluations. The EESC believes that this is a major barrier to achieving the EU’s sustainability goals. However, considerable progress has been made in the EU with developing biofuels (not covered by the 2014 directive), especially in some Member States.

5.4. Some uncertainties still arise concerning the technology of alternative fuels infrastructure. These include the manufacture of batteries necessary to make electric cars, in view of the increasing cost of extracting the required virgin raw materials. The use of secondary recovered raw materials, as per the circular economy principles, should be encouraged. Equally, consumers have an information deficit regarding the safety of compressed gas, and the use and availability of hydrogen. This should be addressed.

5.5. Perceived uncertainties among consumers surrounding technology, plus the lack of immediate information on price comparisons, have been identified as a significant challenge to adoption by consumers. (EU Study on the Implementation of Article 7(3) of the ‘Directive on the Deployment of Alternative Fuels Infrastructure’, January 2017). They also see real limitations in terms of long journeys, particularly in rural areas. This is a major barrier to success.

5.6. The high cost of transition in rural areas is a significant prohibitive factor in achieving deployment of alternative fuels infrastructure. Likewise, the failure by stakeholders to proactively encourage the provision of alternative fuels infrastructure suitable for the varied needs of agriculture and long-distance driving in areas that have scattered rural settlements must be recognised as a matter of urgency.

5.7. The desire to mix public and private funding mechanisms will depend on meeting the varying needs of public and private investors. Reconciling these needs, particularly when there are divergent expectations among public and private sources, could delay progress.

5.8. The action plan is largely concerned with achieving transition in the main urban centres of population. Part of the reason for this is that technology for recharging is still limited, and since rural journeys tend to be longer, charging points need to be more available. Likewise, the EESC notes that the installation of infrastructure needed in rural areas requires considerably more attention.

5.9. The action plan is dependent on a high level of commitment from each Member State to ensuring that their respective national policy frameworks are implemented in a timely and efficient manner.

5.10. To encourage this, the Commission has established a Sustainable Transport Forum, which brings together representatives of the Member States, the transport sector and civil society, with the aim of achieving effective implementation of policies towards alternative fuels infrastructure.

## 6. EESC observations

6.1. The EESC is concerned by the clear failure of the NPFs to demonstrate, in terms of ambition, any real achievement of meaningful progress in the roll-out of an alternative fuels infrastructure. The fear that there is a strong likelihood of all targets being missed suggests that there is an urgent need to review this strategy and to make recommendations on a model that would achieve success. However, the diverse views on different fuels in different Member States and markets must be noted. For instance, LNG and CNG are not considered a reasonable option for new infrastructure in the Nordic countries, where biofuels on the other hand are very successful and promoted. In other parts of EU the preference for different fuels is totally different.

6.2. Technical maturity must also be taken into consideration. For instance hydrogen is still in the early testing phases in most markets. So is electric battery propulsion for heavy vehicles over longer distances like TEN-T corridors. Battery charging for such vehicles is probably less viable in the medium term. However, testing is also ongoing in several Member States for electric propulsion of heavy lorries through overhead wires or ground rails in the road surface (e-highways, etc.). This infrastructure is not mentioned in the action plan at all, but must today be considered rather more technologically mature than hydrogen fuels.

6.3. Estimates of investment need to provide publicly accessible alternative fuels infrastructure by 2020 range from EUR 5,2 billion to 6 billion. Looking forward to 2025, this figure is projected to reach a minimum of EUR 22 billion. Despite these estimates, there is little evidence that this will be sufficient to guarantee success in meeting the necessary targets.

6.4. It is possible that these estimates are too conservative and may have to be revised to take account of changing technology. Therefore, the EESC welcomes the Commission's desire to work more closely with the automotive industry to design various financial instruments to encourage private investment.

6.5. The EESC notes, however, that such instruments need to ensure that the deployment of infrastructure must bring wide benefit to the public in terms of access and affordability. Access in rural and isolated areas is of particular concern.

6.6. The EESC notes that fuel taxation is currently a significant source of national income in all EU Member States. Clearly, a reduction in income due to the achievement of environmental goals would pose challenges for the taxation policies of each Member State. It should be noted, however, that the Commission's proposal in the mobility package regarding road charging (Eurovignette, see TEN/640) includes some new options for internalising external costs through infrastructure charges.

6.7. The EESC notes that the shipping sector is seen as difficult to regulate, mainly because of the international context in which rules and laws are made. While shipping needs to become proactive in its cooperation with alternative fuels infrastructure, it is clear that there is potential, at local level, to provide alternative fuels (e.g. methanol and LNG), particularly for short sea shipping and ferries. Electrical infrastructure for quayside operations etc. could also be mentioned.

6.8. Similarly, although less directly linked to the action plan, air transport is expected to increase exponentially up to 2050. Compliance with decarbonisation targets will require significant uptake of alternative fuels with a high greenhouse-gas-saving potential. Use of biofuels in this area should be considered and the necessary investment should take place as a result of meaningful dialogue with all relevant stakeholders and the European Commission.

6.9. There is a need to streamline public and private investment in alternative fuels infrastructure. Therefore, the EESC welcomes the Commission's proposal to strengthen coordination of EU funding instruments and to strive for synergies so that measures at national and local levels can increase the impact of EU funding.

6.10. Consumer awareness is paramount to successful deployment of infrastructure. This includes information on price comparisons, health and environmental benefits, and specific interventions that assist families with lower income levels.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — ‘Delivering on low-emission mobility. A European Union that protects the planet, empowers its consumers and defends its industry and workers’**

[COM(2017) 675 final]

(2018/C 262/13)

Rapporteur: **Ulrich SAMM**

Consultation	European Commission, 18.1.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	201/0/3

## 1. Conclusions and recommendations

1.1. The focus of this communication on road transport rests on an industry that is a **world leader** in manufacturing and service provision. This strong position must be maintained and used to accelerate, transform and consolidate the EU economy's clean energy transition, with the important goal of also achieving **leadership in new technologies** on the world market.

1.2. The EESC welcomes the general **technology-neutral** approach, open to new developments. The EESC would like to note, however, that the initiatives do not follow this approach fully. It is far from sure that our future mobility will be all-electric, and other propulsion technologies, such as hydrogen or completely fossil-free liquid fuels such as HVO100, also provide big potential for clean mobility. The EESC regrets that this is not well enough acknowledged.

1.3. The EESC welcomes the initiatives intended to restore **consumer confidence** in the automotive industry and the regulatory system by means of realistic emission standards and new test procedures. In this connection, it is essential that the industry itself take care and assume responsibility.

1.4. The EESC notes that at present about fourteen million new cars are launched every year, replacing only about 5 % of the total fleet of 253 million cars in the EU. With this **rate of replacement** emissions will be reduced; however, this is not sufficient and the EESC would welcome any initiative that could accelerate the renewal rate of the existing car fleet in Europe, which would help to reduce emissions faster. However, the Commission's attention should be drawn to the need to counter the practice of removing vehicles from certain European markets only to see them sold on and used in other markets (see point 4.7).

1.5. We have to be aware that the build-up of a significant share of low-emission vehicles requires a **transition time**, the duration of which depends on the developments made by the automotive industry, how quickly customers accept the new technology, the costs involved, as well as other factors such as charging infrastructure. The EESC points out that the transition time does not provide a reason to allow diesel cars to surpass emission limits and that the question of possibilities for retrofitting diesel cars and the related responsibilities for covering the costs has to be solved quickly.

1.6. The EESC asks the European Commission to make a better and clear distinction between **climate protection** and improved **local air** quality. This is important to win people over for public and private investment. Certain types of fuels may help to improve the air quality in cities but are not beneficial for the climate — when the electricity or the hydrogen for EVs comes from coal power plants, for example. On the other hand, low emission vehicles using natural gas (this means predominantly methane from any kind of sources be it underground, organic materials or synthetic chemical processes or a blend of these) from bio-methane, while being climate friendly, may nevertheless contribute to local air pollution.

1.7. The EESC urges the Commission to be more rigorous in facilitating consumers' access to affordable new and cleaner forms of mobility and to make sure that the benefits of these new mobility services are available to all and are spread evenly throughout the Union. Some of the proposed **funding instruments** may be helpful to tackle this problem, but the Committee does not believe them sufficient.

1.8. The EESC welcomes the important role the Commission plays in forming a pan-European alliance of industries with a view to establishing a complete value chain for the development and manufacturing of advanced **batteries** in the EU. A larger share of manufacturing along the value chain within the EU is vital for our jobs, and the guarantee that batteries manufactured are 'clean' can best be achieved under EU environmental standards and rules, as for example in the circular economy approach.

## 2. Introduction

2.1. The EU is committed to a **decarbonised energy system** as described in the '**clean energy package**', which aims to accelerate, transform and consolidate the EU economy's clean energy transition in accordance with its COP21 commitments, while retaining the important goals of economic growth and job creation.

2.2. The EU has already done a lot so far. Its **greenhouse gas emissions** were reduced by 23 % between 1990 and 2016, while the economy grew by 53 % over the same period. This success has been achieved in many sectors except in **transport** — a sector which contributes about 24 % of Europe's greenhouse gas emissions (2015 figure) and which has even seen a growth in emissions as the economic recovery in Europe continues. The **European strategy for low-emission mobility** <sup>(1)</sup> will tackle this problem.

2.3. The EESC notes that the EU has already made significant improvements towards clean mobility: in 2009 the average values for **CO<sub>2</sub> emissions** for new cars and light commercial vehicles were set at 130 g CO<sub>2</sub>/km for 2015 and 95 g CO<sub>2</sub>/km for 2020, which is key for achieving the EU climate goals. Since the **Euro-norm** was introduced in 1992, lawmakers have lowered the passenger-car limits for nitrogen oxides from Euro 1 to Euro 6 by 97 % and for particles by 98 %, which represents a significant improvement for local air pollution in cities.

2.4. Nevertheless, these measures for road transport are not sufficient in terms of the COP21 commitments and the most urgent need for clean air in cities. While the average emissions per car and km are decreasing, the total emissions from road transport are not, since total traffic has increased and the speed of vehicle fleet replacement in the EU is limited.

2.5. The European Commission has therefore responded with the '**Europe on the Move**' initiative, which comprises a number of legal initiatives being delivered in three packages. The **first package**, presented in 2017, reflected Europe's ambition of making rapid progress towards putting in place a clean, competitive and connected mobility system by 2025 that would integrate all means of transport and span the entire Union. This has been welcomed by the EESC <sup>(2)</sup> <sup>(3)</sup> as being key for a well-functioning **Single European Transport Area** with an appropriate regulatory framework.

<sup>(1)</sup> COM(2016) 501 final.

<sup>(2)</sup> OJ C 246, 28.7.2017, p. 64.

<sup>(3)</sup> OJ C 81, 2.3.2018, p. 195.

2.6. The communication <sup>(4)</sup> on the **second package** of the 'Europe on the Move' strategy, dealt with in this opinion, focusses more on instruments to reduce emissions from road transport, such as the Clean Vehicles Directive <sup>(5)</sup>, new CO<sub>2</sub> standards for vehicles <sup>(6)</sup>, an action plan for the trans-European deployment of alternative fuels infrastructure <sup>(7)</sup>, the revision of the Combined Transport Directive <sup>(8)</sup>, the Regulation on Passenger Coach Services <sup>(9)</sup> and a battery initiative. The specific proposals are covered in detail in separate Committee opinions. The **third package**, which will focus more on safety issues, will be delivered in the first half of 2018.

### 3. Gist of the Communication

3.1. The second package contains several legal initiatives to establish clear, realistic and enforceable rules to help secure a level playing field between industry players operating in Europe. Consumers will be encouraged to make the shift to clean vehicles and other clean mobility options by enhancing the infrastructure for alternative fuels and provision of interoperable services across borders.

3.2. A new **CO<sub>2</sub> Regulation** for passenger cars and light commercial vehicles is proposed for the time after 2020. Under this, passenger car and light commercial vehicle manufacturers are to reduce the CO<sub>2</sub> output of their new vehicle fleet in the EU by 15 % by 2025 and by 30 % by 2030. These relative reduction goals will be replaced by absolute CO<sub>2</sub> emission values as soon as data from the new Worldwide Harmonised Light Vehicles Test Procedure (WLTP) become available (not expected before 2020).

3.3. The introduction of the WLTP as a robust and more realistic **testing framework for type-approval** of cars will be key to overcoming the severe crisis in consumer confidence and to restoring trust. Real Driving Emission (RDE) tests will also be introduced, to be performed on the road rather than on a test bench.

3.4. An action plan is proposed to boost investment in **alternative fuel infrastructure** and develop a network of fast and interoperable recharging and fuelling stations across the Union. Several funding instruments are involved, such as the Clean Transport Facility, the Connecting Europe Facility, the European Fund for Strategic Investment Financing and the European Regional Development Fund.

3.5. The **Combined Transport Directive** is revised to promote the combined use of different modes for freight transport (e.g. lorries and trains).

3.6. The **Directive on Passenger Coach Services** shall stimulate the development of national bus connections and bus connections over long distances across Europe, provide a bigger choice for transport for all citizens, and offer alternative options to the use of private cars.

3.7. The **Clean Vehicles Directive** shall promote clean mobility methods in public procurement tenders as a demand stimulus for the automotive industry.

3.8. A **battery initiative** helps an alliance of European industries to become more independent and to increase the share along the electric vehicle production value chain. The European Commission will also allocate EUR 200 million directly to battery research and innovation under Horizon 2020 (Work Programme 2018-2020), on top of the EUR 150 million already allocated.

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<sup>(4)</sup> COM(2017) 675 final

<sup>(5)</sup> TEN/652 Clean and energy efficient vehicles, rapp Samm (See page 58 of this OJ).

<sup>(6)</sup> INT/835 Revision of the Regulations on CO<sub>2</sub> emissions from passenger cars and light commercial vehicles, rapp. Bergrath (not yet published in the Official Journal).

<sup>(7)</sup> TEN/654 Action plan for alternative fuels infrastructure (Communication), rapp. Boland (See page 69 of this OJ).

<sup>(8)</sup> TEN/651 Combined transport of goods, rapp. Back (See page 52 of this OJ).

<sup>(9)</sup> TEN/650 Access to the international market for coach and bus services, rapp. Hencks (See page 47 of this OJ).



#### 4. General comments

4.1. The focus of this communication on road transport rests on an industry that is a **world leader** in manufacturing and service provision. The production part of this sector employs 11 % of all workers in manufacturing across the EU and generates 7 % of EU GDP. This strong position must be maintained and used to accelerate, transform and consolidate the EU economy's clean energy transition, with the important goal of also achieving **leadership in new technologies** on the world market.

4.2. The EESC welcomes the general **technology-neutral** approach, open to new developments, which we can expect in view of the ongoing strong R & D efforts which are supported by the EU. The EESC would like to note, however, that the initiatives do not follow this approach fully. Depending on the technological progress, it is far from sure that our future mobility will be all-electric. Other propulsion technologies also provide big potential for clean mobility. In view of the fast developments in modern transport technology for the years to come the EESC therefore recommends a **more flexible approach** rather than, for example, fixed emission thresholds or procurement targets. A mid-term review of emission thresholds and minimum targets for example seems to be the least to be done to allow for adaptation at a later stage.

4.3. The EESC welcomes the initiatives intended to restore **consumer confidence** in the automotive industry and the regulatory system. Rebuilding trust by means of realistic emission standards and new test procedures is vital. The EESC notes that more realistic emission values will depend not only on the car's technology but to a large extent on driver behaviour and on weather and road conditions. Consumers will consequently be faced with a rather large variation of data even for a single type of car.

4.4. Every year about fourteen million new cars are launched, replacing only about 5 % of the total fleet of 253 million cars in the EU. Even with this **rate of replacement** alone — and based on existing emission standards —, CO<sub>2</sub> emissions will be reduced by more than 30 % by 2030 compared with 2005 (VDA report). The EESC would welcome any initiative which could accelerate the renewal rate and thus also reduce emissions further. In particular for countries with a less developed automotive industry tradition the need for new production solutions delivers opportunities for innovativeness and a potential for an upsurge of competitiveness in the development of low-emission mobility.

4.5. The EESC would like to point out that the Commission should also consider, in addition to its focus on new technologies such as electric cars, the large potential for improvements in the **existing fleet**. For example, a reduction of CO<sub>2</sub> emissions by 1 g delivered through the addition of fossil-free fuels for the whole fleet is just as effective as a 20 g improvement in the new vehicle fleet (VDA report).

4.6. We have to be aware that the build-up of a significant share of low-emission vehicles requires a **transition time**, the duration of which is unpredictable. It depends on the developments made by the automotive industry, how quickly customers accept the new technology and the costs involved, as well as other factors such as charging infrastructure, fuel prices or public-sector procurement.

However, this transition time must not be seen as giving free rein to continue exceeding the limits for diesel cars and to avoid retrofitting them with an SCR system to comply with the Euro 6 standard. The Commission should ensure that Member States' national legislatures take up Euro 6 retrofitting as quickly as possible, and that responsibility and liability for costs are clarified.

4.7. The EESC calls on the automotive industry to use the transition time in such a way that the **cohesion** in the EU is improved by making the right choices about the location of industrial sites and that the opportunities for clean vehicles are the same in all Member States. It would be unacceptable if, for example, older diesel cars would be banned in some Member States and then be sold to Member States with a weaker economy. Moreover, developments outside the EU play a significant role, since the European automotive industry works to a large extent for the **world market**. It is of the utmost importance that EU policy support the international agreements which are fair for the European automotive industry compared with its competitors in the USA or Asia.



4.8. Whether we have a technological breakthrough in future, in battery performance for example, depends on **research and development**. Such a breakthrough could happen not only in battery electric vehicles, but also in the area of fuels to be used in internal combustion engines or fuel cells. While climate-friendly, completely fossil-free fuels such as HVO100 are already widely used in some countries (such as Sweden), **new types of fuel** could also become available, such as syn-fuel or hydrogen, which might be produced at acceptable costs with the excess electricity available in increasing amounts due to the ongoing expansion of fluctuating renewable energy sources.

4.9. The EESC asks the European Commission to make a better and clear distinction between the different objectives pursued in introducing clean vehicles. There are two aims: climate protection and improved local air quality. It is important to note that certain types of fuels may help to improve the air quality in cities but are not beneficial for the climate — when the electricity or the hydrogen for EVs comes from coal power plants, for example. On the other hand, low emission vehicles using natural gas from bio-methane, while being climate friendly, may nevertheless contribute to local air pollution. The reduction of local air pollution in cities is a matter of great urgency and requires action at regional and local levels, while climate protection is a global issue and changes can only be achieved (and observed) over decades. It is important to make a clear distinction between these aims in order to win people over for public and private investment.

4.10. The EESC urges the Commission to be more rigorous in facilitating consumers' access to affordable new and cleaner forms of mobility and to make sure that the benefits of these new mobility services are available to all and are spread evenly throughout the Union. Possible problems, in particular additional **costs for consumers**, are a matter of concern. Some of the proposed funding instruments may be helpful to tackle this problem, but the Committee does not believe them sufficient. In this connection, the EESC welcomes the Commission's initiative to improve consumers' ability to make more refined choices when purchasing or using a vehicle by providing more transparency and offering a methodology for comparing costs.

4.11. The EESC welcomes the important role the Commission plays in forming a pan-European alliance of industries with a view to establishing a complete value-chain for the development and manufacturing of advanced **batteries** in the EU. There are several reasons for this objective: more independence from battery manufacturers from outside the EU is of strategic importance; a larger share of manufacturing along the value chain within the EU is vital for our jobs, and the guarantee that batteries manufactured are 'clean' can best be achieved under EU environmental standards and rules, as for example in the circular economy approach. Large-scale investment for this goal from industry is essential, while the Commission's role is to lay down proper boundary conditions, such as technical standards.

4.12. The EESC endorses the tail-pipe emission approach for defining 'clean vehicles' because it is simple. It would, however, also like to emphasise that this approach does not reflect the **carbon footprint** of a vehicle over its whole lifetime. In order to avoid any unjustified treatment of certain types of vehicles, more efforts are needed on the legislation front in order to go beyond the tail-pipe approach and also take into account manufacturing issues or the provision of clean energy.

4.13. The EESC concludes that the main obstacle to the modernisation of **public transport** is the lack of financial support and urges the Commission to reconsider the revision of the directive on public procurement with a focus on financing. The EESC notes that, besides the need to have more clean vehicles in public transport, it is essential to convince more citizens to use this transport by making it much more attractive (connections, comfort), rather than focusing on low ticket prices.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**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 — Communication on strengthening Europe’s energy networks’**

(COM(2017) 718 *final*)

(2018/C 262/14)

Rapporteur: **Andrés BARCELÓ DELGADO**

Consultation	European Commission, 12.2.2018
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Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	5.4.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	157/1/2

## 1. Conclusions and recommendations

THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

1.1. **shares** the view that a sufficiently interconnected European energy grid is a prerequisite for achieving the aim of the Energy Union: to provide affordable, secure and sustainable energy that makes the energy transition to a low-carbon economy possible in a competitive way;

1.2. **reaffirms** that all EU climate and energy security objectives are inextricably linked, meaning that none of them should be considered secondary to the others, despite the fact that some are not binding on the Member States;

1.3. **considers** that investments in grid infrastructure should be implemented with the same intensity as other energy investments, and in particular in coordination with the expansion of renewables, and therefore urges the Commission and the Member States to ensure proper development of transnational and national energy networks in order to facilitate joint development that enables the EU’s targets to be achieved;

1.4. **calls on** the Commission and the Member States to draw up two-yearly monitoring reports on the achievement of the renewable development targets and national and transnational networks, with a view to ensuring coordinated delivery of renewables and networks, focusing particularly on identifying those bottlenecks that hinder the transmission of renewable energy;

1.5. **confirms** that the 10 % interconnection target set for 2020 will not be achieved in several Member States, and that the difficulties involved in developing these projects (complex administrative procedures, policy implications, funding, lack of public support) jeopardise the achievement of the 2030 targets, hampering the achievement of the EU’s climate policy as a whole;

1.6. **suggests** that actively involving organised civil society in the design phases of the interconnection projects can help to mitigate the lack of public support for some projects;

1.7. **calls for** progress to be made on the Regulation on the Governance of the Energy Union, enabling the introduction of measures required to facilitate the development of interconnections in the areas that currently have less than the 10 % target;

1.8. **recommends** supplementing the country interconnection share indicator with monitoring of interconnection shares per geographical area (such as the Iberian peninsula), and incorporating indicators monitoring price differences between wholesale markets with a view to prioritising implementation of PCIs in the areas where price differences are greater;

1.9. **recognises** that the financial support obtained through the Connecting Europe Facility (CEF), with its budget of EUR 5,35 billion for energy infrastructure up to 2020, together with the other sources of support and the work of the Regional Groups, has enabled the implementation of a growing number of projects that bring the EU closer to completing the internal energy market;

1.10. **calls for** a review of the budget available for supporting interconnection projects, since the current allocations might be insufficient to achieve the targets set;

1.11. **calls on** the Member States and the Commission to strengthen solidarity and shared security mechanisms, so as to facilitate the achievement of the energy transition and the security of supply objectives with a good cost-benefit ratio, boosting the competitiveness of industry and benefiting European citizens; and

1.12. **recommends** that the Commission and the Member States promote software tools that boost efficiency when operating interconnections.

## 2. Trans-European energy networks policy

2.1. To achieve its climate change, competitiveness and energy security goals, the European Union has set itself targets for the development of energy transmission networks to make the energy transition to a low-carbon economy possible.

In particular, for 2020 it has set itself the challenge of Member States achieving 10 % interconnection with their neighbouring countries. In addition, in order to ensure that the implementation of the renewable generation targets is accompanied by adequate development of interconnections, the European Council agreed to raise the 2030 electricity interconnection target to 15 %.

2.2. To ensure the 10 % interconnection target is met, the EU adopted in 2013 the Trans-European Energy Networks (TEN-E) Regulation and launched the Connecting Europe Facility (CEF), laying the foundations for identifying, supporting and prioritising the implementation of the projects of common interest (PCIs) necessary to achieve a resilient trans-European energy network.

2.3. In the period up to 2030, EUR 180 billion in investments in European energy grids will be needed, and it is expected that, once completed, these will lead to annual savings of between EUR 40 and 70 billion in terms of avoided generation costs and more competitive gas wholesale prices, reducing the costs of the energy transition.

The third list of PCIs, which is still awaiting approval by the European Parliament, identifies 173 projects that will contribute to achieving the interconnection targets for 2020 and 2030.

Despite the aims of the list and the existing support measures, the technical difficulties inherent in the projects and the political and administrative implications and lack of public support mean that less than 30 % of the 173 projects included in the third review of the PCIs carried out in 2017 will be completed by 2020.

This delay is partly due to the fact that the national application of the TEN-E rules has not been fully carried out.

2.4. In order to make progress towards achieving the targets, the Commission established four high-level groups to accelerate infrastructure development in four specific regions.

#### 2.4.1. *Baltic Energy Market Interconnection Plan*

The policy priority is synchronisation of the Baltic States' electricity grid with the continental European network and ending the isolation of gas networks as well as dependence on one gas source in the Baltic States and Finland.

The EESC fully supports a political agreement to boost the completion of the gas PCIs by 2021, both the Estonia-Finland interconnection and the Poland-Lithuania interconnection.

#### 2.4.2. *Iberian peninsula (Madrid Declaration)*

Regrettably, despite the approval of the Bay of Biscay line, the interconnections between the Iberian peninsula and the rest of Europe fall short of the targets in place for 2020, and far short of those set for 2030.

The level of interconnection between Spain and Portugal does not solve the underlying problem of the lack of connections between the Iberian peninsula and France, as the only way to connect the peninsula to Europe and integrate it into the internal market is via France, with interconnections with this country currently around 2,8 %.

This low share of interconnections contributes to making electricity prices in the Iberian peninsula among the highest in Europe and means that the cost for the system of integrating renewables is also very high, with a need for large back-up power capabilities and the implementation of procedures making it possible to manage high volatility in the energy generation mix. The recent statements by President Macron show key political support for the two interconnections across the Pyrenees that are — still — in their infancy.

#### 2.4.3. *Central South Eastern energy connectivity*

This region is vulnerable to supply disruptions and pays a higher gas price than the rest of the EU, despite its geographical proximity to its gas supplier.

The main objectives are the launch of the Bulgaria-Serbia interconnector, the start of investment in the Krk liquefied natural gas (LNG) terminal (in the first half of 2018) and the start of construction of the Romanian part of the Bulgaria-Austria corridor.

#### 2.4.4. *North Seas energy cooperation*

The main objective has focused on combining renewable generation and transmission, as well as on establishing a legal and regulatory framework that is conducive to such projects in an area with a wind generating potential of between 4 % and 12 % of the EU's consumption, by 2030.

### 3. **Re-orienting our infrastructure policy for the longer term**

3.1. Although the Commission and the Member States have made a significant effort in driving forward PCIs, the reality is that due to technical difficulties, red tape and financial constraints, only a small number will be fully completed in 2020, meaning that it is necessary to urgently review the planned timetable for implementing the PCIs, giving priority to the areas which are furthest from achieving the interconnection objectives.

3.2. The EESC believes that cybersecurity criteria should be included in the PCIs, so as to limit the risk to the European public.

Digitalisation will mean that the proportion of new investment projects devoted to systems will be increasingly significant.

3.3. With regard to gas interconnections, priority should be given to those PCIs that contribute substantially to ensuring Member States' security of supply, both against risks arising from the actions of third countries and in light of technical limitations.

3.4. The electricity interconnection targets fall short in that they consider each Member State separately. The EESC believes that the exercise needs to be repeated by geographical area, with the necessary clusters of Member States to prevent bottlenecks in grid interconnections. This is particularly vital in cases where a Member State can only be interconnected with the rest of Europe through another Member State, such as in the case of the Iberian peninsula, Cyprus, Malta and Ireland.

3.5. The interconnections of Member States with a higher connection deficit, including the countries in the Iberian peninsula, South Eastern Europe, Poland and Ireland, should be prioritised, and the EESC calls on the Commission and the Member States to put in place the measures required to implement them without undue delay.

3.6. The 10 % electricity interconnection target will not be reached by 2020 in Cyprus, Italy, Poland, Spain and the UK, and the inclusion of Ireland and Portugal on the 'achieved' list is highly questionable.

According to the Commission's own data, the target of 15 % electricity interconnections by 2030 seems unlikely to be achieved, especially if a proper analysis is carried out by 'geographical bottleneck' rather than just by Member State.

3.7. The new thresholds that have been set to measure the needs for interconnection and integration into the internal market, with a view to achieving the 2030 targets are:

- a threshold of a EUR 2/MWh difference between the wholesale markets of each Member State, region or bidding zone, with the aim of advancing the harmonisation of markets,
- electricity supply must come from a combination of the capacity of each Member State and energy imports; where the nominal capacity of interconnectors is below 30 % of their peak load, new interconnections must be investigated, and
- the third threshold concerns the optimal use of renewable energy: where the interconnection capacity (export) is below 30 % of installed renewable capacity, new interconnections will need to be investigated.

These three thresholds directly link the targets for the development of renewables and integration into the internal market with the interconnection targets, thereby making positive progress towards achieving all of them.

3.8. Considering the new thresholds set and the limitations of the analysis by Member State, there are six countries which do not meet any of the three thresholds: Cyprus, Greece, Ireland, Italy, Spain and the UK. To these should be added Portugal and Malta, which meet two of the thresholds, but thanks to an exclusive connection to Spain and Italy respectively.

The Baltic countries, Bulgaria, Germany, Poland and Romania meet two of the three thresholds, while the remaining Member States can be considered to be fully integrated in that they meet the three thresholds.

3.9. Given the analysis of the share of interconnection of each Member State as well as the analysis of the three new thresholds, it is clear that various Member States will struggle to meet the targets set for 2030. One of the main problems is that the interconnection target is not binding on the Member States, a fact which, together with the delays inherent in this type of project (political consensus, financing needs, economic returns, lack of public support), makes it hard to achieve. All EU climate and energy security objectives are inextricably linked, meaning that none of them should be considered secondary to the others.

3.10. The EU needs to further develop and adopt its Governance Regulation, taking an ambitious approach that places the interconnections target and the renewables target on an equal footing, in order to ensure that the Member States and the Commission urgently make every effort to achieve, as soon as possible, the 10 % interconnection target allowing access to the EU internal energy market.

In addition, for those projects that will significantly increase the current interconnection capacity in points which are below the 10 % target, all available financial instruments, such as the CEF, the European Structural and Investment Funds and the European Fund for Strategic Investments, must be used. These projects should be subject to their own specific rules, with stronger EU governance arrangements for projects that speed up their implementation.

3.11. The regional groups, together with the Commission, should carry out continuous assessment on a case-by-case basis, prioritising the implementation of these PCIs, including the adoption of the necessary measures to facilitate their implementation such as cutting red tape and promoting agreement between the Member States by holding meetings at the highest level.

Concerted action is needed from all concerned, including Member States, transmission system operators, promoters and regulators. Initiatives such as the Energy Infrastructure Forum held annually in Copenhagen, in which all of those actors are able to get actively involved, are very positive in trying to find solutions to the problems of developing interconnection projects.

#### **4. Security of supply**

4.1. With high dependence on external energy sources in all EU Member States, enhancing security of supply is one of the EU's primary objectives. In this respect, in recent years significant progress has been made, particularly in natural gas grids and interconnections; nevertheless, the development of those PCIs necessary to reach a point where each country's gas supply system meets the N-1 criterion defined by Regulation (EU) No 994/2010 and then succeeds as soon as possible in having three alternative sources of gas must continue to be prioritised.

4.2. Particular attention should be paid to the efforts required to remedy the shortcomings that can still be noted in some EU territories such as islands and peripheral areas. It is important to point out the conclusions of the European Council of 4 February 2011, in which it was agreed that no Member State should remain isolated from the European gas and electricity grids after 2015 or see its energy security impacted by a lack of suitable interconnections. To this end, despite the delay, the progress introduced by CEF coverage in 2017, with the boost to projects that will make it possible to end the isolation of islands such as Cyprus and Malta, and the PCIs that are under examination such as the EastMed gas pipeline, give grounds for optimism in the medium term.

4.3. It is necessary to put solidarity mechanisms in place between Member States to facilitate joint action to overcome a particular Member State's potential supply risks in emergency situations.

#### **5. Requirements for the energy transition**

5.1. The progress towards a low-carbon economy and the 2030 (27 % renewables) and 2050 (80 % reduction in CO<sub>2</sub>) targets will stimulate electrification of transport and the household sector, driving renewable energy needs and introducing new uses for renewable energies through power to gas projects.

5.2. To achieve the 2050 targets, demand for investment in transmission and distribution grids should be between EUR 40 and 62 billion each year<sup>(1)</sup>, as opposed to the current figure of EUR 35 billion.

5.3. There is a clear risk that the 2030-2050 interconnection targets will not be met because of the difficulties involved in developing these projects, which would jeopardise European climate change objectives, driving up the cost of investment support for renewable energies.

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<sup>(1)</sup> European Parliament study (ITRE Committee) — European Energy Industry Investments 2017 (IP/A/ITRE/2013-46 — PE595.356).

5.4. The development of renewables must go hand in hand with proper development of energy networks, both transnational and national.

#### **6. Progress towards a genuine internal energy market**

6.1. The EESC has always argued that the Energy Union is a key factor in European integration, as interconnections are crucial to achieving a genuine internal energy market and, without them, anomalous situations will be created with many areas of inefficiency.

Without interconnections, the policy of promoting renewable energies will lead to high price volatility, a need for greater investment in 'support technologies' and wasted renewable energy production at times when higher generation occurs alongside a fall in consumption.

6.2. The Agency for the Cooperation of Energy Regulators (ACER) estimates that only 31 % of the existing interconnection capacity in the countries of continental Europe is made available to the market. Therefore, in order to make progress in completing the internal market, it is recommended to adopt measures that maximise the capacity made available to the markets, which will generate more competition, greater efficiency and better use of available resources.

6.3. To reduce operating costs, progress needs to be made on intraday market coupling and cross-border balancing markets, taking forward the measures laid down in Regulation (EU) 2017/2195 on electricity balancing, requiring Member States to cooperate at regional level on the development of balancing zones in interconnections that help to remove bottlenecks, optimise reserve energies among the Member States and increase the competitiveness of the markets <sup>(2)</sup>.

#### **7. Making the best use of funds**

7.1. The EESC considers that measures should be encouraged to ensure that available European funds are channelled as a priority into those projects which are most necessary from the point of view of security of supply or which guarantee higher economic returns or enable further progress to be made towards the EU's climate objectives.

7.2. Threshold 1 (price differential) should be decisive, from an economic perspective, when it comes to project allocation.

7.3. Storage projects (pump, among others) that help minimise the needs of the generation system must be treated as higher priority than other projects that do not yet have sufficient technological support and should be financed from the research and innovation programmes — this is, for instance, the case for some projects related to CO<sub>2</sub> transport. However, regulation should not move faster than technology.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(2)</sup> OJ L 312, 28.11.2017, p. 6.



**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, the Committee of the Regions and the European Investment Bank: Third Report on the State of the Energy Union’**

(COM(2017) 688 *final*)

(2018/C 262/15)

Rapporteur: **Toni VIDAN**

Co-rapporteur: **Christophe QUAREZ**

Consultation	European Commission, 18.1.2018
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Section responsible	Transport, Energy, Infrastructure and the Information Society
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Plenary session No	534
Outcome of vote (for/against/abstentions)	159/5/5

## 1. Conclusions and recommendations

1.1. The EESC welcomes the Third Report on the State of the Energy Union (SEU), supports the objectives of the Energy Union project and welcomes the emphasis on the engagement and mobilisation of EU society to take full ownership of the Energy Union. It reiterates its proposals for an effective Energy Dialogue with organised civil society at EU, national, regional and local level.

1.2. The EESC has always considered the idea of the Energy Union to be extremely important for the success of the European Union. It agrees with the Commission's view that the Energy Union is more than energy and climate alone. The EESC considers the energy transition to be an opportunity to make Europe more democratic, more cohesive, more competitive and more just. The joint effort to achieve an Energy Union must reinforce the environmental, political, economic and social sustainability of the European Union, in accordance with the EU's fundamental values.

1.3. The EESC welcomes the Clean Energy Package as a step in the right direction, but regrets that the Third SEU Report fails to recognise the insufficiency of existing targets within the package. The EESC supports initiatives by the European Parliament to strengthen the legal framework, and is concerned by attempts by the Council to water down future provisions. The EESC calls on the EU to step up its action to bring Europe and the world closer to the carbon-neutrality target enshrined in the Paris Agreement and ratified by all Member States.

1.4. The EESC regrets that the Third SEU Report does not elaborate on the long-term perspective for the Energy Union, and calls on the European Commission to fully include the 2050 perspective in the Energy Union and present a proposal for an update of the 2050 roadmap in accordance with the Paris Agreement. This would be in line with the resolution of the European Parliament to prepare a mid-century zero emissions strategy for the EU by 2018 (2017/2620(RSP)).

1.5. In this context, the EESC would point out the key importance of governance of the Energy Union. As previously set out in its opinion on the Governance of the Energy Union <sup>(1)</sup>, it is crucial to ensure that governance encourage decision-makers at all levels to produce long-term plans beyond 2030, take into account the interests and views of all stakeholders in society, including vulnerable groups in particular, adapt to regulatory and technological change, and allow the public to hold decision-makers accountable.

1.6. The EESC notes that the energy transition has already begun in Europe: efficient technologies and public preferences for clean energy are driving energy consumption down, while renewable energy production is rising. However, in some respects the Third SEU Report seems overly optimistic in its assessment of the progress made. The EESC welcomes the Third SEU Report's conclusions on the importance of the 2018 Talanoa Dialogue on climate and stresses the need to do more in terms of innovation, investment, global cooperation and trade in order to become the global leader we strive to be.

1.7. The EESC regrets that the Third SEU Report concentrates mainly on technical infrastructure barriers. In future, much more attention should be paid to other market and institutional barriers preventing the general public, consumers, communities and SMEs from participating in and benefiting from the clean energy transition and related EU supporting mechanisms. Examples of barriers not considered include differences in the cost of capital for renewable energy investment within the EU, poor implementation of the rule of law, corruption, insufficient administrative capacity, difficulties in access to the grid and lack of digitisation and democratisation within the energy system.

1.8. The EESC welcomes the fact that the Third SEU Report notes the falling cost of renewable and other clean energy technologies. It calls on the Commission to incorporate these advances in its future policy and investment instruments and ensure that the societal perspective is at the centre of the updated 2050 roadmap.

## 2. Background and reflection on previous EESC recommendations

2.1. There is strong and increasing support among the EU public for the Energy Union objectives and more ambitious climate and energy policies. The latest Eurobarometer survey on climate change <sup>(2)</sup>, carried out in March 2017, showed that 74 % of respondents believe that climate change is a very serious problem, 79 % believe that fighting climate change and using energy more efficiently can boost the EU economy and jobs and 77 % feel that promoting EU expertise in new clean technologies to third countries can benefit the EU economically, with 65 % also agreeing that reducing fossil fuel imports from third countries can bring the EU economic benefits. A large majority of respondents likewise agree that more public financial support should be given to the transition to clean energies, even if this means reducing fossil fuel subsidies (79 %), and that reducing fossil fuel imports can increase the security of EU energy supplies (64 %).

2.2. There is also increasing support for Energy Union objectives in the European business community, both outside and within the energy sector. A good example of this support is the new vision of the European electricity industry association, Eurelectric <sup>(3)</sup>. Eurelectric states that 'in light of the Paris Agreement and the urgency to address climate change, air pollution and depletion of natural resources', Eurelectric commits to: 'invest in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century', to promote the 'much-needed shift from a resource-based to a European technology-based economy', to enable 'social and environmental sustainability' and to 'embed sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society'.

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<sup>(1)</sup> OJ C 246, 28.7.2017, p. 34.

<sup>(2)</sup> [https://ec.europa.eu/clima/news/eu-citizens-increasingly-concerned-about-climate-change-and-see-economic-benefits-taking-action\\_en](https://ec.europa.eu/clima/news/eu-citizens-increasingly-concerned-about-climate-change-and-see-economic-benefits-taking-action_en)

<sup>(3)</sup> <https://cdn.eurelectric.org/media/2189/vision-of-the-european-electricity-industry-02-08-2018-h-864A4394.pdf>

2.3. There is a growing body of expert and scientific findings confirming that the EU power and energy sector can significantly benefit from rapidly falling prices of solar PV, wind power and system balancing technologies. A recently released report <sup>(4)</sup> by the International Renewable Energy Agency (IRENA) finds that the EU 'can increase the share of renewable energy in its energy mix to 34 % by 2030, double the share in 2016, with a net positive economic impact'. This increase would 'result in savings of between EUR 44 billion and EUR 113 billion per year by 2030, when accounting for savings related to the cost of energy and avoided environmental and health costs'. Other recent research <sup>(5)</sup> released by Energy Union Choices finds that 'the most cost-effective scenario for the EU's electricity mix contains a much higher share for renewables in electricity than that envisioned by the European Commission, 61 % versus 49 % by 2030. Under this scenario, the EU would avoid an additional 265Mt of CO<sub>2</sub> emissions and EUR 600 million in energy system costs per year by 2030, and would deliver 90 000 additional jobs (net)'.

2.4. Important initiatives have been launched, including the May 2017 Malta declaration, to accelerate the clean energy transition on islands, including Europe's outermost regions, the Clean Energy Industrial Competitiveness Forum, the Communication on an Industrial Strategy for Europe, and the efforts to build a 'European Battery Alliance'. All of these are key to pushing for an integrated industrial policy that can support the energy transition while boosting quality job creation, and should be seen as industry's opportunity to showcase Europe's capacity to develop adequate solutions to current challenges.

2.5. The EESC has repeatedly stated that the Energy Union has to provide a stable and favourable environment for European enterprises, with a view to enabling and encouraging them to invest and employ, paying special attention to the potential of SMEs. This requires jointly establishing a sound Energy Union governance system, which can only happen if far-reaching changes are made to the Energy Union Governance Regulation proposed by the European Commission.

2.6. The EESC has always considered that the availability of and physical access to affordable energy are the key to avoiding energy poverty, a problem that also hinders people from making the shift to low-carbon solutions. It thus welcomes the launch of the Energy Poverty Observatory, which is a first step towards developing further-reaching European action aimed at eradicating energy poverty in Europe.

2.7. The EESC has asked for the social dimension to be included among the evaluation criteria in the next SEU report. It thus strongly welcomes the social initiatives taken by the European Commission, such as those linked to carbon-intensive regions and energy poverty, as well as the creation of a specific SEU report sub-section dedicated to the social dimension of the Energy Union. Such an excellent first step should be further endorsed in the future, for instance by jointly drawing up a 'Social Pact for a Citizens-driven Energy Transition'.

2.8. The EESC notes that undertaking the energy transition does not require significantly different amounts of investment compared to those needed to maintain the current energy system based on mainly imported fossil fuels. It does, however, require significantly different types of investment, including investment aiming at decarbonisation, digitisation, democratisation and decentralisation. The key challenge is to re-allocate capital from high-carbon to low-carbon assets and infrastructures. Such a re-allocation should be effective in its use of EU and national public money, for instance by phasing out fossil fuel subsidies, including EU public support to gas pipelines, without having an adverse impact on industrial competitiveness and jobs, and without distorting the Single Market.

2.9. To help private investors perform this re-allocation of capital, public authorities should ensure effective and predictable carbon prices for all economic activities. Possible elements include a carbon price-floor for the ETS, combined with the harmonisation of energy taxes. This would require streamlining of EU policy tools and avoiding overlapping instruments that distort investment signals. The EESC has also called on the Commission to actively strive for a global

<sup>(4)</sup> <http://irena.org/newsroom/pressreleases/2018/Feb/EU-Doubling-Renewables-by-2030-Positive-for-Economy>

<sup>(5)</sup> <http://www.energyunionchoices.eu/cleanersmartercheaper/>

system of carbon pricing, which would level the playing field for European companies in export markets and with regard to imported goods.

### 3. Comments on the Third State of the Energy Union Report and follow-up steps

#### 3.1. *Create strong and democratic governance for Europe's energy transition*

3.1.1. The EESC considers that the EU and most of its Member States need to further democratise energy policy-making, for instance by fostering the effective use of tools such as deliberative polling and European Citizen Initiatives, and by ensuring systemic engagement and the necessary resources for organised civil society to participate when drafting and implementing national energy and climate plans.

3.1.2. The EESC acknowledges that strong and democratic Energy Union governance requires the creation of a 'European Energy Information Service' within the European Environment Agency that would be able to ensure the quality of the data provided by Member States, develop one entry point for all the datasets needed to assess the progress of the Energy Union, develop with stakeholders the assumptions for different scenarios, provide open source models to allow for testing different assumptions and check consistency between different projections. Its work should be freely accessible to all decision-makers, businesses and the general public.

3.1.3. To provide a stable and favourable business environment for European companies, especially SMEs, the EU and all its Member States should develop long-term energy plans to achieve the carbon-neutrality objective they agreed to in the Paris Agreement. Such plans should be developed in the most inclusive manner and feed into the 2030 and long-term plans envisaged in the Energy Union Governance Regulation. Sector-related and regional decarbonisation strategies should also be devised to identify business and local opportunities and anticipate future job gains and losses in order to ensure a smooth transition.

3.1.4. The EESC welcomes the initiatives aimed at helping carbon-intensive regions and islands in their energy transition. It asks the European Commission to continue to support regional approaches to the energy transition. In this respect, the European Commission should engage all Member States and regions involved in jointly mapping the strengths and weaknesses of each European region vis-à-vis the energy transition. The mapping should feed into their industrial strategies, as well as help them to anticipate the likely outcome in terms of job creation, losses and redefinition due to the transition.

3.1.5. The EESC also calls on the Commission to continue the development of indicators in order to monitor the implications of the energy transition on energy-related industries and their development, improving social indicators including refined data collection and new general public- and civil society-relevant indicators, as can be found in the EESC's opinions on these matters <sup>(6)</sup>.

#### 3.2. *Jointly drawing up a Social Pact for a Citizen-driven Energy Transition*

3.2.1. The EESC considers that Europe needs a 'Social Pact for a Citizen-driven Energy Transition', to be agreed by the EU, Member States, regions, cities, social partners and organised civil society, in order to ensure that the transition leaves no one behind. It should become the sixth dimension of the Energy Union and include all social aspects, including quality job creation, vocational training, consumers' education and training, social protection, specific plans for transition regions where jobs are lost, health and energy poverty.

3.2.2. The EESC believes that the Energy Union requires a European Energy Transition Adjustment Fund to accompany workers at risk of losing their jobs as a result of the energy transition. This would signal Europe's will to ensure that the energy transition leaves no one behind.

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<sup>(6)</sup> OJ C 264, 20.7.2016, p. 117; OJ C 288, 31.8.2017, p. 100.

3.2.3. The EESC views the energy transition as an opportunity to eradicate energy poverty in Europe and improve quality of life, job creation and social inclusion. Building on the findings of the European Energy Poverty Observatory, a European action plan to eradicate energy poverty should be drawn up in cooperation with stakeholders, including consumers' organisations, to ensure that public action increasingly targets the root causes of energy poverty. Noting that in its opinion on the Clean Energy For All Europeans package <sup>(7)</sup> it found that energy poverty is about investment and that vulnerable households in particular face obstacles in accessing financing, the EESC stresses the need to move progressively from palliative measures to preventive measures, such as renovation to transform old buildings into net-zero energy buildings. In this regard, social tariffs can only constitute temporary relief which should be gradually replaced by mechanisms such as energy cheques or subsidies for major retrofits of buildings and electric car purchases.

3.2.4. To ensure a citizen-driven energy transition, and provide maximum social and economic benefit for society at large, it is essential to recognise and support a sense of ownership amongst citizens and communities for local renewable energy resources. All support mechanisms and energy market reforms should enable local communities to actively participate in energy production and have fair access to the energy market. Member States which lack the institutional capacity to ensure such active public participation in the energy transition, specifically an institutional capacity to provide support and community-owned projects for accessing EU financial mechanisms, should be actively assisted.

3.2.5. The EESC considers that the European Commission should develop a 'Green Erasmus Pro programme', building on its Erasmus Pro pilot project, as well as other projects that can attract more young people into the growing energy transition sectors by improving the image and working conditions of such jobs.

3.2.6. The EESC welcomes the European Commission's ambition to decrease by half the number of premature deaths caused by air pollution by 2030 (there were 400 000 premature deaths in Europe in 2015). The EESC considers that the EU and all its Member States should make the fight against air pollution a high-level policy priority. Regulatory measures aiming at reducing air pollutants emitted by vehicles and power plants should be strengthened and measures put in place to eventually phase out the use of fossil fuels in transport and power generation.

3.2.7. The EESC welcomes improvements in the Third SEU Report concerning information on the use of EU investment instruments and their impact on the general public, communities and SMEs, but notes the need to improve the means for citizen and community-based projects to access these resources (e.g. support for financial platforms, especially in Member States lacking such entities).

3.2.8. The EESC would like to highlight the conclusions and findings of the Study on Residential Prosumers in the European Energy Union, as part of the documents accompanying the Third SEU Report, especially one of the findings, namely that 'there is no harmonised regulatory framework for residential prosumers in the EU, and Member States take different approaches', and the recommendation that 'A common, comprehensive definition of residential prosumers could be a catalyst for the development of a clear and strong EU policy and regulatory framework supporting consumers self-generation ...' <sup>(8)</sup>.

### 3.3. Transport

3.3.1. The electrification aspect of energy transition requires increased policy and legal consistency among traditionally separated segments of the energy sector. Increased interaction among power and transport sectors is already a fact, and the EESC welcomes efforts to ensure consistency between the 'Clean Energy for all Europeans' and the 'Clean Mobility' legislative packages.

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<sup>(7)</sup> OJ C 246, 28.7.2017, p. 64.

<sup>(8)</sup> Study JUST/2015/CONS/FW/COO6/0127

3.3.2. The EESC notes that the Third SEU Report does not consider the phase-out of fossil fuels for passenger car sales and/or use, recently announced by several Member States and cities such as the Netherlands and Paris. The incidents surrounding the vehicle emissions scandal and the consequences for climate change, air pollution, health and environment show the urgent need to act. The EESC considers that the EU should provide a coordinated framework for the phase-out of diesel and petrol for passenger cars so as to prevent uncoordinated and unpredictable decisions taken at national and sub-national levels from having an adverse impact on industrial competitiveness and jobs and from distorting the Single Market.

3.3.3. To avoid low-income owners being left behind with polluting vehicles that have increasingly restricted access to many urban areas, EU-wide legislative and financial incentives should be introduced to enable low-cost retrofits or conversions of drivetrains in existing vehicles from fossil fuels to zero emissions technologies. Such a measure would also minimise resource use and the social costs of a transition from fossil fuel passenger cars to electric vehicles, and could contribute to a transition with greater cohesion between regions and Member States with lower and higher income levels.

3.3.4. The EESC welcomes the fact that the Third SEU Report recognises batteries as a 'strategic part of the innovation priorities' and the fact that this technology will be part of 'an essential enabling technology for reaching the Energy Union objectives'. The EESC supports initiatives to secure 'substantial support for batteries and battery cell technology' and ensure that the EU plays an ambitious role in the global market.

#### 3.4. *Infrastructure and industrial development for the energy transition*

3.4.1. Energy transition has significant implications for a range of industries: firstly for the energy producers or the energy sector itself; secondly for industries that use energy as a factor of production, particularly the energy intensive industries; and thirdly for industries that provide energy and climate technologies and solutions. The companies meet with both risks and benefits, and it is crucial for the EU to help industries grasp the opportunities and tackle the challenges.

3.4.2. The EESC notes that the Third SEU Report falls short of considering the announced US withdrawal from the Paris Agreement to be a historic opportunity for European businesses, innovators, workers and investors to affirm global leadership on the booming clean energy markets. The EU should step up its ambition in all clean energy areas, from energy efficiency to e-mobility, to provide European businesses with a sound domestic market where innovation can be safely deployed, as well as an integrated industrial strategy aimed at exporting clean energy solutions to the rest of the world.

3.4.3. The EESC reiterates its call on the Commission to make a comprehensive assessment of the current low-carbon policy instruments, in order to make sure that proper tools are used to achieve the objectives in the most efficient way in well-regulated markets. Undue burdens and other barriers, such as complexity of bills, affecting energy users due to a lack of market competition and transparency should be avoided.

3.4.4. The new list of 'Projects of Common Interest' (PCI) eligible for EU public subsidies accompanying the Third SEU Report shows a decrease in fossil fuel projects to 53 gas projects, compared to 77 in the previous list. However, some analysts claim that this is just the result of the grouping and clustering of multiple projects, and that the new list includes around 90 gas projects, thus actually representing an increase in gas projects. Given the significant environmental and economic risks of stranded assets when investing in fossil fuel infrastructure, these projects and the assignment of the PCI label should be re-assessed at the earliest opportunity.

#### 3.5. *Energy Security and geopolitical dimension of the Energy Union*

3.5.1. The EESC advocates, as stated in its opinion of last year, energy security remaining a crucial objective of the Energy Union. An energy-efficient economy and sustainable and reliable localised energy generation, transmission and storage infrastructure, well-functioning energy markets and trade relations which are full compliant with the EU *acquis* are key contributing factors that have to be secured. The energy security objective needs to be better defined, looking beyond the aspects of energy imports and domestic production to the potential for increased resilience in the whole energy system, societal innovation, behaviour change and cybersecurity.



3.5.2. The Committee welcomes the external dimension of the Energy Union, as presented in Third SEU Report, and agrees that 'EU external and development policies are essential to support the clean energy and low carbon transition globally, and to strengthen the EU's energy security and competitiveness'. Unfortunately, there is growing evidence that some states and companies, active in importing fossil fuels into the EU, are involved in practices which are inappropriate in normal business practice, and sometimes aggressively try to influence the energy and climate policies of Member States and other relevant stakeholders. To ensure a credible, democratic environment for policy debate on Energy Union implementation, there is a need for systematic monitoring of such activities, public disclosure thereof and an active response.

3.5.3. Due to the digitisation of energy systems, an advanced digital infrastructure has to be built up, making measures to enhance cybersecurity an important part of efforts for providing energy security. Given the interaction between smart electric grids and electric vehicles, electricity infrastructure will also become a key element of the transport system. In that respect, the cybersecurity of connected energy and transport sectors and their digital infrastructures will be even more important.

3.5.4. The success of the European Energy Union depends on the ability to uphold European legislation and ensure that energy projects in Europe operate under European market legislation. This is of specific concern for investment projects which potentially, and to many clearly, contradict the objectives of the Energy Union. This raises political and economic concerns in a number of Member States, which in turn are seen to contribute to the loss of confidence of societies of these countries in the values, which guided them to joining the European Union. A failure to uphold rule of law is also used by the reluctant European integration politicians as an example to point to the weaknesses of the Union integration, which further damages the unity and integrity of the EU. Therefore the Committee highly recommends that a project like Nord Stream 2 and other strategically important projects should be developed according to the Energy Union rules.

#### **4. Involvement of civil society and contribution of the EESC**

4.1. The EESC is convinced that ensuring the success of 2018 as the Energy Union's 'year of engagement' is critical not only for democratic reasons, but also for the efficiency of the energy transition itself. The transformation of Europe's energy system will indeed be swifter, cheaper and more democratic if it is powered by people who increasingly become active consumers, prosumers, workers, 'crowdsourcers' and crowdfunders of the energy transition. Means of microfinance, e.g. made available through local loans, and investment facilitation are key to facilitating democratisation, broad social participation and the social sustainability of the energy transition. The European Union should aim to move from a situation where energy policy, even at national level, has been driven by 'decisions by a few' to one where it is effectively driven by 'action by all'.

4.2. The EESC welcomes the Third SEU Report's calls to mobilise all of society. It remains unclear how the Commission will ensure that this happens, as there is no real proposal as to how to do it, and the report even identifies highly problematic examples of 'pioneers' of clean energy transition. The EESC invites the European Commission to increasingly engage with decision-makers and stakeholders and specifically meet with national and regional economic and social councils and organised civil society to jointly deliver clean energy to all Europeans.

4.3. The EESC is concerned about the level of public participation of people and communities in legislative proposals after the 'broad public debate' was announced and undertaken last year. It proposes that future SEU reports reflect and clearly present improvements in policies and practices within the Energy Union adopted on the basis of public debates and public participation.

4.4. In this context, the EESC supports the recently adopted report by the European Parliament, which states that 'Member States should establish a permanent multi-level energy dialogue platform gathering local authorities, civil society organisations, business community, investors and other relevant stakeholders to discuss the different options envisaged for energy and climate policies', reiterating the importance of involving trade unions, consumer organisations and environmental civil society organisations in such platforms and of ensuring the necessary resources for effective participation.



4.5. The EESC would like to actively contribute to the further development of synergy and cooperation among EU-level institutions, organised civil society, and local and regional authorities and their institutions, relevant to the Energy Union goals. Local and regional authorities, through their closeness to the level of the general public and their knowledge of each specific local context, hold the key to effectively adapting and implementing energy-related policies. They constitute a key decision-making level in sectors such as transportation, urban planning, buildings and welfare, which makes them extremely important for coordinated measures in favour of energy efficiency and renewable energy sources.

4.6. The EESC considers that social sciences and humanities (SSH) have a critical role in providing economic and political decision-makers, as well as the public, with the right tools to understand what drives the energy choices made by end-users, including SMEs and members of the public. The Energy Union thus needs a mission-oriented post-2020 EU Research and Innovation programme that fully integrates SSH, as suggested by the European Commission's Report by the independent High-Level Group on maximising the impact of EU Research and Innovation Programmes (Lamy Report).

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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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 establishing a framework for screening of foreign direct investments into the European Union’**

(COM(2017) 487 final — 2017/0224 (COD))

(2018/C 262/16)

Rapporteur: **Christian BÄUMLER**

Co-rapporteur: **Gintaras MORKIS**

Consultation	Council, 15.11.2017
Legal basis	Article 207 TFEU
Section responsible	Section for External Relations
Adopted in section	28.3.2018
Adopted at plenary	19.4.2018
Plenary session No	534
Outcome of vote (for/against/abstentions)	203/1/3

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) emphasises that foreign direct investment is a major source of growth, jobs and innovation. Foreign direct investment has always been a key factor for positive economic and social development in the EU. The EESC supports an open investment environment and welcomes foreign direct investment.

1.2. The EESC notes that foreign investment, while useful, may also carry risks and jeopardise national security and public order in one or more Member States.

1.3. The EESC calls for the EU's openness towards foreign direct investment to be complemented by robust and effective policy measures.

1.4. The EESC welcomes the Commission's proposal for a Regulation of the European Parliament and of the Council establishing a framework for screening of foreign direct investments into the European Union, but notes that the extent of the problem is not yet fully known, as the Commission did not analyse investment flows and their impact when initiating the legislative procedure.

1.5. The screening of investments in businesses and entities that are of strategic importance for national security and public order of the EU is patchy and uncoordinated: some countries have a screening procedure while others do not, meaning that investments in the latter countries are not screened at all. A system at EU level must remedy this shortcoming, remove disparities between Member States, and safeguard national and European interests.

1.6. Member States that have procedures to screen foreign direct investment, and countries that do not have such procedures, must be able to provide and receive equally reliable information, including in the form of annual reports submitted to the European Commission in cases where the Member States or the Commission determine that planned or already completed foreign direct investment in a Member State might be detrimental to security or public order.

1.7. The EESC welcomes the fact that the proposal for a regulation specifies the fundamental procedural requirements for the screening mechanisms, such as transparency, non-discrimination between third countries and judicial review, thus increasing both investment certainty and legal certainty.

1.8. The EESC points out that the EU has exclusive competence when it comes to foreign direct investment. Where national screening systems exist in the EU Member States, the legal basis for these systems must be created so as to avoid legal uncertainty.

1.9. The EESC is concerned that the European Commission only reserves the right to screen investment when such investment might affect projects or programmes of Union interest. Where foreign direct investment has a cross-border impact on the whole EU or parts of it, the EU needs to make use of its competence in terms of investment screening.

1.10. The meaning of 'security' and 'public order' is not sufficiently clear in the Commission draft. The EESC points out that the economic sectors that might be involved in screening are uncertain as to whether strategic sectors and key technologies are also covered by these concepts. The EESC calls on the European Commission to make further efforts to clear up this issue.

1.11. The EESC supports the mandatory establishment of contact points in the Member States and is in favour of setting up a group to coordinate investment screening in the EU. At the same time, the role of these two bodies, the level of representation, and the relationship of these bodies to each other is not entirely clear. The Commission should make sure to clarify this matter.

1.12. The EESC recommends involving the social partners and civil society in an appropriate way.

1.13. The EESC suggests extending investment screening to sensitive areas of infrastructure and facilities that maintain societal functions. These include energy and water distribution, transport, digital infrastructure, financial services and financial markets, as well as the health sector.

1.14. The EESC supports broadening investment screening to key technologies, where an investor is controlled by, or has close ties to, a third country's government. The EESC suggests that the regulation should include a separate screening procedure for foreign direct investment made by third-country governments, or investors with close ties to such governments.

1.15. The EESC is convinced that the screening process is more effective if it is applied to planned foreign direct investment rather than direct investment that has already been carried out; it calls on the Commission to include this suggestion in the proposal for a regulation. Above all the Committee recommends a post investment monitoring.

1.16. The EESC, in the interests of investment certainty, recommends that time limits be set, both for deciding whether investment screening will take place, as well as for the full screening process itself.

1.17. The EESC points out that the confidentiality of commercial data must be guaranteed during the screening procedure, so as not to deter potential investors.

1.18. The EESC recommends collaborating on investment screening with the United States and other trade partners, and also advocates harmonising international rules on screening foreign direct investment. The United States' Committee on Foreign Investment (CFIUS) could serve as an example in this regard.

1.19. Although the issue of reciprocity is not addressed in the proposal for the Regulation, the EESC calls on the Commission to apply the principle of reciprocity in all cases of the EU negotiations with the third countries on FDI as more non-EU investors purchase EU businesses and entities while the EU investors often are facing barriers to investing in other countries. Above all the Committee calls for the speed-up of the negotiations about the investment agreement with China.

## 2. General comments

2.1. The EESC essentially supports the key positions of the European Commission's proposal for a regulation establishing a procedure for screening of foreign direct investments into the European Union, which stipulates that the European Union is open to foreign investment and that foreign direct investment contributes to the Union's growth by enhancing its competitiveness, creating jobs, bringing in capital, technologies, innovation and expertise, and opening new markets for the Union's exports.

2.2. It is, however, a cause for concern that foreign investors — principally state-owned enterprises — are strategically acquiring European businesses that possess key technologies, and that they are poised to take over infrastructure, important future technologies and other assets that are important to guaranteeing the security of the Member States and the EU as a whole.

2.3. There has been a noticeable rise in investment from third countries in the EU over the last 10 years. The European Commission Communication on 'Welcoming Foreign Direct Investment while Protecting Essential Interests' contains statistics showing that most investment comes from the United States, Canada and Switzerland, followed by Brazil, China and Russia. During the financial crisis of 2008, Chinese investment in EU Member States increased tenfold! It rose from EUR 2 billion in 2009 to almost EUR 20 billion in 2015. In 2016 alone, Chinese direct investment in the EU came to EUR 35 billion. This was 77 % more than in 2015 — and 1 500 % more than in 2010. Investment by EU companies in China, meanwhile, decreased by 25 % in 2016.

2.4. In February 2017, three Member States — France, Germany, and Italy — called on the European Commission to review the rules for foreign direct investment into the European Union. This call was prompted by concern about technological expertise being lost to other countries, as a growing number of non-EU investors are purchasing EU technologies to promote these countries' strategic aims while EU investors are often confronted with obstacles to investment in other countries. The three Member States pointed out that the principle of reciprocity should be upheld if EU investors are given only limited access to markets outside the EU. The three Member States called on the European Commission to develop a European instrument to 'prevent any damage ... through one-sided, strategic direct investment made by foreign buyers in areas sensitive to security or industrial policy, and to ensure reciprocity. The state instruments that are currently available at the level of EU Member States are not sufficient to guarantee protection of this kind.'

2.5. The European Parliament's resolution of 5 July 2017 called on the Commission and the Member States to screen third countries' foreign direct investments in the EU strategic industry, infrastructure and key future technologies.

2.6. The European Commission has presented a proposal for a regulation that puts forward a legal framework to screen foreign investments from third countries.

2.7. The European Commission has decided to limit this proposal to the areas of security and public order so as to reach a minimum level of agreement between the Member States. Following the Commission explanation, these encompass, for example, electronic communications, cybersecurity, critical infrastructure protection, and industrial competitiveness in cybersecurity products and services.

2.8. The definitions of 'security' and 'public order' alone are not clear enough in this context to avoid problems and differing interpretations. The EESC points out that the economic sectors that might be involved in screening are uncertain as to whether strategic sectors and key technologies are also covered by these concepts. The EESC calls on the European Commission to make further efforts to clear up this issue.

2.9. The EESC notes that the European Commission fully recognises that the Member States must retain the necessary flexibility in screening foreign direct investment (see COM(2017) 494). This would mean that only Member States can make decisions regarding foreign direct investment from third countries.

2.10. The EESC has always been of the view that the EU's trade and investment policy 'has to fit with' and be consistent with economic and other policies of the Union, including 'protection of the environment, decent work, health and safety at work'. An effective EU investment strategy has a crucial role to play in maintaining EU competitiveness at a time of rapid economic change and major shifts in relative economic power around the world.

2.11. The EESC points out that the EU is one of the most open economies for foreign direct investment. Inward investment to the EU is constantly growing. It is increasingly focused on strategically selected sectors and companies that are larger than average, and increasingly comes from state companies or investors with close ties to governments.

2.12. At global level, meanwhile, the Commission is of the view that restrictions on foreign direct investment have been growing since 2016. EU investors often do not enjoy the same rights in third countries as investors into the EU. As early as 2011, the EESC expressed its regret that the Commission had not taken a position on takeovers of strategically sensitive businesses when moving 'towards a comprehensive European international investment policy', and encouraged it to consider reciprocity.

2.13. The EESC stresses that the three aforementioned Member States (which suggested developing a European instrument to screen investment) noted to uphold the principle of reciprocity if EU investors are given only limited access to markets outside the EU. The proposal for a regulation does not address the question of reciprocity. However, as far as foreign direct investments are concerned, the principle of reciprocity should be applied in all cases of EU negotiations with third countries on FDI.

2.14. Furthermore, the strategic focus of the foreign investment in the EU is on acquiring European companies that develop key technologies or maintain infrastructure with a vital role in fulfilling essential societal and economic functions. The combination of these developments has caused justifiable concern among European citizens, companies and Member States. These concerns need appropriate responses, as set out in the Commission's reflection paper on globalisation published on 10 May 2017 and in the **State of the Union address** on 13 September 2017.

2.15. The EESC calls for the EU's openness towards foreign direct investment to be complemented by robust and effective policy measures.

2.16. The EESC emphasises that some Member States realised some time ago that foreign investment, while useful, may also carry risks and jeopardise national security and public order. This is particularly the case where investment is geared towards strategically important businesses and entities. These Member States therefore set up national screening systems for foreign investment.

2.17. The EESC notes that the screening of investments in businesses and entities that are of strategic importance for national security or the security of the EU is patchy and uncoordinated: some countries have a screening procedure while others do not, meaning that investments in the latter countries are not screened at all. Given such conditions, it is clear that neither the Member States nor the EU itself can be shielded from investment aimed at taking over important businesses and entities in cases where a third country has planned thoroughly and makes use of opportunities for manipulation so as to attain its political and economic goals. The system to be brought in by the EU must remove disparities between Member States, and safeguard national and European interests.

2.18. In the EESC's view, the investment screening proposed by the European Commission is a first step in the right direction, but it will not satisfy all these requirements. The proposal does not even require the Member States to put in place their own investment screening.

2.19. The EESC realises that, with this regulation, the Commission is striving to safeguard legal certainty for those Member States that have established national investment screening mechanisms.

2.20. The EESC welcomes the fact that the proposal for a regulation specifies the fundamental procedural requirements for the screening mechanisms, such as transparency, non-discrimination between third countries and judicial review, thus increasing investment certainty.

2.21. Although the regulation aims to gather more information within the EU on foreign direct investment, and to monitor the use of selection mechanisms by the Member States, in practice it will be very difficult to ensure harmonised implementation at EU level. Member States that have procedures to screen foreign direct investment, and countries that do not have such procedures, must provide and receive equally reliable information, including in the form of annual reports to be submitted to the European Commission in cases where the Member States or the Commission determine that planned or already completed foreign direct investment in a Member State might affect security or public order.

2.22. The EESC supports the Commission's proposal to require the Member States to establish contact points, and the proposal to form a coordination group consisting of Member States' representatives. At the same time, the role of these two bodies, the level of representation, and the relationship of these bodies to each other is not entirely clear. The Committee recommends involving the social partners and civil society in an appropriate way.

2.23. The EESC is concerned that the European Commission only reserves investment screening for cases when an investment might affect projects or programmes of Union interest. If the Member States are largely responsible for screening foreign direct investment, then there is a risk that a foreign investor that wants to take over important businesses and entities will select the country that is most vulnerable to such investments as an entry point to make their first investment, thus gaining access, via the internal market, to countries with stronger investment protection.

2.24. The EESC points out that the EU has exclusive competence when it comes to foreign direct investment, which falls under the exclusive competence for the common commercial policy conferred in the Treaty of Lisbon. According to Article 207 TFEU, foreign direct investment is part of the EU's common commercial policy. Article 206 TFEU states that the EU shall contribute to 'the progressive abolition of restrictions on international trade and on foreign direct investment'.

2.25. In the EESC's view, the EU should make use of its competence in terms of foreign direct investment, where the investment has a cross border impact on whole EU or parts of it. The Commission needs to be able to both screen investments and decide whether they are permissible. Member States must have binding consultation rights and must, via the coordination group that is to be formed, be involved in the decision-making process regarding foreign direct investment.

2.26. The EESC draws attention to the fact that the EU, in the European critical infrastructures directive (ECI Directive) and the network and information systems directive (NIS Directive), has defined sensitive areas that affect essential security concerns. 'Critical' infrastructure, as defined in the ECI Directive, includes facilities and systems that are essential for the maintenance of vital societal functions, health, safety, security, or economic or social well-being. The NIS Directive concerns service organisations that are essential to 'critical' societal and economic activities. These include energy, transport, financial services and financial markets, as well as the health sector and water distribution.

2.27. As early as 2011<sup>(1)</sup>, the EESC emphasised that trading partners such as Canada and the United States have mechanisms to screen foreign direct investment, and that investment should be part of a wider EU foreign policy.

2.28. The EESC points out that the United States has a wide-ranging and very flexible investment screening toolkit. Foreign investment is reviewed at federal level in the United States by CFIUS, an interministerial committee. This committee can suspend, prohibit or impose conditions on a transaction it wishes to reject. Its main task is to examine the national security risks posed by mergers and takeovers that could lead to foreign control of a US company. National security risk is

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<sup>(1)</sup> EESC opinion on European international investment policy, rapporteur: Mr PEEL (OJ C 318, 29.10.2011, p. 150).

defined as when the United States' security is affected due to a takeover of a critical technology or infrastructure components. The screening is detailed by CFIUS in its own regulations, which enables it to adapt this definition. This form of investment screening could also be of interest to the EU.

2.29. China has sectoral restrictions on foreign investment. China's National Development and Reform Commission (NDRC) and its Ministry of Commerce (MOFCOM) have adopted the 2017 Catalogue of Industries for Guiding Foreign Investment. It contains a national 'negative list' with the sectors in which foreign investment is restricted or prohibited. 'Restricted' means that prior authorisation from MOFCOM is required. Drawing up this list enables the government to implement its restrictions and conditions. This negative list includes both politically sensitive areas, such as print media, and manufacturing of complete automobiles, for which there is a special rule on joint ventures. For sectors with no restrictions, the government requires only that the foreign investment projects are registered.

2.30. The EESC notes that the 'Made in China 2025' strategy lists key sectors: next-generation IT; high-end numerical control machinery and robotics; aerospace and aviation equipment; maritime engineering equipment and high-tech maritime vessel manufacturing; advanced rail equipment; energy-saving vehicles and NEVs; electrical equipment; agricultural machinery and equipment; new materials; biomedicine and high-performance medical devices. More takeovers of European companies in these sectors are to be expected.

2.31. The EESC notes that there are foreign direct investment-related reservations with regard to more countries than just China. Russia's investments, particularly in the energy sector, are causing concern in the countries affected due to potential dependencies in this strategic sector.

2.32. The EESC considers the scope of application of the proposed investment screening to be too narrow, and suggests broadening such screening to strategic areas and in particular to key technologies. 'Made in China 2025' should be taken into account when deciding on these strategic areas.

2.33. The EESC believes that this kind of investment screening — that also covers strategically significant key technologies — is compatible with WTO rules. The EU has enacted the Agreement on Subsidies and Countervailing Measures (ASCM). It is, therefore, possible to reject foreign direct investment if essential security interests are at stake, which happens, in the EESC's view, when societal values have to be upheld. Foreign direct investment can be restricted more comprehensively if an investor is controlled by, or has close ties to, a government.

2.34. The EESC shares the Commission's view that screening procedures should consider whether a foreign investor is controlled by the government of a third country, including via substantial financial resources. The EESC suggests that the regulation should include a separate screening procedure for foreign direct investment made by third-country governments, or investors with close ties to such governments.

2.35. The EESC is convinced that the screening process is more effective if it is applied to planned foreign direct investment rather than direct investment that has already been carried out; it calls on the Commission to include this suggestion in the proposal for a regulation. Above all the Committee recommends a post-investment monitoring.

2.36. The EESC welcomes the Commission's proposal for a regulation, but it is evident that the extent of the problem is not yet fully known. The Commission did not analyse investment flows and their impact when initiating the legislative procedure; only later did it proceed to analyse investment flows.

### 3. Specific comments

3.1. The EESC recommends collaborating with the United States and other trade partners. International harmonisation of rules on screening foreign direct investment would limit conflicts and promote investment certainty. Efforts should at least be made to enter into dialogue with countries such as China on their domestic and international investment policy. The objective should be investment and trade agreements that are guided by EU standards and the principle of reciprocity. Above all the Committee calls for the speed-up of the negotiations about the investment agreement with China.



3.2. The duration of ongoing screening could become a significant obstacle to potential investors, and could hamper a country's overall competitiveness. In order to reduce these negative effects, EU investment screening should last no longer than the time specified for national procedures.

3.3. So as to avoid an additional administrative burden, there is a need to examine whether a minimum investment amount — above which investments must be screened — should be set. The fact that start-ups can also be of considerable significance to key technologies needs to be taken into account.

3.4. Although the regulation aims to gather more information on foreign direct investment in the EU, and to monitor the use of screening mechanisms by the Member States, in practice it will be very difficult to ensure harmonised implementation at EU level. This is due to the fact that there are differences between Member States that have mechanisms to screen foreign direct investment, and those that do not. The system should not create unequal rights and obligations in relation to the cooperation among the countries and the European Commission on the exchange of information in cases where certain planned or completed foreign investments might have an effect on security or public order.

3.5. The regulation does not require Member States that receive comments from other Member States to take due account of them. The same applies to Commission opinions relating to a Member State that was unable to fully comply with these Commission opinions. These cases require more detailed explanation. It is not clear what consequences (if any) are to be expected if the Commission considers a Member State's explanation to be inadequate.

3.6. The future development of investment screening should — at least — take into account additional factors that can affect security and public order: practices that distort fair trade; constraints on competition; missing transparency of investments. Investment and trade policy have to be part of the industrial policy of the EU.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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**Opinion of the European Economic and Social Committee on the EU Action Plan 2017-2019 —  
Tackling the gender pay gap**

(COM(2017) 678 final)

(2018/C 262/17)

Rapporteur: **Anne DEMELENNE**

Co-rapporteur: **Vladimíra DRBALOVÁ**

Referral	European Commission, 13.12.2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
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Outcome of vote (for/against/abstentions)	194/3/4

## 1. Conclusions and recommendations

1.1. Overall, the EESC welcomes the efforts made by the European Commission, in the present Action Plan, to address the persistent pay gap between men and women by proposing a coherent and wide-ranging set of activities. However, it feels that each of the eight areas merits further development.

1.2. The EESC recommends focusing on cultural roots and the stereotypes perpetuated in education and learning systems that affect career choices. Furthermore, it recommends looking more closely into the underlying causes of labour market segregation and imposing stronger measures to combat it.

1.3. The EESC agrees with the Commission's proposal for pay transparency and pay audits to be introduced in sectors and businesses in order to facilitate the collection of individualised data (statistics) and develop appropriate action plans. The European Semester is an effective way of encouraging Member States to urgently take appropriate steps and to establish a solid infrastructure of accessible, affordable childcare and long-term social care facilities.

1.4. The EESC recommends that efforts be continued to achieve the 2020 strategy's target of 75 % employment for women and men, preferably on a full-time basis.

1.5. The EESC welcomes the Commission's recognition of the crucial role of the social partners in the process as key players in the labour market. It highlights both the contribution of civil society organisations and partnership principles that are based on clearly defined responsibilities.

1.6. The EESC congratulates the Commission on deploying financial resources for individual projects but insists on the need to provide additional resources, as part of the Multiannual Financial Framework, to implement the Action Plan as a whole, including the financing of social care and childcare facilities, without penalising the Member States (in other words, respecting the 'golden rule').

## 2. Introduction

2.1. The principle of equal pay has been enshrined in the EU Treaties since 1957. Establishing equal pay by promoting women's rights is a win-win for everyone: it is a step towards a just and fair society for all<sup>(1)</sup>. The struggles for women's rights have brought the inequalities between men and women to the forefront, inducing legislators (at all levels) to take measures in the domain. Nevertheless, these inequalities persist in the various forms of social relations, in families, at school, in society, in politics and in the world of work.

2.2. Closing the unadjusted gender pay gap remains a challenge that must be overcome. The EU, the Member States and the social partners, with the assistance of civil society, are called on to coordinate their efforts in a framework of targeted approaches combining the application of legislative and non-legislative measures aimed at addressing simultaneously the multiple causes of pay inequalities between women and men, at both national and European levels, in the implementation of the Europe 2020 strategy.

2.3. The gender pay gap is lower in countries where overall equality levels are higher as well as in countries where collective bargaining coverage is widespread. It has been estimated that a 1 % increase in the 'coverage' of social dialogue reduces the gender pay gap by 0,16 %, and the higher the degree of coordination in terms of wage formation, the more equal the wage distribution will be<sup>(2)</sup>.

## 3. Background figures

3.1. Owing to the gender pay gap, women in the EU continue to earn on average 16,3 % less than men. Understanding the causes and consequences of the phenomenon is the first step to closing the gap. The factors listed below are all part of the problem, on the one hand, and the solution, on the other.

3.2. The employment rate: the Europe 2020 strategy set the target of 75 % of women and men in work in 2020. In 2014, however, the overall employment rate in the EU was 64,9 %, with a particularly low rate for women (59,6 %, against 70,1 % for men aged between 20 and 64 years). Women's participation is becoming essential and the labour market needs to be radically adjusted to ensure that it is accessible to women. Eurofound's report on the gender employment gap estimates that it is costing the EU around EUR 370 billion per year, the equivalent of 2,8 % of its GDP.

3.3. Part-time work: in 2015, eight out of ten people with a job in the EU worked full-time and two out of ten part-time. Of the 44,7 million part-time workers, 10 million were under-employed, meaning that they wanted to increase their working hours. This accounts for one fifth (22,4 %) of all part-time workers and 4,6 % of all employment in the EU. Two-thirds of these under-employed, part-time workers were women (66 %). This situation has a negative impact on training prospects, career progression, unemployment benefits and pension rights.

3.4. The gender balance in management positions: according to the Gender Equality Index 2017, published by the highly effective European Institute for Gender Equality (EIGE), of the eight areas assessed by the index, the representation of men and women in political, social and economic decision-making showed the lowest rate of equality. However, focusing more specifically on the economic sphere, the 2013 and 2017 editions of the index, viewed together, showed a gradual increase in the number of women on management boards, rising from 9 % to 21 % between 2003 and 2015. This is the case for those Member States which have adopted binding legislation, such as France and the Netherlands. These estimates concern only major companies listed on stock exchanges.

3.5. Although micro and small and medium-sized enterprises (SMEs) represent the vast majority of employers in Europe (in 2014 they constituted 99,8 % of all undertakings in the EU-28 and employed almost 90 million people — 67 % of all jobs), the indicators and policy measures focus on the largest company boards. Although the legislative measures introduced over the past decade have led to significant progress, further efforts are still much needed. Different tools are available in the various Member States: voluntary approaches, quotas, sanctions, etc.

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<sup>(1)</sup> For an overview, see the Global Gender Gap Report 2017 <https://www.weforum.org/reports/the-global-gender-gap-report-2017>

<sup>(2)</sup> Resolution adopted by the Executive Committee of ETUC at its meeting of 17 and 18 June 2015: 'Collective bargaining: our powerful tool to close the gender pay gap'.

3.6. The crisis and, in some Member States, austerity measures linked to fiscal reforms, have resulted in fewer resources for and less investment in social and public infrastructure. No gender impact assessments have been carried out, and access to this infrastructure has become more difficult. However, there is a direct link between maternal poverty and the risk of poverty and social exclusion for children. Moreover, it can now be seen that by 2015 the gender gap in terms of pensions had risen to 38 % in the EU <sup>(3)</sup>, which means that far more women are at risk of poverty when they reach old age.

3.7. Gender segregation in the professions and in sectors: according to the Commission, gender segregation in sectors is one of the main causes of the gender pay gap. Some sectors and jobs continue to be dominated by either men or women: fewer women choose to go into the better-paid sectors such as construction, industry, transport, science and ICT. 'Attracting more women to the science, technology, engineering and mathematics (STEM) sector would contribute to an increase in EU GDP per capita of 2,2 % to 3,0 % in 2050' <sup>(4)</sup>. The Commission also notes that conversely, men rarely enter key sectors for the future of Europe's society and economy, such as education, nursing and carer professions in healthcare.

3.8. According to the Action Plan, women leave the labour market to take care of children and/or dependent family member/s and, when they do not drop out of the labour market entirely, they often accept positions requiring lower qualifications in order to combine their return to work with their family commitments <sup>(5)</sup>. The Barcelona objectives, which are still a long way from being met, address the negative impact of the lack of good quality, affordable childcare facilities with long opening hours on women's participation in the labour market.

3.9. The salary impact for certain vulnerable groups (female heads of single-parent households, low-skilled women, women from immigrant backgrounds, women with a disability, etc.) must be afforded particular attention.

#### 4. The proposed Action Plan

4.1. The Commission's proposed Action Plan contains a coherent set of measures designed to tackle the gender pay gap from all possible angles, rather than pinpointing a single factor or cause. The measures will be mutually reinforcing. The EESC supports the Action Plan but advises the Commission to ensure that the current measures already recommended are assessed and implemented as appropriate through the European Semester.

4.2. Eight main strands of action have been identified:

1. improving the application of the equal pay principle;
2. combating segregation in occupations and sectors (horizontal segregation);
3. breaking the 'glass ceiling' (vertical segregation);
4. tackling the care penalty;
5. making better use of women's skills, efforts and responsibilities;
6. fighting the fog: uncovering inequalities and stereotypes;
7. alerting and informing about the gender pay gap; and
8. enhancing partnerships to tackle the gender pay gap.

In order for the above actions to be effective, synergies will need to be created between the steps taken by key stakeholders at EU level, Member States and businesses.

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<sup>(3)</sup> Joint Employment Report 2017.

<sup>(4)</sup> COM(2017) 678 final.

<sup>(5)</sup> OJ C 129, 11.4.2018, p. 44.

4.3. The EESC considers most of the measures proposed in favour of gender equality appropriate. It believes that this ambitious Action Plan will prove to be effective if based on a common understanding of the factors underlying the gender pay gap. In this respect, gathering statistics at Eurostat level is crucial. These statistics should be based on individualised data rather than data from households, which contribute to masking women's poverty. The active participation of all public and private stakeholders at all levels should also be relied upon: local authorities, EU institutions, Member States, social partners, public and private enterprises, educational bodies, civil society organisations (CSOs), etc.

4.4. The EESC reminds Member States of the need to invest in non-discriminatory and inclusive education systems. Greater gender diversity should be fostered among students applying to study the subjects of the future, such as STEM subjects (science, technology — including ICT — engineering and mathematics), so that girls can find jobs in more promising and better paid sectors. In addition, women ought to benefit from additional training throughout their careers (using new technologies such as distance learning), as this would considerably increase their chances of promotion and consequently of higher salaries. Moreover, in order to meet demographic challenges without disadvantaging women, similar levels of diversity should be encouraged in those social sectors in which they are overrepresented.

4.5. The EESC calls on the Commission to raise awareness among companies of the problem of the gender pay gap, including by turning it to their own interest, by improving access to the pool of women workers, taking account of the growing demographic challenges and skills shortages.

4.6. The EESC generally holds the view that societies should do more to address the cultural causes and long-established stereotypes that contribute to the persistent pay gap. The Commission should ensure that an assessment is carried out of what has been put in place and that current measures are strengthened.

## **5. The essential role of the social partners and civil society organisations**

5.1. The social partners are firmly committed to achieving gender equality and to solving the concomitant problems.

5.2. The Framework of Actions on Gender Equality signed in 2005 by the European social partners already provides a demonstration of how to address the problem of wage inequality between men and women: using existing practical tools and drawing up clear and updated statistics at sectoral/national level to allow the social partners to analyse and understand the complex causes of the pay gap; and ensuring that pay schemes, including evaluation systems for jobs and salaries (gross salaries rather than hourly rates of pay), are transparent and gender-neutral, with constant vigilance as to any possible discriminatory effects they may have.

5.3. In order to address employers' concerns about an additional administrative burden, suitable accompanying measures for businesses should be introduced. Both trade unions and employers are responsible for equal pay. Of course, initiatives to promote equality must be set up in education, the labour market, childcare, etc. Nevertheless, pay transparency is also a solution, because transparency and pay audits all have their part to play in the process. Companies are starting to commit to combating all forms of discrimination in the workplace and are already dealing with these problems in order to ensure that pay systems are gender-neutral, and reflect the diversity of national industrial relations systems. It is important that all stakeholders play their role in closing the gender pay gap and explain the real causes, ensure a more coherent and evidence-based approach and clarify any possible misconceptions.

5.4. As for the trade unions, they acknowledge that the existence of a legal framework that is favourable to gender equality can be an important incentive in negotiations, particularly in order to convince employers of the economic and social significance of negotiating for equality. In this regard, a survey carried out by the European Trade Union Confederation (ETUC) observed that, of the wage agreements aiming to reduce pay inequalities between men and women, the ones most frequently mentioned were those focusing on minimum pay and wage increases for low-paid workers. According to the same survey, only 20 % of trade unions had negotiated agreements to combat occupational segregation by granting higher wage increases to low-paid workers in predominantly female sectors.

5.5. Although a number of female workers are members of trade unions, the representation of women on trade union boards is increasing only very slowly. Trade unions should aim for greater diversity when developing a representative gender action plan. A similar situation is observed in the decision-making bodies of employers' organisations (public and private) and civil society organisations, which should also aim for greater diversity when developing a gender strategy.

## 6. Outlook

6.1. The 2018 Annual Growth Survey<sup>(6)</sup> aims to capitalise on the positive boost brought about by the current period of economic growth. It should focus on reforms designed to stimulate investment in human capital and social services, on the basis of the 'golden rule', and to improve the functioning of the markets in goods, services and labour with a view to enhancing long-term productivity and growth, as well as increasing inclusion through better quality public spending, fairer taxation and the modernisation of public institutions.

6.2. The Annual Growth Survey can also generate additional stages throughout the cycle of the European Semester by including all those factors that influence the gender pay gap in the national reports as well as country-specific recommendations.

6.3. The European Pillar of Social Rights ought to be fully integrated in this process, with priority being given to reforms aimed at promoting the acquisition of skills by workers, fostering equal opportunities in the labour market and fair working conditions, increasing productivity at work to support wage growth, particularly for the lowest wages, and making social protection systems more responsive and more sustainable.

6.4. The EESC therefore hopes that the current favourable economic climate arising from the modest increase in economic growth and the European Pillar of Social Rights will provide a fresh impetus to reducing the gender pay gap, and that the proposed Action Plan will prove to be genuinely effective. If this has not come about by the end of 2019, the EESC will envisage advising the Commission to propose both legislative and non-legislative measures at the most appropriate level, including sanctions and/or incentives.

Brussels, 19 April 2018.

*The President*  
*of the European Economic and Social Committee*  
Luca JAHIER

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<sup>(6)</sup> COM(2017) 690 final.

*Appendix*

Below is a list of the main documents that aim to reduce gender inequality and in particular the pay gap between women and men:

- Directive 2006/54/EC on implementation of the principle of equal opportunities and equal treatment of men and women in the matters of employment and occupation (recast), incorporating the pay equality laid down in the EU Treaties since 1957,
  - ILO Convention 100 on Equal Remuneration, 1951,
  - Commission Recommendation on strengthening the principle of equal pay between men and women through transparency (2014/124/EU) and the Report on the implementation of Commission Recommendation C(2014) 1405 (COM(2017) 671 final),
  - The European Commission's Strategic Engagement for Gender Equality 2016-2019,
  - Proposal for a Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures (COM(2012) 614 final),
  - the 2017 Rome Declaration,
  - The proclamation by the European institutions of the European Pillar of Social Rights of 17 November 2017, at the Social Summit for fair jobs and growth in Gothenburg (Sweden),
  - the proposal for a Directive on work-life balance for parents and carers (COM(2017) 253 final), and
  - the EU Action Plan 2017-2019 — Tackling the gender pay gap (COM(2017) 678 final).
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