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I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

539TH EESC PLENARY SESSION, 12.12.2018-13.12.2018

Opinion of the European Economic and Social Committee on ‘The costs of non-immigration and non-integration’**(own-initiative opinion)**

(2019/C 110/01)

Rapporteur: **Pavel TRANTINA**Co-rapporteur: **José Antonio MORENO DÍAZ**

Plenary Assembly decision	15.2.2018
Legal basis	Rule 29(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	7.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	149/09/13

1. Executive summary of conclusions and recommendations

1.1 The EESC considers that immigration has a positive influence on population and labour force growth. If natural population growth becomes negative, immigration can help keep the total population and labour force constant. Admittedly, immigration is not the ultimate solution for tackling the consequences of demographic ageing in Europe. Nevertheless, it could also be a remedy to shortages of labour and skills that are unrelated to demographic processes.

1.2 A non-immigration scenario in Europe would mean that:

- Member States’ economies would suffer substantially; job markets would come under possibly irreconcilable strain, whole industries would go bust, agricultural production would drop, construction would not be able to keep up with demand.
- Demographic challenges would be aggravated; pension systems might become unsustainable, the health and care sector could collapse, depopulation of certain areas would proceed at a swift pace; in effect social cohesion would be undermined.

- A complete ban on legal migration would inherently lead to a spike in attempted irregular migration; this in turn would lead to oversecritisation, overrepression and overpolicing, incurring enormous costs; it would encourage black job markets, exploitation and modern slavery, and desperate attempts at family reunification.
- Racism and xenophobia would flourish even more than at present; pre-settled people with a migration background, including second or third generations, would become targets of popular distrust and outrage.

1.3 In contrast, the following potential of migration can be identified in host countries: job vacancies and skills gaps can be filled, economic growth can be sustained and services to an ageing population can be maintained when there are insufficient young people locally. The pension gap can be closed by the contributions of new young migrant workers. Immigrants bring energy and innovation. Host countries are enriched by cultural and ethnic diversity. Depopulating areas can be revived, including schools that can be transformed. Countries of origin benefit from remittances (payments sent home by migrants), which outstrip foreign aid. Returning migrants bring savings, skills and international contacts.

1.4 Realising the full potential of migration requires an approach which, among other things, makes better use of the skills of the migrant population. The EESC is convinced that this must be supported by adequate skills validation policies and mechanisms and calls on the EU and Member States to support their speedy development. In addition, proper implementation of skills partnerships with non-EU countries would be mutually beneficial for both the EU and migrants' countries of origin.

1.5 The EU should adopt policies and measures that endorse safe, orderly and regular migration and also strengthen inclusion and social cohesion.

1.6 Non-integration bears economic, sociocultural and political risks and costs. Hence, investment in migrant integration is the best insurance policy against potential future costs, problems and tensions. Public policies should tackle the fears, concerns and worries of diverse sections of the population in EU societies in order to avoid anti-EU and xenophobic discourses. To do so, the relevant policies should include a clear, consistent and reasoned set of obligations on the migrants themselves, but equally a consistent denunciation of anti-migrant rhetoric and behaviours.

1.7 The EESC underlines the fact that promoting integration is key to reinforcing EU fundamental values and principles, of which diversity, equality and non-discrimination are crucial ones. Integration pertains to all society, including migrants settling in a host country, regardless of their status or origin. Nevertheless, special policies are required for people with particular vulnerabilities (such as refugees) and a community-based and tailor-made targeted support, rather than a one-size-fits-all approach, may yield best results. It is imperative, therefore, that EU Member States learn from one another and honestly strive to foster an environment in which migrant integration is achievable and the risks are avoided.

2. Background and objectives of the opinion

2.1 The largest migration flows in Europe since the Second World War have raised the concerns of citizens about further uncontrolled migratory flows and highlighted the importance of a joint approach in the fight against irregular migration and of securing the EU's ability to act. EU Member States have been facing challenges regarding the management, financing and communication of migration, as well as citizens' fears relating to this. While the situation has been abused by some politicians, the EESC is convinced that there is an urgent need to change the narrative on migration and return to a rational debate on the basis of facts. Refugees and migrants should be seen not as a threat but as an opportunity for Europe's economic and social model.

2.2 Current policies putting migration control at the top of the foreign affairs agenda undermine the EU's position in foreign relations, making it prone to blackmail and loss of credibility on human rights matters. The EESC is convinced that the EU and the Member States must go beyond the current model and ensure that regular ways of entry are promoted that facilitate orderly migration and successful inclusion. Safe and legal routes may alleviate the pressure on the EU asylum system.

2.3 At the same time, as long as EU markets fuel demand for labour, there will be migration: regular or otherwise. In certain professions, at least, the demand will grow (care sector, domestic work, social services, construction, etc.) ⁽¹⁾.

2.4 At the 2017 Civil Society Days in June, Federica Mogherini, High Representative of the European Union for Foreign Affairs and Security Policy, delivered a keynote speech on 'Global Europe and its role in peace and stability' ⁽²⁾. In it, she said that Europe needed migration for economic and cultural reasons. She suggested that the EESC draft a study or a report on the costs of non-migration, since her impression was that sectors of European economies would collapse if all migrants were to disappear from one day to the next. The report would convey the views of economic and social actors on what Europe would look like without migrants. This own-initiative opinion is a follow-up to her idea.

2.5 Migration has many faces — it can be regular, irregular or, as has been the case in the past three years, humanitarian, following the war in Syria and other parts of the world. Migration flows are also mixed and labour migration might be seasonal, manual or high-skilled. This document focuses mainly on safe, orderly, EU-supported labour migration (and related family reunification); however, it also takes note of other forms of immigration to the EU and the potential contribution of migrants coming for a (temporary) humanitarian migration (asylum seekers) and irregular migration.

3. General comments

3.1 *Demographics — an ageing population and its declining numbers in the EU*

3.1.1 In the early 21st century, Europe is confronted with an ageing population, stagnating or even declining native populations, high unemployment and — in some of its key members — also with slow economic growth. At the same time, Europe remains one of the prime destinations for migration ⁽³⁾.

3.1.2 Changes in labour force size present one of the main challenges for the European Union. While labour supply (labour force size) does not develop independently of labour demand, its future trajectories can be estimated by combining various scenarios of labour force participation with population projections, as identified by the authors of the European Demographic Data Sheet 2018 ⁽⁴⁾. The current labour force in the European Union comprises about 245 million workers. In order to estimate a future labour supply up to 2060, the authors defined three scenarios for labour force participation, which range between 214, 227 or 245 million workers.

3.1.3 Other predictions, such as that presented by the European Commission fact sheet for the Gothenburg Social Summit in 2017, argue that in 2060, for every elderly person there will be two people of working age. Today, there are four. This poses critical risks for maintaining the European Social Model as we know it today.

3.1.4 On the other hand, immigration has a positive influence on population and labour force growth. If natural population growth becomes negative, immigration can help keep the total population and labour force constant. Immigration could also be a remedy to shortages of labour and skills that are unrelated to demographic processes. However, as the Hamburg Institute of International Economics (HWWI) argues in its report *The Costs and Benefits of European Immigration* ⁽⁵⁾, immigration is not the ultimate solution for tackling the consequences of demographic ageing in Europe (as migrants also age).

⁽¹⁾ For instance, among 4,3 million immigrants in the EU in 2016, there were an estimated 2,0 million citizens of non-EU countries, 1,3 million people with citizenship of a different EU Member State from the one to which they migrated, around 929 000 people who migrated to an EU Member State of which they had the citizenship (for example, returning nationals or nationals born abroad), and some 16 000 stateless people.

⁽²⁾ Federica Mogherini's keynote speech at the Civil Society Days 2017.

⁽³⁾ Migration data portal.

⁽⁴⁾ European Demographic Data Sheet 2018.

⁽⁵⁾ *The costs and benefits of European immigration*, Econstor.

3.2 *The potential of labour migration from third countries*

The following impacts can be identified ⁽⁶⁾:

3.2.1 On host countries:

- Job vacancies and skills gaps can be filled.
- Economic growth can be sustained.
- Services to an ageing population can be maintained when there are insufficient young people locally.
- The pension gap can be filled by the contributions of new young migrant workers, who also pay taxes.
- Immigrants bring energy and innovation.
- Host countries are enriched by cultural and ethnic diversity.
- Depopulating areas can be revived, including schools with falling numbers.

3.2.2 On countries of origin:

- Developing countries benefit from remittances (payments sent home by migrants), which now often outstrip foreign aid ⁽⁷⁾, but also from cultural exchange.
- Unemployment is reduced and young migrants enhance their life prospects.
- Returning migrants bring savings, skills and international contacts.

4. **Costs of non-immigration**

4.1 *Sustaining economic growth and meeting labour market needs*

4.1.1 Immigration from outside the EU has both a direct and indirect impact on economic growth: there appears to be a clear correlation between growth of the labour force through immigration and aggregate GDP growth. For instance, in recent years, Sweden has granted thousands of work permits to information technology developers, berry pickers, and cooks. Labour immigration contributes with significant values to the Swedish economy: companies recruiting labour immigrants grow faster than comparable companies. Annually, non-EU/EEA labour immigrants contribute over EUR 1 000 million to Swedish GDP and over EUR 400 million in tax revenues ⁽⁸⁾.

4.1.2 The migrant population generated a 70 % increase in the labour force of Europe between 2004 and 2014 ⁽⁹⁾. It is difficult to specify the impact a labour shortage of this magnitude would have in the European economy and individual Member States. Furthermore, the foreign-born population usually integrates into market niches (segmentalisation) that are either growing rapidly or in decline, providing more flexibility to respond to EU labour market demands.

4.1.3 Similarly, the migrant population participates in the employment situation of each country by contributing to consumption and the creation of new jobs. Migrant entrepreneurs contribute to economic growth and employment, often by rejuvenating neglected crafts and trades, and increasingly participate in the provision of value-added goods and services ⁽¹⁰⁾. The EESC therefore recommends that if the 'creativity and innovation capacity' of migrant entrepreneurs is to be reinforced, specific measures must be taken at EU, Member State and local level. This is to eradicate discrimination and create equal conditions for all so that they can contribute to inclusive growth and quality jobs ⁽¹¹⁾.

⁽⁶⁾ Inspired by and using the conclusions of 'The pros and cons of Migration', Embrace.

⁽⁷⁾ Perspectives on Global Development 2017, OECD.

⁽⁸⁾ DAMVAD Analytics (2016): Labour immigration contributes to Swedish economic development.

⁽⁹⁾ OECD (2014): 'Is migration good for the economy?' Migration Policy Debates.

⁽¹⁰⁾ Rath, J., Eurofound (2011), 'Promoting ethnic entrepreneurship in European cities', Publications Office of the European Union, Luxembourg.

⁽¹¹⁾ OJ C 351, 15.11.2012, p. 16.

4.1.4 The EESC also believes that, in view of their specific tendency to gravitate towards the care sector and activities connected with the sharing economy and the circular economy, social economy enterprises can encourage and support not just the creation of new jobs, but also entrepreneurship and access to economic activities for migrants outside the EU ⁽¹²⁾.

4.1.5 Measuring the fiscal impact of immigration is a complex issue. However, the OECD claims ⁽¹³⁾ that, in sum, migrants have had a neutral fiscal impact over the last fifty years — i.e. any costs they may have generated have been covered by the profits produced through the taxes and levies collected.

4.1.6 An Oxford Economics research study ⁽¹⁴⁾ concluded that migrant workers had helped maintain an adequate labour supply to fuel the 2004-2008 economic boom. The availability of migrant labour seems to have made the difference between some businesses surviving or not needing to relocate production abroad (the authors quote a survey of 600 businesses in which 31 % said that migrants were important in the survival of their organisation, a figure that rose to 50 % in health and social care and agriculture).

4.1.7 It is clear that immigration can be economically beneficial for both countries of origin and host countries. However, with present economic and trading structures it is the rich and powerful countries that benefit most. Migration also has the potential to bring peoples together culturally and to promote understanding, but friction occurs if efforts are not made to dispel the misunderstandings, prejudices or myths held by local people, but also by migrant communities.

4.2 Bridging the skills gap

4.2.1 In general, the European economy loses more than 5 % of productivity each year due to a mismatch between workers' skills and the needs of the labour market, according to a study by the Institute for Market Economics (IME) ⁽¹⁵⁾ commissioned by the EESC and published on 24 July 2018. The study says this amounts to a loss of 80 euro cent for each hour worked. The professions worst hit are IT and communications, medical doctors and, more generally, the domains of science, technology and engineering. The phenomenon also affects teachers, nurses and midwives. The trend is getting worse due to the demographic decline and developments in technology, say the authors. This skills gap could be addressed, in part, by labour migration.

4.2.2 However, realising the full potential of migration in this area requires an approach which, among other things, makes better use of the skills and qualifications of the migrant population. Immigrants are usually overqualified for the positions they are offered ⁽¹⁶⁾.

4.2.3 The skills gap can be partially bridged only if the immigrants get their skills and qualifications validated. EU validation mechanisms are, however, still in development and depend on the Member States. The EU Skills Profile tool is not sufficiently used by Member States and actors on the ground. Nevertheless, there are nongovernmental initiatives, such as Bertelsmann Stiftung's Competence Cards or on-line vocational self-assessment ⁽¹⁷⁾.

4.2.4 Proper implementation of skills partnerships with non-EU countries would be mutually beneficial for both the EU and migrants' countries of origin.

⁽¹²⁾ OJ C 283, 10.8.2018, p. 1.

⁽¹³⁾ International Migration Outlook 2013, OECD.

⁽¹⁴⁾ Department for Employment and Learning, UK: The Economic, Labour Market and Skills Impacts of Migrant Workers in Northern Ireland.

⁽¹⁵⁾ EESC (2018): Skills Mismatches — An Impediment to the Competitiveness of EU Businesses (ISBN: 978-92-8-30-4159-7).

⁽¹⁶⁾ LABOUR-INT: 'Integration of migrants and refugees in the labour market through a multi-stakeholder approach'.

⁽¹⁷⁾ Meine Berufserfahrung zählt.

4.3 Sustaining the care sector

4.3.1 Labour market shortages in the healthcare sector are a ‘ticking bomb’. There is an ongoing crisis⁽¹⁸⁾, and labour shortages will increase unless appropriate policy responses are pursued. As early as 1994, care was defined as a strategic sector by the European Commission. In 2010, it warned that a supply shortage of two million healthcare workers would emerge by 2020 if urgent action was not taken to redress supply shortfalls of up to one million workers in long-term care (LTC)⁽¹⁹⁾.

4.3.2 Workforce shortages are prevalent in care occupations in many Member States. Recruitment of both regular and undocumented care workers alleviates shortages in the care sector. Southern European care systems, in particular, rely heavily on live-in care workers. In Italy, for instance, migrant live-in care workers represent about three-quarters of the home care workforce⁽²⁰⁾.

4.3.3 Central and Eastern European (CEE) countries are also affected by the labour shortages in the care sector as well as by rising demand for care in Western Europe. For instance, Poland supplies many care workers to other countries, despite a depleted care workforce. These shortages are met with the arrival in Poland of workers from the Ukraine and other countries outside the EU⁽²¹⁾.

4.3.4 It is also important to notice the significant economic contribution of women migrants, to families and communities through paid work, and the need to address inequalities between women and men in labour markets⁽²²⁾. Research shows that the majority of migrant women workers are employed in service sector occupations (e.g. catering, domestic and healthcare occupations). Irregular work, underemployment and temporary-contract employment could generate the disadvantage faced by migrant women in EU labour markets, and measures to guarantee equal treatment and to provide protection of vulnerable people should be further developed.

4.4 Addressing depopulation of rural and remote areas

4.4.1 Rural, mountain and island areas are becoming depopulated, which creates a downward economic and social spiral that gains momentum as more people migrate into towns. The loss of population reduces the amount of money circulating within a community, which then affects the viability of local businesses, shops and transport links, as well as the availability of essential facilities and services.

4.4.2 In some areas of the EU, for instance in Ireland or Brandenburg, depopulation is being overcome by settling migrants. In the case of agriculture, for example, the contribution of migrant labour in Northern Ireland has been key to the survival of a sector with serious problems in terms of labour supply and an ageing workforce. The migrant population is prepared to accept jobs with salaries and conditions that have been rejected by the local population, and to live in villages at high risk of depopulation, despite the fact that it may be a highly unregulated sector with a risk of labour exploitation⁽²³⁾.

4.4.3 Opportunities are available under the European Union’s rural development policy to assist local rural communities with the arrival of migrants. A number of rural development organisations have pointed out the potential assistance that rural areas can offer migrants, whose arrival could play a role in revitalising areas suffering from underpopulation and/or economic decline. The European Parliament has emphasised the importance of providing support for migrants’ social inclusion and integration into the labour market in its 2017 study⁽²⁴⁾.

⁽¹⁸⁾ UNI Europa UNICARE (2016).

⁽¹⁹⁾ European Commission (2013).

⁽²⁰⁾ European Parliamentary Research Service (2016).

⁽²¹⁾ OJ C 487, 28.12.2016, p. 7.

⁽²²⁾ Report ‘Migrant women in the EU labour force. Summary of findings’, EC.

⁽²³⁾ Nori, M. (2017). ‘The shades of green: migrants’ contribution to EU agriculture: context, trends, opportunities, challenges’.

⁽²⁴⁾ ‘EU rural development policy and the integration of migrants’, EP.

4.5 Addressing cultural diversity

4.5.1 The lack of a migrant population would be to the detriment of diversity in EU countries, leading to a xenophobic and self-satisfied discourse, which is at odds with the EU's guiding principles. Furthermore, we would lose a contribution to the expansion of values, such as equal treatment and non-discrimination, where the visibility of the population with a migrant background has helped to achieve progress in recent years.

4.6 For all of the above, non-immigration to the EU must be discarded as an unrealistic, unimplementable and immensely harmful scenario.

5. Costs of non-integration (and how to avoid them)

5.1 In order to realise the full potential of migration to Europe, as indicated above, and at the same time minimise the related and long-lasting risks and avoidable socio-economic costs, it is paramount that conditions are in place for migrants' successful integration.

5.2 The main points pertinent to the EU's understanding of the concept are listed in the Common Basic Principles for Immigrant Integration Policy in the EU adopted by the Council in 2004⁽²⁵⁾. Therein, integration is understood as a 'dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States'. This runs contrary to a widely shared misconception of integration as assimilation — a one-way process in which individuals abandon their national and cultural attributes in exchange for those of their new country of residence⁽²⁶⁾. However, as reiterated by the 2016 EU Action Plan on the integration of third country nationals, an essential element of living and participating in the EU is the understanding of and subscription to its fundamental values⁽²⁷⁾.

5.3 It should be underlined that integration pertains to all migrants settling in a host country, regardless of their status or origin. Nevertheless, special policies are required for people with particular vulnerabilities (such as refugees), and a community-based rather than one-size-fits-all approach may yield best results.

5.4 Employment is a core part of the integration process. Member States and economic and social partners thus perceive labour market inclusion of migrants as a priority. Indeed, the demand for migrant workers continues to be one of the crucial drivers of immigration in the first place.

5.5 Among the other essential variables determining migrant integration on the side of the receiving state are: certainty and foreseeability of migration status, possibilities for and obstacles to obtaining citizenship, opportunities for family reunification, availability of language courses, language and cultural knowledge requirements, political rights, and the general openness of any given society and its willingness to embrace, assist and interact with the newcomers, as well as vice versa.

5.6 In addition, migrant integration is closely interlinked with a plethora of policies related to protection in the workplace, housing, healthcare, education, women's rights, equality and non-discrimination — to name but a few.

5.7 In an effort to quantify the policies in place, the Migrant Integration Policy Index (MIPEX) was set up, providing comparable data on EU Member States and several other countries⁽²⁸⁾. Its results underline the existing discrepancies between Member States, including the enduring east-west divide.

5.8 Following the logic of the 'migrant non-integration' scenario, the following risks and/or costs can be identified:

5.8.1 Economic

— Migrants' exclusion from formal labour (and surge in undeclared work);

⁽²⁵⁾ Common Basic Principles for Immigrant Integration Policy in the EU.

⁽²⁶⁾ For more on the conceptual difference, see e.g. Assimilation vs integration, Centre for the Study of Islam in the UK, RE teachers Resource Area.

⁽²⁷⁾ Action plan on the integration of third country nationals.

⁽²⁸⁾ Migrant Integration Policy Index 2015: How countries are promoting integration of immigrants.

- increased costs of handling social issues after they appear, rather than preventing them;
- migrants' inability to fully realise their potential (often transferred to following generations).

5.8.2 Sociocultural

- Lack of identification with the values and norms of the host country and their acceptance;
- aggravation of sociocultural differences between the migrant and host communities;
- migrants' structural discrimination, including lack of adequate access to services;
- increased xenophobia and mutual distrust;
- replication of language barriers;
- spatial segregation leading all the way to ghettoisation;
- break-up of overall social cohesion.

5.8.3 Security

- Increase in hate speech and hate crimes;
- decline in law enforcement and possible increase in crime rates, particularly in socially excluded areas;
- potential radicalisation and increased support for extreme ideologies (by both migrant communities and the host society).

5.9 Given the above, investment in migrant integration is the best insurance policy against potential future costs, problems and tensions.

5.10 The relevant policies should include a clear, consistent and reasoned set of obligations on the migrants themselves, but equally a consistent denunciation of anti-migrant rhetoric and behaviours.

5.11 It is imperative, therefore, that EU Member States learn from one another and honestly strive to foster an environment in which migrant integration is achievable and the risks set out above are avoided.

5.12 It should be stated quite openly that government-led efforts to criminalise or otherwise marginalise migrants, the stoking of ethnic nationalism and cutbacks in financing of integration measures (including the non-distribution of funds made available by the EU) — as recently witnessed in certain Member States — are in direct contradiction to these aims and can do irreparable harm in the long run.

5.13 Last but not least, promoting integration is key to reinforcing EU fundamental values and principles, of which diversity, equality and non-discrimination are crucial ones.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Sustainable inclusive bio-economy — new opportunities for European economy’

(own-initiative opinion)

(2019/C 110/02)

Rapporteur: **Mindaugas MACIULEVIČIUS**

Co-rapporteur: **Estelle BRETNALL**

Plenary Assembly decision	15.2.2018
Legal basis	Rule 29(2) of the Rules of Procedure own-initiative opinion
Body responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	25.9.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	205/3/3

1. Conclusions and recommendations

1.1. Introduce a long-term, coherent and transparent policy and incentive framework to promote the bioeconomy. A high-political engagement to address the many cross-cutting societal challenges is needed and the EU policy environment could be more welcoming towards innovative bio-based products and sustainably produced EU-grown raw materials. Financial incentives or tax incentives could help spur on the necessary investments as Member States and regions have competence in these domains rather than the EU. Cluster organisations grouping SMEs, as well as primary producers of sustainable biomass, play an essential part in developing relationships between actors in the supply chain. A continued, updated mapping exercise⁽¹⁾, coupled with measuring the effects of the bioeconomy, could identify existing clusters active in the bio-based area, and actions should be taken to facilitate the development of new ones at European, regional and national levels, where gaps exist.

1.2. The role of farmers, forest owners and their cooperatives is crucial to ensure an efficient use of natural resources and contribute to a circular bioeconomy. A strong Multiannual Financial Framework, Common Agricultural Policy and European forest strategy are needed to support advisory services, training and knowledge exchange, to better address farmers’ and agri-cooperatives’ needs. Concrete examples to raise awareness and show the benefits of the bioeconomy for the whole value chain need to be promoted. That will attract young farmers and new entrants to start new businesses in this field. Producers’ organisations and cooperatives should also be promoted as important tools to increase the mobilisation and added value of existing biomass in EU. Therefore, supporting the EU agriculture and forestry sectors is crucial to further invest and innovate in the sustainable production of biomass.

1.3. Support market creation and help consumers and the public to make informed choices about the products and industries they support through their daily purchases. To bridge the lack of awareness of consumers and broadcast coherent and accurate messages on bio-based products, the European Union needs to design a communication strategy involving all partners in the value chain and all other stakeholders. An important first step has been the establishment of clear EU-wide standards for bio-based products, which can pave the way for introducing market creation measures to further boost consumers’ and public procurers’ uptake of EU-produced bio-based products.

⁽¹⁾ <https://biconsortium.eu/news/mapping-european-biorefineries>

1.4. **Provide a sustainable financial return on investments through a one-stop-shop fund.** Smart regulation and consistent multi-level implementation across the EU should be a priority in order to remove obstacles and reduce administrative burden while at the same time securing sustainability. For instance, a web-based tool could help identify available funding and whether the applicant meets the eligibility criteria for this mechanism. The system would also provide the links and resources needed to apply directly for the funding mechanism. It could serve as a market place, making information on funding available and putting fund seekers in contact with potential funders (e.g. like a crowdfunding site). Further, the continuation of the Bio-based Industries Joint Undertaking (BBI JU 2.0) beyond the current multi-annual financial framework is crucial, to foster new and existing value chains of bio-based products and strengthen the competitiveness of existing production facilities, and for contributing to rural development, creating jobs and promoting business.

1.5. **The EU Regional Development Policy post 2020 should provide enough funds to further develop rural areas.** The focus should be mainly on supporting investments in infrastructure and services needed for efficient and sustainable rural bio-economy business.

1.6. **Capitalise on scientific opportunities and support the uptake of innovations through a flexible, proportionate, robust legal framework.** Research is critical to enable, establish and evaluate innovation in the bioeconomy. Commercial exploitation depends not only on excellent research but also on the appropriate strategic, legal and societal framework to ensure fast knowledge transfer to industry. Frontrunners should receive the space and support needed to innovate and accelerate within regulatory boundaries. Innovation deals and green deals should be agreed upon with stakeholders in situations where regulation could better support the development of the overall bioeconomy and where creative solutions are needed. Furthermore, innovation also plays a crucial role in enhancing the sustainability of the EU biomass production.

1.7. **Enhance education, training and skills programmes for new talent and existing employees.** Unlocking the bioeconomy potential could lead to creating new jobs. Yet, the introduction of new technologies poses important challenges to the organisation of work and the skills workers need. Therefore, ensuring the continued development and adaptation of individuals' skills over their lifetimes is of the utmost importance. Commitment from all relevant stakeholders — biomass producers, education providers, companies, trade unions, public employment services and governments — to improving the quality and responsiveness of education and vocational training provision is paramount for reducing the skills mismatch by reinforcing links between education systems and labour markets. However, overall skills development and matching policies should be an integral part of a broader set of actions that include employment, industrial, investment, innovation and environmental policies.

1.8. **Explore biomass usage. A more efficient use of the existing biomass supply must be a priority to meet the growing demand for feedstock.** Then, the quality and quantity of productive soils must also be improved for agriculture and the use of abandoned, marginal or underutilised land incentivised. Feedstock producers, mainly farmers and forest owners, play a vital role in developing the bioeconomy. Awareness raising of potential opportunities (using different crops) and the development of infrastructure for collection, storage and transportation of biomass is required. Making sustainability reporting schemes less complex and enhancing versatile biomass production and processing capacity can also play a key role. Wastes and residues as alternative biomass sources and the sustainable management of European forests offer opportunities for the bioeconomy and the bioenergy. A valuation of sustainable waste flows is needed as well as further investments in wood and residues mobilisation. In addition, technologies need to be developed to deal with the inherent variability of such products. In some cases, national policies may need to adapt to accommodate usage of wastes in bio-based products.

2. General comments

2.1. The bioeconomy encompasses the production of renewable biological resources and their conversion into food, feed, bio-based products and bioenergy. This includes agriculture, forestry, fisheries, food, pulp and paper production, as well as parts of chemical, biotechnological and energy industries. For the purpose of this opinion, research on genomes, cell processes and bioinformatics is not specifically considered. The 2012 EU Bioeconomy Strategy aimed '(...) to pave the way to a more innovative, resource-efficient and competitive society that reconciles food security with the sustainable use of

renewable resources for industrial purposes, while ensuring environmental protection'. In 2017 the Commission carried out a review of its 2012 EU Bioeconomy Strategy, which concluded that the Strategy has demonstrated the relevance of its objectives and that the importance of the opportunities offered by the bioeconomy is increasingly recognised in Europe and beyond.

2.2. Nevertheless, while the objectives of the 2012 EU Bioeconomy Strategy continue to be relevant to meet the challenges in food and nutrition security, and the accompanying Action Plan has delivered on its proposed objectives, a refocusing of the actions and assessment of the scope of the Strategy are considered necessary in light of recent policy developments, including the United Nations Sustainable Development Goals (SDGs) and Convention on Climate Change (COP21 commitments). The global population is expected to grow to almost 10 billion by 2050 and biological resources need to be used more efficiently, so there can be safe, nutritious, high quality and affordable food for more people with less environmental and climate impact per unit produced, and sufficient renewable biological material to produce a sizeable part of what we currently harness from fossil crude oil, in conjunction with wind, solar and other renewable energies.

2.3. Against this backdrop, the sustainable bioeconomy cuts across sectors, and is at the core of sustainable economic strategies worldwide. The bioeconomy can play a key role in European competitiveness and it is now important to identify and use its opportunities, both at European and Member States/regional level. For example, other third countries such as the USA have experienced top-down leadership on the development of a bioeconomy generating almost USD 400 billion and supporting over four million jobs through direct, indirect, and induced contributions ⁽²⁾.

2.4. The bioeconomy provides options that can both help reduce CO₂ emissions and reduce reliance on imported fossil resources. For example, EU forests sequester an amount of carbon corresponding to 10 % of the EU's yearly emissions, while providing a sustainable and constant supply of biomass for renewable energy. Furthermore, estimates show that 100 000 chemicals currently in production can, in theory, be sourced from renewable raw materials. This does not mean all of them should be, but it is theoretically possible. This will not only offer the possibility of producing our everyday household items locally and renewably, it will also help create jobs and growth in Europe, where the technological edge still remains strong.

2.5. However, major barriers remain on the path towards greater innovation within the EU bioeconomy. An important obstacle relates to product cost-competitiveness, both compared to fossil alternatives and to equivalent products from elsewhere in the world. Cost-competitiveness is affected by many factors, including technology readiness level, labour costs, fossil fuel subsidies and amortisation, as well as the low level of market support for bio-based products. This competitiveness issue is compounded by difficulties in accessing finance for innovative projects and production facilities and, often, ongoing low end-user awareness of bio-based products, as well as by a lack of skills and operational relationships to drive the sector forward. Moreover, permitting procedures for new bio-based projects are becoming lengthy and burdensome leading to significant legal uncertainties and financial risks for economic actors.

3. Specific comments

3.1. It is estimated that the bioeconomy sectors in the EU have an annual turnover of about EUR 2 trillion and employ about 19,5 million people ⁽³⁾, most of them located in rural and coastal areas, representing about 8,5 % of the EU28's workforce. Agriculture, forest-based sector and rural communities are expected to benefit from the developing bio-based sector across the EU in the form of employment and income generation. Processing biomass and manufacturing bio-based products provide new business opportunities in the form of growing and marketing diverse crops. Together with conventional crops like cereals, oilseeds, potatoes and sugar beet, novel crops such as grass, forest-based crops, seaweed and microalgae are regarded as potential future income generators in rural and coastal areas.

⁽²⁾ See the USDA's Fact Sheet: An Economic Impact Analysis of the U.S. Biobased Products Industry: 2016 Update at: <https://www.biopreferred.gov/BPResources/files/BiobasedProductsEconomicAnalysis2016FS.pdf>

⁽³⁾ All quoted figures are sourced from 'JRC science for policy report: 2016 Bioeconomy Report', available at <http://publications.jrc.ec.europa.eu/repository/bitstream/JRC103138/kjna28468enn.pdf>

3.2. Existing biorefineries already now provide livelihoods and economic empowerment to rural families and communities. Biorefineries — factories that use renewable raw materials (i.e. biomass, by-products and co-products as well as waste) instead of fossil resources are at the heart of the bioeconomy: they are located in rural and coastal areas, close to the renewable raw materials they process, in the heart of food and feed, industrial, wood and energy production.

3.3. Biorefineries enhance every component of the plant they process, producing minimal waste. Through efficient and/or innovative technologies, biorefineries based in the EU manufacture a wide array of products such as food, feed, chemicals, fibres and fuels which combine the features of being renewable, reusable, recyclable, compostable or biodegradable. The versatility of bio-based products and ingredients is such that they can be used in a wide variety of applications, such as aquafeed, construction, cosmetics, cardboard, detergents, fuels, lubricants, paint, paper, pharmaceuticals, plastics, and other industrial products, thereby substituting fossil-based ingredients with renewable ones.

3.4. The establishment of new biorefineries, development and expansion of existing biorefineries, is an investment in a first-of-a-kind plant. Biorefineries are capital-intensive, have long payback times and are exposed to technology and market risks. Therefore, a clear, stable and supportive regulatory and financial framework is important to foster these investments in Europe. Today a variety of different instruments can be accessed including Horizon 2020 (the new proposed Horizon Europe legislation is a welcomed, ambitious innovation and research programme) and the Bio-based Industries Joint Undertaking; European Structural and Investment Funds (ESIF); the European Agricultural Fund for Rural Development (EAFRD); InnovFin; the European Fund for Strategic Investments (EFSI); and last but not least the European Investment Bank (EIB) for loans and guarantees. But accessing them can be difficult. A one-stop-shop for companies to access in-depth tailor-made information fitting their needs would address these bottlenecks.

3.5. In this context, engaging with civil society, together with farmers, forest owners and industry, to encourage the debate on shaping a more competitive bioeconomy for Europe that benefits all is critically needed. Helping to communicate the benefits of the bioeconomy is crucial to achieve this paradigm shift towards a lower-carbon renewable-based economy. In this regard, credible certification and labels schemes could be important tools to bring about a sustainable and reliable bioeconomy industry, and give confidence to industrial customers, public procurers and consumers.

3.6. The EU, Member States and regional authorities can make crucial contributions to help the bioeconomy grow, by stimulating market demand for renewable, smart and resource-efficient products and services. Member States should include in the future CAP strategic plans concrete measures to develop and/or further support investments and promote sustainable solutions for EU farmers, forest owners and their cooperatives to increase their competitiveness and efficiency. Where there is a potential for bio-based products to substitute fossil-carbon alternatives sustainably, this could be enabled both through the development of new legislation, such as the circular economy package, and through the potential revision of other relevant existing legislation to encourage substitution of locally produced bio-based alternatives to traditional fossil carbon products. Further, existing standardisation activities such as the TC411 and existing certification schemes and/or new voluntary labelling schemes such as the biobased% can be used.

3.7. Public procurers at national and regional levels should increase references to such credible bio-based content certification and labels. For instance, in 2016, the Dutch Standardisation Body NEN launched a new bio-based certification scheme, Biobased% (<http://www.biobasedcontent.eu/>). It establishes the amount of biomass that is contained in a product, and helps companies to provide transparent and credible information about the bio-based content of a product, both in business to business as well as in business to consumer communications. It is based on the European Standard EN 16785-1:2015 (providing a method for determining the bio-based content of solid, liquid and gaseous products using radiocarbon analysis and elemental analyses). Conformity assessments are carried out by certification bodies who have entered into an agreement with NEN. Now that this certification is in place, it is important to raise awareness and incentivise the use of renewable raw materials in current and future EU legislation.

3.8. In forestry, certification schemes play an important role for guaranteeing a sustainable mobilisation of biomass. For instance, 60 % of the EU's forests are certified under the Programme for the Endorsement of Forest Certification (PEFC) and/or Forest Stewardship Council (FSC) scheme. Furthermore, EU forestry is producing under the highest environmental standards worldwide, originating from legislation such as the EU Timber Regulation, rules on land use, land-use change and forestry (LULUCF), the Birds and Habitats Directives and the circular economy package.

3.9. Improving B2B and B2C communication is therefore key. Raising public awareness based on accurate, relevant and accessible information is essential to ensure the development of a smart, sustainable and inclusive bioeconomy, to create a market for sustainable bio-based products and to promote more sustainable consumption and production. Public awareness actions are needed particularly at regional and local level, including prizes or awards as well as exhibitions on the role of technology and science in the bioeconomy.

3.10. It is thus of great importance to create clear and accurate messages for the public. As the bioeconomy offers several opportunities to address societal challenges, measuring it through a comprehensive economic assessment is required. This will provide information about the size of the bioeconomy cutting across sectors, as well as its contribution to economic growth and related labour market effects. In this regard the scientific community has a pivotal role to play. This is also why it is essential to sustain investment in interdisciplinary and basic research for the EU to fulfil its potential in contributing to global research and innovation for food and nutrition security, for competitiveness and the knowledge-based bioeconomy. It is vital that the EU legislative position is fully informed by the advancing scientific evidence and experience worldwide and that the processes for deciding on regulatory oversight are transparent.

3.11. Educating school children and high school students is crucial to raise a generation that understands the challenges and embraces the opportunities offered by the bioeconomy. For example, teaching principles of circularity, of acting globally and locally at the same time (glocally), and raising interest for exploration will contribute to preparing the new generation to find its way. New curricula have already been designed at universities, combining life sciences, engineering and marketing, for instance. Such cross-overs between disciplines and a facilitating environment for start-ups can support students to become bioeconomy entrepreneurs. Vocational training needs to evolve to match requirements for skills in primary production, manufacturing, transport, and other relevant sectors. Also, later in life, workers need to update their skills and competences. Life-long learning programmes that connect education providers with producers, employers and workers, researchers, and innovators can support this.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Facilitating access to climate finance for non-state actors’

(own-initiative opinion)

(2019/C 110/03)

Rapporteur: **Cillian LOHAN (IE-III)**

Legal basis	Rule 29(2) of the Rules of Procedure Own-initiative opinion
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Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	114/6/7

1. Conclusions and recommendations

1.1 Although large funds have been pledged in Climate Finance pacts, the EESC wants to highlight a problem with small scale non-state climate actors accessing financing to ensure potentially transformative initiatives are supported and can happen.

1.2 The flows of climate finance in the European Union need to be urgently monitored and mapped. This will facilitate measuring the impact for non-state climate actors, and ensure the progress on a wider transformation of the economy to a low carbon model can be assessed.

1.3 The sources of finance are disparate, as are the bottom-up initiatives that require access. Mechanisms to address this disconnect are not in place. This should be addressed by establishing an inclusive Climate Finance Forum at the EU level.

1.4 The EESC is proposing a **Climate Finance Forum to address the key issues**, bringing together key stakeholders to identify barriers, design solutions, and identify most efficient mechanisms for improved distribution of finance, including a type of match making service that links projects and appropriate climate finance sources to each other.

1.5 A mechanism for reaching initiatives that require smaller sums needs to be created (then effectively communicated) that includes:

- simplified application process
- simplified reporting requirements
- match funding
- supports for projects at design stage, pre-application for funding
- supports for capacity building, networking, exchange and platform development at local, regional, national and European level.

1.6 A focus on climate finance should not be to the exclusion of responsible financing in other areas. All financing should be climate proofed to ensure that any funding and financing outside of specified climate finance is not working against the climate commitments and targets. This needs to be adhered to in the context of the Paris Agreement Article 2.1c, for existing finance flows to be consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

1.7 A toolkit needs to be developed, with a clear communication strategy, that empowers non-state actors at all levels to understand and be able to access climate finance. The toolkit should facilitate project developers to design projects that will contribute to a low carbon and climate-resilient economy.

2. Introduction

2.1 This opinion builds on the previous EESC opinions on the 'Coalition to deliver commitments of the Paris Agreement' ⁽¹⁾ and on 'Boosting climate actions by non-state actors' ⁽²⁾ as well as on the recent EESC study ⁽³⁾ which highlighted barriers hampering stronger involvement of non-state actors in climate action.

2.2 In 2018, the EESC called for a 'European Dialogue on Non-State Climate Action' (ED-NSCA) to strengthen and increase the scope and scale of European-based non-state climate action. It stated that the purpose of the dialogue should be not only to highlight and showcase actions, but also to respond to the needs of non-state actors by inspiring new partnerships among state and non-state actors; facilitating peer learning, training and advice sharing among non-state actors; increasing finance available **and facilitating access to it**.

2.2.1 The term 'non-state actors' refers to actors that are not Party to the United Nations Framework Convention on Climate Change (UNFCCC). This broad understanding includes various types of business, including small, medium-sized and micro-enterprises; investors; cooperatives; cities and regions; trade unions; communities and citizen groups; faith-based organisations; youth groups; and other non-governmental organisations.

2.2.2 The proposed European Dialogue on the Non-State Climate Action process should support access to finance for non-state actions. This should involve:

- the mapping of funding opportunities;
- advice on fundable plans;
- looking at how the existing financial value chain (both public and private) is providing funding for climate investments that non-state actors aim to do;
- analysing the possibilities for effective funding/financing distribution to smaller scale projects that have the potential to be transformative;
- analysing current dialogue and consultation procedures with non-state actors, with a view to establishing new techniques and best practices to enhance the use of existing European and international funds;
- advocating for the upcoming Multiannual Financial Framework of the EU to serve the higher climate ambitions of, and incentivise actions by, non-state actors;
- the exploration of innovative funding (peer-to-peer, crowd, micro, green bonds, etc.).

⁽¹⁾ EESC opinion on the *Coalition to deliver commitments of the Paris Agreement* (OJ C 389, 21.10.2016, p. 20).

⁽²⁾ EESC opinion on *Boosting climate actions by non-state actors* (OJ C 227, 28.6.2018, p. 35).

⁽³⁾ EESC study on a *Toolbox for multi-stakeholder climate partnerships — A policy framework to stimulate bottom-up climate actions*.

2.3 Climate Finance can be interpreted in many ways but the United Nations Framework Convention on Climate Change (UNFCCC) standing committee on finance defines it as ‘finance that aims at reducing emissions, and enhancing sinks of greenhouse gases and aims at reducing vulnerability of, and maintaining and increasing the resilience of, human and ecological systems to negative climate change impacts’.

2.4 This opinion looks at Climate Finance in relation to EU Member States and the non-parties to the UNFCCC within those countries, allowing CSOs, municipalities and local government access to the financial instruments required to assist in the design and implementation of projects, initiatives and activities that contribute to reducing emissions, and climate proofing communities.

2.5 It is important to view this opinion in the context of Climate Justice⁽⁴⁾ as a means of ensuring that the costs of climate action are not disproportionately placed on the poorest and most vulnerable in society.

2.6 Financing the first steps in a transition to a low carbon economy and for both adaptation and mitigation is critical to ensure a just transition, and to accelerate actions at ground level.

2.7 For micro projects and small projects the amounts from EUR 2 000 to EUR 250 000 can be difficult to access. Efficient mechanisms are required to ensure that smaller scale community-led actions are not excluded from the transformative potential of climate financing.

2.8 The EU has over the last decade successfully developed a range of financing mechanisms tailored to such needs — the EIDHR Democracy and Human Rights programme, GCCA (Global Climate Change Alliance), NGO Co-funding and Decentralised cooperation financial instruments — which could inspire the development of appropriate climate change instruments.

3. Identified Problems

Context

3.1 The EESC is firmly committed to the United Nations 2030 Agenda for Sustainable Development and the Paris Agreement. However, our current trajectory will at best only limit the increase in temperature to 3 °C or more, which is well beyond what is stipulated in the Paris Agreement. The shift towards sustainability will require major efforts and significant investment. Total annual average energy-related mitigation investment for the period 2015 to 2050 in pathways limiting warming to 1,5 °C is estimated to be around USD 900 billion according to the IPCC special report on the impacts of global warming of 1,5 °C above pre-industrial levels.

3.2 Although the investment required to tackle climate change is large it is not as large as the investment required to rescue a collapsing financial sector in recent years. On that occasion investments of EUR 2,5 trillion were mobilised. The potential collapse of the ecosystems that sustain us should warrant at the very least an equal response.

3.3 Too often the climate finance discussion concentrates on creating new explicit funding lines while the Paris Agreement calls for all finance flows to be consistent with a pathway towards low greenhouse gas emissions and climate resilient development.

3.4 The Marrakech Partnership and the Global Climate Action Agenda are opportunities for the engagement of non-state actors in the formal UNFCCC process. Capturing actions within the EU, and financing actions in order to maximise their potential impacts is not a focus when designing financing packages.

3.5 While there has been progress on the issue of financing the fight against global warming and its effects, it has not been enough. The latest Intergovernmental Panel on Climate Change report⁽⁵⁾ clearly states that we are in a critical period, with radical actions required in the next decade to limit impacts to manageable levels. Political priority must be given to sustainable finance and a sustainable economy, in particular through clear, stable and incentive-based legislation.

⁽⁴⁾ EESC opinion on *Climate Justice* (OJ C 81, 2.3.2018, p. 22).

⁽⁵⁾ IPCC special report on the impacts of global warming of 1,5 °C above pre-industrial levels (October 2018).

3.6 It is not sufficient to allocate a set percentage of a budget to climate finance if another part of the budget is spent on climate damaging activities. The whole of any spending needs to be considered in terms of its climate impact. An International Monetary Fund working paper estimates the total of global direct and indirect subsidies for fossil fuels at an annual figure of USD 5,3 trillion, equating to more than USD 15 billion per day. Even with the envisaged Green Climate Fund amounting to USD 100 billion per year, the negative impact of these subsidies is not offset.

3.7 The energy transition will not be successfully implemented in time and in line with the European commitments under the Paris Agreement, if the issue of energy poverty is politically neglected. A fair distribution of both financial and social costs and benefits associated with Europe's sustainable energy transition among all levels of government and market actors, including citizens, is needed. The scientific study of Heat Roadmap Europe ⁽⁶⁾ shows that Europe is able to reduce its GHG emissions by 86 % in 2050 compared to 1990 with existing technologies in an affordable and cost-effective manner.

3.8 Research for this opinion highlighted the lack of information on mapping flows of dedicated climate finance within Member States. It is difficult to assess if funds are being broken into smaller accessible pots of money or what the transformative effect of the funding is. This lack of monitoring and reporting increases the ambiguity around the perceived problem, and hinders the development of the most effective solutions.

Access for business and SMEs

3.9 Access to funding remains a chief challenge for all types of non-state actors, including the varied challenges faced by SMEs and larger businesses. This challenge does not only entail the availability of more and additional funding, but also the clarity of existing funding mechanisms.

3.10 Moreover, there is also difficulty in defining what constitutes a 'green investment'. Investors are primarily concerned with risk and return, and it is difficult for them to assess the potential impact on the climate of a proposed project, and to measure its chances of success. Private lenders will be reluctant to finance a project without clear understanding of investment risks as well as risk mitigation mechanisms — in other words without guarantees.

Access for local and regional governments

3.11 For subnational governments, factors limiting their access to finance include: low credit ratings; limited capacity to mobilise private finance due to insufficient size of the low-carbon infrastructure investment market and unattractive risk-return profiles; and sovereign limits set by national governments on how much or if a sub-national government can borrow from the private sector.

Access for community initiatives

3.12 There are currently many thousands of grassroots initiatives on climate change and sustainability in Europe. These initiatives have a significant contribution to make to EU climate, energy and sustainability goals but they are mostly reliant on volunteers and a major barrier to their development and upscaling is the lack of funding and professional support. Often, very modest resources are required, without which initiatives struggle to progress and launch projects. The transformative potential of these initiatives is not being harnessed.

3.13 In many cases, local grassroots initiatives find it difficult to access conventional sources of funding. Often, the minimum amount of funding required to apply for is too high, and well beyond the needs or management capacity of small-scale local initiatives. Co-financing requirements create additional barriers.

3.14 Matching funding requirements, excessive paperwork and complicated processes are part of the problems identified by smaller groups in accessing finance. Though these types of projects/initiatives are individually small their cumulative effect can be large. There are also many additional local knock-on benefits and advantages when small community-based programmes are supported with adequate financing.

⁽⁶⁾ Horizon 2020 research and innovation programme under grant agreement No 695989 — Heat Roadmap Europe.

3.15 Most, if not all funding is project oriented and does not address the need for resources to support processes at different levels, from community organising and capacity building at local level, to networking, exchange and platform development at regional, national and European level. Funding support in this area could greatly help to accelerate the level of citizen and community engagement on climate action and also help to ensure there is sufficient organisation and collaboration to support scale up and contribute to policy development.

Access for Innovation Funding

3.16 Early-stage entrepreneurs also face several challenges in access to finance, lack of knowledge and experience, access to markets and scaling beyond the start-up phase. Financing innovation is a critical part of the solution to the climate crisis, but equally being innovative in the financing mechanisms and their delivery is required. Initiatives such as EIT Climate-KIC aim to address these challenges by mainstreaming climate in financial markets, democratising climate risk information and supporting investments in innovative start-ups.

4. Proposed solutions

4.1 The EESC proposes a type of Climate Finance Forum be established at the EU level with a decentralised network. This would bring together all relevant parties and facilitate a coordinated response to the problems identified here. It would be a conduit for developing the mechanisms required, as identified in this opinion.

4.2 A function of the Climate Finance Forum needs to be a dialogue platform to help connect particularly promising and effective non-state solutions to private and institutional investors. In addition, a strong focus on scale-up and replication potential is needed across EU Member States and elsewhere, to maximise impact. The EESC, with its network of organised civil society groups throughout Europe, is in a strong position to be part of a Climate Finance Forum, as a voice that can represent the grassroots issues with accessing finance.

4.3 Effective communication will be an essential part of any successful strategy to address the problems in climate finance. Communication needs to travel in all directions, clearly identifying the audience and communicating in effective, precise and appropriate language the opportunities and accessibility of finance options.

4.4 The European Commission and other EU institutions need to develop guidance documents for non-state actors to make use of existing funding mechanisms. There is a need for a system that would identify, analyse, synthesise and disseminate information on the variety of funding sources available for climate action by non-state actors. This can build on the work being done by the European Committee of the Regions, which is identifying steps to developing a toolkit comprising easily understood information for local and regional authorities on funding and financing available for climate action.

4.5 A monitoring mechanism is required to create clear mapping on climate finance flows, helping to identify the blocks and focussing on the practical solutions to remove those blocks. This is an urgent first step. A mapping process would also be a critical step in understanding the barriers to access for small scale non-state actors. Mapping the financing will also help to identify the gaps in capturing positive climate actions that should be part of the Global Climate Action Agenda process.

4.6 The EESC calls for the EU to be a leader in providing a model on how to capture non-state actors' contribution to achieving climate goals. European non-state climate actors — especially smaller ones — expect help from European institutions to mobilise dedicated climate funds, and to gain better access to funding through simpler procedures and reporting. This would facilitate capturing many actions that go unrecognised in the fight against climate change. For example, projects below a certain financial threshold such as EUR 50 000 could have a simplified one-page application, and one-page reporting form.

4.7 There is a need for additional funding in the form of small scale grants, with simplified application and reporting procedures, specifically targeting local grassroots action on climate change and sustainability, and without prohibitive co-financing rates. Mechanisms that allow projects to cluster together could be designed to improve the impact of the financing, and to facilitate access. These tools need to be urgently developed.

4.8 A support mechanism that allows projects to avail of expertise in the pre-application for finance stage, so that projects are designed effectively and pitched appropriately, should be developed.

4.9 An overall reflection on innovative financing mechanisms needs to be developed at the EU level. Non-state actors should be involved in this discussion from the outset to ensure simplicity and clarity of allocation criteria.

4.10 In general, a closer cooperation between established climate and sustainability funds and financial programmes and non-state actors networks should be established. This is a question of knowledge sharing, communication and dialogue. A Climate Finance Forum can facilitate this.

4.11 Financial measures could also incentivise non-state action, or climate-friendly behaviour by non-state actors. For instance, tax deductions at the national level could help low-carbon production and stimulate participation by non-state actors in climate action.

4.12 In formulating the new EU Multiannual Financial Framework there may be opportunities to enable bottom-up non-state climate action to efficiently deliver on EU climate commitments under the Paris Agreement. In this regard, the EESC asks for an increase of at least 40 % in EU expenditure contributing to climate objectives⁽⁷⁾. Secondly, the EESC calls for a swift phase-out of fossil fuel subsidies and no direct or indirect (co-)financing of any fossil based energy through European funds.

4.13 A climate proofing tool must be developed in order to ensure any public spending is not working to support activities that exacerbate the climate crisis. This should also apply to private financing programmes. Allocating specific funds for climate finance should not mean that the other parts of a budget or of financing is allocated to activities that are working in opposition of the climate objectives. The objective set in Article 2.1c of the Paris Agreement has to be met.

4.14 The EU's main financial instrument to support bottom-up local development is the Community-led Local Development (CLLD) approach. It is ideally placed to support these bottom-up initiatives, offering the potential to provide grants and supports that are tailored to local circumstances. In December 2017, the EESC adopted an opinion on 'Advantages of the CLLD approach for integrated local and rural development'⁽⁸⁾ which urged the European Commission to explore and analyse in depth opportunities to create a reserve fund for CLLD at EU level. Irrespective of this, it recommended the European Commission to ensure that all Member States have a national CLLD fund with contributions from all four ESI funds (EAFRD, ERDF, ESF and EMFF). This CLLD structure could be one of the conduits used to support micro and small projects referred to in 2.7.

4.15 To make the financial value chain more sustainable as a whole, the EESC supports the Commission's road map on financing sustainable growth⁽⁹⁾ adopted in March 2018. The EESC has made concrete recommendations to this Action Plan in its respective opinions⁽¹⁰⁾.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁷⁾ EESC opinion on the *European Finance-Climate Pact* (OJ C 62, 15.2.2019, p. 8).

⁽⁸⁾ EESC opinion on the *Advantages of the Community-led Local Development approach* (OJ C 129, 11.4.2018, p. 36).

⁽⁹⁾ Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions — Action Plan: Financing Sustainable Growth.

⁽¹⁰⁾ EESC opinions on *Action Plan on Sustainable Finance* (OJ C 62, 15.2.2019, p. 73), *Sustainable finance: taxonomy and benchmarks* (OJ C 62, 15.2.2019, p. 103) and *Institutional investors' and asset managers' duties regarding sustainability* (OJ C 62, 15.2.2019, p. 97).

Opinion of the European Economic and Social Committee on ‘The situation of Roma women’
(exploratory opinion requested by the European Parliament)

(2019/C 110/04)

Rapporteur: **Ákos TOPOLÁNSZKY**

Referral	European Parliament, 30.5.2018
Legal basis	Article 304(1) of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	7.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	196/2/5

1. Conclusions and recommendations

1.1 A large proportion of Roma women (and girls) face multiple sources of discrimination across different sectors, trapping them in a situation where they cannot fully exercise their rights. Roma women are the most vulnerable minority group in the EU. Putting this situation right is a key duty and obligation for European democracies.

1.2 The EESC thanks the many Roma women for their past and present determination to courageously tackle discriminatory structures and institutional violence in the interests of coexisting in complete freedom in a Europe free of discrimination.

1.3 Segregated education — the poor quality of which stems from the discrimination it entails — should be brought to an end without delay, ensuring that Roma girls also have access to all aspects of high-quality state education. Arrangements concerning special schools and guidance procedures should be subject to stringent review as soon as possible.

1.4 The EESC expects the Member States to prioritise the eradication of health practices that infringe service standards meeting reasonable ethical requirements and the relevant legislation, and that they classify illegal practices such as forced sterilisation, denial of healthcare on the grounds of ethnic origin or lower-quality services as criminal offences.

1.5 The Member States should immediately abolish discriminatory forms of employment, at the same time implementing structured policies that increase Roma women’s chances of finding work.

1.6 Minimum acceptable standards for public services and housing must be defined, adopted and enforced as a fundamental right, if necessary by enshrining them in Member State constitutions.

1.7 All forms of human trafficking and hate crimes to which Roma people and, more specifically, women from that community, fall victim must be combated vigorously and without discrimination.

1.8 Roma women have very few opportunities to shape and evaluate policies that can influence their lives. Their involvement in such programmes should be guaranteed to the appropriate extent.

1.9 Unlike current practice in most Member States, the concerns and interests of Roma women in post-2020 European and national strategies intended to redress the situation should be made a priority.

2. The situation of Roma women in the EU

2.1 A large proportion of Roma women (and girls) face multiple sources of discrimination across different sectors, trapping them in a situation where they cannot fully exercise their rights. Roma women are the most vulnerable minority group in the EU. This state of affairs should be seen as systemically harmful to democracy, the rule of law and fundamental rights, radically weakening the European ideal, which is based on the values set out in Article 2 of the Treaty on European Union ⁽¹⁾ and in the Charter of Fundamental Rights of the European Union ⁽²⁾. Little progress has been made in this area in recent years.

2.2 Although data broken down by ethnic origin and gender is not available in most Member States, the European Union Agency for Fundamental Rights (FRA) provides a detailed picture of the unfavourable situation of Roma women (particularly in the EU-MIDIS II survey ⁽³⁾). Roma women appear to be disadvantaged in all sectors of society, not only compared to the general population but also compared to the men of their own community.

2.3 The EESC is convinced that the strength of the above-mentioned European ideal mirrors the extent to which the weakest citizens of the EU can benefit from it. That is why taking the necessary measures to improve the situation of Roma women and girls and promote their empowerment is not only an obligation for the institutions and Member States of the EU, but is also a litmus-test of the quality of their democratic structures and the maturity of the rule of law in them.

3. General comments

3.1 Article 2 of the Treaty on European Union cites equality and respect for human rights, including the rights of persons belonging to minorities, as being among the founding values of the European ideal. These rights can only be said to be **effectively** applied when real changes in this regard are guaranteed, including for the social groups most affected by marginalisation and discrimination. Discrimination, segregation and anti-Gypsyism blatantly deny these values.

3.2 Equality of rights between Roma women and men is a pre-requisite for the economic empowerment of Roma women, as well as for the application of the human rights and fundamental freedoms that they should enjoy in political, economic, social, cultural and civic terms and which must be constitutionally guaranteed.

3.3 In this context, the EESC — in keeping with its previous opinions ⁽⁴⁾ — endorses the EU framework strategy's objectives, while drawing particular attention to the need for consistent implementation and to the insufficient progress achieved.

3.4 It also notes that anti-Roma prejudice is visible at almost every level of activity in the Member States, in both administrations and institutions. This deprives Roma people of fair access to public services, and prevents them from enjoying equal rights and mandatory equal treatment, from taking part in political decision-making on questions of concern to them in line with their proportion of the overall population, and from protecting themselves from the effects of discrimination. This is particularly true for Roma women.

3.5 The Committee calls for systematic infringements of Roma women's rights to be catalogued, by drawing up 'white papers' with the cooperation of independent and credible Roma community organisations. They should be consulted and granted official recognition, so that the foundations for historic reconciliation can be laid.

3.6 The EESC thanks the many Roma women for their past and present determination to courageously tackle discriminatory structures and institutional violence in the interests of coexisting in complete freedom in a Europe free of discrimination.

4. Specific public policy fields ⁽⁵⁾

4.1 Education

4.1.1 Segregated teaching is always illegal and inevitably leads to unfavourable outcomes. The harmful consequences of school segregation weigh particularly heavily on Roma girls, shutting off their chances of social mobility. All legal means and targeted public policy assistance should therefore be brought to bear, and the necessary additional expenditure

⁽¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012M%2FTXT>

⁽²⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT&from=en>

⁽³⁾ <http://fra.europa.eu/en/project/2015/eu-midis-ii-european-union-minorities-and-discrimination-survey/publications>

⁽⁴⁾ OJ C 248, 25.8.2011, p. 16, OJ C 67, 6.3.2014, p. 110, OJ C 11, 15.1.2013, p. 21.

⁽⁵⁾ Of the many proposals so far put forward by the Roma community, civil society organisations working for Roma rights, the scientific community, international organisations and the EESC, the present opinion will mention only those of specific relevance to the application of Roma women's rights.

guaranteed, to remedy the low level of segregated education due to discrimination, in line with EU expectations. At the same time, it must be ensured that Roma girls also have access to all aspects of high-quality public education. Governments must ensure that the appropriate human resources, training courses and school syllabuses are in place.

4.1.2 An unjustified diagnosis of intellectual disability and segregated schooling, to which Roma children may fall victim, are to be considered one of the most serious assaults on their rights, ruining their futures. Such assessments must be regularly verified by independent specialist institutes. It must be ensured that there are no obstacles to launching a verification procedure at the request of any relevant party, primarily a parent or guardian, but also a school.

4.1.3 If there is any suspicion of repeated (and particularly systematic) errors of judgment which have the intention or effect of segregation, it must be ensured that the Member States are required to carry out an in-depth investigation into the causes as early as possible, to publish the conclusions, to assess the conclusions in terms of their national anti-segregation mechanisms, and to take the necessary legislative and implementing measures.

4.1.4 In the meantime, the level of special classes should be brought closer into line with that of standard schools, so that they are not simply educational dead-ends.

4.1.5 The EESC advocates capping, freezing or, in the event of systematic problems, completely withdrawing European funds for countries where school segregation is not reduced or even increases. The Committee hopes that in such situations, the European Union's legal protection mechanisms (Article 7 and the rule of law mechanism) will be brought to bear rapidly and effectively.

4.1.6 A range of 'second chance' training and ongoing training programmes should be set up for Roma women to increase their educational opportunities and reduce the risk of dropping out of school early, so that they can aspire to other than publicly-subsidised or inferior, partially-declared or atypical jobs, which block them from social mobility.

4.2 Health

4.2.1 Roma women, who often live in ghettoised or inaccessible areas, are often the target of rejection, denigration or even physical and psychological violence when receiving health care. In terms of reproductive health, they generally have only very limited access to their rights. The EESC strongly urges the Member States to set up and operate mobile units with the equipment and capacity necessary for populations living in segregated situations. It also calls for a review of how maternity and pregnancy services operate, followed by the necessary improvements.

4.2.2 The EESC expects the Member States to prioritise the abolition of health practices that violate reasonable ethical standards and the relevant legislation and, where necessary, to systematically take legal action. Easily accessible appeal procedures should be provided free of charge to uphold rights in the area of health, as should special care reflecting the real needs of the individuals concerned. This includes setting up health information points, training and deployment of health mediators and implementing public health initiatives that reach ghettoised populations.

4.2.3 Governments must urgently commit themselves, clearly and publicly, to the principle of equal access to health care and to its practical implementation, and to take action against practices that run counter to this principle, introducing awareness-raising programmes for all those concerned. The necessary legislative measures must be taken to ensure that Roma women and children without basic health insurance are covered.

4.3 Forced sterilisation

4.3.1 In many countries where systematic violations of women's reproductive rights have taken place in the past, and where mass forced and coerced sterilisation has been carried out as an instrument of state policy, the political authorities have failed even to apologise or to assume responsibility. Where this has taken place, there has been no legal or financial redress. The Committee proposes that the European legislator make every effort to ensure that the Member States, as part of the harmonisation of European criminal law, significantly extend or even entirely do away with the limitation period for prosecution for this type of criminal offence — the substance of which may be compared to crimes against humanity — and adopt specific legislation to enable victims to obtain effective redress and financial compensation.

4.3.2 A full and honest light needs to be shed on these matters in complete transparency with a view to fostering reconciliation and making any future infringement by the public authorities impossible. The EESC consequently recommends that in the Member States concerned, past infringements in this area be investigated by committees of independent historians, in cooperation with the victims and their representatives, and the results published as part of a process of societal reconciliation, as done in Sweden with its 'white paper'.

4.4 *Employment*

4.4.1 Roma women are in an even worse position on the labour market than Roma men; all the employment indicators are at rock bottom where they are concerned.

4.4.2 The EESC calls on the Member States to take targeted and comprehensive measures to facilitate the economic empowerment of Roma women and give them the skills they need for this purpose. Promoting social economy enterprises, introducing micro-credit programmes and ensuring free, non-discriminatory access to work-related benefits are of particular importance in combating poverty and social exclusion.

4.4.3 Entrepreneurs have grown in importance as creators of jobs and key players in the well-being of local and regional communities. This aspect is particularly relevant for Roma communities. In connection with policies concerning the needs of Roma woman entrepreneurs and SMEs, specific measures should be taken not only to empower Roma women, but also to support their initiatives with regard to community projects and business start-ups. Since a specific policy of this kind designed to support Roma women is completely lacking in most Member States, the EESC calls for a commitment to seize whatever opportunities it may offer.

4.4.4 The Committee urges the public authorities at all levels of society to organise labour market training and create sufficient numbers of jobs and subsidised forms of employment. They must provide transport allowances and assistance for ongoing and vocational training, and deploy targeted public policy tools to enable vulnerable Roma women to balance work and family life.

4.4.5 The Member States should do everything they can to remove Roma women from their vulnerable position on the labour market and to eradicate the (virtually) forced, semi-legal or illegal forms of employment to which they fall victim.

4.4.6 To this end and in view of the importance of integrating Roma women into the labour market, second-chance employment programmes should be introduced; the assistance of mediators, transport grants and training aids should also be made available to them. Moreover, no effort should be spared in rooting out workplace discrimination and educating employers in this regard.

4.5 *Housing, public services*

4.5.1 Where segregation exists, women and children are the worst affected by its disastrous impact on everyday life. The EESC therefore points to the need to devise minimum acceptable standards in these areas for housing, public services and infrastructure, to be applied as a fundamental right, and preferably enshrined in the constitutions of the Member States.

4.5.2 The EESC proposes that meeting these needs (by, for example, supplying drinking water, electricity, drainage and sewage facilities, paved roads and refuse collection, and making public services accessible) should be a precondition for continuing to invest in urban development and for obtaining and using subsidies.

4.5.3 Unjustified and illegal evictions must be stopped, and it must be ensured that the Roma women affected can benefit from available and accessible specific legal protection. Compensation must be possible for women traumatised by such evictions.

4.6 *Removing structures of violence*

4.6.1 Roma women and girls are particularly vulnerable in situations of discrimination and segregation, and easily fall victim to violence and other offences. They are disproportionately affected by all known forms of exploitation and human trafficking.

4.6.2 The Committee agrees that all forms of human trafficking and violence targeting Roma women are flagrant violations of human rights, explicitly prohibited by the Charter of Fundamental Rights of the European Union, and that the Member States should take action on this basis ⁽⁶⁾. These are serious criminal offences, driven by demand and which are, in very different ways, highly profitable for organised international crime gangs, and to which Roma women and children are disproportionately exposed.

4.6.3 The EESC hopes that the Member States will, without delay, incorporate penalties for these new and constantly-changing types of offence in their national criminal law systems, that they will take coordinated and targeted judicial measures against them, and that they will disrupt and where possible shut down the flows of profits obtained by force. The broader socio-economic context in which these offences are committed needs to be examined, areas of poverty, discrimination and vulnerability need to be identified and the social policy tools (strategic, legislative, financial, educational, research-related and other) with which to remedy them need to be deployed in a coherent way.

4.6.4 The violence to which Roma women are subject comes from both society in general and their own community. In any case, determined action must be taken against all isolated and organised forms of violence as part of a victim-centred and gender-based approach that takes account of the particular vulnerability of women and children and the special protection they should receive, which must focus on human rights.

4.6.5 The Committee is pleased that the European Commission's signature has made the EU a contracting party to the Council of Europe Convention on preventing and combating violence against women and domestic violence, generally known as the Istanbul Convention. It urges all the Member States of the EU to ratify and launch the implementation of the Convention, without reservation and with determination, taking account of the particular vulnerability of Roma women in this area.

4.6.6 Roma women and girls are, to a similarly disproportionate extent, targets and victims of hate crime, hate speech in particular. Measures should be taken to facilitate access to justice for the people concerned and, with the help of civil society organisations, to put in place tools to raise awareness on how to identify this type of criminal offence.

4.6.7 The EESC supports the geographical extension and implementation of JUSTROM, the joint Council of Europe and European Commission programme, with a view to ensuring that Roma women have access to justice.

4.6.8 The Committee draws attention to the fact that all types of institutional anti-Gypsyism and segregation can also be considered to be a form of violence. It highlights the importance of providing protection against such offences in official, state-financed services (child protection centres, social services and healthcare) and in state law and order and other such structures (police forces, criminal justice system and prisons), all of which are contexts in which Roma women are particularly vulnerable. The Committee draws attention to the importance of ensuring easy access to free legal protection in these cases.

4.6.9 National and international law must put the concept of early, forced marriage on the same footing as human trafficking and act accordingly. All the prevention and protection instruments and programmes used to combat human trafficking must be made available to the victims of forced child marriages.

4.7 *Inclusion and participation*

4.7.1 Roma women have very few opportunities to shape and evaluate policies that can influence their lives. The EESC therefore emphasises that it is essential, on the basis of the 'nothing about us without us' principle, to involve Roma women to the appropriate extent in framing, planning, implementing and evaluating all programmes that concern them or their communities. The EESC proposes that at least a majority of active Roma women should be involved as regards programmes specifically intended for Roma women, and at least 30 % as regards programmes intended for Roma communities. An evaluation system that can reliably verify these figures should be set up.

4.7.2 The EESC proposes that these participation rates should be verifiably implemented within bodies responsible for national and regional inclusion policies (national, regional and departmental coordinating councils, anti-segregation commissions, etc.).

⁽⁶⁾ Article 5(3) of the Charter of Fundamental Rights of the European Union.

4.7.3 The EESC calls on the governments and other authorities to undertake a fully-fledged and in-depth policy dialogue with the representatives of Roma women at all levels of social organisation and to set up the necessary official structures for such a dialogue. To this end, the Committee recommends setting up specific legal institutions, such as women's committees within national Roma platforms, ensuring targeted representation of Roma women, or the introduction of an independent ombudsman for Roma women.

4.7.4 The Committee notes that Roma women's point of view is often lacking or under-represented in both the current European framework strategy and the national Roma integration strategies. Far greater attention should be given to the opinion of Roma women's representatives, not only under the post-2020 processes but also when shaping future social inclusion strategies.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Gender equality in European labour markets’

(Exploratory opinion requested by the European Parliament)

(2019/C 110/05)

Rapporteur: **Helena DE FELIPE LEHTONEN**

Consultation	European Parliament, 3.5.2018
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Outcome of vote (for/against/abstentions)	151/2/4

1. Conclusions and recommendations

1.1. In order to improve gender equality in labour markets, the EESC considers it necessary to draw up an **integrated and ambitious European strategy** to tackle systemic and structural obstacles and lead to adequate policies, measures and EU funding programmes for improving equality between women and men, thus fostering ‘more equal economic independence of women and men’. This would also contribute to the implementation of the European Pillar of Social Rights.

1.2. This opinion reiterates the need to **further tackle some well-identified challenges**, such as the gender pay gap and work-life balance, and on which the EESC has already issued opinions ⁽¹⁾.

1.3. The EESC believes that further efforts are required to address the persistent gender pay gap. It fully supports the objectives of the Equal Pay International Coalition to work towards closing the gender pay gap by 2030. It regrets the low rate of implementation of the European Commission’s 2014 Pay Transparency Recommendation, and urges Member States and the EU to take the appropriate measures to step up implementation.

1.4. The EESC recalls that pay transparency has an important part to play in combating the gender pay gap ⁽²⁾. It recommends gender neutral pay systems as a means to foster an unbiased approach to remuneration and recruitment.

1.5. The EESC agrees with the need to enhance measures to reduce horizontal gender segregation in education, training and the labour market. Awareness raising campaigns and other measures should be carried out in order to tackle gender stereotypes and segregation in education, training and career choices, making full use of new technologies. Improved pay and working conditions in female dominated sectors could encourage more men to enter these occupations.

⁽¹⁾ OJ C 129, 11.4.2018, p. 44, OJ C 262, 25.7.2018, p. 101.

⁽²⁾ OJ C 129, 11.4.2018, p. 44.

1.6. More efforts should be dedicated to the labour-market integration and empowerment of women belonging to vulnerable groups, taking into account an intersectional approach ⁽³⁾.

1.7. The EESC appreciates the efforts deployed by the Commission for closer monitoring of childcare and long-term care as part of the European Semester. This should remain a priority in the medium and longer term. The EESC is in favour of initiating a renewed reflection with Member States on the 2002 Barcelona targets on childcare, with a view to making the targets more ambitious and to extending the approach to care of other dependants.

1.8. The EESC calls on the Parliament and Council to introduce **new and adequate indicators** in the future European Structural Funds, to better monitor the EU financial contribution to the various care services and to gender equality.

1.9. The EESC welcomes the ESF+ proposal within the Multiannual Financial Framework for 2021-2027, which aims to support equality between men and women and to promote women's participation in the labour market through measures to improve work-life balance and access to childcare and other care services. However, it also takes the view that EU funding should be allocated in a more gender-sensitive manner and that gender equality should be set as a stand-alone goal, rather than being merged with anti-discrimination and anti-racism objectives.

1.10. The EESC also welcomes the InvestEU programme for 2021-2027, which supports investments in social infrastructure. The EESC calls on the Parliament and the Council to strongly support this new opportunity to trigger the necessary investments in childcare (as well as after school care).

1.11. Female entrepreneurship is lagging behind and needs to be fostered to exploit the enormous potential of the digital economy and technological innovation. Access to finance has to be improved and transition between job statuses facilitated.

2. Background and challenges

2.1. This EESC opinion has been drafted in response to a request from the European Parliament for an exploratory opinion on 'Gender equality in European labour markets'. At the request of the Parliament, this opinion considers the impact of the measures outlined in the Commission's Recommendation on *strengthening the principle of equal pay between men and women through transparency* and the need for further action to tackle the gender pay gap.

2.2. Articles 2 and 3(3) of the TEU, as well as the Charter of Fundamental Rights of the European Union, recognise that the right to equality between women and men is one of the Union's fundamental values, and as such represents an important task. The European Pillar of Social Rights enshrines gender equality, and the right to equal pay for work of equal value, as one of the 20 principles essential for fair and well-functioning labour markets and welfare systems.

2.3. The European Union and Member States have been promoting gender equality in the labour market through a mix of legislative and non-legislative instruments, recommendations, policy guidance and financial support. In its Strategic Engagement for Gender Equality 2016-2019, the European Commission confirmed the priorities to be tackled: equal economic independence for women and men, equal pay for work of equal value and equality in decision-making, dignity, integrity and ending gender-based violence, and promoting gender equality beyond the EU.

2.4. In 2017, the female employment rate continued to increase at a slow but steady pace, in keeping with that of men, and reached the record of 66,5 %, as against 78,1 % for men. However, the gender employment gap, at 11,5 pps, remained unchanged since 2013. Additionally, the EU 2020 target of 75 % of women and men in employment is unlikely to be met. The Gender Equality Index score increased from 62 points in 2005 to 65 points in 2012 but only to 66,2 points in 2015, due in part to the crisis. In a number of Member States, measures to tackle the crisis did not appropriately take into account the negative impact on gender equality.

⁽³⁾ OJ C 367, 10.10.2018, p. 20.

2.5. Despite general progress in gender equality in European labour markets, inequalities between women and men persist. Horizontal and vertical segregation are important factors contributing to the unadjusted gender gap in gross hourly earnings, which currently stands at around 16 %. The gap is aggravated by the predominance of women in part-time jobs and in lower paid sectors, as well as the higher take-up by women of parental leave schemes, leading to career breaks, less career advancement and the lower accrual of pension entitlements.

2.6. The current gender employment gap represents an important economic and social loss for the EU, estimated at EUR 370 billion a year. With the demographic challenge and the shrinking of the working age population, Europe needs to fully tap the labour market potential of all women, taking account of the intersection of race, ethnic origin, social class, age, sexual orientation, nationality, religion, sex, disability, refugee or migrant status, which can present particular obstacles to their participation in the labour market.

2.7. While women tend to be predominantly employed in lower-paid and lower-skilled jobs and in sectors such as healthcare, social services, education, public administration and retail, men are more represented in engineering, construction and transport. The lack of men in EHW (education, healthcare and social service occupations) is increasing and is reinforced by the lack of role models and often less attractive working conditions and pay. The same goes for women who are underrepresented in STEM (sciences, technology, engineering and mathematics) occupations. In 2016, only 17 % of ICT specialists in the EU were women.

2.8. While new EU legislation is being discussed at the EU Council (Work-Life Balance Directive), women continue to suffer from the 'motherhood penalty' at work, including during pregnancy and after giving birth, which continues to be a problem in many Member States. The employment gap is especially high for mothers and women with care responsibilities. In 2016, more than 19 % of inactive women were inactive because they had to look after children or adults. On average, the employment rate of women with a child under 6 is 9 % lower than that of women without children, a difference that rises to as much 30 % in some countries.

2.9. The EESC is seriously concerned about the extent of sexual harassment encountered by women in the workplace and that cyber-harassment against women is becoming widespread. It recalls the need for better enforcement of Directive 2006/54/EC of the European Parliament and of the Council⁽⁴⁾ prohibiting harassment and discrimination at the workplace⁽⁵⁾.

2.10. The EESC also calls for mainstreamed and specific measures targeting women belonging to vulnerable groups, as they often encounter greater difficulties in entering the labour market. It underlines the need for an intersectional approach, in order to increase the labour market opportunities of women facing multiple forms of discrimination.

2.11. Female entrepreneurship is still underdeveloped. Women constitute 52 % of the total European population but only 34,4 % of the self-employed in the EU and 30 % of start-up entrepreneurs. Self-employed women are less well-off than self-employed men. 76,3 % of self-employed women in the EU28 are own account workers without employees, compared to 69 % of men. Thus, men are more often business owners with employees, while women are more self-employed without employees, with a higher risk of low income. Female creativity and entrepreneurial potential are an under-exploited source of economic growth and jobs which has to be further developed to create successful businesses.

2.12. Part-time work can be a valuable tool to enhance the work-life balance of men and women. However women work more often part-time than men (accounting for over 70 % of part-timers) and an increase has been documented in lower paid jobs (retail sales, cleaning and helping). The levels of involuntary part-time work for both women and men continue to

⁽⁴⁾ OJ L 204, 26.7.2006, p. 23.

⁽⁵⁾ OJ C 351, 15.11.2012, p. 12, OJ C 242, 23.7.2015, p. 9, OJ C 367, 10.10.2018, p. 20.

cause concern. The 75 % EU 2020 employment target can only be achieved through an integrated strategy composed of a coherent policy mix and measures to promote labour market participation, quality jobs, ensure equal treatment in employment and encourage more balanced care responsibilities between parents and carers of other dependent relatives.

3. Areas for further action to achieve gender equality in European labour markets

3.1. Addressing pay transparency to close the gender pay gap

3.1.1. The gender pay gap is one of the most persistent barriers to gender equality in labour markets and in society and to economic growth. The EESC fully supports the Equal Pay International Coalition (EPIC), a global initiative led by the ILO, UN Women, the OECD, and including governments, employers, trade unions and civil society, with the objective of closing the gender pay gap by 2030. The EESC calls on the EU to step up its action to ensure that the gender pay gap in the EU is closed by 2030.

3.1.2. The EESC reiterates its recommendations regarding the European Action Plan for tackling the gender pay gap⁽⁶⁾. The EESC also acknowledges that the Gender Equality Recast Directive 2006/54/EC and the Commission Recommendation to Member States on strengthening the principle of equal pay between men and women 2014/124/EU have been instrumental in tackling the gender pay gap and remain valid. However, more efforts are needed. The 2013 Commission report on the application of Directive 2006/54/EC concluded that the practical application of equal pay provisions in Member States is one of the Directive's most problematic areas.

3.1.3. EPIC has stated that the lack of pay transparency plays an important role in pay differentials between men and women and that increased pay transparency can help to reduce gender pay gaps. Pay transparency has an important part to play in combating possible pay discrimination. The EESC is concerned by the low rate of implementation of the 2014 Recommendation on Pay Transparency. Although most Member States have some measures aimed at increasing pay transparency in place, in a third of Member States such measures are entirely absent. The EESC calls on Member States to step up implementation of the Recommendation, for example by foreseeing the possibility for individual to request information about pay levels or the possibility for employers in companies of a size to be defined to report on pay or conduct pay audits, as this would foster a fair approach to recruitment and remuneration. The need for full respect of employees' (data) privacy and of general industrial relations should also be taken into account.

3.1.4. In order to implement the equal pay principle and to tackle the gender pay gap, better synergies between different available measures are needed. Among those, gender neutral pay systems are strongly encouraged as they foster an unbiased approach to recruitment and remuneration.

3.1.5. Social partners are the best placed to reassess the value of skills and occupations. Social dialogue and collective bargaining are instrumental in reaching this objective and in addressing the gender pay gap.

3.1.6. At European level, the pay gap is also addressed through the European Semester. In 2017, the gender pay gap was highlighted in the country reports of 9 Member States. Country specific recommendations focusing on investment in childcare facilities and fiscal disincentives, as well as on other measures related to the gender pay gap, were addressed to 12 Member States.

⁽⁶⁾ OJ C 262, 25.7.2018, p. 101.

3.1.7. Particular attention should focus on raising awareness of unconscious biases or strengthening the pay gap in recruitment or promotion. Support from business organisations, along with cooperation between social partners, authorities and equality bodies in finding adequate solutions, are also relevant for reducing the gender pay gap.

3.2. *Education, segregation and stereotypes*

3.2.1. Persistent horizontal segregation in education, training and the labour market, driven by stereotypes and barriers in the labour market need **to be addressed** from early childhood onwards. There is a strong link between such segregation and the gender pay gap. The tendency to undervalue certain professions, including in leadership positions, should be more clearly highlighted. Better pay and working conditions in female dominated sectors could act as an incentive for more men to enter these occupations, thus also helping to address the issue of occupational gender segregation.

3.2.2. Despite higher female achievement in education, women face numerous barriers in pursuing careers in certain male dominated sectors, such as ICT. Even if some girls opt for an education in STEM, only 10 % of women pursue a career in these fields afterwards. This requires a stronger emphasis on tackling segregation and stereotypes in education and better promoting the sector among women.

3.2.3. The lack of men in the education, healthcare and welfare (EHW) sector is assuming worrying proportions. The EESC calls for awareness raising campaigns and promotion of role models at EU and national levels to encourage ICT and STEM professions among women and EHW ones among men.

3.3. *Care services to enhance work-life balance*

3.3.1. Combining work, private and family life is one of the main challenges for parents and others with caring responsibilities. Women are disproportionately affected as they generally bear the responsibility for caring for dependant relatives. Achieving better work-life balance is especially challenging for single households and people belonging to vulnerable groups. The EESC welcomed the Commission initiative to increase the labour market participation of parents with children and help them to achieve a better work-life balance.

3.3.2. Sharing parental and other caring responsibilities is an important objective for equal participation in the labour market ⁽⁷⁾. Fathers' take-up of paternity and parental leave is generally low and they usually take leave only when it is paid. It is essential to take measures that encourage men to engage more in family life, while addressing possible costs and organisational efforts for enterprises, especially small and micro-enterprises.

3.3.3. As care responsibilities are one of the main reasons for low female labour market participation, the Barcelona objectives are of crucial importance, but they have not been sufficiently met. Evidence shows a positive correlation between childcare facilities and the female employment rate. The EESC regrets that, more than 15 years after their adoption, such a low number of countries have reached the Barcelona targets. It calls for a possible revision to set more ambitious targets as an incentive to foster gender equality.

Affordability and accessibility of childcare and other care services remain a challenge, especially for lower income families. A good mix of quality public and private care facilities is therefore important. Additionally, childcare facilities' opening hours remain a real obstacle for working parents.

⁽⁷⁾ OJ C 129, 11.4.2018, p. 44.

3.3.4. The EESC also draws attention to the need for out-of-school care facilities for children of working parents. They should be available in countries where the school day finishes early and parents tend to opt for part-time work to fill the gap. More data should be available to understand the extent and consequences of this structural problem on gender equality in the labour market.

3.3.5. The growth of the care sector, with important untapped job potential, requires special attention due to persistent gender segregation and, in many cases, poor working conditions and low pay. As already requested by the EESC, there is a need to gather adequate data on the different aspects of paid care systems and preferences in Europe. This should include the rapidly expanding homecare services and the specific case of live-in care workers⁽⁸⁾, many of whom experience intra-EU mobility or are migrants from third countries and report poor working conditions and pay. The EESC calls on the Commission to adopt an integrated strategy for the care sector.

3.3.6. The EESC appreciates the efforts of the Commission for closer monitoring of childcare and long-term care, as part of the European Semester and the country specific recommendations addressed to Member States.

3.4. *Financing gender equality: the Multiannual Financial Framework*

3.4.1. The EESC welcomes the ESF+ proposal within the Multiannual Financial Framework for 2021-2027, which aims to support equality between men and women, equal opportunities and non-discrimination, and to promote women's participation in the labour market through measures to improve work-life balance and access to childcare. The EESC encourages the EU institutions and Member States to implement its recommendation for the ESF+ to support gender equality⁽⁹⁾.

3.4.2. The EESC takes the view that EU funding should be allocated in a more gender-sensitive manner. The EESC is concerned that the merging of the gender equality, anti-discrimination and anti-racism objectives into one single objective undermines their visibility and the clarity of the amounts allocated to each of them. Thought should be given to the best way of addressing this.

3.4.3. The EESC stresses the need for investment in high-quality, affordable and accessible care services and facilities for all. The Commission proposal for the ESF+ is a step in the right direction by investing more in childcare. This financing should be further promoted, building on good practices to be compiled by the Commission.

3.4.4. The EESC also welcomes the InvestEU programme as part of the Multiannual Financial Framework 2021-2027 and its priority on boosting investments in social infrastructure, which could have a positive impact on gender equality.

3.4.5. The EESC is concerned that there is currently no assessment of how EU funds have been used by Member States to support the provision of care services. This must be addressed in the next funding programmes, by introducing adequate indicators for Member States in the future Structural Funds, including the ESF+, to better monitor the EU financial contribution to the various care services and gender equality.

3.5. *Tax and benefit systems*

3.5.1. Available evidence indicates that women often face strong economic disincentives when entering the labour market or wanting to work more: the way tax-benefit systems are set-up can act as a deterrent for second earners, most often women. Direct consequences of this are lower or no contributions paid into pension systems, which subsequently results in lower pension income and even poverty.

⁽⁸⁾ OJ C 487, 28.12.2016, p. 7.

⁽⁹⁾ See the EESC opinion on the 'European Social Fund+' (OJ C 62, 15.2.2019, p. 165).

3.5.2. The European Semester has already highlighted the need to adapt tax-benefit systems to prevent strong disincentives for those second earners wishing to take-up a job or to work more. Close monitoring of developments in the Member States will be necessary.

3.6. *Female entrepreneurship*

3.6.1. Entrepreneurship can be an opportunity for women's economic independence with quality jobs, successful careers, lifting women out of poverty and social exclusion, and contributing to a more balanced gender representation in decision-making. Female entrepreneurship must be supported by improving access to and quality of social protection measures ⁽¹⁰⁾ and by mainstreaming entrepreneurship education into education and training.

3.6.2. With regard to self-employment, women are more often own-account workers facing a higher risk of in-work poverty, while more men are among owners of companies with employees. Women are also faced with more structural barriers with regard to access to finance, stereotypes and lack of confidence. Such obstacles need to be removed. Mentoring business angels and new forms of financing can be useful to overcome barriers. Existing networks in business organisations should be more actively promoted and disseminated.

3.7. *Digital economy*

3.7.1. Changes in the labour market, due to globalisation, technological developments and demographic change provide new perspectives for employees and entrepreneurs alike. Emerging and growing sectors (e.g. ICT, green economy, industry 4.0, e-commerce) can offer many opportunities for women in well-paid jobs. The EESC has also highlighted the problem of the digital gender gap posing a range of challenges that need to be addressed. It has also provided recommendations to overcome imbalances in relation to education systems and the labour market ⁽¹¹⁾.

3.7.2. To ensure that women and men can operate with confidence in the digital economy, there is a need for greater clarity of status at national level regarding rights, social security entitlements and obligations both in work and in B2B-contracts. Education and training should be at the centre of strategies for promoting ICT, STEM and green careers for women and the gender perspective should be mainstreamed into the Digital Single Market Strategy.

3.8. *Enhanced cooperation between all actors*

3.8.1. The role of social partners in negotiating collective agreements is an important means for tackling the multiple dimensions of gender equality and equal pay in European labour markets. At EU level, the social partners adopted a Framework of Actions on Gender Equality in 2005 followed up by joint actions at national level to address gender roles, promote women in decision-making, support work-life balance and tackle the gender pay gap. In 2008 they revised their 1996 Parental leave agreement (Council Directive 2010/18/EU ⁽¹²⁾) and in 2012, they developed a toolkit for enhancing gender equality in practice.

3.8.2. Civil society organisations can also usefully contribute to promoting gender equality in the labour market, in particular for vulnerable groups.

3.8.3. The EESC calls for a renewed and ambitious strategy at EU level for achieving gender equality in European labour markets, to be framed coherently within any future European employment strategy, the European Pillar of Social Rights and the European dimension of the UN Agenda 2030 for Sustainable Development.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁰⁾ OJ C 173, 31.5.2017, p. 45.

⁽¹¹⁾ OJ C 440, 6.12.2018, p. 37.

⁽¹²⁾ OJ L 68, 18.3.2010, p. 13.

Opinion of the European Economic and Social Committee on ‘Implementation of EU environmental legislation: air quality, water and waste’

(exploratory opinion)

(2019/C 110/06)

Rapporteur: **Arnaud SCHWARTZ**

Referral	European Parliament, 3.5.2018
Legal basis:	Article 304 of the Treaty on the Functioning of the European Union
	Exploratory opinion
Bureau decision	17.4.2018 (in anticipation of the referral)
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted in section	27.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote	117/2/6
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the purpose of the Environmental Implementation Review (EIR), which is to provide an informed picture of where each Member State stands, identifying their main shortcomings in implementing EU environmental legislation, as well as to recommend remedial measures and to provide support to those Member States lagging behind in terms of implementation, in particular through a new peer-to-peer tool for technical assistance.

1.2. In its opinion⁽¹⁾ on this subject however, the EESC considers that the EU EIR reveals that poor, fragmented and uneven implementation of the EU environmental legislation is a serious problem in many EU Member States. Both now as in the past, behind the root causes of poor implementation identified in the EIR there still appears to be a lack of political will on the part of many Member State governments to make substantial improvement a political priority and to provide sufficient resources (e.g. through the multiannual financial framework — MFF). The EESC therefore recalls that proper implementation of the EU’s environmental *acquis* is in the interest of European citizens and has real economic and social benefits.

1.3. Similarly, as argued in the above-mentioned opinion⁽²⁾, the EESC reiterates that effective implementation of environmental protection measures hinges partly on civil society — employers, workers and other representatives of society — being granted an active role. The EESC consequently repeats its call for stronger and structured involvement of civil society, which would have the potential to strengthen EIRs. For the EESC, civil society organisations at national level must be given the opportunity to contribute their expertise and insight to the country reports as well as to the structured country dialogues and the follow-up to them. For this reason, the EESC is ready to facilitate civil society dialogue at EU level in the framework of a truly sustainable and circular economy.

1.4. In its opinion on the EU action plan to improve environmental compliance and governance⁽³⁾, the EESC again stresses that current shortcomings are undermining people’s trust in the effectiveness of EU legislation, and renews its call

⁽¹⁾ Opinion on the EU Environmental Implementation Review (OJ C 345, 13.10.2017, p. 114).

⁽²⁾ See footnote 1.

⁽³⁾ Opinion on EU actions to improve environmental compliance and governance (OJ C 283, 10.8.2018, p. 83).

for the Member States and the Commission to mobilise substantial funding for the recruitment of additional staff, in order to monitor the implementation of environmental governance and legislation.

1.5. The EESC underlines that in some cases, environmental investments, awareness raising of the public or strong enforcement chains are also needed and that even if environmental inspectors already exist, Europe and its Member States also need specialised judges and prosecutors.

1.6. The EESC also points out that, as indicated in its opinion ⁽⁴⁾, in addition to action with regard to the relevant Member States and public, aimed at communicating and raising awareness of the rules to be complied with, measures must be taken relating to monitoring and enforcement at EU level by the Commission as ‘guardian of the treaty’. The action plan ⁽⁵⁾ fails to address reasons for non-compliance with the rules such as opportunism or lack of political will. While it is necessary to support the Member States, the EESC once again points out that the soft measures of this action plan cannot be the sole strategy for improving environmental compliance.

1.7. Both the EIR and the action plan follow a two-year cycle. The EESC emphasises that it should play an active role in monitoring and developing their content, so that the voice of civil society is heard in the ongoing process of improving the EU’s environmental policies.

1.8. Moreover, since a number of European Commission documents show that many shortcomings are due to a lack of cooperation between different governance levels (national, regional, local) response for implementing environmental legislation, the EESC also urges the EU to involve civil society in the ongoing monitoring and evaluating of this implementation.

1.9. EU citizens consider environmental protection to be of crucial importance. The majority of citizens however think that the EU and national governments are not doing enough to protect the environment. The Council, Parliament and Commission should consequently work together more closely with the EESC’s help to meet people’s expectations. More specifically, this ambition could take the form of requesting the EESC to draw up an exploratory opinion on how civil society could contribute more to drafting and applying EU environmental legislation.

1.10. In immediate terms, the EESC calls on the Commission to share the EIR’s list of all identified shortcomings per Member State in the implementation of EU environmental legislation regarding air quality, water and waste. The list should be based in part on indications made to the Commission, and on consultation with organised civil society. It also calls on the Commission to define and subsequently apply remedies to correct these failings. The EESC, to the extent of its means and expertise, is willing to contribute to this definition and to take part in evaluating the future implementation of such remedies.

1.11. The EESC considers that the Commission should not only propose legislation, but also facilitate and support the application of law, and also make existing texts more consistent with each other and bring them more into line with scientific advances and international commitments intended to protect public health and restore the proper functioning of ecosystems. Without these ecosystems neither economic development nor social justice is possible. In particular, the implementation of environmental legislation is essential for the achievement of the UN Sustainable Development Goals (SDGs) and to put climate agreements into practice. Consequently, the EESC draws the attention of the competent authorities to a number of examples of improvements to environmental legislation concerning air, water and waste in this opinion.

1.12. Lastly, in the light of the recent proposal for a directive on single-use plastics, it appears certain that the high level of acceptance of the proposed measures is due to the information and media measures on plastic pollution of the oceans, which have brought about greater citizens’ awareness of the problem. The EESC considers that the same applies for many other measures capable of providing people living in the EU with a healthy place to live and adaptation to climate disruption, and of halting the collapse in biodiversity. In this regard, the EESC restates the need for the committed participation of civil society in favour of population education and the expected redoubling of efforts by European, national and local authorities to making the public, together with public and private decision-makers (in particular in SMEs-SMIs), to these major challenges of the 21st century.

2. General comments

2.1. The European Economic and Social Committee (EESC) welcomes the European Parliament’s (EP) openness to collaboration represented by this request for an exploratory opinion on the implementation of EU environmental legislation in the areas of air quality, waste and water.

⁽⁴⁾ See footnote 3.

⁽⁵⁾ COM(2018) 10 final.

2.2. The implementation of EU environmental legislation in the areas of air quality, waste and water relates in particular to the protection of ecosystems; it also opens up new economic opportunities and developments benefiting the health of Europeans. Implementation not only raises the issue of transposing directives into domestic law — this is only the initial step — but also entails the establishment of the necessary public authorities or the provision of existing means in terms of human resources, skills and responsibilities, expertise and financial means. Environmental investment (public and/or private) is needed in many cases (e.g. for water and waste treatment) and, in others, activities having a negative environmental impact must be regulated (e.g. to safeguard air quality).

2.3. An improvement in implementation of EU environmental legislation should become a priority in all Member States, and the public authorities responsible for these matters should be reinforced. Many previous EESC opinions have made recommendations in this regard and, more broadly, concerning the implementation of existing EU environmental legislation in the areas of air quality, water and waste. The EESC therefore draws attention to these, covering individually air ⁽⁶⁾, water ⁽⁷⁾ and waste ⁽⁸⁾.

2.4. In addition to these opinions on specific topics, some broader-based EESC opinions also have recommendations that may be relevant to the present request. These include opinions on access to justice ⁽⁹⁾ or the current implementation of legislation and governance ⁽¹⁰⁾ and protection of the collective interests of consumers ⁽¹¹⁾, opinions of a strategic nature ⁽¹²⁾, and those looking beyond the European Union's borders and dealing with, for example, Sustainable Development Goals (SDGs) ⁽¹³⁾, free trade agreements ⁽¹⁴⁾ and climate ⁽¹⁵⁾.

2.5. It is clearly necessary to implement existing law that facilitates the establishment of a single market that is conducive to free and undistorted competition and that merits the trust of citizens, be they producers or consumers — a law that can deliver high standards of quality and safety as regards the protection of populations and their environment. In addition to this, however, it seems essential to seek to mitigate the shortcomings of the existing legislation by also ensuring that the EU systematically secures, in bilateral or multilateral trade negotiations, the equivalence of its social and environmental legislation for imported products.

2.6. With this in mind, all the observations, conclusions and recommendations set out in this exploratory opinion must be seen not as a risk, but as an opportunity to steer our work in such a way as to create advantages, whether competitive or cooperative, that offer direction and a future in economic, social and environmental terms.

2.7. Finally, whether it concerns air, water or waste, disparities between Member States in the application of EU law must be avoided. If not, this will lead to distortions in competition, environmental and social inequalities or artificial barriers that hinder the management of resources that are shared and by their very nature cross-border. Therefore, to strengthen all existing and future measures, we should find ways to achieve harmonisation of taxes on pollution and resources and respond to the need to better calibrate the existing tools in line with the externalities to be covered. Environmental policies

⁽⁶⁾ Opinion on A Clear Air Programme for Europe (OJ C 451, 16.12.2014, p. 134) and on Freeing the EU from asbestos (OJ C 251, 31.7.2015, p. 13).

⁽⁷⁾ Opinion on An Action Plan for nature, people and the economy (OJ C 129, 11.4.2018, p. 90); on International ocean governance: an agenda for the future of our oceans (OJ C 209, 30.6.2017, p. 60) and on Quality of water for human consumption (OJ C 367, 10.10.2018, p. 107).

⁽⁸⁾ Opinion on Restrictions on hazardous substance (RoHS) (OJ C 345, 13.10.2017, p. 110); on Options to address the interface between chemical, product and waste legislation (OJ C 283, 10.8.2018, p. 56); on A Strategy for plastics in a circular economy (including the treatment of waste from ships) (OJ C 283, 10.8.2018, p. 61); on The role of waste-to-energy in the circular economy (OJ C 345, 13.10.2017, p. 102); on the Circular Economy Package (OJ C 264, 20.7.2016, p. 98).

⁽⁹⁾ Opinion on Access to justice in environmental matters (OJ C 129, 11.4.2018, p. 65).

⁽¹⁰⁾ See footnote 1 and footnote 3.

⁽¹¹⁾ Opinion on a New Deal for Consumers (OJ C 440, 6.12.2018, p. 66).

⁽¹²⁾ Opinion on The transition towards a more sustainable European future (OJ C 81, 2.3.2018, p. 44) and on New sustainable economic models (OJ C 81, 2.3.2018, p. 57).

⁽¹³⁾ Opinion on the 2030 Agenda — a European Union committed to sustainable development globally, adopted 20 October 2016 (OJ C 34, 2.2.2017, p. 58) and on the core role of trade and investment in meeting and implementing the SDGs (OJ C 129, 11.4.2018, p. 27).

⁽¹⁴⁾ Opinion on Trade and sustainable development chapters in EU Free Trade Agreements (OJ C 227, 28.6.2018, p. 27).

⁽¹⁵⁾ Opinion on The Paris Protocol — A blueprint for tackling global climate change beyond 2020 (OJ C 383, 17.11.2015, p. 74) and on Climate Justice (OJ C 81, 2.3.2018, p. 22).

should no longer serve as an adjustment variable but become a key lever for a strategic shift of direction for human, craft, agricultural and industrial activities within the Union and, through positive spillover effects, also in other regions that are home to its political and trading partners.

3. Specific comments

3.1. *The implementation of EU environmental legislation in the area of air quality*

Together with water, nature and waste, air quality is one of the sectors with the highest number of infringement cases. In May 2018, the Commission stepped up enforcement against six Member States who breached EU rules on air quality, referring them to the Court of Justice⁽¹⁶⁾. The EESC acknowledges that the Commission is currently undertaking a Fitness Check on the air quality directive, assessing the performance of the AAQ Directives in the period 2008-2018. In particular, efforts to improve the implementation of outdoor air quality legislation would contribute to SDG 11 on sustainable cities.

As far as air quality is concerned, we should also remember that atmospheric pollution has a threefold effect:

- 1) on health, to such an extent that air pollution inside and outside remains a major risk factor within the European Union⁽¹⁷⁾ and elsewhere. It is even, in fact, the principal health and environmental risk in the world⁽¹⁸⁾, with 6,5 million premature deaths a year and a high cost to society, health systems, the economy and all those whose health it affects. A recent report by the European Court of Auditors on air pollution estimated the number of premature deaths at some 400 000 annually, noting that the health of European citizens is not always sufficient protected and that EU action has not had the expected effects;
- 2) on biodiversity (effects on crops, forests, etc.);
- 3) on contemporary and, of course, historical buildings, themselves connected with tourism.

3.1.1. Indoor air

- a) To improve the quality of indoor air, consumers should be made aware, through labelling, of the emissions of products purchased, be it, for example, construction materials, products for decoration, furnishing or household products. To this end, the EU should compare the laws of its Member States and adopt a coherent framework based on existing best practices.
- b) Once a building has been finished and delivered, there should be an obligation to maintain and regularly monitor the quality of ventilation. This long-term monitoring of buildings would obviously have a beneficial impact not just on health, but also on energy.
- c) In order to protect vulnerable sections of the population, including those whose respiratory systems are impaired or still developing and need better air quality, action plans should be implemented to this end in establishments frequented by the general public and especially young children.
- d) Finally, it would be useful to harmonise practices in air purification. The EU should provide a definition of criteria for measuring their efficacy and safety, in order to avoid, for example, any commercial or health deviation in consequence of the relative lack of rules at this time.

3.1.2. Outdoor air

- a) Achieving better air quality and increased trust between citizens and the European institutions requires not just that current regulations are applied more rigorously and their flouting more severely penalised, but also that the standards laid down in EU directives finally incorporate the missing recommendations of the World Health Organization (WHO) when these offer greater protection for people's health.

⁽¹⁶⁾ http://europa.eu/rapid/press-release_IP-18-3450_en.htm.

⁽¹⁷⁾ According to the European Environment Agency.

⁽¹⁸⁾ According to the WHO.

- b) Today, only PM10 and PM2,5 particles (micrometre scale) are monitored. However, in terms of health, some ultrafine particles (UFPs) have much greater effect (nanoscale) because they penetrate more deeply into the human body and can accumulate in the organs. European legislation would therefore need to take this reality on board and provide for these particles to be monitored so that their presence in the air is also gradually decreased.
- c) The same should be done for polycyclic aromatic hydrocarbons (PAH) and various other pollutants that are not already monitored, including those linked to incinerators, ships, land vehicles, construction plant etc., especially since continued advances in scientific knowledge and technical capabilities would make it possible to achieve better health and ecosystem protection even now.
- d) Here, the directive on national emission ceilings (NEC) ⁽¹⁹⁾ is essential in order for Member States to reduce their air pollutant emissions. However, it only proposes indicative measures according to the principle of subsidiarity in order for the Member States to comply with the emission reduction commitments. The implementation it provides for is so elastic as to make its regulatory effect far too weak.
- e) There is also room for improvement insofar as the directive did not propose a methane emission reduction target, a source of air pollution that is essential, since it is an ozone precursor, as well as a very powerful greenhouse gas.
- f) In order to ensure harmonisation across the different EU regulations, the Common Agricultural Policy (CAP) should introduce targets on air pollution from the agricultural sector. This sector is responsible, for instance, for over 95 % of ammonia emissions, a pollutant covered by the NEC directive. The CAP should provide adequate tools for the Member States to reach their reduction targets in this area.
- g) Finally, it should be remembered that the quantification of pollutants is currently based on weight ($\mu\text{g}/\text{m}^3$), even though, for many years now, toxicologists have argued strongly at scientific fora that it would be better to quantify them by number of particles. Such an approach makes all the more sense because we are dealing with ultrafine elements that we breathe ⁽²⁰⁾.

3.2. *The implementation of EU environmental legislation in the field of water policy*

As regards water, it should be pointed out that, while the Framework Directive is generally satisfactory, its implementation remains weak and most Member States have failed to establish the good environmental status expected in 2015. The same can be said in respect of Natura 2000, as a result of the widespread failure of the contractual instrument. Various improvements and new features could be introduced, particularly given scientific progress on soil functioning, on the one hand, and the dispersion and interaction of certain pollutants, on the other. This will be examined below. Progress in implementation of EU legislation on water would help achieve several targets related to SDG 6 on clean water and sanitation.

One of the most critical areas related to water is the implementation of the Urban Waste Water Treatment Directive, where there are strong differences in compliance among Member States, due to a combination of governance issues and funding. Although the Commission has made major efforts in the current mandate, there are still considerable financing needs in this area, as well as governance-related problems to solve. Based on the proven experience of solid waste management, new ways of making producers responsible for financing supplementary waste water treatment aiming at capturing emerging pollutants — such as pharmaceuticals and micro plastics — should be developed.

3.2.1. *Surface water*

- a) To improve the state of surface waters, and also to avoid reversals in environmental law and governance, it would be better to define certain concepts such as 'ecological continuity', 'watercourses' and 'wetland'. It is essential, for example, that the rules defining wetlands are specified at European level, since an approach based solely on the purpose of protection is too complex to be effectively transposed into national law, at least in some Member States.
- b) Similarly, it would be useful to have a unified framework for conducting assessments that is clear and shared by all the stakeholders involved in the implementation of the relevant legislation.

⁽¹⁹⁾ NEC Directive.

⁽²⁰⁾ <https://www.sciencedirect.com/science/article/pii/S0048969711005730?via%3Dihub>

- c) Whether we are talking about nanoparticles — for example, from the textile and agri-food industries — or endocrine disruptors — such as those from the pharmaceutical industry and agriculture —, their dissemination in the environment should be reduced at source and limits established that are not to be exceeded in surface waters and groundwater in the light of their impact on ecosystems, and in particular on food chains that include humans. To this end, the means should finally be adopted of determining, including over the longer term, the cocktail effect thresholds between these substances, the various substances already monitored and their degradation by-products.

3.2.2. Groundwater

- a) Regarding the legislation on water, the provisions on the recovery of the costs incurred by the various categories of users, the internalisation of external costs and a charging scheme in line with costs — as set out in the Directive establishing a framework for Community action in the field of water⁽²¹⁾ — are neither sufficiently binding nor sufficiently detailed to be effective enough.
- b) With climate change, groundwater recharging may become all the more problematic. This is because in some places urban design or agricultural practices are leading to an undesirable rupture in the water cycle because of sealed soils or soils with insufficient biological activity which promote surface run-off, erosion and mud slides, rather than infiltration, purification and natural storage. To stop these phenomena getting worse, the Union must adopt regulation to promote living soils. This would also have the advantage of addressing problems of quality and quantity of water available for both ecosystems and human consumption, and for agricultural and industrial activities.
- c) Given their role in triggering rain by evapotranspiration, as well as in filtering, purifying and storing water in soil and water tables, far more attention should be paid to forests and hedges, and also, to a lesser extent, permanent grassland and arable land left unploughed over the long term. These should also, where feasible, be present and spread throughout Europe — all the more so because they are also a considerable help to other living creatures, including many crop auxiliaries, in dealing with temperature spikes and other extreme weather events that are becoming increasingly common.

3.2.3. Directive establishing a framework for Community action in the field of water policy

With a view to better implementation of the Water Framework Directive, it would be expedient to change this regarding certain aspects touched on above and bearing on the following points:

- a) The status of water in the preamble — ‘Water is not a commercial product like any other’ — should be replaced with ‘Water is not a commercial product’.
- b) Given the status of water in Europe, application of the principles of prevention and precaution requires the repeal of all exemptions — those set out in Article 4(5) and Article 7(4), for example.
- c) Because of the status of water, an environmental assessment must be required for all projects that are likely to affect water and aquatic environments. The ‘simplified assessment procedure’ (Article 16) should be removed.
- d) The polluter pays principle, and especially its implementing rules, should be reviewed, with:
- a reformulation of Article 9: the wording ‘Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs, having regard to the economic analysis conducted according to Annex III, and in accordance in particular with the polluter pays principle’ should be replaced with ‘Member States shall implement the recovery of the direct and indirect costs of the impact of human activities on water in accordance with the polluter pays principle’;
 - deletion of the exceptions referred to in Article 9(4);
 - addition of all the sectors, indicating the three areas (agriculture, industry, households) for which Member States must draw up rules to eliminate the externalisation of costs. An annual report would set out, by sector, how to implement this process.
- e) It would also be necessary to replace all expressions of the type ‘ensure that’ with a real obligation (for example, in Article 11, paragraph 5 or Article 14, first paragraph).
- f) Similarly, it would appear necessary to lower the threshold values of pollutants, including in combination with other directives (on nitrates, chemicals, etc.), and to update the priority substances (for example by including perfluorinated compounds, nanotechnologies, etc.).

⁽²¹⁾ Water Framework Directive.

- g) Public participation (Article 14) needs to be improved, primarily with regard to planning. It should be extended to programmes of basic and supplementary measures as well as all prior administrative checks.
- h) Concerning litigation (Article 23), it should be added that, in accordance with the Aarhus Convention, the Member States must introduce rules and procedures on public access to litigation concerning water.

3.3. *The implementation of EU environmental legislation in the field of waste*

The Impact Assessment underlying the recently-adopted waste legislation identified several problems with implementation: legal/regulatory, as well as issues related to governance and awareness-raising. Shortcomings in implementation of the Waste Framework Directive are often due to the lack of economic instruments, e.g. those making recycling more attractive than landfilling. However, setting up such economic instruments can be problematic for municipalities. Local authorities often do not have the capacity to translate EU measures and instruments at local level, which points to an issue of governance. Enforcement is also a major problem in several Member States. The EESC acknowledges that the Commission has worked in recent years with Member States to address such shortcomings in implementation, for example providing technical support and specific guidelines on what needs to change through the two compliance promotion exercises undertaken in 2012 and 2015.

The newly adopted legislative proposals on waste should solve some of the problems with implementation and help contribute to SDG 12 on sustainable consumption and production, but issues related to governance and enforcement still have to be dealt with at national level. Together with the Commission, the EESC has set up a European Circular Economy Stakeholder Platform which has already achieved significant results, facilitating collection, exchange and dissemination of expertise and good practices existing among the various stakeholders. This platform is a key tool which deserves to be more widely used to encourage the implementation of EU legislation in this area.

3.3.1. Waste prevention

- a) The recent review of waste policy⁽²²⁾ is an opportunity to give strong backing to measures to reduce our needs at source (including our demand for raw materials and secondary raw materials), as well as the creation of future waste, in particular that hazardous for ecosystems and human health. This means that we have to question our needs and the things we produce and how we design them, to make them last longer and then transform them with the least possible loss in material, which will have an impact generally on the environment, energy sovereignty and economic sustainability.
- b) So that we can talk of ‘sustainable materials’ instead of ‘waste’ and of a circular economy, we must, from the very product design stage, remove toxic and dangerous components that will complicate any future recycling phase.
- c) When it comes to packaging, sobriety should prevail and further progress should be as great as possible, gradual and mandatory in order to avoid any distortion of competition towards different take-back and re-use schemes, existing and to be developed.
- d) The ability of our societies to re-use and repair our products is itself one of the ways of preventing waste. To achieve this, there should be ambitious legislation with mandatory targets that must be achieved rather than just voluntary measures.
- e) In order to decouple economic development from the consumption of natural resources and environmental impacts, the EU needs to set itself more ambitious targets in order to increase resource efficiency in our production systems.

3.3.2. Waste management

- a) In order to gain and maintain the confidence of the population — producers as well as consumers —, the circular economy must regularly take on board the latest scientific knowledge and so insure itself against any future scandals, including public health scandals, arising from the concentration or dispersion of pollutants in recycled materials (bromine or endocrine disruptors, for example) or the environment (nano- or microplastics).

⁽²²⁾ http://ec.europa.eu/environment/waste/target_review.htm.

- b) This will be all the more credible and effective if, to improve recycling rates for all types of materials, traceability of their components has been put in place at the production stage and if the greatest possible transparency has been ensured up to the point where they reach the consumer.
- c) The same level of protection for human health and the environment should therefore apply to recycled or virgin materials within the European Union. The use of recyclable materials should not allow the use of dangerous chemicals in higher concentrations to continue. As a result, when restrictions and limits for chemicals under the REACH regulation ⁽²³⁾ are set, the European Chemicals Agency should lay down the same limits for recycled materials. Materials that do not comply with these limits must be processed so that the substance is withdrawn or rendered ineligible for re-use or recycling.
- d) Above and beyond eco-design, to which smartphones and other electrical and electronic products should be subject, the EU should frame and carry out a waste management policy worthy of the name within its borders rather than sending waste abroad.
- e) It is clear from the life-cycle analysis (LCA) that all recycling options are better than incineration (in particular because of the embodied energy, in plastics for example) except for wood in some special cases, and also for some hazardous waste products/materials. This, like landfilling, must gradually disappear and ambitious targets must be set to this end.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²³⁾ REACH regulation — Regulation (EC) No 1907/2006 of the European Parliament and of the Council (OJ L 396, 30.12.2006, p. 1, as amended in OJ L 136, 29.5.2007, p. 3).

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

539TH EESC PLENARY SESSION, 12.12.2018-13.12.2018

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 — A European retail sector fit for the 21st century’*(COM(2018) 219 final)**(2019/C 110/07)*Rapporteur: **Ronny LANNOO**Co-rapporteur: **Gerardo LARGHI**

Consultation	European Commission, 18.6.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	21.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote	171/3/2
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the Commission's communication on modernising the retail sector. The Committee stresses once again the economic and social importance of the retail sector for all the stakeholders and for society as a whole⁽¹⁾. The EESC points out that it has already recommended in previous opinions the creation of an open economic environment, aimed at ensuring fair competition, to generate the conditions for the positive coexistence of and cooperation among large, medium, small and micro retailers.

1.2. The defence and promotion of diversity in the retail sector is crucial in order to meet consumers' needs and to defend and promote the European productive system. The EESC therefore thinks a balance needs to be struck between measures in favour of large retailers, set out very clearly in the communication, and corresponding ones that meet the needs of micro and small enterprises.

1.3. The EESC notes that the Commission's proposal focuses too much on 'price' as the most interesting element for consumers, to the detriment of other key aspects such as information, product quality and personalisation, proximity, mobility, the circular economy and durability, value for money and service received before or after purchase. Diversification of products should be properly protected by the Commission in the interests of all parties.

⁽¹⁾ Turnover in 2016: EUR 9 864 468,4 million; number of enterprises (in 2015): 6 205 080; value of production (in 2015): EUR 2 687 115 million. In 2016, 33 399 447 people were employed in this sector of which 27 892 082 were employees.

1.4. The Committee believes that the right of establishment should be addressed in accordance with the subsidiarity principle and that the best way to address the needs of all the stakeholders involved is through reaching agreement at national, regional and local level.

1.5. In particular, the EESC thinks that some barriers to freedom of establishment and some operational restrictions, as currently present in some Member States, act as a barrier to the establishment of new enterprises, but that full liberalisation does not ensure the necessary balance between large companies, small businesses and family businesses.

1.6. The EESC considers that national regulations on shop opening hours and working times are crucial in ensuring a level playing field among different-sized businesses and above all in guaranteeing adequate social protection to both the employed and the self-employed, also taking account of changes in consumer habits.

1.7. The EESC reiterates that reaching agreement at national or subnational level is the best way to establish opening times and days, to reconcile the needs of consumers to have access to particular products and services and the desire of some businesses to open on Sundays and holidays, while also ensuring a balance between work and family life for entrepreneurs and employees, and providing for time set aside for training.

1.8. The EESC also points out, in line with the Social Pillar, the need to guarantee fair remuneration and quality of work to all workers in the sector, whether online or offline. It draws attention, in particular, to the case of the labour contracts of thousands of those working for online businesses that are still not covered by collective bargaining, as well as to the contracts in large retailers designed only to cater for greater customer footfall at weekends (resulting in an increase in casual contracts) or which do not count weekends or nights as overtime. Finally, in the EESC's view, the creation of an effective social dialogue mechanism that also involves small and micro enterprises would give businesses better development opportunities and workers a better system of safeguards.

1.9. The Committee agrees with the Commission on the need to encourage and support innovation in the retail sector, lifelong learning for employers and workers, and product promotion over the long term. However, it thinks that, alongside the Commission's proposal, there should be a roadmap to accompany this process in the context of the digital transition, with appropriate funding and a particular focus on small and micro enterprises in collaboration with SME-representing organisations.

1.10. The EESC calls on the authorities at all levels to engage in close cooperation with all the stakeholders with a view to drawing up a specific action plan on the future of European retail in the 21st century (i.e. information, training, financing and good practices, etc.).

2. Gist of the Commission document

2.1. The Communication aims to contribute to unlocking the potential of the retail sector for the EU economy by identifying best practices. Efforts are therefore needed on the part of the EU institutions and Member States to support the competitiveness of the sector at a time when it is being transformed by the rapid growth of e-commerce and the transformation of consumer habits.

2.2. For the Single Market to deliver, appropriate action must be taken at all levels. The productivity of the EU retail sector has been lagging behind other sectors. This is due to the accumulation of tax regulations at all levels and to a delay in the transition to the digital market.

2.3. Retailers face numerous restrictions with regard to the establishment of shops and operations. Many of these restrictions are justified by legitimate public policy reasons. They may also create barriers for start-ups and productivity.

2.4. The opening of new commercial outlets is a crucial element for the viability of the sector. It is important to be able to pursue strategies with regard to market access that combine an online and an offline presence. Simple, transparent and efficient establishment procedures offer opportunities for the retail sector to improve its productivity.

2.5. The Commission recommends that Member States assess and modernise, if necessary, their regulatory frameworks, taking inspiration, where relevant, from best practices already developed in other Member States.

2.6. Operational restrictions usually affect mainly brick-and-mortar retailers. Public authorities should assess the balance, proportionality and efficiency of such restrictions to ensure a level playing field with e-commerce.

2.7. The cost of compliance is between 0,4 % and 6 % of retailers' annual turnover. For micro-companies, this is a particularly heavy burden. Fostering the development of the retail sector to the ultimate benefit of consumers requires a broad approach: simplifying regulatory frameworks, ensuring that they are fit for a multi-channel environment as well as reducing the overly burdensome and costly measures and procedures imposed on retailers to ensure compliance with these rules.

3. General comments

3.1. The European Economic and Social Committee (EESC) welcomes the attempt undertaken by the Commission to modernise the retail sector in order to deal with the new challenges relating to digitalisation and e-commerce.

3.2. In its previous opinions, particularly INT/682 on A European retail action plan⁽²⁾, the Committee has already recommended the creation of an open economic environment aimed at guaranteeing fair competition between entities of the same size. In particular, the EU should create the conditions for diversity, positive coexistence and cooperation among online and offline large, medium, small and micro-retailers. Promotion of diversity in EU retail is a great way of responding to the various needs of consumers, but also to defend and promote the European productive system.

3.3. The EESC notes that the Commission focuses too much on 'price' as the most interesting element for consumers whereas the main goal should be providing accurate information for consumers (consumer awareness). Consumers should feel free to take other elements into account when purchasing a product, such as its quality, personalisation, durability, consumer mobility, proximity, value for money, service provided during or after purchase, impact on the circular economy, and environmental criteria. Diversification of products represents added value for the EU's productive and retail sectors and should be properly protected by the Commission⁽³⁾.

3.4. The EESC finds the Commission's approach skewed in favour of large retailers and thinks it important to balance this with the needs of small and micro enterprises. In particular, the Committee believes a coexistence needs to be guaranteed of large companies and micro and family-run businesses.

3.5. The EESC agrees that some restrictions on the right of establishment and operational restrictions implemented in some Member States could act as a barrier to the establishment of new enterprises and their scaling-up. However, it thinks that a full liberalisation of the right of establishment would not be a panacea. Furthermore, in this connection, the subsidiarity principle should be respected and agreements reached at national, regional and local level to find appropriate responses to local needs and to those of all the stakeholders.

3.6. The EESC does not agree with the Commission's negative reading of the Visser judgement. For the EESC, this case confirms the purpose of the legislator with regard to the Services Directive: it codifies the case law of the Court of Justice of the European Union regarding the freedom of establishment and only prohibits certain requirements, such as economic needs testing, while recognising that '[the] objective of protecting the urban environment is capable of constituting an overriding reason relating to the public interest that may justify a territorial restriction'. It is important to balance such needs according to the proportionality and subsidiarity principles.

3.7. In this connection, much can be done in the process of forging a single European market, to simplify the procedures for starting a business and to make these procedures transparent and uniform, while respecting the legitimate existing constraints on a territorial scale established in line with the subsidiarity principle.

3.8. The EESC considers it of the utmost importance to keep and protect some specific economic environments, in particular when these are connected to the conservation of national historical and artistic heritage, social policy objectives and cultural policy objectives; a different approach could have a disruptive impact on local communities and consumers⁽⁴⁾.

⁽²⁾ OJ C 327, 12.11.2013, p. 20.

⁽³⁾ OJ C 440, 6.12.2018, p. 165.

⁽⁴⁾ See footnote 2.

3.9. Overall, the EESC believes that cross-border expansion, scaling-up and e-commerce should be seen as a serious option, and the enterprises in coordination with their organisations should be supported in this process, but this cannot be considered an obligation or the only way that all enterprises can grow, in line with the primary interest of consumers (multi-channel distribution and service). This is why it is essential to encourage and sustain innovation processes, training and product promotion over the long term, including supporting small and micro enterprises and their representing organisations with appropriate funding.

3.10. An efficient retail policy needs to strike a balance between profitability and efficiency with regard to the location. (Medium) long-term considerations have to be taken into account especially as regards brick and mortar establishments and their relation to existing and possible future developments (housing, available services, etc. and thus to existing city centres and neighbourhoods). The EESC considers that the Commission should complete its proposal, in collaboration with the relevant national and regional organisations, by introducing structural measures with a view to incorporating territorial development factors for local communities and cities centres (tourist areas, local spatial planning, building regulations, conditions, etc.).

3.11. The EESC considers that national regulations on shop opening hours and working times, in accordance with the new technological solutions, play a crucial role in ensuring a level playing field among different sized businesses and guaranteeing adequate social protection to both employed and self-employed and, above all, are a crucial tool for the social protection of self-employed and employed people.

3.12. The EESC reiterates that reaching agreement at national or subnational level with the organisations concerned is the best way to establish opening hours and days. It is crucially important, in fact, to reconcile the needs of consumers to have access to particular products and services and the desire of certain companies to open on holidays or in the evenings, and to protect the rest needs of micro enterprise owners and their employees, which also ensuring a balance between work and family life, and providing for time set aside for training.

3.13. The EESC also points out, in line with the Social Pillar, the need to guarantee fair remuneration and quality of work to all workers in the sector, whether online or offline. It draws attention, in particular, to the case of the labour contracts of thousands of those working for online businesses that are still not covered by collective bargaining, as well as to the contracts in large retailers designed only to cater for greater customer footfall at weekends (resulting in an increase in casual contracts) or which do not count weekends or nights as overtime. Finally, in the EESC's view, the creation of an effective social dialogue mechanism that also involves small and micro enterprises would give businesses better development opportunities and workers a better system of safeguards.

3.14. The EESC welcomes the recommendation that public authorities should facilitate the adoption of digital technologies on the part of small enterprises. However, this cannot be the only option. Traditional shops remain a crucial element not only of growth in the EU but also with regard to social cohesion in particular in the local communities and for non-native digital consumers. For this reason, online and offline commerce should coexist. In this connection, the EESC is of the opinion that the Commission underestimates the difficulties faced by small and micro enterprises when it comes to taking part in and profiting from e-commerce.

3.15. The EESC agrees with the Commission on the need for quality training for employers who want to get involved in e-commerce. Nevertheless, the Committee considers that the situation is more complex and SMEs, especially small and micro-enterprises, face multiple challenges, such as: a) changing and adapting their internal organisation; b) knowledge of foreign languages; c) obtaining and understanding legal and administrative information; d) establishing an efficient and competitive delivery system; e) overcoming fiscal and social dumping at EU level (VAT fraud, counterfeiting, etc.). For this reason, the EESC urges the Commission and the Member States to support SMEs and their organisations throughout their transition towards e-commerce, with a wide approach that considers all the conditions needed for the creation of successful online enterprises.

3.16. The EESC considers that e-commerce could be a significant option for many SMEs. Moreover, the Committee points out that just recently the Commission published the first proposal aimed at regulating platform-to-business relations in the digital market. This measure is focused on transparency but it does not tackle some frequent abusive practices which

impede fair competition (e.g. parity price clauses, fiscal dumping, varying taxation, etc.) between commercial users and big online platforms⁽⁵⁾). For this reason the Committee recommends that the Commission create a level playing field with regard to fair competition in the digital market.

3.17. In the EESC's view, various measures are needed to provide the necessary conditions for the retail sector, and in particular SMEs and micro-enterprises as the highest net employment creators, to tackle the skills mismatch: strengthen identification and anticipation of skills needs, including guidance; improve education and training outcomes according to labour market needs, including promotion of VET; improve framework conditions to better match supply and demand; provide better support for the training needs of SMEs and micro-enterprises.

3.18. The EESC welcomes the Commission's attention to the cost of compliance especially for small enterprises, as well as the fact that it highlights the lack of awareness of the sector's specificities.

4. Specific comments

4.1. The EESC invites the Commission to face the growing problem of the desertification of city centres and the social and environment consequences of this. How liveable large and small cities are depends not least on the survival of many small and micro enterprises (local shops) that meet the needs of many consumers but risk being crushed by growing concentration of the large retail groups.

4.2. The EESC regrets the absence of any reference to a sustainable retail sector and the role that small and micro retailers can play in this process. However, a more favourable framework is needed to make them aware of the link between sustainable choices and competitiveness and to provide them with tailored information and technical assistance, as well as the necessary credit schemes to implement what can be improved. Given the weak position they have in terms of influencing consumers and producers, small and micro-retailers should not have choices imposed on them.

4.3. In the communication, no attention is paid to the frictions that exist in the contractual relations between enterprises, e.g. unbalanced franchising contracts, payment delays and unfair trading practices. In particular, the growing concentration of power among big retailers in Europe poses serious challenges⁽⁶⁾. In order to tackle distorted competition and to remain competitive, both of these issues should have been addressed in the communication.

4.4. The EESC recommends to the Commission, as already pointed out in the EESC opinion on the 'New Deal For Consumers', to define and implement an effective dispute resolution system capable of tackling situations resulting from abuses of economic power and practices that distort competition.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁵⁾ OJ C 440, 6.12.2018, p. 177.

⁽⁶⁾ See footnote 3.

Opinion of the European Economic and Social Committee on 'Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Report on Competition Policy 2017'

(COM(2018) 482 *final*)

(2019/C 110/08)

Rapporteur: **Baiba MILTOVIČA**

Referral	European Commission, 5.9.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	21.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote	188/1/9
(for/against/abstentions)	

1. Conclusions and recommendations

1.1. The EESC welcomes the concise style and focus of the 2017 Report which is supported by an extensive Staff Working Document. An effective and enforced competition policy is the bedrock of a sustainable market economy. It can ensure a level playing field for producers of goods and services, reassure consumers, stimulate competition and deliver fundamental social objectives, such as consumers' freedom of choice, as well as political objectives, such as the well-being of European citizens and promoting European market integration. With third countries it also plays an important role in supporting positive business, environmental and social dynamics in international trade.

1.2. The 2017 report places a strong emphasis on compliance and enforcement and provides examples of forceful action taken by the Commission. Consumers and small and medium-sized enterprises are often placed at a disadvantage by large companies possibly abusing their dominant market position, and so the measures which tackle anti-competitive practices are particularly welcome.

1.3. The growth of anti-competitive activity in EU markets has seen the steady development of National Competition Authorities (NCAs) as important enforcers of competition law. The ECN+ Directive, empowering NCAs to be more effective, strengthens national capacity in this area.

1.4. The reinforcement of NCAs' autonomy and the provision of adequate resources is vital. Genuine independence, expertise and training are all necessary for effective work, and the ECN+ Directive should be closely monitored to see that this is achieved. Preventive action should be encouraged to avert anti-competitive conduct and penalties should be increased so that they are an effective deterrent.

1.5. The EESC supports the Commission in the area of private legal enforcement of the competition rules and argues that class actions should be facilitated by the legal systems of all Member States. The Commission should continue to monitor the effectiveness of collective redress mechanisms for competition law infringements in the various Member States and take further action if necessary. In this regard, the Commission's proposal on representative actions, included in the proposal for a New Deal for Consumers, is disappointing.

1.6. Further proposals on franchising, to be included in the Block Exemption Regulation⁽¹⁾ in order to restore the commercial and contractual balance between franchisees and the franchisor, should be considered.

⁽¹⁾ Commission Regulation (EU) No 330/2010 (OJ L 102, 23.4.2010, p. 1)
<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32010R0330>

1.7. Where there are significant para-commercial activities run by local authorities which may benefit from public subsidy enabling unfair competition these should be studied to see whether an adaptation of state aid rules or other instruments is necessary.

1.8. Concerning the Whistleblowers' Directive, it is recommended that in its transposition and application, national law should affirm that whistleblowers have access to trade union representatives at all times and that full protection is afforded to the whistleblower in all circumstances.

1.9. Where applicable to the enforcement of competition law it is suggested that a detailed analysis by the Commission of the practices of energy regulators across all Member States in conjunction with CEER and ACER may identify actions that could eliminate restrictive practices, which continue to be detrimental to consumers.

1.10. A new review of the functioning of the food distribution chain in future competition policy reports could identify and propose remedies for the continuing exercise of market power by dominant retailers, which may prove to be inappropriate.

1.11. There are a range of anti-competitive practices existing and continually being created within the digital economy. The Committee is concerned that adequate resources are not applied to monitoring this rapidly developing and financially vibrant sector and urges specific provision to do so within the Multiannual Financial Framework.

1.12. There are a number of factors which lie outside the immediate scope of competition policy yet create concerns about market distortions: wide variations in corporate taxation policy between Member States, employment practices collectively known as social dumping, practices arising within the gig economy and issues relating to the circular economy and global economic sustainability. The Committee urges the Commission to apply the full extent of its powers and capacity to ensure that those grey areas where anti-competitive behaviour exists are, where possible, monitored, clarified and remedied.

1.13. Competition law is one of the oldest parts of the *acquis* but is not always commensurate with the challenges of this century. In particular the artificial separation of market and socio-environmental spheres would benefit from a comprehensive and systemic review of EU competition law taking into account economic, environmental and social objectives.

2. Gist of the 2017 Report on Competition Policy

2.1. Competition policy is the bedrock of the Single Market and has been in place since the Treaty of Rome and the foundation of today's European Union. It has been set within a framework enshrined in provisions such as Articles 101 and 102 TFEU, which clarify its substance and scope.

2.2. 2017 saw specific actions to the benefit of consumers and European industry in key areas: the digital economy, energy, the pharmaceutical and agro-chemical sector, the network industries and the financial markets. This summary highlights the main points of the Report, which is itself a summary of extensive work across numerous economic sectors.

2.3. Policy needs to be translated into rules and rules must be enforced. The European Commission is a founder member of the International Competition Network and is also active in all international forums devoted to competition, including the OECD, Unctad, the WTO, and the World Bank. In particular, the Commission works closely with national competition authorities and has proposed new rules in the form of a Directive ⁽²⁾ to enable Member States' competition authorities to be more effective enforcers of EU antitrust rules.

2.4. It is important that individuals who have knowledge of the existence or functioning of a cartel or other types of antitrust violations have the means to bring such practices to light. A new, anonymous whistleblower tool has been launched which facilitates this and it is in active use.

2.5. Requirements regarding the notification of smaller and less problematic state aid measures have been simplified and exemptions introduced, and 24 Member States have joined the Transparency Award Module providing state aid information.

⁽²⁾ http://ec.europa.eu/competition/antitrust/proposed_directive_en.pdf

2.6. Rigorous competition enforcement in concentrated markets has been undertaken. The pharmaceutical sector saw the Commission's first investigation into concerns about excessive pricing practices in the pharmaceutical industry; several mergers in the agro-chemical sector were scrutinised and a merger in the cement industry which would have reduced competition was prohibited.

2.7. In the energy sector, enforcement actions got underway in relation to state aid and capacity mechanisms and the investigation of Gazprom's business practices in Central and Eastern Europe continued with a preliminary finding that EU antitrust rules were being broken.

2.8. In transport, acquisitions in the aviation sector were examined and anti-competitive actions in rail transport were identified in Lithuania, resulting in fines and remedial action, and the provision of state aid to the sector in Greece and Bulgaria was supported. Anti-cartel action was taken against Scania with regard to road haulage, and several firms in the car parts sector were subjected to heavy fines.

2.9. The extension of the General Block Exemption Regulation to ports and airports facilitated the provision of appropriate state aid.

2.10. The Commission's investigation into the proposed merger between Deutsche Börse and London Stock Exchange Group concluded that this would be monopolistic, and as a result it was prohibited.

2.11. It is noted that EU competition policy will need to respond constructively and creatively to the challenge of UK withdrawal from the EU. As set out by the European Council, any future trade agreement should ensure a level playing field, notably in terms of competition and state aid.

3. General comments

3.1. The EESC welcomes the 2017 Report, which contains numerous examples of the Commission's focus on the promotion of consumer well-being and the prevention of consumer harm. A consequent effect of this approach is not only to strengthen the integration of the Single Market but also to strengthen economic development and related social policy objectives.

3.2. In the last year, the EESC's opinions have frequently identified the importance of an effective and applied competition policy. Consumer welfare and well-being benchmarks alongside the maintenance of an effective competitive structure provide the rationale for addressing exploitation, exclusionary practices, and restrictive agreements. By encouraging best economic practice, a firm competition policy encourages the strengthening of European business in competitive world markets and the promotion of those social objectives on which it is founded.

3.3. *Automotive emissions*

3.3.1. In the EESC Opinion on EU actions to improve environmental compliance and governance⁽³⁾ it was noted that lack of respect for the mechanisms that guarantee the implementation of environmental legislation and governance is a regrettable factor that contributes to unfair competition and economic harm. The Committee notes that compliance and adherence to the rule of law is fundamental to a strong competition policy.

3.3.2. In this context the Committee appreciates the fact that the Commission's preliminary investigation of a possible cartel involving BMW, Daimler, Volkswagen, Audi and Porsche, into whether the companies restricted the development of selective catalytic reduction systems and particulate filters, potentially limiting the roll-out of more environmentally friendly technologies, has now led the anti-competition team to open a formal investigation.

3.4. *Collective redress mechanisms*

3.4.1. The Committee notes the final transposition of the Damages Directive⁽⁴⁾ which, in part, addresses the issue of providing a legal mechanism for collective actions. However, the withdrawal of the proposal for a directive prepared by DG COMP in 2009, when taken together with the proposal recently included in the New Deal for Consumers package, signals a lack of political will to take significant steps towards establishing a genuinely efficient framework for representative actions

⁽³⁾ OJ C 283, 10.8.2018, p. 69.

⁽⁴⁾ Directive 2014/104/EU of the European Parliament and of the Council on Antitrust Damages Actions (OJ L 349, 5.12.2014, p. 1).

at European level. The EESC therefore urges the Commission to continue to monitor the effectiveness of collective redress mechanisms for competition law infringements in the various Member States and take further action if necessary.

3.5. Retail franchising

3.5.1. The EESC notes that there is a growing problem relating to franchise contracts in the retail sector which may have serious competition implications. For example, a major dispute in the Netherlands between the franchisor HEMA and a number of franchisees concerning existing contracts and the portion of earnings from internet sales has resulted in the cancellation of franchisee contracts. The Committee calls on the Commission to analyse this situation and come forward with additional proposals on franchising that could be included in the Block Exemption Regulation in order to restore the commercial and contractual balance between franchisees and the franchisor.

3.6. Subsidies at local authority level

3.6.1. In many Member States, local authorities are turning to the development of commercial activities using publicly owned resources or facilities. This can lead to unfair competition if an element of subsidy is present. For example, SMEs in the food services industry and tourism are faced with subsidised activities in the canteens of sports clubs, leisure centres etc. Local authorities own or offer public funds to these clubs and associations who are often exempted from paying VAT and benefit from social premiums, such as volunteer work. These para-commercial activities are frequently organised (in terms of turnover and profits) as a normal commercial enterprise. The Committee calls on the Commission to monitor this phenomenon and see whether an adaptation of state aid rules or other instruments could be developed at EU level to regulate these local activities, which in some cases are even subsidised with EU funds!

3.7. Information on state aid

3.7.1. The availability and use of the Transparency Award Module (TAM) is particularly welcome as it allows interested stakeholders (the Commission, competitors and the wider public) to verify the conformity of State aid with the rules. To date, about 30 000 aid awards have been published.

4. Specific Comments

4.1. The ECN+ Directive

4.1.1. The EESC is encouraged by the emphasis on enforcement in the report and has taken this opportunity to restate its views ⁽⁵⁾ about the ECN+ ⁽⁶⁾ Directive, which empowers NCAs to be more effective.

4.1.2. The Committee has previously stated its view that a Regulation could be a more effective legislative instrument in this area but recognises the need for proportionality. In addition, competition policy should guarantee equal opportunities, with NCAs having at their disposal the legal measures and instruments needed to tackle secret cartels.

4.1.3. Although the ECN+ Directive should guarantee independence, resources and an effective toolbox to carry out enforcement, questions remain about NCAs' autonomy and capacities. Genuine independence, expertise and training are all necessary for effective work. Preventive action should be encouraged to avert anti-competitive conduct and penalties increased so that they are an effective deterrent. NCAs should also have the power to institute legal proceedings in their own right.

⁽⁵⁾ OJ C 345, 13.10.2017, p. 70.

⁽⁶⁾ Proposal for a Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market [COM/2017/0142 final].

4.2. Whistleblowers' protection

4.2.1. Further work needs to be undertaken with regard to informing the public about competition rules. This will enhance the effectiveness of new tools which are available for reporting infringements, such as the whistleblowers tool. Although the EESC is encouraged to see that this tool is in regular use, it has a number of concerns about the proposed Directive, which aims to strengthen whistleblowers' protection⁽⁷⁾.

4.2.2. The EESC refers the Commission to its Opinion on this Directive⁽⁸⁾ where it recommends that the scope of the Directive should not be limited to compliance with EU law but rather extended to include compliance with national law.

4.2.3. It is also important that reference be made to the inclusion of workers' rights and that trade union representatives and NGOs be mentioned as examples of legal persons. Whistleblowers should have access to trade union representatives at any stage of the process.

4.3. The digital economy

4.3.1. The EESC notes that the new Consumer Protection Cooperation Regulation⁽⁹⁾ was adopted at the end of 2017 and should ensure better coordination among consumer networks to enforce measures against cross-border anti-competitive practices. For example, the Regulation identifies geo-blocking practices in the e-commerce sector, which, by its very nature, is a cross-border issue. European Consumer Centres have worked on this issue for many years, gathering cross-border examples and practices. Together with the European Competition Network and the Consumer Protection Cooperation Network, better coordinated enforcement action is now anticipated.

4.3.2. In the fast-growing area of the digital economy, anti-competitive practices of many other types are continually being created. For example, the use of sophisticated algorithms can adjust prices based on a person's data collected from various online sources, and it also helps companies engage in online collusion. Adequate budgetary resources need to be at the Commission's disposal to monitor and counteract these practices.

4.4. The EESC believes that better cooperation between the NCAs and consumer organisations would be beneficial for both sides, especially as national consumers' organisations are very well placed to inform the NCAs about suspected infringements. In fact, they can provide the authorities with valuable data from their own handling of complaints.

4.5. The Energy Union can stimulate the ongoing process of bringing fair competition to the EU energy sector, which is still an area where there is a wide range of consumer and industry pricing and where market choice can be restricted. The EESC believes that a detailed analysis of regulatory practices — which vary considerably between Member States — will provide the basis for constructive dialogue to resolve discrepancies and this should be jointly conducted by NCAs, national energy regulators and the Commission. This may shine a light on the lack of choice and restrictive practices in, for example, district heating schemes.

4.6. The inappropriate exercise of market power in the food retail sector is an ongoing issue. The Commission raises the question of whether large retail chains have obtained too much bargaining power (in the bilateral negotiations with their suppliers) and buyer power (in the market overall) thanks to their dual role of customers and competitors (through private labels) of their suppliers⁽¹⁰⁾. The Committee urges action in line with its recent Opinion on this subject⁽¹¹⁾ and repeats its recommendation that the Commission includes monitoring of the functioning of the food distribution chain in future competition policy reports.

⁽⁷⁾ Proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law [COM(2018) 218 final].

⁽⁸⁾ EESC opinion on *Strengthening whistleblower protection at EU level*. Rapporteur: Franca Salis-Madinier (OJ C 62, 15.2.2019, p. 155).

⁽⁹⁾ Regulation (EU) 2017/2394 of the European Parliament and of the Council (OJ L 345, 27.12.2017, p. 1).

⁽¹⁰⁾ Commission Staff Working Document SWD(2018) 349 final.

⁽¹¹⁾ OJ C 283, 10.8.2018, p. 69.

4.7. *Competition law and the wider public interest*

4.7.1. Market distortions can be caused by a number of factors which lie outside the strict scope of competition policy. Amongst these are wide variations in corporate taxation policy between Member States, employment practices collectively known as social dumping, practices arising within the gig economy and issues relating to the circular economy and global economic sustainability.

4.7.2. Competition law, rooted in mid-20th century economic perspectives, now needs to live up to the challenges of the 21st century. To overcome the artificial separation of market and socio-environmental spheres, a comprehensive and systemic review of EU competition law should be initiated, taking into account economic, environmental and social objectives.

4.7.3. The EESC believes that the commitments made by the EU on the Sustainable Development Goals (SDGs) and the Paris Agreement on climate change, in addition to the existing commitments in the treaties, should be taken into account as public interest objectives in the application of competition law alongside those of consumer interests.

4.7.4. The effects of market concentrations on future generations of consumers and producers should be acknowledged. Different calculation models for detrimental long-term effects should be assessed, e.g. as already done in public procurement via life cycle costing.

4.8. The EESC, in several recent opinions⁽¹²⁾ has called for measures relating to fair taxation undertaken by the European Commission (regarding multinationals and individuals) to be strengthened as many outstanding issues remain unresolved. These include the fight against tax fraud, tax havens, aggressive tax planning, and unfair tax competition between Member States.

4.9. In particular there are ongoing and substantial market distortions caused by the widely varying national corporate tax regimes between Member States, where corporate taxation ranges from 9 %-35 % and even lower rates are available in some countries in categories such as intellectual property rights. Because taxation policy is a national competence, EU competition policy will always struggle to moderate the distortions caused.

4.10. The Anti-Tax Avoidance Directive (ATAD), which should be applied via Member States' laws by 1 January 2019, lays down rules against tax avoidance practices that directly affect the functioning of the internal market and contains elements that should help to avoid some divergent national approaches, and this is to be welcomed.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹²⁾ OJ C 262, 25.7.2018, p. 1; OJ C 197, 8.6.2018, p. 29; OJ C 81, 2.3.2018, p. 29.

Opinion of the European Economic and Social Committee on ‘Proposal for a Council Regulation amending Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid’

(COM(2018) 398 final — 2018/0222 (NLE))

(2019/C 110/09)

Rapporteur: **Jorge PEGADO LIZ**

Referral	European Commission, 12.7.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	21.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	205/3/4

1. Conclusions and recommendations

1.1. The EESC takes note of the proposal for a Council Regulation amending Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid (COM (2018) 398 final), the purpose of which is to add two new categories to the Enabling Regulation under which the Commission can adopt block exemptions (Council Regulation (EU) 2015/1588 ⁽¹⁾ of 13 July 2015).

1.2. The EESC finds the proposal necessary and fitting as part of a whole raft of new proposals related in particular to the next Multiannual Financial Framework, since it is an instrument crucial to the efficient operation of many of the measures envisaged in these new initiatives. It makes a decisive contribution to ensuring that the Commission plays a strong role in the selection of supported projects in accordance with a common EU interest, and that public support will complement private investment in a fully transparent manner.

1.3. The EESC therefore agrees with and endorses this new Commission proposal. The Committee also thinks it a good idea to encourage the interested parties concerned to follow the guidelines in the code of best practice.

2. The Commission proposal

2.1. On 6 June 2018, the Commission presented its proposal for a Regulation amending Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ⁽²⁾ as part of a whole raft of new proposals related in particular to the next Multiannual Financial Framework (MFF) ⁽³⁾.

2.2. Since the proposal aims to improve the interplay of certain EU funding programmes — particularly in the COSME and Horizon Europe programmes, Digital Europe, the new InvestEU fund and the promotion of European territorial cooperation and State aid rules — it must enable targeted modifications of current State aid rules so that national money — including from the European Structural and Investment Fund managed at national level — and EU funds managed centrally by the Commission can be combined as seamlessly as possible, without distorting competition in the EU’s Single Market.

⁽¹⁾ OJ L 248, 24.9.2015, p. 1.

⁽²⁾ COM(2018) 398 final.

⁽³⁾ COM(2018) 321 final, 2 April 2018.

2.3. The aim of the proposal is therefore to include two new categories in the Enabling Regulation enabling the Commission to adopt block exemptions (Regulation (EU) 2015/1588 of 13 July 2015), based on a definition of clear compatibility criteria, ensuring that the effect on competition and trade between Member States is limited. By adopting such block exemptions it would be possible to significantly simplify administrative procedures for Member States and the Commission on the basis of clearly defined *ex ante* compatibility conditions.

2.4. In short, then, the Commission proposes to add the following two subpoints to point (a) of Article 1(1) of Regulation (EU) 2015/1588:

(xv) *financing channelled through or supported by EU centrally-managed financial instruments or budgetary guarantees, where the aid consists in the form of additional funding provided through State resources;*

(xvi) *projects supported by EU European Territorial Cooperation programmes.*

3. General comments

3.1. The EESC has backed the Commission's new programme initiatives in some opinions adopted very recently, notably those on:

- a) InvestEU ⁽⁴⁾;
- b) Horizon Europe ⁽⁵⁾;
- c) Artificial Intelligence for Europe ⁽⁶⁾;
- d) R&I: A renewed European agenda ⁽⁷⁾;
- e) European Regional Development Fund and Cohesion Fund ⁽⁸⁾;
- f) Regulation on European Territorial Cooperation 2021-2027 ⁽⁹⁾;
- g) Connecting Europe Facility ⁽¹⁰⁾;
- h) Implementation of the TEN-T projects ⁽¹¹⁾;
- i) Connected and automated mobility ⁽¹²⁾;
- j) Digital Europe programme ⁽¹³⁾.

3.2. The present Commission proposal is necessary for the effective operation of a large number of measures envisaged in these new initiatives, of which just a few are listed for information, because the discussions of the co-legislators are still ongoing. It also makes a decisive contribution to ensuring that the Commission plays a strong role in the selection of supported projects and schemes in accordance with a common EU interest, and that public support will complement private investment in a fully transparent manner.

3.3. It should be said that Articles 107, 108 and 109, in the Rules on Competition chapter, are the core provisions governing State aid in the EU's basic law (TFEU).

⁽⁴⁾ ECO/474 (OJ C 62, 15.2.2019, p. 131).

⁽⁵⁾ INT/858 (OJ C 62, 15.2.2019, p. 33).

⁽⁶⁾ OJ C 440, 6.12.2018, p. 51.

⁽⁷⁾ OJ C 440, 6.12.2018, p. 73.

⁽⁸⁾ ECO/462 (OJ C 62, 15.2.2019, p. 90).

⁽⁹⁾ OJ C 440, 6.12.2018, p. 116.

⁽¹⁰⁾ OJ C 440, 6.12.2018, p. 191.

⁽¹¹⁾ INT/669 (OJ C 62, 15.2.2019, p. 269).

⁽¹²⁾ INT/673 (OJ C 62, 15.2.2019, p. 274).

⁽¹³⁾ INT/677 (OJ C 62, 15.2.2019, p. 292).

3.4. In terms of its implementation, Regulation (EU) 2015/1588 of 13 July 2015 provided for Articles 107 and 108 of the TFEU to be applied to certain categories of horizontal State aid, be they investment or state guarantees.

3.5. This regulation must be adapted to enable the goals set out in the Commission proposal — which the EESC fully supports — to be implemented.

3.6. The EESC therefore agrees with the changes to be made to Regulation (EU) 2015/1588 as set out in the Commission proposal, considering them essential to pursue the stated goals.

3.7. In addition, the EESC is pleased that, some days after the present proposal, the Commission also published a Code of Best Practices for the conduct of State aid control procedures⁽¹⁴⁾ that replaces the code adopted in 2009 and incorporates the Simplified Procedure Notice⁽¹⁵⁾.

3.8. The EESC welcomes this initiative to take full advantage of updated State aid rules such as those in the current proposal, to give Member States, aid beneficiaries and interested parties guidelines on how State aid procedures work in practice and to 'make State aid procedures as transparent, simple, clear, predictable and timely as possible'.

3.9. This 2018 code of best practices makes no claim to being exhaustive and establishes no new law. It describes and gives guidance on the procedures and stipulates that it is to be read together with all other documents adopted earlier.

3.10. Its fundamental aim is to encourage cooperation between interested parties and the Commission in monitoring and to make the procedure more intelligible for businesses and countries.

3.11. It also improves the procedure for dealing with State aid complaints by requiring complainants to show affected interest from the moment of submitting the complaint form and by setting indicative timeframes for the investigation of complaints.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁴⁾ Communication from the Commission C(2018) 4412 final, 16.7.2018.

⁽¹⁵⁾ OJ C 136, 16.6.2009, p. 13.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications’

(COM(2018) 365 final — 2018/0189 (COD))

(2019/C 110/10)

Rapporteur: **Arnold PUECH d’ALISSAC**

Consultation	European Parliament, 10.9.2018 Council, 17.10.2018
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	21.11.2018
Adopted at plenary session	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	208/1/3

1. Conclusions and recommendations

1.1. Geographical indications (GIs) represent a unique and valuable resource for EU producers in an increasingly liberalised and competitive global market.

1.2. The European Commission should always act with a view to protecting production models and quality systems recognised globally for the beneficial effect of their sustainability on consumers and producers.

1.3. The indications are therefore unique in that they emphasise the local dimension of a product, thus showcasing cultural aspects, local know-how, the region concerned and its agro-ecological specificities. These characteristics must be preserved.

1.4. There is a worldwide move towards developing ‘SIQOs’ (official quality and origin indicators).

1.5. The EESC highlights this positive trend and welcomes the European Commission’s proposal to protect registered appellations of origin and registered geographical indications at international level under the Geneva Agreement and its legal practices. It believes that efforts must be made to create a harmonised framework for the protection of quality indicators at international level. However, it considers it essential to work towards a comprehensive approach that aims to protect and promote the system of quality indicators as a whole.

1.6. A system is needed that ensures fair treatment of all European producers wishing to have their geographical indications recognised at international level as well.

1.7. The EESC feels that the rights accrued by these geographical indications already registered and protected at European level should be preserved in order to avoid penalties and unequal treatment.

2. Proposal for a regulation

2.1. The aim of this Commission proposal is to put a legal framework in place ensuring effective participation of the EU in the WIPO Lisbon Union on Appellations of Origin and Geographical Indications as of the day that the EU becomes a Contracting Party to the Geneva Act.

2.2. The Geneva Act establishes a commitment for each Contracting Party to protect registered appellations of origin and geographical indications on its territory, within its own legal system and practices. Thus, an appellation of origin or registered geographical indication is protected by each Contracting Party that has not refused protection.

2.3. Once the European Union has become a Contracting Party to the Geneva Act, the Commission proposes that it submit a list of its geographical indications (to be agreed upon with the Member States) for protection under the Lisbon system. Following the EU's accession to the Lisbon Union, applications for the international registration of additional geographical indications protected and registered in the Union will be possible on the Commission's initiative or at the request of a Member State or of an interested group of producers.

2.4. Appropriate procedures should be put in place for assessment by the Commission of appellations of origin and geographical indications originating in third Contracting Parties and registered in the International Register. Enforcement by the Union of appellations of origin and geographical indications originating in third Contracting Parties and registered in the International Register shall be in accordance with Chapter III of the Geneva Act.

2.5. This act in particular requires each Contracting Party to make available effective legal remedies for the protection of registered appellations of origin and registered geographical indications (see Article 14 of the Geneva Act of the Lisbon Agreement) ⁽¹⁾.

2.6. Seven EU Member States are members of the Lisbon Union and as such have accepted protection of third-country names. In order to provide them with the means to fulfil their international obligations undertaken prior to the accession of the EU to the Lisbon Union, a transitional arrangement should be put into place which should produce effects at national level only, and have no effect on intra-EU or international trade.

2.7. The fees to be paid under the Geneva Act and the Common Regulations for filing an application for the international registration of an appellation of origin or a geographical indication are borne by the Member State in which the appellation of origin or the geographical indication originates (see Article 11 of the Geneva Act of the Lisbon Agreement) ⁽²⁾.

2.8. The EU has put in place uniform and comprehensive protection systems for geographical indications of agricultural products. Through these systems, protected names for the products covered enjoy far-reaching protection throughout the EU, based on a single application process. The proposal is consistent with the EU's general policy to promote and enhance the protection of geographical indications through bilateral, regional and multilateral agreements.

3. General comments

3.1. The EESC welcomes the European Commission's proposal to protect registered appellations of origin and registered geographical indications at international level under the Geneva Act and its legal practices. In a context hallmarked by ever-increasing globalisation, especially as regards the agri-food trade, efforts must be made to create a harmonised framework for the protection of quality indicators at international level.

3.2. The European Commission should always act with a view to protecting production models and quality control systems recognised globally for their beneficial effect on consumer health and economic and environmental sustainability.

3.3. Geographical indications (GIs) represent a unique and valuable resource (5,7 % of agri-food sales, i.e. over EUR 54 billion in 2010) ⁽³⁾ for EU producers in an increasingly liberalised global market. However, efforts to compete on the basis of quality are useless if the main tool used by our high-quality products, i.e. GIs, is not sufficiently protected on international markets.

3.4. The EESC stresses that geographical indications are distinctive markers that make it possible to differentiate competing products and inform the consumer about the origin of a product. Unlike trademarks, a geographical indication is intended to highlight the link between a product and its region of origin. The indications are therefore unique in that they emphasise the local dimension of a product, thus showcasing cultural aspects, local know-how, the region concerned and its agro-ecological specificities. These characteristics must be preserved.

⁽¹⁾ http://www.wipo.int/edocs/pubdocs/en/wipo_pub_239.pdf.

⁽²⁾ Idem.

⁽³⁾ See Tender No AGRI-2011-EVAL-04.

3.5. Back in 2008, in its opinion on Geographical indications and designations ⁽⁴⁾, the EESC stressed that European civil society had seen increasing consumer awareness of the characteristics of agri-food products, reflected in a demand for quality products. This statement is today more valid than ever as European consumers are increasingly on the lookout for quality products from a particular local area, region or country whose quality or reputation is fundamentally associated with that geographical origin ⁽⁵⁾.

3.6. According to a recent report by the French Economic, Social and Environmental Council on official indicators of the quality and origin of food products, there is a worldwide move towards developing 'SIQOs' (official quality and origin indicators). Geographical indications are gaining ground because they respond to growing consumer demand and also promote a history, heritage and ancestral expertise associated with a particular area.

3.7. The EESC reiterates that according to the FAO ⁽⁶⁾, the effect of geographical indications on prices has been very positive, regardless of the type of product, region of origin or length of time it has been registered.

3.8. Aspects relating to the protection of geographical indications are becoming more and more central in all bilateral agreements, both concluded and under negotiation. The EESC draws attention to this positive aspect. However, it considers it essential to work towards a comprehensive approach that aims to protect and promote the overall system of quality indicators.

3.9. To this end, the EESC considers it necessary to re-examine the proposal for a positive list at EU level, which is not in line with the requirement to protect the geographical indications scheme as a whole. A system is needed that ensures fair treatment of all European producers wishing to have their geographical indications recognised at international level as well. This is all the more the case given that the criteria chosen do not take into consideration other socioeconomic criteria that are essential for economic development in certain EU regions. A local economy often forms around geographical indications, generating employment and having a significant impact on other sectors of the economy, such as tourism, as well as being beneficial for land use and land-use planning.

3.10. The EESC calls on the Commission to take into account the consequences of the future change in relations between the European Union and the United Kingdom and the impact that drawing up a positive list could have on the ongoing negotiations, which should be carried out with the aim of protecting the quality system of the European Union as a whole. After its withdrawal from the EU, the United Kingdom must continue to respect the geographical indications guaranteed by a system from which it has benefited thus far.

3.11. The EESC stresses that the European agri-food sector is under serious threat from counterfeit products. A report ⁽⁷⁾ recently released by the European Commission confirms that the most frequently counterfeited products are agri-food products.

3.12. The EESC notes that, to date, seven EU countries (Bulgaria, the Czech Republic, France, Hungary, Italy, Portugal and Slovakia) are already full members of the Lisbon Agreement and that the agreement currently has over 1 000 registered geographical indications, which are protected at international level by protected designations of origin (PDOs) and protected geographical indications (PGIs) via a single registration procedure.

3.13. The EESC feels that the rights accrued by these geographical indications already registered and protected at European level should be preserved in order to avoid penalties and unequal treatment.

3.14. Lastly, the EESC draws attention to the 2012 study on the commercial value of GIs in the EU ⁽⁸⁾. This is the only study currently available, but it would seem that the value premium rate of GI products has not fundamentally changed in the meantime.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁴⁾ OJ C 204, 9.8.2008, p. 57.

⁽⁵⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1540542863415&uri=CELEX:32012R1151>

⁽⁶⁾ UN Food and Agriculture Organisation.

⁽⁷⁾ https://ec.europa.eu/taxation_customs/sites/taxation/files/report_on_eu_customs_enforcement_of_ipr_2017_en.pdf (at present only available in English).

⁽⁸⁾ https://ec.europa.eu/agriculture/external-studies/value-gi_en (at present only available in English).

Opinion of the European Economic and Social Committee on ‘Amended Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority); Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority); Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority); Regulation (EU) No 345/2013 on European venture capital funds; Regulation (EU) No 346/2013 on European social entrepreneurship funds; Regulation (EU) No 600/2014 on markets in financial instruments; Regulation (EU) 2015/760 on European long-term investment funds; Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds; Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market; and (EU) Directive 2015/849/EC on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing’

(COM(2018) 646 final — 2017/0230 (COD))

(2019/C 110/11)

Rapporteur-general: **Petr ZAHRADNÍK**

Referral	European Parliament, 4.10.2018 Council of the European Union, 12.11.2018
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Section for Economic and Monetary Union and Economic and Social Cohesion
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	121/0/4

1. Conclusions and recommendations

1.1. The EESC appreciates the agility with which the European Commission is responding to the problems that have become entrenched in banking and financial institutions and is taking further measures to stamp out money laundering and the financing of terrorism.

1.2. At the same time, the EESC thinks that, in addition to strengthening the coordination between supervisory authorities and streamlining procedures, operations should also be coordinated with other relevant parties to tackle this very dangerous problem effectively.

1.3. The EESC warns that technology and communications not only serve the development of innovative financial products for the benefit of depositors and investors, but are also a strong incentive for criminals engaged in money laundering and the financing of terrorism. This is one reason why it calls for the strategies adopted to target to the utmost the prevention of future risks.

1.4. The EESC underlines the increasing importance of this problem in relation to third countries, given the deterioration in geopolitical, security and political risks, and stresses the need for the EU to be fully prepared in order to eliminate practices of money laundering and financing of terrorism and to eliminate the abuse of its financial market and institutions.

1.5. The EESC recognises and respects the fact that the measures put forward in the legislative proposal, while important, are only component coordination, organisational and jurisdictional steps that must be followed by a further batch of measures if the matter is to be successfully addressed. At the same time, it agrees with the European Commission that, in order to make sure the path chosen is feasible and sustainable, it is preferable to move in stages so as to avoid significant disruptions to the stability and functioning of the existing system.

1.6. The EESC believes that under the new balance of powers between supervisory bodies, a balanced relationship should be found between the European Banking Authority (EBA), with its new, expanded powers, and national supervisory authorities, so that all parties involved make the best use of their capacities to achieve the desired solution to the problem.

1.7. The EESC stresses the importance of internal and external communication on money laundering and financing of terrorism to achieving the aim of the measures. The key element in internal communications is improving and protecting information streams between the supervisory bodies concerned; in the case of external communication, the public in question should be provided with information and made aware of the different ways this kind of crime may be presented, as a means of preventing and preparing for it.

1.8. The EESC wonders on what basis banking has been labelled the sector most likely to be exploited for money laundering and the financing of terrorism, which has resulted in a stronger position and powers for the EBA rather than the EU's other two supervisory authorities.

1.9. The EESC would like to see a more detailed outline of the new relationships between the EBA and the other EU supervisory authorities, as well as the national and, especially, third-country supervisory authorities, when it comes to coordination and synergies in the fight against dirty money and the financing of terrorism.

2. General context of the proposal and key facts

2.1. The EU has had a new system of financial market supervision in place since 2011, which has markedly improved financial market stability and risk limitation. It has led to a harmonisation of rules in the EU's financial markets and to a convergence in their supervision. However, the surge in technological and financial innovation since then has further shifted the spectrum of crime, which exploits the financial sector to support criminal acts and to launder their proceeds. Clearly, both of these types of activity are highly socially undesirable, but they also distort how financial markets work and their effectiveness, because their primary aim is not the maximising of profits based on the objective potential of assets and their value to evolve, but rather secrecy, concealment and lack of disclosure — behaviour which means that financial resources are not necessarily put to the best use.

2.2. The purpose of the proposed measures is therefore not merely to preclude or limit the means available for committing crime or legalising its proceedings, but also to keep financial institutions that are exploited by this crime healthy and to ensure their stability and safety for clients and investors. It will also limit the political and reputational risks to both individual Member States and the EU as a whole.

2.3. Given that financial markets are now multinational and inter-connected as never before, it is crucial to set up a system that fulfils its function in a cross-border context, since empirical evidence demonstrates that crime of this kind is increasingly committed on a cross-border basis and, among other things, involves people from third countries. For these efforts to be ultimately successful, then, it is not enough to prosecute this crime — however effectively — in one country alone. It is therefore very important to have effective synergies between national supervisory authorities covering money laundering or those covering the financial market and EU bodies operating in this area, as well as with third-country supervisory authorities.

2.4. The proposed measure examined in this opinion is but one of a packet of measures in the stated endeavour. For the endeavour to be considered a success, it is essential to have coordination with other elements that together form a systematic and consistent approach that will make it as difficult as possible for perpetrators to commit these crimes.

2.5. In particular, the proposal aims to:

— optimise the use of expertise and resources by centralising tasks at the European Banking Authority (EBA) related to preventing and combating money-laundering and the financing of terrorism for the whole financial market;

- clarify the scope and substance of anti-money-laundering tasks entrusted to the European Banking Authority;
- reinforce the tools for carrying out anti-money laundering tasks;
- strengthen the coordination role of the European Banking Authority when it comes to international anti-money laundering issues.

3. General comments

3.1. The EESC believes that combating money laundering and the financing of terrorism is an increasingly important issue not only because of rapid technological change and financial innovations, but also because of the numerous recently identified cases in which the banking and financial systems in several EU Member States have been exploited for criminal ends. It is also important in these circumstances to flag up the heightened geopolitical risks, terrorism among them.

3.2. The EESC is concerned that the problem is further complicated by the fact that this crime, and the efforts to launder its proceeds through the financial sector, is not only taking place across borders within the EU, but also involves criminal activities extending into third countries. The EESC welcomes the fact that the European Commission's proposal actively seeks to address this.

3.3. The EESC notes in this regard that, although the review of the European System of Financial Supervision was addressed in 2017 ⁽¹⁾ and the EESC issued an opinion ⁽²⁾ on it, adopted in plenary on 15 February 2018, new insights and circumstances have prompted the need to amend the proposal by adding elements to make it more effective. Nevertheless, that earlier EESC opinion has lost none of its relevance. The EESC also welcomes the European Commission's agile response to a series of banking scandals in several EU countries which confirmed that criminals are capable of exploiting technology and means of communication as well as the current legislation, in the process revealing the weaknesses of the EU's money-laundering regime.

3.4. The EESC notes that the new elements in the proposal are mainly of a technical and organisational nature; however, broader and more comprehensive measures are needed to redress the current situation. The EESC adds that the proposal concerns a narrow range of matters relating to increasing the powers of the EBA and stepping up its coordination with national supervisory authorities in the fight against dirty money (AML supervisors) and in certain cases some control over them. On the other hand, it does not address the work of Financial Intelligence Units (FIUs). The proposal concerns the coordination of activities and procedures more generally, rather than what the fight against money laundering actually consists of.

3.5. The EESC emphatically warns that money laundering is not only a way to legalise the proceeds of activities considered as criminal and incompatible with the law, but also leads to a senseless allocation of resources in which the main aim of these operations is 'not to be discovered' and to 'legalise' the invested resources or transfer them to a place where further crime will be committed, rather than to achieve profit. At the same time, the EESC respects and highlights the fact that the amendment does not concern itself with analysing new trends or money laundering is occurring in the current circumstances. The proposal homes in on particular aspects of eliminating these shady practices, mainly bolstering the EBA's role in relation to European Supervisory Authorities in addressing the fight against money laundering and the financing of terrorism and improving its coordination and communication with national supervisory authorities in instances of combating money laundering, which are part of banking or financial market supervisory authorities.

3.6. The EESC attaches fundamental importance here to a proper division of competences between the EBA and national authorities, in keeping with the subsidiarity principle. Strengthening EBA powers in addressing cross-border transactions is absolutely vital, legitimate and justified. The EESC would add, however, that when it comes to exclusively national cases, where the EBA is not obviously relevant, powers must be left in the hands of national authorities.

⁽¹⁾ The original legislative proposal COM (2017) 536 final, 20.9.2017. Its aim was to boost the capacity of the European Supervisory Authorities to ensure convergence and effective supervision of the financial market, but did not specifically address strengthening their remit in combating money laundering and the financing of terrorism.

⁽²⁾ OJ C 227, 28.6.2018, p. 63.

3.7. Given that combatting money laundering and the financing of terrorism is crucial to ensuring a healthy economic and financial environment throughout the EU, the EESC wonders whether it would not be a good idea to set up a dedicated organisation within the executive branch of the EU, such as a new directorate-general for this area. This is becoming an increasingly timely issue given that a new European Commission will be installed in the autumn of 2019.

3.8. The EESC also asks on what basis it is proposed that the EBA should play a key coordinating role in tackling this problem. Does this mean that the European Commission thinks the banking sector provides the widest scope in the EU with regard to money laundering and the funding of terrorism?

3.9. The EESC agrees that, in connection with the proposal, there must be effective communication on how the problem is being tackled. This communication should focus not only on effective communications between all the authorities involved (internal communication), but also on ensuring that the public arena (financial sector clients and the general public) is suitably informed.

4. Specific comments

4.1. The EESC calls for the proposal to set out very tangibly, in the form of an exhaustive remit for the whole financial market, the areas and relationships where the EBA will take a dominant position vis-à-vis other EU supervisory authorities in the fight against dirty money and financing of terrorism.

4.2. In the same vein, the EESC calls for further clarification on the conditions under which the EBA may carry out supervision of the procedures of national supervisory authorities or directly issue decisions to individual operators in the financial sector.

4.3. The EESC also takes a great interest in the nature of collaboration with third-country supervisory authorities.

4.4. The EESC also asks for clarification of how all the relevant information on money laundering and the financing of terrorism furnished by national authorities is to be centralised in the case of secret or top-secret sources and how these will be protected.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Council Joint Action 98/700/JHA, Regulation (EU) No 1052/2013 of the European Parliament and of the Council and Regulation (EU) 2016/1624 of the European Parliament and of the Council’

A contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018

(COM(2018) 631 final — 2018/0330 (COD))

(2019/C 110/12)

Rapporteur-general: **Antonello PEZZINI**

Referral	Commission, 29.10.2018 European Parliament, 22.10.2018
Legal basis	Article 304 TFEU
Section responsible	Employment, Social Affairs and Citizenship
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	127/1/5

1. Conclusions and recommendations

1.1. The Committee firmly believes that in an area of free movement, external borders become common borders, and whoever enters any part of the EU enters the European Union’s area of freedom, security and justice, with all the rights and obligations that this entails for citizens and for national and European institutions.

1.2. The EESC demands improvements in the way that migration is managed, through a joint effort between Member States to tackle the root causes that drive people to seek a better life away from their homelands.

1.3. The EESC recommends, in the absence of a clearly-defined framework supported by all Member States for a common policy on migration and development aid in emigration countries, not delegating to the Commission the power to adopt autonomous acts.

1.4. The EESC firmly supports the proposal to provide the Agency with its own permanent operational arm, made up of 10 000 staff, and thus, working together with the Member States, with the necessary capabilities to:

- protect the EU’s external borders;
- prevent irregular movements;
- manage legal migration;
- implement the return of irregular migrants effectively.

1.5. The Committee recommends that the necessary cooperation between the Agency and the national administrations, which are traditionally responsible for border control, be defined and organised at European level.

1.6. Just as importantly, the EESC believes that a clear, widely-accepted definition of the Agency’s tasks will avoid overlaps and conflicts between responsibilities, and we call for the chain of command between Agency officers and national officials to be established in a clear and transparent manner.

1.7. The EESC recommends that, in the event of specific and disproportionate challenges at external borders, the Agency should be able to intervene at the request of the Member State concerned, by organising and coordinating rapid interventions at the border, sending — in agreement and coordination with the Member State concerned, which should retain control over and responsibility for management — teams of standing corps equipped with their own modern equipment.

1.8. The EESC endorses the recommendations regarding the Agency's staff, both as regards respect for human life and the restrictions on the use of firearms, and with regard to refusing or granting visas at the border, both of these being important prerogatives of the authorities responsible for law and order in the Member States.

1.8.1. In this regard the Committee recommends that the Member States be able to appeal to the subsidiarity principle in both cases, and that the Agency Staff Regulations provide for a high level of obligations, especially in the area of confidentiality requirements.

1.9. The EESC strongly recommends further developing the control mechanisms referred to in Annex V, Chapter 3 of the proposal applying in the event of breach of the rules by staff. The mechanisms should provide for referral to the EU courts.

1.10. Given the role which would be played by the Agency in the event of detention of individuals and their potential return to their countries of origin, the Committee recommends that statutory staff are given training modules on respect for fundamental rights.

1.11. The Committee considers it crucial that the Agency devote a significant share of its budget to updating its equipment.

1.12. In the EESC's view, the multi-annual strategic policy cycle for European integrated border management should be established by the European Parliament and the Council, after consulting the Committee, while annual planning should be delegated to the border and coast guard, along with an annual requirement to report on the measures implemented, budgets used and tasks carried out.

1.13. As regards international cooperation, the Committee recommends a close link between the measures provided for by the proposal and the development of other relevant policies, especially through the Cotonou Agreement.

1.14. The Committee recommends strengthening the Consultative Forum assisting the Agency with participation by the relevant organisations. It also calls for organised civil society to be part of this Forum, via the EESC.

2. Background

2.1. In an area of free movement, the external borders become common borders: today they consist of more than 50 000 kilometres, meaning that a security problem in one Member State or at its external borders has the potential to affect all Member States.

2.1.1. A common area of freedom, security and justice is therefore based on mutual trust, particularly in the face of new challenges, widespread threats and unforeseeable issues, which call for: greater cooperation, action by qualified personnel and better information. Essentially, we must aim to implement practical solidarity, to combine and amplify the value offered by each individual Member State.

2.2. In the Lisbon Treaty, border management is covered by Part 3, Title V TFEU, in the Chapter on border checks, asylum and immigration, with the aim of creating an 'integrated management system for external borders' as laid down in Article 77(1)(c). These border management arrangements are with a view to establishing an 'Area of freedom, security and justice'.

2.3. The Treaties imply that free movement of people within the EU must necessarily be accompanied by a common policy on the management and control of third-country nationals.

2.3.1. Further extension of existing and inadequate external border checks, or the reintroduction of new internal controls going against history, would impose higher costs on the EU as a whole, severely damaging the single market, which is one of the European project's greatest successes.

2.4. European integrated border management, based on a four-level access control model, includes:

— measures in third countries, such as those set out under the common visa policy,

- measures with neighbouring third countries,
- measures aimed at increased and better control of external borders,
- risk analysis and measures within the Schengen area and return.

2.5. After first creating a network of national experts, under the auspices of a joint body of experts called the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) ⁽¹⁾ from 2002-2003, a European border agency, Frontex ⁽²⁾, was set up.

2.6. The coordinating agency was replaced in 2016 ⁽³⁾, bringing to bear the experience of the **European Border and Coast Guard Agency** to improve external border control in Member States and the Schengen area, with a view to:

- performing a vulnerability assessment of Member States' control capacity in the area of border controls on individuals;
- organising joint operations and rapid border interventions to strengthen the capacity of the Member States to control external borders, and to tackle challenges arising from illegal immigration and organised crime;
- assisting the Commission to coordinate support teams when a Member State faces disproportionate migration pressures at specific points on their external border;
- ensuring a practical response in cases requiring urgent action at the external borders;
- providing technical and operational assistance in support of search and rescue operations for persons in distress at sea during border surveillance operations;
- helping to establish a rapid intervention reserve pool of at least 1 500 border guards;
- appointing the Agency's liaison officers in the Member States;
- organising, coordinating and conducting return operations and interventions;
- promoting operational cooperation between Member States and third countries on border management.

2.7. Since its establishment in October 2016, the European Border and Coast Guard Agency has become the EU's nerve centre for returns ⁽⁴⁾ and is able to effectively support Member States in returning those who do not have the right to remain in the EU.

2.8. The European Parliament gave its opinion on the various resolutions and expressed 'great concern regarding the implementation of the European Border and Coast Guard Regulation ((EU) 2016/1624)'. It underlined the need for multi-purpose operations to be conducted by the European Border and Coast Guard Agency with the aim of responding to the need for maritime search-and-rescue assets ⁽⁵⁾ and to the need to establish a genuine integrated border management strategy.

2.9. The Committee adopted a resolution ⁽⁶⁾ in support of the Schengen area, in which it called on the Council and the Member States to ensure freedom of movement. In its opinion, the EESC also highlighted ⁽⁷⁾ the need for this to 'go hand in hand with more transparency regarding the Agency's governance and actions, as well as more accountability'.

⁽¹⁾ Strategic Committee on Immigration, Frontiers and Asylum (SCIFA).

⁽²⁾ Established with Council Regulation (EC) No 2007/2004 (OJ L 349, 25.11.2004, p. 1), which was subsequently amended by Regulations of the European Parliament and of the Council (EC) No 863/2007 (OJ L 199, 31.7.2007, p. 30), (EU) No 1168/2011 (OJ L 304, 22.11.2011, p. 1) and (EU) No 1052/2013 (OJ L 295, 6.11.2013, p. 11).

⁽³⁾ Regulation (EU) 2016/1624 of the European Parliament and of the Council (OJ L 251, 16.9.2016, p. 1) entered into force on 6 October 2016.

⁽⁴⁾ So far **the EU has concluded 17 readmission agreements**. The Cotonou agreement (the EU framework with 79 ACP countries) also includes provisions on the return of irregular migrants to their country of origin.

⁽⁵⁾ Regulation (EU) No 656/2014 of the European Parliament and of the Council (OJ L 189, 27.6.2014, p. 93).

⁽⁶⁾ OJ C 133, 14.4.2016, p. 1.

⁽⁷⁾ OJ C 303, 19.8.2016, p. 109.

2.10. The EESC also emphasised⁽⁸⁾ the need to ‘improve cooperation between the border agency and national authorities’, ‘coordination between the various agencies and institutions with responsibilities for border control, coastal surveillance, maritime security, rescue at sea, customs and fisheries’ and highlighted that ‘improving the management of external borders must be adopted in tandem with changes in the common asylum system’.

2.11. ‘When people’s lives or safety are at risk at external borders, whether maritime or land borders, the primary obligation of the Border Guard and the other institutions involved at these locations is to rescue people and give them adequate care’⁽⁹⁾.

2.12. The EESC — as highlighted in the EU Agenda on Migration and the *Global Compact for Safe, Orderly and Regular Migration*⁽¹⁰⁾ — strongly emphasises the need to improve migration management by addressing the root causes that drive people to seek a life elsewhere.

3. The Commission proposal

3.1. The Commission proposal aims to reform the European Border and Coast Guard by establishing the Agency’s new capabilities, in particular providing for creation of the European Border and Coast Guard standing corps and for purchase of the Agency’s own equipment, to adequately tackle other new or upgraded tasks.

3.2. On the basis of the total costs of the current and future terms — EUR 1,22 billion for the period 2019-2020 and EUR 11,27 billion for the period 2021-2027 — the Commission proposes to create a European Border and Coast Guard standing corps with executive powers, made up of 10 000 EBCG operational staff⁽¹¹⁾, by 2020. This would provide the Agency with its own effective, flexible operational arm, allowing it to adapt its work to operational needs.

3.3. The standing corps should be created as part of a well-functioning European Border and Coast Guard, and Member States, the Union and the EU agencies⁽¹²⁾ — especially the European Border and Coast Guard Agency — should be well coordinated and contribute towards achieving common and shared policy objectives.

3.4. The scope of the proposals excludes the Kingdom of Denmark, Ireland and the United Kingdom (except in the event of possible cooperation, to be defined), while their application is suspended for Gibraltar. However, Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein are included, as the Regulation constitutes a development of the provisions of the Schengen *acquis*.

4. General comments

4.1. The Committee firmly believes that in an area of free movement, external borders must be considered common borders, and whoever enters any part of the EU enters the area of freedom, security and justice, with all the rights and obligations that this entails.

4.2. The EESC considers that it took too long to implement an integrated management system as provided for by Article 77(2)(d) TFEU, consistent with a definition, agreed by all Member States, which could not be postponed.

4.3. The Committee supports the objective of providing the Agency with its own substantial operational arm, which should **provide** the EU with the capacity needed to protect the external borders, prevent secondary movements and carry out return of irregular migrants effectively.

4.4. The Committee was the first institution to propose the creation of a European border guard⁽¹³⁾ and fully endorses this objective in order to secure the external borders, with a standing corps and effective integrated management of the external borders. In the spirit of shared responsibility, the Agency should play the role of regularly monitoring the external borders, not only by providing situational awareness and risk analysis, but also through the presence of its staff experts in the Member States.

⁽⁸⁾ See footnote 7.

⁽⁹⁾ Ibid.

⁽¹⁰⁾ <https://www.iom.int/global-compact-migration>.

⁽¹¹⁾ European Border and Coast Guard.

⁽¹²⁾ See, inter alia, the European Maritime Safety Agency (EMSA), the European Fisheries Control Agency (EFCA) and the European Union Satellite Centre, EUROPOL or the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (EU LISA).

⁽¹³⁾ OJ C 128, 18.5.2010, p. 29, OJ C 303, 19.8.2016, p. 109, EESC opinion on ‘Asylum and Migration Fund (AMF) and Integrated Border Management Fund’ (SOC/600, OJ C 62, 15.2.2019, p. 184).

4.5. The EESC considers that in the event of specific and disproportionate challenges at the external borders, the Agency could intervene at the request of a Member State, organising and coordinating rapid interventions at the border by sending — in agreement and coordination with the Member State concerned, which should retain primary responsibility for managing its own sections of the external border — teams of European Border and Coast Guard.

4.6. While it considers individual interventions by the Agency, at the decision of the Commission, to be useful 'in emergencies and following transparent procedures to keep European legislators (Parliament and Council) directly informed' ⁽¹⁴⁾, the Committee considers — in the absence of a definite common framework supported by all Member States for an EU policy on migration and development aid in countries of emigration — the **permanent delegation to the Commission** of the power to adopt autonomous acts defining the political priorities and strategic guidelines on integrated border management to be premature.

4.7. However, the Committee agrees that the Commission should be granted implementing powers with regard to the EUROSUR and FADO handbooks, the common rules on situational pictures and risk management, as well as for financial support for the standing corps.

4.8. In the EESC's view, the multi-annual strategic policy cycle for the European integrated border management should be established by the European Parliament and the Council, after consulting the Committee, while annual planning would be delegated to the border and coast guard in accordance with the roadmap drawn up by the Agency's Management Board subject to annual reporting on the measures implemented, budgets used and tasks carried out.

4.9. The Committee considers it important to strengthen the Consultative Forum to assist the Agency's Executive Director and Management Board with questions linked to fundamental rights and the implementation of the multi-annual strategic policy cycle, with participation by the European Asylum Support Office (EASO), the EU Fundamental Rights Agency, the UN High Commissioner for Refugees and other relevant organisations, and calls for organised civil society to be part of this Forum, via the EESC.

5. Specific comments

5.1. The EESC strongly recommends further developing the mechanisms referred to in Annex V both as regards the restrictions on the use of firearms, and with regard to refusing or granting visas at the border, both of these being important prerogatives of the authorities responsible for law and order in the Member States.

5.1.1. Annex III and Annex V should be treated in the same way, to ensure consistency between national and EU rules in order to prevent people who work in the same place, with equal skills and qualifications but different rules of engagement, acting differently.

5.2. The level of requirements provided for in the Member States, particularly as regards confidentiality, should be explicitly guaranteed.

5.3. The EESC believes that, given the fact that staff from different bodies work together at borders — customs, plant protection, security, finance, immigration and return and cultural mediation officers, EASO staff, ETIAS officers, EUROSUR analysts, liaison officers, as well as national border and Agency staff — it is essential to provide EU lifelong learning packages common to the different bodies and agencies ⁽¹⁵⁾.

5.4. It should also be ensured that there is no discrimination in treatment or working conditions between Agency and national bodies who perform the same duties with equal training, skills and qualifications.

5.5. As regards international cooperation, the Committee recommends a close link between the measures provided for by the proposal and other relevant policies, as well as measures in the area of economic and trade agreements and, in particular, in the context of dialogue between the EU and ACP countries under the Cotonou Agreement.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁴⁾ See footnote 7.

⁽¹⁵⁾ Article 69 provides for cooperation between the EBCG Agency and 12 other EU agencies and services.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on preventing the dissemination of terrorist content online’

A contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018

(COM(2018) 640 final — 2018-0331 (COD))

(2019/C 110/13)

Rapporteur: **José Antonio MORENO DÍAZ**

Referral	European Council, 24.10.2018 European Parliament, 22.10.2018
Legal basis	Articles 114(1) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Bureau decision	11.12.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	126/0/3

1. Conclusions and proposals

1.1. The EESC welcomes the initiative, which seeks greater security for the inhabitants of the EU: however, in the debate between security and freedom the Committee has always upheld the need to defend the freedoms, including freedom of expression, freedom of access to information and communication, and the confidentiality of communications. Ultimately, this means access to effective legal protection and to fair and prompt proceedings.

1.2. The recent terrorist attacks on EU soil have demonstrated how terrorists misuse social networks to recruit and groom supporters. Terrorists use encrypted communications to prepare and facilitate terrorist activity, and the web to glorify their atrocities, urge others to follow suit and instil fear in the general public.

1.3. The EESC calls for the clearest possible criteria to be devised to define vague legal concepts such as ‘terrorist information’, ‘terrorist acts’, ‘terrorist groups’ or ‘glorifying terrorism’.

1.4. Terrorist content shared online for such purposes is disseminated through hosting service providers that allow the upload of third party content. Terrorist content online has proven instrumental in radicalising and inspiring attacks from so-called ‘lone wolves’ in several recent terrorist attacks within Europe.

1.5. Technological means of prevention (automated parameters, algorithms, search engines, etc.) are very useful, but the intervention of a human as mediator and intermediary is crucial in accurately assessing this content.

1.6. The EESC highlights the need to combat the dissemination of terrorist information and digital recruitment on social networks. At the same time, censorship or forced self-censorship on the internet should be opposed. The Committee recalls that, where the internet is concerned, it is essential to guarantee the effective right to information and freedom of expression for everyone living in the EU.

1.7. Protecting the internet and combating radical groups should help to boost trust in the internet and thus ensure the economic development of this economic sector.

1.8. The EESC emphasises the need to assess the impact that applying this proposal would have on small- and medium-sized enterprises, together with the possibility of temporary application which would make it easier for them to adapt and would not distort free competition to the benefit of large-scale operators.

1.9. The regulatory measures proposed to protect the internet and safeguard the population in general, and young people in particular, must be strictly governed by law and guarantee everyone the right to information and to appeal against administrative decisions.

1.10. The EESC also emphasises the need to assess access providers, and for social network managers to take proactive measures to promote reporting and direct action by associations, NGOs and users against such content: these 'counter-arguments' must be effectively deployed if they are to have a preventive effect.

1.11. The large number of digital platforms at European level and the different sizes of these businesses must be reflected in the way the terms of the proposal are adapted for small businesses of this kind.

1.12. The EESC emphasises that users must be clearly reminded of the national rules on the production of terrorist content. It also calls for the right to appeal against an administrative decision to be guaranteed with a clear explanation of this right and online tools for its exercise.

2. Context of the proposal

2.1. The ubiquity of the internet allows its users to communicate, work, socialise, create, obtain and share information and content with hundreds of millions of individuals across the globe: in consequence, the Commission proposes to introduce mechanisms to prevent the communication and dissemination of terrorist content ⁽¹⁾.

2.2. It is important to distinguish between concepts, and the term 'internet' is thus too broad. Internet simultaneously refers to the web, to social networks and to the darknet. It also includes the internet of things, which constitute clear security loopholes in electronic warfare. ISIS recruiters, for example, currently communicate more easily via online game consoles than through the web. The expression 'to prepare and facilitate terrorist activity' does not apply to internet or the social networks, but to the darknet. The major GAFAM online companies are not active on the darknet or encrypted networks.

2.3. However, the ability to reach such a large audience at minimal cost also attracts criminals who want to misuse the internet for illegal purposes. Recent terrorist attacks on EU soil have demonstrated how terrorists misuse the internet to groom and recruit supporters, to prepare and facilitate terrorist activity, to glorify in their atrocities and urge others to follow suit and instil fear in the general public.

2.4. While the EU internet Forum brought together a number of actors, not all hosting service providers have engaged in it and, moreover, the scale and pace of progress among hosting service providers as a whole is not sufficient to adequately address this problem. A specific effort must be made in favour of proper training for social network moderators.

2.5. Terrorist content shared online for such purposes is disseminated through hosting service providers that allow the upload of third party content. Terrorist content online has proven instrumental in radicalising and inspiring attacks from so-called 'lone wolves' in several terrorist attacks within Europe. The strongest influence has been detected among the younger sectors of the population.

3. Summary of the proposed Regulation and general comments

3.1. The EESC has already set out its position on illegal online content ⁽²⁾: this new Commission initiative specifically concerns online terrorist content.

3.2. The personal scope of the proposal includes hosting service providers who offer their services within the EU, regardless of their place of establishment or their size.

⁽¹⁾ COM(2018) 640 final.

⁽²⁾ OJ C 237, 6.7.2018, p. 19.

3.3. We consider that providers of information, search engines, and hosting sites or networks should also be included.

3.4. Small- and medium-sized internet companies do not have the technical, human or financial capacity to act effectively against terrorist content. The EESC considers that timeframes and procedures need to be adapted for this type of business. SMEs could be allowed a certain amount of time to implement the Regulation.

3.5. Preventive and proactive measures taken by NGOs, trade unions and civil society in general must also be highlighted.

3.6. To ensure the removal of terrorist content, the Regulation introduces a removal order which can be issued as an administrative or judicial decision by a competent authority in a Member State. In such cases, the hosting service provider is obliged to remove the content or disable access to it within one hour.

3.7. The definition of terrorist content may vary from country to country, and it is important to make this clear in order to avoid arbitrary decisions and legal uncertainty.

3.8. The one-hour timeframe is unrealistic. In France, for example, the current time-lag between a source being reported and being removed is 16 hours for paedophile sites and 21 hours for terrorist sites, as classifying sites is very time-consuming. The EESC considers that a more realistic and effective timeframe should be introduced.

3.9. The Regulation requires hosting service providers, where appropriate, to take proactive measures proportionate to the level of risk and to remove terrorist material from their services, including by deploying automated detection tools. This is crucial and we must call for and support technological innovation in order to create technological tools.

3.10. The Commission proposes the use of instruments such as automated detection, and urges companies to step up efforts to support research geared to the production of appropriate technological tools.

3.11. As part of the measures to protect content which is not terrorist content from erroneous removal, the proposal sets out obligations to put in place remedies and complaint mechanisms to ensure that users can challenge the removal of their content. In addition, the Regulation introduces obligations on transparency for the measures taken against terrorist content by hosting service providers, thereby ensuring accountability towards users, citizens and public authorities.

3.12. Emphasis must be placed not only on the scrutiny and review of content, but also on human and technological mediation. The issue of censorship by human mediators may give rise to serious concern in terms of respect for workers' rights, as well as compliance with the rules on the right to information and respect for the private life of everyone living in the EU.

3.13. The EESC considers that the provider should notify the owner of the site or information to be censored. It must be borne in mind that people have a right to be informed of an administrative decision.

3.14. In order to guarantee people's rights regarding administrative decisions, the EESC calls on access providers to indicate, in their content policies, clients' rights and obligations, such as how information producers are to be informed of removal decisions and the legal arrangements available to clients.

4. Explanation of the provisions of the proposal

4.1. Terrorists' online propaganda seeks to incite individuals to carry out terrorist attacks, including by equipping them with detailed instructions on how to inflict maximum harm. Further propaganda is commonly released after such atrocities, whereby they glorify in these acts, and encourage others to follow suit. This Regulation contributes to the protection of public security, by reducing the accessibility of terrorist content that promotes and encourages the violation of fundamental rights.

4.2. For the purposes of the Regulation, the proposal lays down the following definitions:

‘hosting service provider’ means a provider of information society services consisting in the storage of information provided by and at the request of the content provider and in making the information stored available to third parties ⁽³⁾;

‘content provider’ means a user who has provided information that is, or that has been, stored at the request of the user by a hosting service provider ⁽⁴⁾;

the EESC proposes that a new point be added including the following:

— ‘information providers’: search engines that enable identification of and access to content.

4.3. Regarding the definition of ‘terrorist content’ as one or more of the following items of information:

a) inciting or advocating, including by glorifying, the commission of terrorist offences, thereby causing a danger that such acts be committed;

b) encouraging the contribution to terrorist offences;

c) promoting the activities of a terrorist group, in particular by encouraging the participation in or support to a terrorist group within the meaning of Article 2(3) of Directive (EU) 2017/541;

d) instructing on methods or techniques for the purpose of committing terrorist offences ⁽⁵⁾;

the EESC proposes that a new point be added including the following:

— recruitment and training of persons with the aim of committing or supporting terrorist acts.

4.4. The definition of the content to be censored is very brief as there are many texts, images, videos and other content and formats that do not glorify terrorism — because they do not incite to specific acts — but facilitate and highlight extremist theories that lead to violence.

4.5. The Regulation also helps to tackle companies which, through their activities, facilitate and highlight extremist theories that lead to violence. It must also contribute to combating recruitment via social networks.

4.6. Article 1 sets out the subject matter, indicating that the Regulation lays down rules to prevent the misuse of hosting services for the dissemination of terrorist content online, including duties of care on hosting service providers and measures to be put in place by Member States.

4.7. The expression concerning the misuse of hosting services to disseminate terrorist content online should be replaced, by adding the dissemination of propaganda content, messages or media and including an indication of URLs and information for access to terrorist content or messages, as this would also cover search engines.

4.8. Article 5 lays down a requirement for hosting service providers to put in place measures to expeditiously assess content referred through a referral from either a competent authority in a Member State or an EU body without however imposing a requirement to remove the content referred nor does it set specific deadlines for action.

4.9. The EESC considers that in order to be effective, work should begin on a list of a set number of criteria for defining types of content and messages that are either terrorist in nature or glorify terrorism, with the aim of providing legal certainty so as to avoid arbitrary decisions on removal of content and also to safeguard the rights to information and freedom of opinion. The Regulation should also add the criteria needed to make it possible, at European level, to describe content such as information on terrorist groups, information that glorifies or justifies terrorism, technical or methodological information facilitating the manufacture of weapons that can be used in attacks, or appeals for recruitment.

4.10. Article 14 provides for the establishment of points of contact by both hosting service providers and Member States to facilitate communication between them, particularly in relation to referrals and removal orders. In order to safeguard the relevant human rights, the EESC considers that these points of contact must include specialist judges who can

⁽³⁾ COM(2018) 640 final — Article 2(1).

⁽⁴⁾ COM(2018) 640 final — Article 2(2).

⁽⁵⁾ COM(2018) 640 final — Article 2(5).

identify problems and are trained not only to identify attitudes, behaviour or actions of a terrorist nature, but also in technological skills. These abilities should also be required of both hosting service providers and Member State appointees, to facilitate communication between them, particularly in relation to referrals and removal orders.

4.11. The Regulation should stipulate that hosting service providers must supply information accessible to all so that the points of contact can function properly, as well as defining the content and form of communication with the members of these contact points.

4.12. Article 16 requires hosting service providers which do not have an establishment within any Member State but which do offer services within the EU, to designate a legal representative in the EU: in the Committee's view, this requirement should be extended to access providers and internet industries so as include search engines, social networks, internet phone applications and the gaming industry.

4.13. Hosting service providers active on the internet play an essential role in the digital economy by connecting business and citizens and by facilitating public debate and the distribution and receipt of information, opinions and ideas, contributing significantly to innovation, economic growth and job creation in the EU. The EESC considers that it should also be extended to internet service providers, content hosting services, digital social networks and digital telephony companies.

4.14. The proposal for a Regulation introduces a set of measures to be put in place by Member States to identify terrorist content, to enable its swift removal by hosting service providers and to facilitate cooperation with the competent authorities in other Member States, hosting service providers and where appropriate relevant EU bodies. The EESC considers the purpose of this to be to limit terrorism-related content, enable it to be swiftly deleted by hosting service providers and reduce terrorist propaganda and recruitment via the internet.

Brussels, 12 December 2018.

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

Opinion of the European Economic and Social Committee on ‘Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament’

(COM(2018) 636 final — 2018/0328 (COD))

(2019/C 110/14)

Rapporteur-general: **Marina YANNAKOUDAKIS**

Referral	European Parliament, 1.10.2018 Council, 24.10.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Bureau decision	16.10.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	109/2/3

1. Conclusions and recommendations

1.1. The EESC supports the European Commission’s position in the need for this regulation in view of the recent events with the Facebook/Cambridge Analytica case concerning the alleged unlawful processing of personal data.

1.2. The EESC recognises that in today’s world technological developments, social media and the storing of personal data by companies throughout the EU are a given. The need for these tools is not questioned as we move in a global high tech world. The challenge is to move in this area in a way that protects the citizens of the EU, allows transparency and freedom of their fundamental human rights.

1.3. Data use and social media have fundamentally changed the way political parties campaign in elections, allowing them to target potential voters. This development has resulted in a greater push in social media as a form of influencing people’s voting intentions. The EESC would expect the Authority for European Political Parties and European Political Foundations ⁽¹⁾ (the ‘Authority’) to look at areas where data infringement might take place and suggest ways to stop this and put checks and balances in place to secure data protection and use of data is within well-defined parameters.

1.4. The EESC supports the objectives of the proposal, agreeing that democracy is one of the fundamental values on which the EU is founded; and to ensure the functioning of a representative democracy at the European level, the treaties determine that the citizens of the EU are directly represented at the European Parliament (EP).

1.5. This representation takes the form of elected members from either political parties or individuals in Member States standing for election. The election platform has developed over the past decade with a greater role being played by social media. This development now needs to be addressed by the European Commission (EC) and the Authority with its increased staffing is one way of ensuring personal data is protected and not misused for political gain. In addressing this, the priority is to ensure the elections are played on a level playing field and no one group can gain advantage by the use of data.

⁽¹⁾ www.appf.europa.eu

1.6. However, to ensure the Authority functions correctly there have to be secure parameters as to its powers and competences. At present, the Data Protection Authorities (DPAs) of the Member States are there to ensure that there is no misuse of data by political parties. The terms of cooperation between the Authority and national DPAs need to be defined properly. In addition, the DPAs in many Member States face limited resources and the Commission should consider their funding to enable them to work with the Authority.

1.7. The EESC had flagged up the possible problems for misuse of data in its opinion on Personal data protection ⁽²⁾ and in this opinion addressed the areas of concern.

1.8. The EESC supports the additional staffing of the Authority with the view that this staffing will be better positioned to work with Member States through the DPAs to ensure that data protection infringements are properly investigated and where found sanctions applied.

1.9. The EESC recognises that the procedures for the elections of the EP are Member State governed within the EU framework. The EESC also expects that infringements of data protection rules be brought to the attention of the Authority either by the DPAs or by individual parties.

2. Background to the opinion

2.1. Recent events have shown the risks for citizens of being targeted by mass online disinformation campaigns with the aim of discrediting and delegitimising elections. Peoples' personal data are also believed to have been illegally misused to affect the democratic debate and free elections.

2.2. In May 2018, the General Data Protection Regulation (GDPR) came into force, setting strong rules on the processing and protection of personal data. It covers all European and national political parties and other actors in the electoral context including data brokers and social media platforms.

2.3. Ahead of the 2019 elections to the European Parliament, the European Commission has proposed a number of focused changes to Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations ⁽³⁾, which aim to ensure that the elections take place under strong democratic rules and in full respect of the European values of democracy, rule of law and respect of fundamental rights.

2.4. In particular, the proposed changes would allow sanctioning of European political parties or foundations that influence or attempt to influence the elections via an infringement of data protection rules. Sanctions would amount to 5 % of the annual budget of the European political party or foundation concerned. The sanction will be enforced by the Authority. In addition, those found to be in breach would not be able to apply for funding from the general budget of the European Union in the year in which the sanction is imposed.

2.5. The proposal also sets out a procedure to verify whether a data protection breach identified by a national data protection supervisory authority has been used to influence the outcome of EP elections, involving a 'committee of independent eminent persons' acting at the request of the Authority. The committee of independent eminent persons is established by Article 11 of the Regulation. It is composed of six experts that are appointed but not employed by the EC, EP and Council.

2.6. To ensure the Authority is sufficiently staffed to carry out its duties in an independent and effective manner, it is furthermore proposed to add seven staff members (to the current staff of three, which includes the director).

3. General comments

3.1. The EESC supports the objectives of the proposal and agrees that democracy is one of the fundamental values on which the EU is founded. To ensure the functioning of a representative democracy at the European level, the treaties determine that the citizens of the EU are directly represented at the EP. As such, it is vital that its citizens are able to exercise their democratic right without let or hindrance. Any interference with the free choice during the election process is undemocratic and unacceptable.

⁽²⁾ OJ C 248, 25.8.2011, p. 123.

⁽³⁾ OJ L 317, 4.11.2014, p. 1.

3.2. The EESC recognises the increased use of personal data in election campaigns. In the 2017 UK election more than 40 % of advertising spent by campaigners was spent on digital campaigns. This being the case, the attraction of personal data to target certain groups is understandable. However, it is not acceptable that personal data be shared without the person's knowledge, and this is a fundamental abuse of human rights.

3.3. The development of the web, the speed of information being transmitted and the global implications require a strong approach to the security of data stored. The GDPR sets robust rules for this. In particular, personal data must be processed lawfully and fairly. As it stands, political parties can legitimately use data under the GDPR rules, within certain parameters. The development of political canvassing has become more reliant on social media. To try to stop this completely would not necessarily serve the democratic process as it would limit political parties' possibilities to inform potential voters of their manifesto.

3.4. The EESC recognises Member State sovereignty in the election process and the Commission has to work within said Member State sovereignty. The EU cannot legislate the sanctioning of national political parties as this is a Member State competence. Therefore, the EU can only propose measures to sanction European-level political parties. To do so, the Commission proposes an amendment of the Regulation that governs their statute and funding. This will give the Authority teeth in its conclusion when misuse has been proved.

4. Specific comments and recommendations

4.1. The EESC recognises that the Authority is currently understaffed. The director and its two staff members already have a very high workload and the upcoming European elections will put even more pressure on them. The EESC therefore supports the proposal to staff the Authority in a permanent way and to confer the powers of an appointing authority on the director of the Authority, as it is essential that it has enough manpower to monitor the elections properly.

4.2. Data use and social media have fundamentally changed the way political parties campaign in elections, allowing them to target potential voters. This development has resulted in a greater push in social media as a form of influencing people's voting intentions. The EESC would expect the Authority to look at areas where data infringement might take place and suggest ways to stop this and put checks and balances in place to secure data protection and use of data is within well-defined parameters.

4.3. The EESC suggests that greater clarification is needed to constitute what is an attempt to influence the elections via an infringement of data protection rules. The setting up of a working group consisting of Member State DPAs and the Authority should be examined, with an aim of establishing best working practice between both the Authority and the DPAs as data protection has no borders within the EU.

4.4. The director of the Authority is appointed via the procedure as stated in Article 6(3) of the Regulation. He/She is independent and not accountable to the EU institutions. He/She does have to submit an annual report to the European Commission and the European Parliament, and it might be prudent to give the EP the power to question this report and to vote on it. This would ensure that the Authority has some accountability and that the process is more transparent.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a regulation of the European Parliament and of the Council establishing the European Defence Fund'

(COM(2018) 476 final)

(2019/C 110/15)

Rapporteur: **Aurel Laurențiu PLOSCEANU**

Co-rapporteur: **Eric BRUNE**

Referral	European Parliament, 2.7.2018 Council, 4.7.2018
Committee Bureau decision	10.7.2018
Legal basis	Articles 173(3) and 304 of the Treaty on the Functioning of the European Union
Body responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	22.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	200/1/6

1. Conclusions and recommendations

1.1. In the EESC's view, it is imperative that the EU Global Strategy and the Implementation Plan on Security and Defence be implemented consistently and in accordance with the provisions of the Joint Declaration of the EU and NATO of July 2016, as well as the United Nations principle of collective security.

1.2. Since 2017, the EESC has advocated the creation of a European Defence Union (EDU) and has supported the European Defence Action Plan, including the establishment of a common European Defence Fund. We believe that such strengthening of European defence is not intended to weaken but rather to reinforce NATO and transatlantic relations.

1.3. The EESC strongly supports the proposal for a Regulation establishing the European Defence Fund under the 2021-2027 MFF published by the Commission on 13 June 2018.

1.4. The EESC is calling for significant qualitative progress on European defence cooperation. Indeed, limited cooperation between Member States on defence generates duplications and results in a defence industry that remains highly fragmented. The lack of integration on the demand side of the market does not stimulate transnational cooperation between undertakings and further integration of the industry. This causes inefficient allocation of resources, overlapping industrial capabilities, technological gaps and a lack of new programmes, especially collaborative programmes.

1.5. The EESC supports the objective of strategic autonomy, with the development of key technologies in critical areas and strategic capabilities. This objective is strictly related to the need for sound assessment and coordination to ensure that those technologies can be mastered, retained and produced at European level, enabling the EU to take decisions and act autonomously if necessary.

1.6. The EESC believes that a *sine qua non* for the development of common defence capabilities is to strengthen the industrial and technological base of European defence.

1.7. The EESC emphasises that the European Union needs to work on maintaining, renewing and developing a highly skilled workforce and to secure workers with such skills.

- 1.8. The EESC proposes that the European Union step up its efforts to harmonise export rules within the Union.
- 1.9. The EESC strongly supports giving special attention to SMEs, also start-ups, including in the area of research and development for defence purposes.
- 1.10. The EESC would argue that the EU budget in support of defence activities should not replace or be a substitute for national defence spending, but rather boost and accelerate more and better defence cooperation. In the same vein, the EU budget for defence research should not be allocated at the expense of civil research in other sectors. Even if decisions on defence investment and defence development programmes remain the prerogative of Member States, the EDF could bring the EU added value by incentivising joint research on, and development of, products and technologies in the area of defence.
- 1.11. The EESC strongly believes that a more harmonised and streamlined European defence policy might bring efficiency gains by increasing the market share of the European defence industrial and technological base and by better distributing the products between states, regions and companies.
- 1.12. The European defence fund will only make a difference if it supports activities that really matter. Its work programmes should therefore be established on the basis of a robust European defence planning process that identifies the key capability priorities for Europe.
- 1.13. The EESC supports a policy of cooperation which will promote the involvement of SMEs as well as countries which are not signatories of the Letter of Intent, without, however, forgetting the skills they can add to the industrial and technological base of the defence industry.
- 1.14. The EESC supports the proposal to limit the benefit of European funds in the case of European companies controlled by the same entity, and to require guarantees where a third country participates in developments supported by the European Defence Fund.
- 1.15. The EESC supports the idea that European funds should be managed by the European Commission, but thinks that the European Defence Agency can usefully intervene in the definition of defence equipment needs and the Organisation for Joint Armament Cooperation (OCCAR), taking advantage of what have not always been happy experiences, and play its part in the management of programmes, as the duplication of skills in the field would be detrimental to the effectiveness of the system.
- 1.16. The EESC supports the idea that research and development must be submitted to an ethics committee. Ethical conditions must be spelled out clearly and assessed already in the evaluation of the proposal to ensure legal certainty and clarity.
- 1.17. The EESC is concerned about the future of cooperation with the UK after Brexit, and argues for strong security and defence which includes the UK's association with the EDF.
- 1.18. The EESC believes that our ageing continent feels threatened, displaying a tendency to blame and sometimes confuse problems like terrorism and migratory movements and lacking sufficient solidarity both within and between Member States, with a resurgence of nationalism and authoritarian regimes all around the European Union putting our democracy under pressure. An industrial policy tool as interesting as the European Defence Fund will not dispense us from further reflection on European defence policy.

2. Presentation of the proposal

- 2.1. The geopolitical context has become unstable over the past decade: we face a complex and challenging environment in which new threats such as hybrid threats and cyber-attacks are emerging and more conventional challenges are returning.
- 2.2. In the Joint Declaration of 25 March 2017 in Rome, leaders of 27 Member States and the European Council, the European Parliament and the European Commission stated that the Union would strengthen its common security and defence and foster a more competitive and integrated defence industry.
- 2.3. European defence faces significant market inefficiencies linked to untapped economies of scale (fragmentation of national markets with a single buyer) and duplication of resources at European level.

2.4. Demand comes almost exclusively from Member States, but their defence budgets, in particular for research and development (R & D), have seen substantial budget cuts in the past 10 years.

2.5. In 2015, only 16 % of defence equipment was procured through European collaborative procurement, which is a long way from the collective benchmark of 35 % agreed through the European Defence Agency.

2.6. The defence sector is highly fragmented across national borders, with substantial duplication and resulting inefficiencies in terms of failure to capture economies of scale and learning.

2.7. The existing situation is not sustainable and the development of major next-generation defence systems is increasingly beyond the reach of individual Member States.

2.8. The lack of cooperation between Member States further weakens the ability of the EU defence industry to sustain the industrial and technological capabilities necessary to preserve the EU's strategic autonomy and meet its current and future security needs.

2.9. On 7 June 2017 the Commission adopted a Communication launching the European Defence Fund, consisting of 'windows' for research and capability, accompanied by a legislative proposal for a Regulation establishing the European Defence Industrial Development Programme under the capability window.

2.10. The proposal for a Regulation establishing the European Defence Fund under the 2021-2027 MFF was published by the Commission on 13 June 2018.

2.11. The European Defence Fund is intended as an instrument to foster the competitiveness and innovativeness of the EU defence technological and industrial base, thereby contributing to the strategic autonomy of the EU. The instrument is designed to trigger cooperative programmes that would not happen without an EU contribution and to provide the necessary incentives to boost cooperation at each stage of the industrial cycle.

2.12. Collaborative projects with significant cross-border participation of small and medium-sized enterprises will be particularly encouraged. This will ensure that the EDF remains open to recipients from all Member States, regardless of their size and location.

2.13. The proposal provides for a date of application of 1 January 2021 and is presented for a union of 27 Member States.

2.14. While defence research falls under the scope of the Research and Innovation Framework Programme (*Horizon Europe*), the corresponding specific provisions for defence research — such as objectives, rules of participation and delivery mechanisms — are specified in this proposal.

2.15. The proposal seeks to ensure synergies with other EU initiatives in the field of civil R & D, such as security and cyber security, border control, coastguard, maritime transport and space.

2.16. There will be close links between the Fund and projects implemented in the framework of permanent structured cooperation in defence (PESCO).

2.17. The Fund will take account of the EU capability development plan (CDP), identifying the defence capability priorities, and the EU coordinated annual review on defence (CARD).

2.18. In this context, account may also be taken of relevant activities carried out by the North Atlantic Treaty Organisation (NATO) and other partners where they serve the Union's security and defence interests.

2.19. The Fund also takes into account defence activities implemented through the European Peace Facility, an off-budget instrument proposed outside the MFF.

2.20. The present proposal provides for the possibility of blending support under the Fund with financing backed by Invest EU.

2.21. The Fund should be used to address market failures or sub-optimal investment situations, in a proportionate manner and without duplicating or crowding out private financing, and should have clear European added value.

2.22. The Union will need to take greater responsibility for protecting its interests, values and the European way of life, in complementarity and cooperation with NATO.

2.23. To be ready to face tomorrow's threats and to protect its citizens, the Union needs to enhance its strategic autonomy. This requires the development of key technologies in critical areas and strategic capabilities to ensure technological leadership.

2.24. Decisions on defence investments and defence development programmes remain the prerogative and the responsibility of Member States.

2.25. The proposed policy approach is proportionate to the scale and gravity of the problems that have been identified. The initiative is limited to goals that Member States cannot achieve satisfactorily on their own and where the Union can be expected to do better.

2.26. The preparatory action on defence research was launched in April 2017 with a total budget of EUR 90 million over three years. It has started to bring initial concrete results, with the first grant agreements signed in 2018, but all projects are still ongoing.

2.27. The proposed European Defence Industrial Programme Regulation for 2019-2020 will have a budget of EUR 500 million and should be operational from 1 January 2019.

2.28. An open public consultation on EDF for all stakeholders was carried out from 13 January to 9 March 2018. Some criticism was expressed from an ethical perspective, but the directly affected stakeholders support the initiative. The rules on Intellectual Property Rights need to be adapted for defence.

2.29. The proposed budget allocation for 2021-2027 is EUR 13 billion (in current prices), of which EUR 4,1 billion is for research actions and EUR 8,9 billion for development actions.

2.30. Subject to confirmation of cost efficiency through a cost-benefit analysis, the Fund may be managed by an Executive Agency of the Commission.

2.31. A monitoring scheme is proposed to support performance reporting and evaluation. Results will become available progressively.

2.32. The Commission proposal for the 2021-2027 MFF set a more ambitious goal for climate mainstreaming across all EU programmes, with an overall target of 25 % of EU expenditure contributing to climate objectives. The contribution of EDF to the achievement of this overall target will be tracked through an EU climate marker system at an appropriate level of disaggregation, including the use of more precise methodologies where these are available.

2.33. The proposal provides for a date of application of 1 January 2021.

3. General comments

3.1. The EESC points to the requests already set out in opinions CCMI/149 (2017), CCMI/116 (2013) and CCMI/100 (2012). The EU Global Strategy and the Implementation Plan on Security and Defence also provide for important approaches to that end. In the EESC's view, it is imperative that these initiatives be implemented consistently and in accordance with the provisions of the Joint Declaration of the EU and NATO of July 2016 as well as the United Nations principle of collective security.

3.2. In view of the actual geostrategic circumstances and security developments, Europe must strengthen its security and defence capabilities. It is essential to have a clear understanding of the Union's common strategic objectives: this is still missing and urgently needs to be developed. It is a prerequisite for identifying the necessary defence capabilities that need to be underpinned by a sustainable European defence technological and industrial base.

3.3. The US withdrawal from the nuclear agreement signed with Iran in 2015, the crisis in Ukraine, Russia's worrying displays at the borders of the Baltic States and eastern EU border, the conflagration of the Libya-Iraq-Syria arc, the constant instability in the Sahel, the potential political and military confrontation between a US-Israel-Saudi axis and an Iran-Syria-Russia axis, all against a backdrop of cyber threats, a rise in authoritarianism in Europe, and the heightened unpredictability of US diplomacy: the EU's strategic balancing has rarely ever been so complex and worrying.

3.4. Security matters both within and around the EU are among the predominant concerns of citizens and heads of state alike.

3.5. At least four challenges need to be addressed by the EU, in the most consensual way possible: autonomy in decision-making, crisis anticipation, political influence, and the coherence between our interests and our democratic principles.

3.6. In 2017 the EESC advocated the creation of a European Defence Union (EDU) and supported the European Defence Action Plan, including the establishment of a common European Defence Fund.

3.7. The EESC has called for significant qualitative progress on European defence cooperation. Indeed, limited cooperation between Member States on defence generates duplications and results in a defence industry that remains highly fragmented. The lack of integration on the demand side of the market does not stimulate transnational collaboration between undertakings and further integration of the industry. This causes inefficient allocation of resources, overlapping industrial capabilities, technological gaps and a lack of new programmes, especially collaborative programmes.

3.8. The EESC supports the objective of strategic autonomy in identified critical capability and technology areas. This objective is strictly related to the need for sound assessment and coordination to ensure that those technologies can be mastered, retained and produced at European level, enabling the EU to take decisions and act autonomously if necessary.

3.9. The EESC endorses the choice to support the defence sector as a demand-driven industrial policy.

3.10. The EESC agrees that greater efficiency in national budgets should make it possible to achieve cover of entire European needs for defence equipment.

3.11. The EESC agrees that coherence between the programmes at European level should make it possible to increase the size of the European market served by the European defence industry.

3.12. The EESC has stated that a *sine qua non* for the development of common defence capabilities is to strengthen the European defence industrial and technological base.

3.13. The EESC emphasises that the European Union needs to work on developing a highly skilled workforce and to secure the workers with such skills.

3.14. The EESC proposes that the European Union step up its efforts to harmonise export rules within the Union.

3.15. The EESC strongly supports paying special attention to SMEs, including in the area of research and development for defence purposes.

3.16. The EESC has rejected opening up for defence purposes existing funds that serve economic or social objectives.

3.17. The EESC has rejected a special provision for national budgetary resources allocated for defence under the Stability and Growth Pact. Defence expenditure should not destabilise public finances.

3.18. The EESC has supported the creation of a Defence Fund with two windows covering both research and the development of capabilities. This could support the design of an integrated planning process for investments across the whole technology cycle. Procurement decisions remain in the hands of the Member States. A form of joint procurement, however, can enhance the efficiency of the demand side and contribute to the competitiveness and efficiency of the European defence industry. The EU budget in support of defence activities should not replace or be a substitute for national defence spending, but rather boost and accelerate more and better defence cooperation. In the same vein, the EU budget for defence research should not be allocated at the expense of civil research in other sectors. The aim of the EDF is to trigger cooperative programmes and, by supporting research and development activities, to provide the necessary incentives to boost cooperation at each stage of the industrial cycle. Even if decisions on defence investments and defence development programmes remain the prerogative of Member States, the EDF could bring EU added value by incentivising joint research on, and development of, products and technologies in the area of defence.

3.19. The defence industrial sector is not only of strategic importance for the security and defence of European citizens, but it is also a major contributor to the European economy and welfare with a total turnover of about EUR 100 bn/year and around 500 000 highly skilled people directly and indirectly employed. This sector is the source of cutting edge products, services and technologies where innovation and Research & Development (R & D) efforts are key to competitiveness.

3.20. The European defence industry as well as R & D spending are quite concentrated in the six Letter of Intent (LoI) countries (France, Germany, Italy, Spain, Sweden and the UK), accounting for 95 % of the investments, the bulk of SMEs and mid-caps as well as top companies. A more harmonised and streamlined European defence policy might bring efficiency gains through further specialisation of countries, regions or companies in certain technologies.

3.21. LoI countries dominate the European defence market in terms of the number of active companies and their arms sales. For example, in the UK, *BAE Systems* is the largest defence company. *SAAB* is the main Swedish aerospace and defence company, while the largest in France are *Dassault Aviation*, *Naval Group*, *Safran* and *Thales*. In Germany, *Rheinmetall*, *ThyssenKrupp Marine Systems* and *Diehl* are important companies. In Italy, *Leonardo* and *Fincantieri* represent the two main companies. *Airbus*, a trans-European company, ranks second in Europe after *BAE Systems*. Another relevant transnational company is *MBDA*, a joint venture of the three European leaders in aerospace and defence (*Airbus*, *BAE Systems* and *Leonardo*) active in missile and missile system manufacturing. And *KNDS*, owner of *Nexter* and *KMW*, is also becoming a trans-European company. Note that some of these companies are not exclusively operating in the defence market, which explains the varying ratios of sales to employees.

Looking at smaller companies, a recent IHS study identified almost 1 600 SMEs active in the defence sector in Europe and estimated the total number of SMEs in defence supply chains at 2 000-2 500. A number of these companies are dual-use in nature, engaged in both the civil and defence domains. In any case, SMEs play an important role in the defence industry and are a key enabler for competitiveness.

3.22. The European defence industry is not evenly spread across the EU. This suggests that increased military spending by EU Member States may not flow equally to all the Member States. If higher spending in one country flows to firms in other countries, this could result in new trade flows.

4. Specific comments

4.1. The European defence fund will only make a difference if it supports activities that really matter. Its work programmes should therefore be established on the basis of a robust European defence planning process that identifies the key capability priorities for Europe.

4.2. The EESC supports a policy of cooperation which will promote cross-border cooperation — the involvement of SMEs, also from states that are not members of the LoI, without, however, going back to the right-of-return policies that sometimes reinforced the duplication of skills.

4.3. The EESC supports the proposal to limit the benefit of European funds to European companies controlled by European interests and to require guarantees where a third country participates in developments supported by the European Defence Fund.

4.4. The EESC supports the idea that the granting of European credits should be managed by the European Commission, but thinks that the European Defence Agency can usefully intervene in the definition of defence equipment needs and the OCCAR, taking advantage of what have not always been happy experiences, and play its part in the management of programmes, as the duplication of skills in the field would be detrimental to the effectiveness of the system.

4.5. The EESC supports the idea that research and development must be submitted to an ethics committee. Ethical conditions must be spelled out clearly and assessed already in the evaluation of the proposal to ensure legal certainty and clarity.

4.6. The EESC supports the idea of European industrial sovereignty in Europe but still questions its political translation, as most of the European Union Member States see themselves as part of the Atlantic alliance, while many states remain attached to a national concept of sovereignty.

4.7. The EESC is concerned about the future of cooperation with the UK after Brexit, and argues for a strong security and partnership which includes the UK's association with the EDF.

4.8. Hit by globalisation, which is disruptive in many ways, Europeans are already aware of some of their mistakes and their illusions. Their biggest mistake is their inaction. The policy of strategic abstinence, which allowed us to focus on the economy and brought so much wealth for us during the Cold War and up to the turn of the century, has now become the main European stumbling block.

4.9. Europe has for a long time imposed its will on the world, first on its own and later with the USA. In a world where global warming and authoritarian regimes are growing stronger, the inequalities of development between countries but also within countries are becoming unbearable. Our ageing continent feels threatened, displaying a tendency to blame and sometimes confuse problems like terrorism and migratory movements, and is lacking sufficient solidarity both within and between Member States, in a context of resurgence of nationalism and authoritarianism putting pressure on European democracies. An industrial policy tool as interesting as the European Defence Fund will not dispense the European Union from political reflection on what we want to defend and how we want to defend it.

4.10. European defence is not solely about strategic threats, external interventions, military capacity, technological innovation and industrial excellence. As the greatest threat that Europeans face today is the challenge to European democracy itself, the common defence policy can no longer ignore this political dimension.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund (EGF)'

(COM(2018) 380 final)

(2019/C 110/16)

Rapporteur: **Vladimír NOVOTNÝ**

Co-rapporteur: **Pierre GENDRE**

Referral	European Parliament, 11.6.2018 Council, 22.6.2018
Legal basis	Articles 175, third paragraph and 304 of the Treaty on the Functioning of the European Union
Section responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	22.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	201/1/3

1. Conclusions and recommendations

1.1. The EESC welcomes the Commission's proposal, which will enable the European Globalisation Adjustment Fund (EGF) to continue beyond 31 December 2020. The EESC recommends that the scope of the EGF, which has been extended to cover redundancies resulting not only from serious economic disruption but also from new global financial and economic crises, take into account the substantial changes in employment caused by, for example, the development of digitalisation and artificial intelligence, the transition to a carbon-free economy and the possible consequences of a decline in world trade. The EGF should thus become a permanent tool to mitigate the negative effects of the challenges of the 21st century on the labour market.

1.2. Noting the existence of a certain confusion between the roles of the different European funds, the Committee recommends that clear and simple information be disseminated to all interested parties on the scope of their respective provisions and any potential complementarity. The EESC reiterates that the aim of the EGF is not to replace the national legal provisions or those resulting from collective agreements, but that it may complement them where appropriate.

1.3. The Committee calls on the governments of the Member States, in cooperation with the Commission, to establish mechanisms to strengthen the capacities of the administrative structures at national level, in order to facilitate and streamline the preparation of applications EGF intervention by SMEs and the provision of assistance to workers who have lost their jobs.

1.4. The EESC reiterates its request that the social partners and other civil society organisations participate in the process of seeking funding from the outset and during all phases of the processing of EGF applications both at EU level and at the level of businesses, regions, and Member States.

1.5. The EESC is in favour of the Commission's proposal under which displaced workers and self-employed persons whose activity has ceased should have equal access to the EGF independently of their type of employment contract or employment relationship.

1.6. The Committee calls on Member States and the Union institutions involved in the EGF decision-making process to do their utmost to reduce processing time and to simplify procedures so as to ensure the smooth and rapid adoption of decisions on the mobilisation of the Fund.

1.7. The EESC urges Member States to pay particular attention to disadvantaged categories, including young and older unemployed persons and those at risk of poverty, given that those groups experience particular problems in finding another stable job.

1.8. The Committee emphasises that, in the interest of the beneficiaries, assistance should be made available as quickly and efficiently as possible.

2. Background to the opinion, including the legislative proposal concerned

2.1. *Origins and development of the European Globalisation Adjustment Fund*

2.1.1. The European Globalisation Adjustment Fund (EGF) was established by Regulation (EC) No 1927/2006 of the European Parliament and of the Council⁽¹⁾ for the 2007-2013 programming period with a view to facilitating the return to employment of workers in fields, sectors, regions or labour markets that are suffering from the shock of serious economic disruption. The EGF provides support to people, but its mission is not to support businesses that have got into difficulties.

2.1.2. In light of the developing economic and financial crisis, the Commission revised the EGF in 2008 in order to widen its scope between 1 May 2009 and 30 December 2011 and to increase the co-financing rate from 50 % to 65 %, so as to reduce the burden for Member States.

2.1.3. The scope of the EGF was extended in 2009 to cover workers who lost their jobs directly as a result of the global financial and economic crisis.

2.1.4. For the Multiannual Financial Framework 2014-2020, the EGF's scope was again extended by Regulation (EC) No 1309/2013 of the European Parliament and of the Council⁽²⁾. Extending the EGF has made it possible to cover redundancies resulting not only from significant structural changes in world trade, but also from any new global financial and economic crisis.

2.1.5. On 17 November 2017, the European Pillar of Social Rights was jointly proclaimed by the European Parliament, the Council and the Commission. Its principles will serve as a fundamental guiding framework for the European Globalisation Adjustment Fund.

2.2. *New proposal for the post-2020 EGF*

2.2.1. The main objective of the new proposal is to ensure that the EGF, which is a special instrument maintained outside the MFF budget ceilings, continues to operate after 31 December 2020 without a time limit.

2.2.2. The EGF could also offer assistance in the event of unexpected crises leading to a serious disruption of the local, regional or national economy. Such unexpected crises could include a major recession for important trading partners or the collapse of the financial system.

2.2.3. The support provided by the EGF is available to workers irrespective of their employment contract or employment relationship. It is possible to include not only workers with employment contracts of indefinite duration, but also workers with fixed-term contracts, temporary agency workers, owner-managers of micro enterprises and self-employed workers.

2.2.4. The application for EGF support for workers can be triggered when the number of redundancies reaches a minimum threshold. The threshold of 250 is lower than the threshold for the 2014-2020 programming period. In many Member States, most workers are employed by small and medium-sized enterprises (SMEs).

2.2.5. The focus of the EGF is on active labour market measures aimed at rapidly bringing dismissed workers back into stable employment. The EGF cannot contribute to the funding of passive measures. Allowances may only be included if they are designed as incentives to make it easier for dismissed workers to participate in active labour market policy measures; the share of allowances in a coordinated package of active labour market policy measures is capped.

⁽¹⁾ OJ L 406, 30.12.2006, p. 1.

⁽²⁾ Regulation (EU) No 1309/2013 of the European Parliament and of the Council of 17 December 2013 on the European Globalisation Adjustment Fund (2014-2020) and repealing Regulation (EC) No 1927/2006 (OJ L 347, 20.12.2013, p. 855).

2.2.6. Member States must request the fund's intervention only in the event of genuine emergency situations. The EGF cannot replace measures already covered by EU funds and programmes included in the Multiannual Financial Framework, nor can it replace national measures or measures falling within the remit of the dismissing companies under national law or collective agreements.

2.2.7. An application for support should be triggered when a major restructuring event causes a significant impact on the local or regional economy.

2.2.8. An *ex-post* evaluation of the existing regulation has to be carried out by 31 December 2021.

3. General comments

3.1. The EESC welcomes the Commission's proposal, which will enable the EGF to continue beyond 31 December 2020. The Committee has in the past adopted a number of opinions in which it has expressed its support for the EGF, and feels that these opinions have lost none of their relevance ⁽³⁾ ⁽⁴⁾ ⁽⁵⁾ ⁽⁶⁾.

3.2. The EESC underlines the continuing importance of the role of the EGF as a flexible fund to support workers who lose their jobs in large-scale restructuring events and to help them to find another job as rapidly as possible. It recommends taking into account the situation of employees whose working hours will be permanently reduced without receiving compensation for the reduction to their salary.

3.3. In the Committee's view, it would be useful to collect more detailed monitoring data, especially on the category of workers, their professional and educational background, their employment status and the type of employment found. In view of the likely administrative complexity involved in such an agenda and the burden it represents, the Committee supports the alternative approach of collecting such information in the form of on-line questionnaires for the beneficiaries, as proposed by the Commission.

3.4. The Committee is in favour of the Commission's proposal under which displaced workers and self-employed persons whose main activity has ceased should have equal access to the EGF independently of their type of employment contract or employment relationship.

3.5. The EESC believes that the financial contributions of the EGF should primarily be directed towards active labour market policy measures, with the aim of quickly reintegrating beneficiaries into sustainable employment. Support should also be put in place for the professional and geographical mobility of workers in order to facilitate their reclassification.

3.6. The EESC notes that the maximum limit of the fund is set at EUR 225 million per year for the period 2021-2027 and considers that this envelope is appropriate to the EU's current economic situation. However, it points out that in the event of a return to a deeper crisis, or in situations such as accelerated technological change and energy transformation, this envelope may prove to be insufficient.

3.7. The Committee recommends that a review of the EGF be undertaken half way through the MFF looking at both the utilisation of appropriations and the minimum threshold of 250 displaced workers, and calls on the Commission to work with the EU budgetary authority in preparing an adjustment in EGF funding as a result,

3.8. Specifically, the Commission should consider raising the funding in question to around EUR 1 billion. Given that the EGF is designed to be an emergency fund, it is also important to ensure that the decision-making procedures for such an increase in funds are implemented as quickly as possible.

3.9. The EESC urges Member States to pay particular attention to disadvantaged categories, including young and older unemployed persons and those at risk of poverty, given that those groups experience particular problems in finding another stable job.

3.10. The Member States and the Union institutions involved in the EGF decision-making process should do their utmost to reduce processing time and simplify procedures so as to ensure the smooth and rapid adoption of decisions on the mobilisation of the EGF. The Committee emphasises that, in the interest of the beneficiaries, assistance should be made available as quickly and efficiently as possible.

⁽³⁾ OJ C 318, 23.12.2006, p. 38.

⁽⁴⁾ OJ C 228, 22.9.2009, p. 141.

⁽⁵⁾ OJ C 376, 22.12.2011, p. 92.

⁽⁶⁾ OJ C 143, 22.5.2012, p. 17.

3.11. The EESC welcomes the fact that the European Pillar of Social Rights will serve as an overarching guiding framework for the EGF which will enable the EU to put the relevant principles into practice in the event of major restructuring. Given the difficulty of identifying the specific factor that leads to redundancies, the EESC recommends that, in future, the mobilisation of the EGF's resources be based first and foremost on the principle of the sizeable impact of restructuring not only with regard to processes of globalisation, but also as regards other significant changes. These include decarbonisation, digitalisation and Industry 4.0 and the related technological changes and processes of transformation, as well as changes caused by many factors such as large-scale relocations or redundancies, or financial or economic crises. In this regard, the EESC expressly welcomes the extension of the scope of the EGF to include labour market risks caused by structural changes that are brought about by digitalisation and developments in the area of decarbonisation.

3.12. The EESC believes that the EGF should be better aligned with other EU policies and that the specifications of the EGF's interaction with other funds and programmes (e.g. FEAD, ESF, EaSI, EU Health Programme) should be set out in greater detail.

3.13. Given the contradictions between the fund's current name and its objectives, and in the interests of keeping the English abbreviation EGF, the EESC proposes changing the name European Globalisation Adjustment Fund to European Globalisation and Adjustment Fund, or some similar name that would fit the abbreviation EGF.

3.14. The Committee thinks it would be useful in the period ahead to expand the scope of the EGF to support programmes put in place nationally, such as the short-term work ('Kurzarbeit') or short-time programmes.

4. Small and medium-sized enterprises

4.1. Small and medium-sized enterprises provide around 80 % of jobs in the EU, yet they are among the most vulnerable when crises or processes of transformation occur. The Committee therefore calls on the governments of the Member States, in cooperation with the Commission, to establish mechanisms and to strengthen administrative capacities at national level so as to facilitate and streamline the preparation of applications by SMEs for EGF intervention and the provision of assistance to workers who have lost their jobs.

4.2. The EESC supports the proposal to place wage earners and self-employed workers on an equal footing (Article 7), subject to the non-cumulation of self-employment and employment and in the event that the main activity is discontinued.

4.3. The EESC endorses the protection of owners of very small companies that could lose their jobs as a result of an economic or financial crisis or technological change, as well as the possibility for these people also to get financial support from the EGF. This should not mean that a 'self-employed person' would be defined as 'a person who employed fewer than 10 workers', as stated in Article 4 in the Commission's proposal for a regulation. This definition would have various consequences in a number of EU laws, because it would mean that different categories of professional and economic activity were classified in the very same way. We ask the Commission to find another way to achieve the aim — endorsed by the Committee — of protecting owners of very small companies.

4.4. The EESC suggests that the Commission work with the Member States to improve the results of the EGF through an information campaign, including for SMEs, so as to enable their employees to participate more easily in the use of available support opportunities provided by the EGF.

4.5. The EESC welcomes the new configuration of the intervention criteria (Article 5), which pays particular attention to the situation prevailing in small and medium-sized enterprises, who employ a large proportion of the total number of employed people. It is particularly important, regardless of the threshold of 250 employees, to take into account the concept of the group and/or territorial unit, in the event that several subsidiaries of a group that is facing job losses do not reach this threshold individually.

5. Specific comments

5.1. The EESC recommends more flexibility when calculating the number of redundancies and cessations of activity (Article 6), eligible beneficiaries (Article 7) and eligible measures (Article 8), so as to ensure that aid reaches affected workers as quickly as possible.

5.2. The Committee also recommends simplifying administrative procedures for submitting applications as much as possible (Article 9) in order to speed up the whole process. The simplification of documents and the introduction of technical assistance for Member States, where necessary, will extend the scope of the Fund's provisions.

5.3. The Committee believes that it is essential to simplify administrative measures (Point 2 of the Annex to the proposal for a regulation), especially monitoring and reporting arrangements, management and monitoring systems, and measures for preventing fraud and irregularities.

5.4. The EESC supports the restriction on eligibility for a financial contribution from the EGF set out in Article 8(2)(b), which explains that such support must not replace measures which are the responsibility of companies by virtue of national law or collective agreements. This provision should not serve for the blanket exclusion of market measures based on collective agreements from the potential range of EGF support.

5.5. The Committee expects that as part of the planned *ex-post* evaluation of the EGF, the Commission will devote considerable attention to analysing the causes of the disparities in the use of the EGF among EU Member States, especially the reasons why the following countries either under-use the funds or do not use them at all: Bulgaria, the Czech Republic, Estonia, Croatia, Cyprus, Latvia, Luxembourg, Hungary, Malta, Slovakia and the United Kingdom.

5.6. The EESC reiterates its request that the social partners and other civil society organisations participate in the process of seeking funding from the outset and during all phases of the processing of EGF applications both at EU level and at the level of businesses, regions, and Member States. Given their in-depth knowledge of the local situation and specificities, regional structures and municipalities can also play a significant role.

5.7. The Committee recommends that the Commission make it clear in the regulation that the concept of 'employees' also covers employed members of cooperatives.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing the Creative Europe programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013'

(COM(2018) 366 final)

(2019/C 110/17)

Rapporteur: **Emmanuelle BUTAUD-STUBBS**

Co-rapporteur: **Zbigniew KOTOWSKI**

Referral	European Parliament, 14.6.2018 Council, 21.6.2018
Committee Bureau decision	19.6.2018
Legal basis	Article 173(3) and Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	22.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	207/2/2

1. Conclusions and recommendations

1.1. The EESC welcomes the proposal for a Regulation of the European Parliament and of the Council establishing the Creative Europe programme (2021 to 2027) (COM(2018) 366 final) and its indicators set out in Annex II. Building a strong and united Europe must be based on the diversity of cultural roots which should be transmitted through education. The continuation of this programme should be seen as highly beneficial for the development of European culture and of the cultures of the individual Member States which is a foundation of our society and a crucible of our democratic values.

1.2. For many years, the EESC promoted the significant contributions of the creative and cultural sectors and industries to the EU creation of value and jobs, inclusiveness and growth⁽¹⁾. In 2012, according to the OECD, the copyright-intensive industries⁽²⁾ in the EU accounted for 4,2 % of GDP and 3,2 % of employment. According to Article 2 of the proposal for a Regulation (COM(2018) 366), these sectors include 'architecture, archives, libraries and museums, artistic crafts, audiovisual (including film, television, video games and multimedia), tangible and intangible cultural heritage, design (including fashion design), festivals, music, literature, performing arts, books and publishing, radio and visual arts'.

1.3. Bearing in mind the specific nature of creative acts and processes that do not always fall easily within the general framework of labour law, the EESC is fully aware of the social challenges that should be tackled in some Member States: improvement of working conditions, removal of unpaid hours, fight against gender gaps, promotion of decent labour, better health and safety conditions, facilitating mobility, inclusion of people with disabilities and those who are excluded, policy against sexual harassment and so on.

1.4. The EESC considers that the planned budget of EUR 1,8 billion is not sufficient in order to meet the ambitious goals of the Creative Europe programme 2021-2027. That is the reason why the EESC calls for a larger budget. This significant investment in the creativity of Europe, its artists, creators, musicians, writers, photographers, architects, inventors of video

⁽¹⁾ OJ C 13, 15.1.2016, p. 83, NAT/738 (OJ C 440, 6.12.2018, p. 22), SOC/590 (OJ C 62, 15.2.2019, p. 148).

⁽²⁾ The core copyright-intensive industries include nine sectors: press and literature, music, opera and theatrical production, motion picture and video, photography, software and database, visual art and graphics, advertising and arts, copyright collective management societies.

games, moviemakers, etc., will help the EU to compete successfully with large countries having deliberate 'soft power' strategies (US, Japan, South Korea) at national level and inside international organisations. That EU funding should be complemented by national and regional public funding. Specific tax incentives could also attract philanthropy (heritage restoration for instance) and ease crowd-funding for the creation of new business models.

1.5. The EESC believes also that it is necessary to invest in legal and technical tools in order to fight more efficiently against all forms of promotion of violence and discrimination, particularly in the production of online video games for children and young people.

1.6. The EESC supports the inclusion of a creative and cultural dimension in the external policy of the EU (trade policy, international relations, etc.)⁽³⁾.

1.7. This unprecedented financial effort should be achieved through three channels:

- An increased budget for 'Creative Europe' of EUR 1 930 000 instead of EUR 1 850 000 for 2021-2027 that will include an extra funding of EUR 80 million to the CROSS-SECTORAL Strand that will allow additional 'cross-fertilisation' projects between creative and cultural industries (CCI) themselves (music, fashion, design, art, cinema, publishing, etc.) and between CCI and other industries, and more financial resources for more training in the field of media in a context in which the pluralism of the media has recently been challenged in the EU;
- Financial support for culture and creation in a wide range of EU programmes in order 'to enhance the process of mainstreaming culture in the other sectoral policies, which would result in mutual benefits for both culture and the relevant sector'⁽⁴⁾: Horizon 2020, European Social Fund, Digital Europe, Cohesion Fund, Erasmus;
- Continuous support for the Financial Guarantee Facility dedicated to 'creative and cultural industries' in order to provide guarantees and, where needed, equity type support for SMEs and start-ups.

1.8. This renewed ambition for a more cultural and creative Europe will also benefit various sectors and EU industrial value chains from textiles, clothing, leather, furniture, ceramics, toys, tourism, arts and crafts, to automobiles, construction, health and well-being, green energy and so on, thanks to the integration of creativity, design and cutting-edge technologies. There are many examples in Europe of the successful shift by some industrial regions or cities toward creative industries generating more value added (Turin).

1.9. The opportunities provided by the 'digital revolution' in those copyright-intensive industries are particularly important and sufficient investment in equipment and software (Artificial Intelligence, block chain, 3D printing, digitalisation of archives for instance) as well as in training should be promoted.

1.10. The innovation potential of these industries is unlimited because they rely mostly on individual creativity, skills and imagination. That is why the creative and cultural industries (CCI) should have a specific budget under 'Horizon 2020' (at least EUR 3 billion which is a little less than their weight in the EU GDP (4,2 %)).

1.11. Large merger operations are going on in the US market that will have an impact on EU CCI. In this context, the EESC asks the European Commission to launch a tender for a business intelligence report expected in 2019 on the major economic and technological trends in the US affecting media, cinema and audiovisual and their likely consequences on their EU counterparts in the field of production, consumption, and distribution.

⁽³⁾ Towards an EU Strategy for international cultural relations, Join (20160 29 final).

⁽⁴⁾ Quoted from the Bulgarian Presidency's discussion paper: *The way ahead: long term vision for the contribution of culture to the EU after 2020*, 27 April 2018.

1.12. Given the fact that the EU 27 could benefit considerably from continued dialogue with the UK which is a key player in these industries, the EESC asks the European Commission to support any bilateral dialogue between governments and networks that could pave the way for a bilateral agreement in order to pursue ambitious bilateral programmes within the framework of Creative Europe 2021-2027. Similar bilateral agreements have been concluded in the past (2014-2020) with third countries like Georgia, Serbia or Ukraine.

2. General comments

2.1. *A new level of ambition*

2.2. The proposal for a Regulation (COM(2018) 366) is based on Article 3 of the Treaty on European Union: the EU pursues the goal 'to promote peace, its values and the well-being of its peoples', the EU 'shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced'. But there is a clear perception that the number of challenges to face is larger, in particular the competition from online platforms and search engines, the concentration of the sector around a limited number of big players, or the rise of 'disinformation'.

2.3. With this new programme, the EU Commission wants to offer opportunities for operators to develop technologically and artistically innovative European trans-border initiatives to exchange, co-create, co-produce, and distribute European works. The purpose is also to strengthen the position of EU actors in the EU and global markets. Examples of best practices in this area can be found in the activities of the Council of Europe's 'Eurimages' fund.

2.4. *A larger budget but still not sufficient*

2.4.1. The proposed budget of EUR 1,85 billion for 27 Member States is bigger than the current one but represents only 1/1 000 of the overall EU Multiannual Financial Framework 2021-2027: EUR 1 135 billion.

2.5. The budget proposed by the EC is divided into three parts:

- CULTURE Strand with EUR 609 million (33 % of the total budget compared to 31 % of the total budget of Creative Europe 2014-2020);
- MEDIA Strand with EUR 1 081 million (58 % of the total budget compared to 56 % of the total budget of Creative Europe 2014-2020);
- CROSS-SECTORAL Strand with EUR 160 million (9 % of the total budget compared to 13 % of the total budget of Creative Europe 2014-2020).

2.5.1. The EESC asks for an additional budget of EUR 80 million for the CROSS-SECTORAL Strand to develop the full potential of 'cross-fertilisation' projects ⁽⁵⁾ (digital economy, tourism, art, luxury, culture, digital printing...) and to identify more practical answers in the field of media literacy.

2.5.2. The objective to support in priority projects aiming at a large audience is suitable to the audiovisual sector (MEDIA Strand) but should not apply to all cultural activities, particularly in rural areas. Social cohesion and social inclusiveness are at the heart of the European project.

2.6. *The Brexit case for creation and culture*

2.6.1. This new programme will take place within the EU 27 after the withdrawal of the United Kingdom which is one of the Member States in which the creative and cultural industries play a key role (90 billion GBP in 2016, 2 million workers). The EESC considers it essential for the dynamics of 'Creative Europe' to maintain strong cultural relationships with the UK and to encourage, wherever possible and necessary, bilateral cooperation. The objective of a specific and tailor-made bilateral agreement with the UK in order to pursue actions and programmes should be sought on the basis of Article 8 of the proposal for a regulation and in compliance with the revised Audiovisual Media Services Directive.

⁽⁵⁾ See point 4.6 of EESC opinion OJ C 13, 15.1.2016, p. 83.

2.7. *Lessons learned from the previous Creative Europe programme 2014-2020*

2.7.1. In the various assessment studies requested by the EC, the major limits were the following:

- Insufficient budgets to have a major impact at EU or sectoral level;
- Funding too fragmented for the MEDIA programme;
- Excessively complex access and administrative reporting to EU programmes and funding, particularly for SMEs and individuals, and first-time applicants;
- Uneven distribution of funds according to the Member States.

2.7.2. During a hearing organised in Paris (6 October 2016) by Sylvia Costa, President of the Culture and Education Committee, stakeholders identified other concrete issues:

- The success ratio for the CULTURE strand call for tenders is too low: 11 %;
- The maximum length for a literary translation is too short: 2 years;
- The number of third countries that can be involved in some projects is too narrow;
- The notion of ‘experimentation’ should be promoted and supported, as well as that of ‘innovation’.

In order to take account of these criticisms, the EC proposes certain simplifications for 2021-2027:

- Greater flexibility in order to adapt work programmes to unforeseen circumstances;
- More framework partnership agreements and cascading grants;
- More incentives to reward results linked to the capacity to reach larger audiences;
- Systematic use of e-forms and e-reports and lighter reporting requirements.

2.8. *The Culture Strand*

2.8.1. The overall budget of EUR 609 million will support cross-border circulation of works and mobility of creative operators, encourage partnerships, networks and platforms seeking a wider audience in Europe and beyond for European cultural and creative operators and works, and promote European identity and heritage and values through cultural awareness, arts education and creativity in education. Special EU actions such as the European Capitals of Culture, EU cultural prizes, and the European Heritage label will be also supported. Another priority is to promote international capacity building to enable the European cultural and creative sectors to be active internationally.

The EESC would like to add to the proposed Regulation a paragraph on folk and ‘amateur’ creativity, as it is precisely this form of creativity that laid the groundwork for the development and dissemination of a genuine humanistic and artistic sensibility.

2.9. *The Media Strand*

2.9.1. This programme covers audiovisual media, cinema and video games with an overall budget of EUR 1 081 000. It is linked to some specific legislative tools: the revision of the copyright framework and the revised Audiovisual Media Services Directive.

2.9.2. The former (COM(2016) 593 final) was adopted by the European Parliament (12 September 2018) at the first reading.

This proposal has three major goals: (a) to improve access to content online and across borders for television and radio programmes on VoD platforms; (b) to harmonise and modernise the copyright exceptions in EU law in the areas of teaching, research and the preservation of cultural heritage; (c) to put in place a well-functioning marketplace for copyright for press publishers, authors, and performers producing content for online platforms.

2.9.3. The latter pursues several objectives: to provide further opportunities for the promotion of European works within (minimum of 30 % of EU works on online video platforms) and outside the EU, to foster cooperation across the value chain from the early stages of production to distribution and exhibition, and to enhance the level of protection of children and consumers.

2.9.4. The EUR 1 081 000 budget dedicated to the European audiovisual sector, including the film industry, TV and video games has the following goals: (a) to stimulate collaboration and innovation in the production of EU audiovisual works; (b) to improve theatrical and online distribution across borders; (c) to support the international influence of EU audiovisual works through better international promotion and distribution of European works and innovative storytelling including virtual reality.

2.10. *The Cross-sectoral Strand*

2.10.1. An overall budget of EUR 160 million is planned to support the emergence of cross-sectoral projects between creative and cultural actors (music, media, literature, art...), to help Creative Europe desks to promote the programme in their country, and to enhance 'a free, diverse, and pluralistic media environment, quality journalism and media literacy' (Article 6(c), COM(2018) 366 final).

2.10.2. This last goal is considered by the EESC as critical: in 2017 several Member States lost ground in the field of freedom of the press. Given this particular context, the EESC asks for more funding in order to support the promotion of freedom of expression, and of a diverse and pluralistic media environment, the promotion of high quality media standards in terms of content, and programmes of media literacy in order to allow citizens to gain a critical understanding of the media.

3. **Specific comments**

3.1. *Copyright in the digital era*

3.1.1. An OECD study from 2015 on 'Copyright in the digital era' confirms the intensity of the legal and public debates on the ways and means to adapt national copyright frameworks to the internet revolution.

The main issues under discussion are: (a) the scope of copyright; (b) orphan works; (c) copyright exceptions and limitations; (d) copyright registration; (e) enforcement.

3.1.2. The EESC would like to defend the new related copyright for publishers for the digital use of their press publications as proposed in Article 11 of the proposal for a Directive on copyright in the Digital Single Market, the protection of content by online services as proposed in Article 13, the contract adjustment mechanism (Article 15) and the dispute resolution mechanism (Article 16).

3.2. Fierce competition at international level that should lead to a clear EU strategy for CCI both for single market policies and externally (international agenda for culture, cultural diplomacy, trade policy).

3.2.1. American firms like Apple with iTunes, the biggest on-line music store in the world since 2010, Netflix with 130 million subscribers in 2017, and You Tube with 1 300 000 monthly users and more than 5 billion videos watched every day, have dominant positions in the field of online platforms.

3.2.2. In the film industry for instance ⁽⁶⁾, 'productions and co-productions from the United States account for 90 % of the films with the highest theatrical attendance levels that year [2012]' with a natural corollary: 'there is a clear and almost undisputed predominance of the English language'.

⁽⁶⁾ *Diversity and the film industry: An analysis of the 2014 UIS Survey on Feature Film Statistics*, March 2016, p. 31.

3.2.3. Major mergers have been taking place recently in the USA that confirm that significant changes are taking place in the production, distribution and consumption of audiovisual content. What will be the effect of these major changes in the USA on the EU audiovisual sector, which remains fragmented, with less public funding and a persistently low level of cross-border diffusion due to a limited budget and linguistic barriers? An independent study with quantitative and qualitative data will be very helpful.

Other major countries like China, Japan, India and Canada have put in place efficient and long term incentive policies to support both internally and externally those assets that are part of their 'soft power'; the EU should do the same.

3.3. *Diversification and renewal of business models*

3.3.1. Innovative business models for the copyright-intensive industries in the EU should be encouraged in three directions:

- a) the use of all digital tools (AI, block chain, big data, 3D printing and so on) as an opportunity to enrich the content of cultural goods and services and the way they are available to consumers;
- b) opportunities linked to improved portability of content in cross-border projects;
- c) the search for new ways to generate revenue (subscriptions, pay per view, and so on) without excluding vulnerable consumers.

3.3.2. The 'spill-over effect' between CCI and several economic sectors which integrate a 'cultural or a creative component' has been demonstrated in many studies. At the interface of CCI and digital technologies lies a powerful source of both breakthrough and incremental innovation.

3.3.3. Of course, certain cultural activities benefiting from public or private funding should not rely solely on generating profit. The new programme should also cover 'non-market oriented' activities.

3.4. *Access to funding*

3.4.1. A new guarantee facility was launched by the European Fund for Strategic Investment in June 2016 in order to benefit micro, small and medium-sized enterprises in CCI that are finding it difficult to access loans in their own countries. An initial amount of EUR 121 million was planned for this new mechanism which is expected to create EUR 600 million in loans and other financial products.

3.4.2. After a slow start, nine Member States — Spain, France, Romania, Belgium, the Czech Republic, Finland, Italy, Luxembourg and the United Kingdom — have signed agreements with the European Investment Fund (EIF) for a global capacity of more EUR 300 million of potential loans. In 2017, a decision was made by the EIF to add an extra EUR 70 million. According to a report by the EIF on the use of the CCI Guarantee (March 2018), 418 creative and cultural 'actors' benefitted from this facility for a total amount of EUR 76 million in loans, which represents a EUR 182 000 loan on average per entity.

3.4.3. The EESC encourages strongly the competent authorities at national and regional levels, in urban and rural areas, to promote this specific facility in order to feed the growth of CCI and to attract investment and new businesses in those sectors. It is their responsibility to avoid an increasing gap between 'smart cities' where CCI are highly concentrated ⁽⁷⁾ and rural areas.

⁽⁷⁾ 64 % of creative employment is located in urban areas, J. Vlegels, W. Ysebaert *Creativiteit, diversiteit en werkomstandigheden: eien analyse van de drieand van culturele en creative arbeid in België*, Sociologos 39, p. 241.

3.5. Social issues

3.5.1. Data available in some Member States show unfair and unsatisfactory social working conditions: unpaid hours, regular overtime, temporary contracts, unintended part-time jobs, poor health and safety conditions, underinvestment in training, gender gaps⁽⁸⁾, lack of ethnic diversity, sexual harassment, a low level of social protection, insufficient mobility due to double taxation and difficult access to visas for third-country nationals.

Some Member States have implemented social requirements which CCI must meet in order to be able to access EU funding, thereby supporting the European social model in line with the role potentially performed by public funding.

3.5.2. Social dialogue at national level should be encouraged in order to find suitable solutions to improve the situation. At EU level, more independent studies on the working conditions in CCI are necessary in order to inspire renewed policies. One recent finding shows for instance that the 'occupation' criteria could be more effective than the 'sectoral' one, because only 30,7 % of 'creative' jobs are located inside CCI sectors⁽⁹⁾!

3.5.3. Clusters and networks

Regional clusters play a key role in promoting new collaboration models and cross-border partnerships. Creation of new regional clusters and networks for CCI should be encouraged by the new programme as well as fruitful partnerships between existing clusters and networks (Emilia-Romagna, Hamburg, Milan and so on) that could boost scaling up and best practices.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁸⁾ See the Framework for action on gender equality at the Audiovisual Social Dialogue Committee.

⁽⁹⁾ J. Vlegels, W. Ysebaert, *Sociologos* 39, p. 210-241.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on minimum requirements for water reuse (rolling programme)’

(COM(2018) 337 *final*)

(2019/C 110/18)

Rapporteur: **Mindaugas MACIULEVIČIUS**

Referral	European Parliament, 2.7.2018 Council, 26.6.2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Bureau decision	19.9.2017
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	27.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	140/1/0

1. Conclusions and recommendations

1.1. This is a timely and very positive initiative from the European Commission. The proposed regulation will greatly encourage the development of safe, additional water resources for agricultural irrigation — water which can be processed to be safe for agricultural use and also, when appropriate, retain a valuable content of useful nutrients as well as appropriate and soil-enriching organic matter.

1.2. The added value of such provision will primarily relieve stress on drinking water supplies and also facilitate both public and private investment into creating these supplementary water resources. These separate and dedicated treatment and supply infrastructures for agricultural use will be in addition to existing sources and supply infrastructure which, depending on the Member State, are essential services operated under state, municipal or private responsibilities.

1.3. The EESC welcomes this proposed regulation as a useful addition in realising the intentions of the Water Framework Directive and also as contributing to the Circular Economy Package. It will encourage existing water resources to be used more sustainably and increase consumer confidence in the safety of those agricultural products affected.

1.4. At present consumers are unaware of the varying standards on water reuse that exist between Member States and many are unaware that reclaimed water is widely used in irrigation. As this regulation provides for a consistent approach based on strong scientific advice, it can be seen as a necessary foundation block in food safety policy.

1.5. Contrary to the impression created by the general title of the regulation, the actual substance of the proposal is tightly focussed on the reuse of urban waste water for irrigation purposes. It is recommended that, although this is mentioned in the exploratory memorandum to the regulation, greater prominence is given to this focus to minimise concerns that industrial and domestic reuse opportunities are being ignored.

1.6. The potential of water reuse for aquifer recharge, although not the object of the regulation, remains of interest and further technical analysis should be undertaken to resolve the complex problems identified in the impact assessment.

1.7. The Committee strongly recommends that, for this regulation to have its maximum intended impact, effective policing of water resources and an active accountability and enforcement regime needs to be followed in all Member States. In particular, the enforcement of prohibitions on illegal water extraction needs to be applied more consistently.

1.8. There is a good business case supporting the necessary capital investment required to establish the infrastructure needed for water reuse, but construction of such infrastructure would be assisted by support from structural funds, primarily the rural development fund and the Cohesion Fund.

1.9. Although impacts on competition with imports from third countries are expected to be neutral, the EESC urges the Commission to take this opportunity to use this development of standards at EU level, in conjunction with the European Food Safety Authority, to reinforce the stance in international standard-setting discussions on water reuse so imports from third countries are also compliant. The EESC has regularly argued for consistency in international agricultural standards and this regulation can set a global benchmark for water reuse⁽¹⁾.

2. Introduction

2.1. Due to climate change and increasing demand, many parts of the EU are already experiencing water stress⁽²⁾, with scarcity and quality problems already affecting one third of EU territory all year round⁽³⁾. Previous opinions from the Committee have highlighted these concerns, urged more investment in waste water treatment for reuse and pointed out that the objective of closing the water cycle no longer seems unrealistic⁽⁴⁾. A large proportion of water resources is used for agricultural irrigation, particularly in southern Member States, where agricultural produce makes a significant economic contribution. The intention of this regulation is not to extend the area already under irrigation but to use existing water resources more safely and efficiently.

2.2. Maintaining consumer confidence in food supplies and the regulatory and inspection system which ensures their safety is, understandably, one of the highest priorities in the Union. This regulation will increase certainty in this area, where currently standards vary considerably between Member States. Potentially, this regulation could increase by 4,9 billion m³ per year the water available for irrigation, with a more than 5 % reduction of water stress overall. It will guarantee the safety of reclaimed water and ensure a high level of protection for human and animal health and the environment.

2.3. This regulation can be regarded as strengthening the circular economy, enhancing the food security of the EU and contributing to public health. It directly addresses the need to set harmonised minimum requirements on the quality of reclaimed water, the great majority of which is used in agriculture. Greater public transparency is provided for by requiring that adequate and up-to-date information on reuse of water is available online. In addition, the proposed regulation contributes to the EU's implementation of the Sustainable Development Goals (SDGs) and in particular SDG 6 on Clean Water and Sanitation. It complements the Commission's proposal for a new Common Agricultural Policy by contributing to better water management in agriculture, with farmers having access to a more sustainable water supply.

2.4. It should be noted that this regulation is presented as part of a rolling programme and the long-term intention is to consider other areas of water reuse. However, this specific regulation is very tightly focussed and deals almost exclusively with the processing of already treated urban waste water to enable it to be used in various forms of agricultural irrigation. Domestic and industrial reuse lie outside the scope of the present proposal and, to some extent, are already covered — for example in the urban waste water treatment directive, currently under revision⁽⁵⁾.

⁽¹⁾ EESC opinion on Agriculture in trade negotiations, paragraph 4.3 (OJ C 173, 31.5.2017, p. 20).

⁽²⁾ Water stress occurs when the demand for water exceeds the available amount during a certain period or when poor quality restricts its use.

⁽³⁾ COM(2012) 672 final.

⁽⁴⁾ EESC opinion on A Blueprint to Safeguard Europe's Water Resources (OJ C 327, 12.11.2013, p. 93).

⁽⁵⁾ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40).

3. Gist of the Commission proposal

3.1. The proposed regulation forms part of an integrated water management approach to tackle the severe and increasing problem of water stress across the EU. Alongside water savings and water efficiency measures, treated water from urban waste water treatment plants can contribute by providing a reliable alternative supply.

3.2. Water reuse generally has a lower environmental impact than other alternative water supplies and can offer a range of environmental, economic and social benefits. The regulation focuses on water reuse for agricultural irrigation, which currently accounts for around a quarter of total freshwater abstracted in the EU.

3.3. As well as to Member States, the regulation will be directly applicable to business operators, potentially stimulating environmental technology development and uptake. The proposal sets minimum requirements for quality and monitoring of reclaimed water, introduces key risk management tasks and offers a harmonised approach to water reuse for irrigation across the EU. Specifically, the proposal sets out:

3.3.1. Minimum requirements for quality of reclaimed water and monitoring, covering microbiological elements (for example, levels of *E. coli* bacteria) and monitoring requirements for routine and validation monitoring. These will guarantee that reclaimed water produced in accordance with the proposed regulation is safe for irrigation.

3.3.2. Key risk management tasks which add an additional layer of protection on top of the minimum requirements, i.e. the identification of any additional hazard that needs to be addressed for water reuse to be safe. This primarily involves the reclamation plant operator drawing up a Water Reuse Risk Management Plan, necessary for issue of a permit by the competent authority, which shall be reviewed at least every five years.

3.3.3. Increased transparency. New transparency rules require that the public will get information online, in a user-friendly way, about water reuse practice in their Member States. An implementing act will be required in order to lay down detailed rules regarding the format and presentation of the information to be provided.

3.4. It is envisaged that Member States will develop data sets containing information on water reuse with the support of the European Environmental Agency, which will regularly provide overviews of the regulation's implementation at Union level. The first evaluation is scheduled six years after the entry into force of the regulation.

3.5. It should be noted that the proposed regulation does not require Member States to undertake waste water treatment for irrigation. Its primary purpose is to create confidence in the wide range of stakeholders — water authorities, farmers, investors and consumers — that the highest standards of safety have been applied consistently in the provision of water used for irrigation purposes. This will be a considerable advance on current practice.

3.6. There is a detailed analysis of technical issues, particularly detection, safety standards and threshold parameters, in the impact assessment as well as in supporting research documentation.

4. General comments

4.1. The Committee positively supports this regulation as contributing to mitigating the pressures of climate change and as being a useful addition to the implementation of the Water Framework Directive (WFD) and the circular economy in general. We note the positive examples of extensive water reuse combined with agricultural production, notably Cyprus and Israel, where nearly 90 % of treated waste water is presently reused. The EESC wonders whether the regulation on water reuse should also have examined the issue of heat recovery from water before it goes to the treatment plant. Such equipment should be installed in single- and multi-family homes, swimming pools and hotels.

4.2. The proposed regulation recognises the primacy of water saving and efficiency measures in the water management hierarchy. The voluntary reuse option will be selected only when it is relevant, safe and cost-efficient. There is considerable scope for the application of water reuse for irrigation, particularly in some of the southern EU Member States where modest

levels are prevalent; for example Italy and Greece reuse 5 % and Spain 12 %, and it is encouraging that water reuse is now increasing at a steady pace.

4.3. The Committee notes that the regulation is designed to establish a uniform approach to quality standards for water for reuse. At present this is not the case. Consumers are generally unaware of the wide variations between Member States concerning the quality of water reused for irrigation. A single minimum standard will encourage uptake and investment as well as provide greater security about health issues for consumers.

4.4. The Committee also notes that concerns about pathogens, contaminants of emerging concern, disinfection by-products and antibiotic resistances have now been provided for (in Annex 2), based on the JRC Science for Policy technical report which explores in great detail the management of health and environmental risks for water reuse in agricultural irrigation⁽⁶⁾. This should ensure that on a project by project basis soils, groundwater, drinking water and food products are protected.

4.5. There are many situations where conventional water resources are generally under-priced and do not reflect the environmental and resource cost. Also, there remains considerable illegal abstraction from rivers and through private boreholes. For this regulation to have its maximum intended impact, effective policing of water resources and an active accountability and enforcement regime needs to be followed in all Member States.

4.6. The proposed regulation establishes a defined authorisation procedure for water reuse projects. This should contribute to a clear distribution of responsibilities among different water cycle players for water reuse.

4.7. The Committee values the opportunity offered by the regulation, which encourages reuse treatment plants being adapted or designed to facilitate 'fertigation'. This is the retention in the processed water, with due regard for safety, of soluble fertilizers such as nitrogen and phosphorus and beneficial, soil enriching organic matter which, in the course of domestic and industrial use, have entered in the water cycle. These additional benefits are understood to be secondary to the primary benefit of providing new water resources through reuse.

5. Specific comments

5.1. It should be noted that the term 'water reuse' refers to the use of water which is generated from (primarily urban) wastewater and which, after treatment, achieves a quality that is appropriate for its intended use.

5.2. The focus of this regulation is primarily on ensuring the quality and safety of water reuse from urban wastewater treatment plants. It is not concerned with the regulation of potable water or with direct water efficiency measures. However, the Committee notes that the effective treatment of wastewater and its reuse has considerable environmental benefits when compared with other options. For example in 2017 drought resulted in an estimated loss of EUR 2 billion for the Italian farming sector and the extreme weather conditions experienced by many Member States in the summer of 2018 are likely to increase this figure across the EU. Water reuse could, however, cover an estimated 47 % of all irrigation demand in Italy but presently is only used to a very limited extent.

5.3. Although the potential for reclaimed water use in agricultural irrigation is overwhelmingly present in the southern Member States, the technical and operational stimulus that this regulation will generate will be of future benefit throughout the EU.

⁽⁶⁾ JRC publication: Towards a legal instrument on water reuse at EU level.

5.4. The responsibility for ensuring food safety standards, which in general are set by the EU with reference to the General Food Law Regulation, lies, as is appropriate, with the Member States. The proposed regulation will ensure that where water is reused for irrigation of food crops consumer safety is paramount. Agricultural imports from third countries are included in the necessity to comply with EU food safety laws though presently there are no specific requirements concerning irrigation practices in third countries. It is argued that common EU standards could serve as a model for third countries, and in particular our bilateral trade partners, though this will be subject to negotiation at international level. Already there is significant use of both untreated and treated waste water for irrigation worldwide, including many countries from which the EU imports agricultural produce.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the alignment of reporting obligations in the field of environment policy and thereby amending Directives 86/278/EEC, 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU, Regulations (EC) No 166/2006 and (EU) No 995/2010, and Council Regulations (EC) No 338/97 and (EC) No 2173/2005’

(COM(2018) 381 final — 2018/0205 (COD))

(2019/C 110/19)

Rapporteur: **Vladimír NOVOTNÝ (CZ-1)**

Consultations	European Parliament, 11.6.2018 Council, 22.6.2018
Legal basis	Articles 114, 192(1), 207 and 304 of the Treaty on the Functioning of the European Union
Bureau decision	17.4.2018 (in anticipation of the referral)
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	5.10.2018
Adopted at plenary	12.12.2018
Plenary session No	359
Outcome of vote (for/against/abstentions)	208/1/2

1. Conclusions and recommendations

1.1. The EESC welcomes the European Commission’s proposal for aligning reporting obligations in environmental policy and expects it to result in increased transparency of reports and their drafting, the provision of an empirical basis for gauging the efficacy of environmental policies, simplified procedures and a lesser administrative burden for both the Commission and the Member States.

1.2. The EESC fully supports the European Commission’s new approach to environmental reporting, which is based on a root-and-branch modernising of procedures for data collection, reporting and subsequent environmental assessment using the INSPIRE and Copernicus systems, transmission of data in real time and their electronic processing. The EESC believes that the Commission’s proposal complies with the better regulation approach and with the REFIT programme.

1.3. The EESC recommends that the central databases of the European Environment Agency (EEA) be used for linking data and information on the environment with geographical, economic and social data and for interpreting this in the round.

1.4. The EESC again urges the need to involve civil society organisations in the drafting and discussion of environmental reports in the Member States.

1.5. The EESC takes the view that adapting to changes in specific environmental reporting requirements works better than a rigidly unified, one-size-fits-all approach, provided the high quality of environmental data and reports is maintained.

1.6. The EESC is convinced that the updating of environmental reporting and the subsequent processing and assessment of environmental data will do a great deal to achieve the aims of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention).

1.7. The EESC calls on EU Member State governments, their authorities and agencies, the European Commission and the European Environment Agency to step up efforts to improve the accessibility, clarity and informative value of environmental reports and information for a broad range of civil society and its organisations in these matters.

1.8. The EESC recommends that the *acquis* regarding data acquisition, information and environmental reporting continue to be regularly evaluated and reviewed in the future, that the interval between the acquisition, processing and publication of data be reduced and that their accessibility, transparency and clarity be increased.

1.9. The EESC calls on environmental organisations to be more active in fostering public awareness of the environmental situation in their countries or regions. It urges the Commission to encourage and finance them in this.

2. The Commission document

2.1. In 2017, the Commission published a comprehensive Fitness Check evaluation on environmental reporting. It covered 181 reporting obligations enshrined in 58 pieces of EU environmental legislation.

2.2. This cross-cutting and comprehensive analysis of reporting obligations⁽¹⁾ was carried out to increase transparency, provide an empirical basis for future evaluations, and simplify and reduce administrative burdens for Member States and the Commission.

2.3. An individual assessment of the items of legislation in question showed there was room for improving the reporting set out in the following:

- Directive 2002/49/EC of the European Parliament and of the Council⁽²⁾ relating to environmental noise⁽³⁾,
- Directive 2004/35/EC of the European Parliament and of the Council⁽⁴⁾: the Environmental Liability Directive⁽⁵⁾,
- Directive 2007/2/EC of the European Parliament and of the Council⁽⁶⁾: the INSPIRE Directive (Infrastructure for Spatial Information)⁽⁷⁾,
- Directive 2009/147/EC of the European Parliament and of the Council⁽⁸⁾ and Council Directive 92/43/EEC⁽⁹⁾: the EU Birds and Habitats Directives⁽¹⁰⁾,
- Directive 2010/63/EU of the European Parliament and of the Council⁽¹¹⁾ on animal testing⁽¹²⁾,
- Regulation (EC) No 166/2006 of the European Parliament and of the Council⁽¹³⁾ on a European Pollutant Release and Transfer Register (E-PRTR)⁽¹⁴⁾,
- Council Directive 86/278/EEC⁽¹⁵⁾ on sewage sludge,
- Regulation (EU) No 995/2010 of the European Parliament and of the Council⁽¹⁶⁾ on timber,

⁽¹⁾ SWD(2017) 230.

⁽²⁾ OJ L 189, 18.7.2002, p. 12.

⁽³⁾ SWD(2016) 454.

⁽⁴⁾ OJ L 143, 30.4.2004, p. 56.

⁽⁵⁾ SWD(2016) 121.

⁽⁶⁾ OJ L 108, 25.4.2007, p. 1.

⁽⁷⁾ COM(2016) 478 and SWD(2016) 273.

⁽⁸⁾ OJ L 20, 26.1.2010, p. 7.

⁽⁹⁾ OJ L 206, 22.7.1992, p. 7.

⁽¹⁰⁾ SWD(2016) 472 final.

⁽¹¹⁾ OJ L 276, 20.10.2010, p. 33.

⁽¹²⁾ COM(2017) 631 and SWD(2017) 353.

⁽¹³⁾ OJ L 33, 4.2.2006, p. 1.

⁽¹⁴⁾ SWD(2017) 711.

⁽¹⁵⁾ OJ L 181, 4.7.1986, p. 6.

⁽¹⁶⁾ OJ L 295, 12.11.2010, p. 23.

- Council Regulation (EC) No 338/97⁽¹⁷⁾ (CITES),
- Council Regulation (EC) No 2173/2005⁽¹⁸⁾ on forest law enforcement, governance and trade (FLEGT).

A process is now under way to align current European Commission proposals — submitted in 2018 — on drinking water, persistent organic pollutants, the reuse of waste water and single-use plastics.

2.4. On the basis of this evaluation, a proposal for aligning the individual pieces of legislation relating to environmental reports and a detailed plan for implementing the proposed amendments were drafted.

2.5. The aim of the proposal is to optimise the existing obligations relating to reporting, transparency and the monitoring of implementation as laid down in EU law, while at the same time respecting the principles of necessity, subsidiarity and proportionality. The proposal also seeks to align the requirements of the legislation concerned and to improve the empirical basis for implementing EU policy.

2.6. The proposal includes steps to improve transparency and subsidiarity (in eight legal acts), simplify or exclude reporting obligations (in seven legal acts), align reporting deadlines (in three legal acts), simplify EU-wide overviews and clarify the role of the EU institutions (in eight legal acts) and prepare for future evaluations (in five legal acts).

2.7. The proposal helps to ensure that the public has access to clear environmental information at national level. It will thus help the public have an overview of what is happening in the environmental field in Europe as a whole and will help national public authorities handle cross-border issues. The proposal should also reduce the burden on Member States, bolster subsidiarity and make information on implementation more available to the public.

3. General comments

3.1. The EESC welcomes the proposal for a regulation of the European Parliament and of the Council on the alignment of environmental reporting obligations⁽¹⁹⁾ as a fundamental step towards the overall modernisation of the way that environmental reports are drafted and submitted. It supports the use of the INSPIRE and Copernicus systems, electronic data processing tools, real-time data transmission and, in terms of communication, moving away from formal written reports towards building dynamic central databases at the level of the European Commission and the European Environment Agency. Echoing the Commission's view and the text of the proposal for a regulation, the EESC also notes that these are purely procedural and not substantive changes in the various legal documents concerning the selection of environmental indicators, the list of regulated substances and their limits.

3.2. Simplifying and aligning the procedures for drafting and submitting environmental reports will, in the EESC's view, make these reports more effective and transparent. The EESC expects the proposal to result in a reduced burden and reduced costs with regard to reporting requirements as laid down in EU environmental legislation and to a marked reduction in the interval between data acquisition and publication.

3.3. The EESC thinks it essential to increase not just the availability of reports, but also the clarity of these and of information for large sections of civil society. It reiterates civil society's vital role not only as a user of environmental information, but also as an active participant in collecting, compiling and discussing this information and these reports. In this connection, the EESC stresses the importance of assessing environmental impacts and the involvement of civil society in discussions on this.

⁽¹⁷⁾ OJ L 61, 3.3.1997, p. 1.

⁽¹⁸⁾ OJ L 347, 30.12.2005, p. 1.

⁽¹⁹⁾ COM(2018) 381 final — 2018/0205 (COD).

3.4. The proposal to revise a number of existing pieces of legislation falls within the Commission's regulatory fitness and performance programme (REFIT⁽²⁰⁾). The EESC has adopted an opinion on The REFIT Programme⁽²¹⁾, in which it expressed concern about the shortcomings identified in environmental impact assessments and emphasised the need for an integrated and balanced assessment of the social, economic and environmental dimensions.

3.5. In its opinion on The EU Environmental Implementation Review⁽²²⁾, the EESC highlighted the importance of involving civil society in decision-making and review, and this is also relevant with regard to reviewing legislation on environmental reporting.

3.6. The European Commission proposal contains cross-references to Directive 2003/4/EC of the European Parliament and of the Council⁽²³⁾ on public access to environmental information and Directive 2007/2/EC on spatial information, and ensures consistency with the requirements of these directives. The EESC has adopted an opinion on Access to justice at national level related to measures implementing EU environmental law⁽²⁴⁾, in which it stressed the importance of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention).

3.7. The EESC draws attention to the fact that, while the European Commission's proposal refers only to environmental reporting as required by EU legislation, a significant amount of environmental reporting is provided on a voluntary basis at the level of businesses, trade unions, cities, municipalities, other organisations and civil society organisations.

3.7.1. Examples of such voluntary activities including environmental reports are: the Global Reporting Initiative (GRI) reported at corporate level; trade association reports, such as the Responsible Care Initiative (CEFIC) in the chemical industry; and CSR (Corporate Social Responsibility) reports, which often include an environmental element.

3.7.2. Environmental impact assessments and related information are also provided to the public as part of the environmental management systems of the EMS and EMAS.

3.7.3. The active role of civil society organisations in examining reports in these contexts has long proven its worth, increasing the confidence of civil society on the one hand and business on the other. At the local and international level, environmental impact assessment procedures are also being applied in the field of environmental information.

4. Specific comments

4.1. *Improving transparency and subsidiarity*

The EESC believes that the European Commission's proposal improves transparency and enables more user-friendly public access to environmental information, while preserving subsidiarity.

4.2. *Simplifying or excluding reporting obligations*

The EESC feels that in order to reduce administrative burdens it would be useful to simplify or find an appropriate substitute for the process of providing text-based information and focus on better public access to information. The EESC calls on the European Commission to initiate work to establish a number of core composite environmental indicators that would be clear for the wider public in all EU countries. This would make it easier to get an opinion on environmental protection within countries or regions and trigger initiatives geared to finding changes for the better.

⁽²⁰⁾ https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly_en

⁽²¹⁾ EESC opinion on the REFIT Programme (OJ C 230, 14.7.2015, p. 66).

⁽²²⁾ EESC opinion on Environmental Implementation Review (OJ C 345, 13.10.2017, p. 114).

⁽²³⁾ OJ L 41, 14.2.2003, p. 26.

⁽²⁴⁾ EESC opinion on Access to justice at national level related to measures implementing EU environmental law (OJ C 129, 11.4.2018, p. 65).

4.3. *Aligning timing of reporting*

The EESC supports the streamlining of deadlines for the submission of noise maps and action plans under Directive 2002/49/EC⁽²⁵⁾, the creation of sufficient time for public consultation and the strengthening of civil society participation when reviewing or revising action plans. The EESC supports similar arrangements in other legislation, provided there is no reduction in the quality and availability of environmental data and reports.

4.4. *Simplifying EU-wide overviews/clarifying the roles of institutions*

In the EESC's view, it is necessary to clarify and be more specific about the role of the Commission and the European Environment Agency in the relevant reporting processes.

4.5. *Preparing for future evaluations*

The EESC welcomes the fact that the evaluation carried out by the European Commission has revealed a number of duplications, missing links and non-essential requirements both in the data and reporting structure and the frequency requirements, as well as other shortcomings in their effectiveness. The EESC is convinced that further shortcomings will also be found in the future. It therefore recommends that a regular evaluation be performed of the functioning of the *acquis* in this area. The Commission should carry out evaluations and require Member States to provide the information that is needed for these evaluations. In its opinion SC/045 on Future proof legislation⁽²⁶⁾, the EESC made recommendations for how to proceed in relation to future legislation.

4.6. *Data in context*

The EESC recommends that the central databases of the European Environment Agency be constructed in such a way that environmental data and information are linked with geographical, economic and social data to enable them to be interpreted in a comprehensive and objective way. The EESC welcomes the European Commission's moves to introduce better regulation to reduce the administrative burden in relation to the revision of the reporting obligations under Regulation (EC) No 166/2006 on a European Pollutant Release and Transfer Register (E-PRTR) concerning obligations that are of limited importance. At the same time, the EESC points to the need for the confidentiality principle to be respected with regard to certain trade secrets, though this should not create a barrier to the transparency and availability of environmental reports and data.

4.7. *Some selective changes*

The EESC thinks the proposed changes should in future be adapted to the specifics of particular legal provisions introducing environmental reporting obligations and not be governed by a unified, one-size-fits-all approach. The EESC also supports the alignment of reporting deadlines between Directive 2009/147/EC (the Birds Directive) and Directive 92/43/EEC (the Habitats Directive).

4.8. *Encouraging active public involvement in environmental issues*

The EESC calls on environmental organisations to be more active in fostering public awareness of the environmental situation in their countries or regions. It urges the Commission to encourage and finance them in this.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²⁵⁾ Directive 2007/2/EC.

⁽²⁶⁾ EESC opinion on Future proof regulation (OJ C 487, 28.12.2016, p. 51).

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and the Council on the European Maritime and Fisheries Fund and repealing Regulation (EU) No 508/2014 of the European Parliament and the Council'

(COM(2018) 390 final — 2018/0210 (COD))

(2019/C 110/20)

Rapporteur: **Brian CURTIS (UK-II)**

Council referral	12.7.2018
European Parliament referral	2.7.2018
Legal basis	Articles 42, 43(2), 91(1), 100(2), 173(3), 175, 188, 192(1), 194(2), 304 and 349 of TFEU
Bureau decision	22.5.2018 (in anticipation of the referral)
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	27.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	214/1/3

1. Conclusions and recommendations

1.1. The EESC welcomes the Commission proposal, which provides a more flexible system for the Member States in line with their strategic priorities, and aims to support a sustainable business model for fishers and maintain the competitiveness of the fisheries sector. In particular, the EESC asks for rapid approval, a more accessible financing mechanism and a more proportionate and harmonised sanctions system. The organised civil society and the regional stakeholder platforms should be involved at every stage of the process, from drafting national plans to implementation and final assessment.

1.2. The EESC considers that the current budget for the EMFF should be maintained (EUR 6,4 billion). This is crucial to achieving the radical changes and upgrades requested by the European Union to the fisheries sector. In particular, it should be noted that the current EMFF amounts to 0,6 % of the MFF 2014-2020, meaning that any reduction in its funding will have a negligible impact on the overall EU budget but may have dire consequences for many coastal regions.

1.3. The EESC notes that the Commission proposal is not based on a detailed economic and social impact assessment. This shortcoming is aggravated by the fact that the fisheries sector has been in crisis for more than 20 years. The Committee therefore requires the prompt involvement of the European Commission (specifically DG Employment) and the launch of sector-based social dialogue to identify the most appropriate measures to compensate for the economic and social impact.

1.4. The EESC points out that aquaculture and the blue economy are still very far from compensating for the loss of enterprises and workplaces. The Committee encourages the Commission and the Member States to establish a simplified mechanism both for new aquaculture projects and for modernising existing ones.

1.5. The new EMFF should give priority to the social dimension to strengthen and fund measures for the promotion and support of social dialogue, safety, working conditions and capacity building, enhancing the competence of workers and the 'generational renewal'.

1.6. The Committee encourages the European Commission and the Member States to take stronger action by enforcing the full traceability of imports, from both an IUU and a food safety perspective. The fight against any form of slavery and exploitation either on board or during on-shore processing should be a cornerstone of the new global EU strategy on fishery and ocean governance.

1.7. The EESC recommends the financing of new ships to replace old ones provided that the fleet concerned has no excess capacity and the target species are fished at MSY levels. This measure should include the use of more sustainable and efficient engines to reduce CO₂ emissions and to ensure crew safety.

1.8. The Committee recommends maintaining the current criteria for providing financial support and compensation in case of temporary or permanent cessation of fishing activity. It is important that both fishers and the owners of fishing vessels can benefit from these financial tools.

1.9. The Committee endorses the proposal for specific measures in favour of small-scale coastal fishing, which is a vital driver for the livelihoods and cultural heritage of many coastal communities. Nevertheless, in order to support a sustainable business model for small-scale fishing it is also important to establish tailored conservation and technical measures where it is more widespread (e.g. the Mediterranean Sea). Such measures should be adapted to the different forms of fishing and the biological characteristics of each sea. The EESC considers that effective data collection, control and enforcement are essential pre-conditions for responsible fisheries management that boosts social and economic benefits for fishers and local communities.

2. Introduction and methodology

2.1. The new European Maritime and Fisheries Fund (EMFF) is part of the Multiannual Financial Framework (MFF) 2021-2027. The EMFF is a fundamental tool to support the achievement of the objectives of the Common Fisheries Policy (CFP), foster the implementation of the Union's maritime policy and strengthen international ocean governance, especially in the framework of the 2030 Agenda for Sustainable Development.

2.2. The European Economic and Social Committee (EESC) sees the EU's new long-term budget as a crucial factor for sustainable development, growth and cohesion, and more generally for the future of Europe. For this reason, this opinion is closely connected to all the others analysing specific funds under the new MFF 2021-2027 ⁽¹⁾.

3. Gist of the proposal

3.1. The new EMFF 2021-2027 will focus on four priorities:

- Fostering sustainable fisheries and the conservation of marine biological resources;
- Contributing to food security through sustainable and competitive aquaculture and markets;
- Enabling the growth of a sustainable blue economy and fostering prosperous coastal communities;
- Strengthening international ocean governance and enabling safe, secure, clean and sustainably managed seas and oceans.

3.2. The new EMFF budget will amount to EUR 6,14 billion in current prices. The resources are mainly split between shared and direct management. EUR 5,31 billion are allocated under shared management with Member States and EUR 0,83 billion under direct management by the European Commission.

3.3. The Commission proposal aims to overcome the limitations of the EMFF 2014-2020 and to establish a financing system able to cope with new challenges in the framework of the Sustainable Development Goals. The main features of the new EMFF are as follows:

⁽¹⁾ EESC opinions: *Multiannual Financial Framework after 2020* (OJ C 440, 6.12.2018, p. 106); *Common Provisions Regulation 2021-2027* (OJ C 62, 15.2.2019, p. 83); *Regulation on the European Regional Development Fund and Cohesion Fund 2021-2027* (OJ C 62, 15.2.2019, p. 90); *Regulation on European Territorial Cooperation 2021-2027* (OJ C 440, 6.12.2018, p. 116); *Regulation on cross-border cooperation 2021-2027* (OJ C 440, 6.12.2018, p. 124); *European Social Fund +* (OJ C 62, 15.2.2019, p. 165); *Proposal for Horizon Europe (the new FP9)* (OJ C 62, 15.2.2019, p. 33).

3.3.1. Simplification

The 2014-2020 EMFF is based on a rigid description of financing possibilities and eligibility rules, which has complicated implementation for Member States and beneficiaries. The 2021-2027 EMFF provides a wider range of possibilities whereby Member States can target support for their strategic priorities. In particular, the regulation describes different areas of support under each priority, providing a flexible framework for implementation. Member States will prepare their programme indicating the most appropriate methods for achieving the priorities. They will be granted flexibility with regard to the eligibility rules.

3.3.2. Alignment with other EU funds

In the new MFF, rules applying to all the funds are set out in a Common Provisions Regulation (CPR). In particular, specific synergies with other funds (ERDF, ESF, etc.) will be developed.

3.3.3. Conditionality

In line with the UN Conference on Sustainable Development (Rio+20) and SDG No 14 on conservation and sustainable use of oceans, the EU is committed to promoting a sustainable blue economy, the conservation of biological resources and the achievement of good environmental status, to prohibiting certain forms of fisheries subsidies which contribute to overcapacity and overfishing, to eliminating subsidies that contribute to illegal, unreported and unregulated (IUU) fishing and to refraining from introducing such subsidies. For this reason, the regulation establishes restrictions and conditions ("ineligible operations") in order to avoid negative impacts on fisheries conservation.

3.3.4. Focus on performance

The performance of EMFF support will be assessed on the basis of indicators. Member States will report on progress towards established milestones and targets. The Commission will carry out an annual performance review based on performance reports prepared by the Member States, allowing for early detection of potential implementation issues and corrective actions.

3.3.5. Environmental, social and economic sustainability

Sustainable fishing and aquaculture are amongst the main goals of CFP. In line with a broad concept of sustainability, economic, social and employment benefits should be pursued along with environmental objectives. Maximum sustainable yield (MSY) will remain the key method for ensuring sustainable fishing. Support will be provided for the transition to more sustainable activities. Compensation for the extraordinary cessation of fishing activities will be granted only if the impact of such circumstances on fishers is significant⁽²⁾. Small-scale coastal fishing, outermost regions, generational renewal, education and training, and health and safety at work will all have a specific focus and support under the new EMFF. The landing obligation could remain a critical aspect due to its huge financial implications. For this reason, the EMFF will support innovation and investments that contribute to the implementation of the landing obligation, such as investments in selective fishing gears, in the improvement of port infrastructure and in the marketing of unwanted catches. Finally, support will be provided for fishers and ports for modern collection and waste management of lost fishing gears and marine litter.

3.4. More than 60 % of the fish consumed in the EU is imported from third countries⁽³⁾. In order to fill the gap it is even necessary, besides fishing activities, to support aquaculture, which provides fish which meet high quality standards and which are available at affordable prices. For this reason, the EMFF will support the promotion and sustainable development of aquaculture, including freshwater aquaculture.

3.5. 60 % of the oceans are beyond the borders of national jurisdiction. This means that the EU will need to be more active and play a stronger role in the global challenge of ocean governance. The EMFF will support this commitment for safe, secure, clean and sustainably managed oceans under direct management. Finally, improved border protection (coastguard cooperation) and maritime surveillance are emerging challenges that will be financed by the 2021-2017 EMFF.

⁽²⁾ If the commercial activities of the vessel concerned are stopped for at least 90 consecutive days and if the economic losses resulting from the cessation amount to more than 30 % of the average annual turnover of the business concerned during a specified period of time.

⁽³⁾ COM(2018) 390 p. 12.

3.6. This support will be complemented by specific funding for the European Fisheries Control Agency, the sustainable fisheries partnership agreements (SFPAs) and the Union's membership in regional fisheries management organisations (RFMOs) and other international organisations, which also contribute to the enforcement of the Union's policies in the fisheries and maritime sectors.

4. General comments

4.1. The EESC welcomes the Commission proposal which provides a more flexible system for the Member States in line with their strategic priorities, and aims to support a sustainable business model for fishers and maintain the competitiveness of the fisheries sector. In particular, the Committee points out that the main problem of the current EMFF is the low level of implementation⁽⁴⁾. This situation has two main causes:

- Late approval and consequent late implementation. The co-legislators only adopted the EMFF Regulation in May 2014, and then the Member States needed additional time to devise and approve their national programmes.
- The current system is too complicated and bureaucratic. Moreover, many fishers hesitate before applying for funding due to the disproportionate financial risk they may incur. According to Article 12.2 of the proposal (which maintains the existing provisions), if during a period of five years following the final payment, they commit any serious infringement⁽⁵⁾, they will become retroactively ineligible and be obliged to refund everything they received. Such a requirement should be removed.

4.2. For the reasons outlined above, the EESC asks for rapid approval, a more accessible financing mechanism and a more proportionate and harmonised sanctions system. All fishers should consider the EMFF to be a user-friendly system intended to improve their activity in terms of sustainability and quality. This aspect will play a crucial role for the implementation and respect of the new fishing control system recently proposed by the European Commission⁽⁶⁾. The Committee recommends that organised civil society and the regional stakeholder platforms be involved at every stage of the process, from drafting national plans to implementation and final assessment.

4.3. The new EMFF budget (EUR 6,14 billion) has been reduced (— 4 %) compared to the ongoing 2014-2020 EMFF (EUR 6,4 billion). The EESC is aware that Brexit is a solid reason for this financial cut. Nevertheless, the EESC points out that the radical changes requested by the European Union of the fisheries sector, which employs 150 000 fishers and, throughout the whole value chain, 730 000 workers generating almost EUR 400 billion a year in wages and net profit, need a higher amount or, at least, no cut to the current budget. It should be noted that the current EMFF amounts to 0,6 % of the MFF 2014-2020, meaning that any reduction in its funding will have a negligible impact on the overall EU budget but may have dire consequences for many coastal regions.

4.4. The EESC notes that the Commission proposal is not based on a detailed economic and social impact assessment. This shortcoming is aggravated by the fact that the fisheries sector has been in crisis for more than 20 years and the measures provided for to achieve more sustainable fisheries and aquaculture were unable to reverse the trend⁽⁷⁾. The Committee therefore requires the prompt involvement of the European Commission (specifically DG Employment) and the launch of sector-based social dialogue⁽⁸⁾ to identify the most appropriate measures to compensate for the economic and social impact.

⁽⁴⁾ The current EMFF 2014-2020 has been implemented to a very limited extent. In particular, 29 % of financial resources have been allocated to selected projects and just 8 % of the total budget has been spent by the selected projects. Data: European Commission. <https://cohesiondata.ec.europa.eu/funds/emff#>

⁽⁵⁾ A serious infringement carries a penalty. Such a penalty may vary in proportion to the seriousness of the infringement. In Spain, for example, it may vary between 601 and 60 000 euros. This means that a fisher could be sentenced to a penalty, proportionate to the gravity of the infringement, of only 601 euros, but as a result of Article 10.2 he could lose up to hundreds of thousands of euros of support for an investment which may have been completed and paid for five years earlier. This impact is particularly huge on small-scale fishing.

⁽⁶⁾ EESC opinion on *Fisheries control* (see page 118 of this Official Journal).

⁽⁷⁾ For example, in Italy, on 8 000 km of coasts, the number of fishing vessels fell by around 33 % in the last 30 years. Ships are on average 34 years old and need urgent upgrades or to be replaced with new ones. 18 000 workplaces were lost in this period (the fishing sector in Italy has 25 000 workers). Data: Mipaaf, 2016.

⁽⁸⁾ EU Sectoral Social Dialogue Committee — Sea Fisheries (EUSSDC).

4.5. The EESC points out that the measures undertaken to develop aquaculture and the blue economy are still very far from compensating for the loss of enterprises and workplaces, mainly due to an excessively bureaucratic system. The Committee encourages the Commission and the Member States to facilitate a simplified mechanism both for new aquaculture projects and for modernising existing ones with a specific focus, at regional level, with a definition of allocation zones of aquaculture (AZA).

4.6. Sustainable fisheries remains the main goal and the fisheries sector should be enabled to achieve it. However, this priority as proposed by the Commission does not clarify whether measures financed under the current EMFF are included for the improvement of working and security conditions, e.g. for training, advisory services, promotion of human capital, social dialogue, young fishers or health and safety. As identified by industry and administrations, there is a problem of shortages of skilled professionals, which hinders the 'generational renewal'. The EESC urges the co-legislators to give priority to the social dimension to strengthen and fund measures for the promotion and support of social dialogue, safety, working conditions and capacity building, enhancing the competence of workers. Otherwise, young professionals will not be attracted by this industry.

4.7. Modernisation of vessels to increase safety on board without increasing fishing capacity, generational renewal and adequate working conditions, training and salaries are crucial indicators of the EU's shortcomings in growth and strength. The EMFF should engage fishers in marine biodiversity conservation also through the support of innovative gears to increase selectivity, impact studies or mitigation of fisheries impacts, among others. In this framework, the 'downshifting' approach taken by the Commission will not be able to solve all problems linked to sustainability and competitiveness.

4.8. The EESC notes that most of the fish imported from third countries have been fished less sustainably than comparable EU catches, not to mention working conditions either on board or for on-shore processing. The resulting lower prices amount to unfair competition with EU fishers, harming any prospects of achieving stable minimum prices 'at the first sale' which are a prerequisite for their survival. The Committee encourages the European Commission and the Member States to take stronger action by enforcing the full traceability of imports, from both an IUU and a food safety perspective, and to organise awareness-raising campaigns to inform consumers about European fish quality. Dubious retail practices such as displaying thawed fish on fresh fish counters without clear and unequivocal labelling must also be reined in.

5. Specific comments

5.1. The Committee endorses the new approach taken by the European Commission, which aims to establish a general framework without prescriptive measures, offering more flexibility for Member States, implementing authorities and beneficiaries. In particular, this simplified system should give the opportunity to create tailor-made national programmes. This, however, needs to take place ensuring a level playing field for the access to funding across the EU. Moreover, the CPR, which includes all implementing rules, should facilitate joint use of different EU financing programmes. Clear mechanisms should be established to verify that public money is in fact spent where it is most needed and that financial aid is allocated for the sustainable management of the oceans.

5.2. The EESC supports the proposal to establish four main priorities. In particular, the Committee welcomes the specific focus on ocean governance and local development, in line with its previous opinions, in order to meet the SDGs and support small-scale fisheries⁽⁹⁾. Nevertheless, the EESC, points out that recently cases of slavery and exploitation have been discovered on European vessels⁽¹⁰⁾ and unfortunately, such practices are even more widespread in third countries (including child slavery). The Committee considers that the new global strategy undertaken by the Commission should consider the fight against every form of human exploitation as a cornerstone.

5.3. The Committee considers the renewal of the fleet to be a key problem because, on average, European fishing vessels are more than 30 years old and a simple upgrade is often not enough. It is for this reason that the EESC recommends encouraging the financing of new ships to replace old ones provided that the fleet concerned has no excess capacity and the target species are fished at MSY levels. In addition, in view of the IMO strategy on the reduction of greenhouse gas emissions

⁽⁹⁾ EESC opinion on *Multiannual plan for small pelagic fisheries in the Adriatic Sea* (OJ C 288, 31.8.2017, p. 68).

⁽¹⁰⁾ <https://www.theguardian.com/world/2018/may/18/we-thought-slavery-had-gone-away-african-men-exploited-on-irish-boats>

from ships that aims to reduce total annual emissions by at least 50 % by 2050, larger ships need to change their engines to adapt to and comply with this international objective. It is therefore essential to include the procurement of more sustainable and efficient engines to reduce CO₂ emissions and to ensure crew safety. In fact, as estimated by the FAO, fishing is a potentially dangerous activity and proper training for health and safety at work is needed in order to reduce the number of fatalities, injuries and work-related illnesses ⁽¹¹⁾. For all these reasons, it should be important to separate fishing capacity and biodiversity protection from fleet and engine renewal.

5.4. Support for temporary cessation has played a crucial role in improving the status of stocks, particularly as regards closed seasons, while at the same time partially compensating fishers for their loss of income. The Commission maintains this measure in the new financial framework but proposes new requirements which did not exist in the previous regulation. In view of the absence of reports on the misuse of funds for the purpose of temporary cessation, the Commission should respect and maintain the previous criteria in order to provide this assistance to the largest number of fishers who may need it. The same principle should be applied to permanent cessation. In both cases, it is important that fishers benefit from this financial support and not just the owner of fishing vessels, as established by the current EMFF.

5.5. Fishing is a seasonal activity and catches can be uncertain, exceeding at times the needs of the market. It is therefore necessary to have the means to manage production surpluses properly, helping to stabilise part of the production before putting it up for sale, in particular in the event of a reduction in catches. To achieve this, the EMFF should continue to support producer organisations that need a temporary storage mechanism for fishery products intended for human consumption. To ensure its full operability, this aid should be made available without delay. In this regard, the EESC supports the maintenance of mechanisms to compensate for the cost of storage.

5.6. Generational renewal is another critical issue for the future of the sector. Some new initiatives to facilitate the purchase of a second-hand vessel, vocational training and improved working conditions can be useful, but they do not solve the main problem: low return on investments. This is particularly clear in small-scale fisheries, with vessels below 12 m operated at family level. The EESC notes that the constant loss of vessels and workplaces contradicts the Commission forecast of doubling the output of the EU fishing sector by 2030, in line with estimated global growth ⁽¹²⁾.

5.7. The Committee endorses the proposal for specific measures in favour of small-scale coastal fishing, which is a vital driver for the livelihoods and cultural heritage of many coastal communities. This represents 75 % of all fishing vessels registered in the EU and nearly half of all jobs. During the last decades, traditional and small-scale fisheries paid the highest price for the crisis and need a specific strategy to recover a solid position in the market. This initiative will also have positive effects on depressed local communities.

5.8. The Committee considers that innovative approaches are needed to manage small-scale fishing rights, and further collaboration is essential to help the sector to manage their quotas/days at sea, link production with marketing, or solve choke species issues. Coastal communities and the marine environment will benefit most when fishing opportunities are allocated on the basis of transparent environmental, social and economic criteria. Funds promoting sustainability and participatory processes may contribute to tackling these challenges and include actions such as facilitating workshops or designing participatory processes to interact with scientist and other stakeholders.

5.9. Community-led local development (CLLD) has been a very useful tool during the 2014-2020 programming period. This strategy played an important role in boosting economic diversification in local communities. For this reason, the Committee endorses the proposal to extend it to cover all blue economy sectors. The allocation of funding for a sustainable blue economy should however ensure social and economic benefits for current and future generations, restore and protect the diversity, productivity, resilience, and intrinsic value of marine ecosystems; and promote clean technologies, renewable energy and circular material flows.

⁽¹¹⁾ FAO estimates over 32 000 fatalities in the fishery sector per year at global level (<https://safety4sea.com/fishers-fatalities-give-impetus-to-fishing-vessel-safety-work/>).

⁽¹²⁾ OECD, Ocean Economy in 2030, 2016.

5.10. The Committee sees the 2017 Malta Declaration 'MedFish4Ever' as a cornerstone of EU action. Nevertheless, the EESC believes that specific conservation and technical measures should be adapted to the different forms of fishing and the biological characteristics of the Mediterranean Sea. In fact, the EESC has noted that the successful model offered by the multiannual plan for single-species fisheries (e.g. Baltic Sea) is less effective for mixed fisheries (e.g. Mediterranean Sea)⁽¹³⁾. Moreover, fishing methods in Northern and Southern Europe are completely different. In particular, fishing in the Mediterranean Sea is characterised by small-scale and traditional fisheries⁽¹⁴⁾. For this reason, the Committee recommends promoting research into stock assessment and data collection in order to prepare tailored, more efficient systems to protect biodiversity. Effective data collection, control and enforcement are essential pre-conditions for responsible fisheries management that boost social and economic benefits for fishers and local communities.

5.11. As already forecast by the EESC⁽¹⁵⁾, the landing obligation is one of the main problems for the sector, both for fishing companies and for the national authorities, due to its complexity and the high costs of transitioning to more sustainable fishing (i.e. use of specific selective gears). The new Commission proposal on fisheries control⁽¹⁶⁾ should extend the current obligations for small-scale vessels and, in general, will establish new duties and tasks for the entire sector (i.e. CCTV compulsory on board). The EESC considers that a more simplified, flexible and pragmatic control system is needed, and proper support should be provided at national level to a high number of vessels. For this reason, the successful implementation of the new control system is strictly linked to the rapid and full implementation of the EMFF 2021-2027 in order to help all fishers to comply with the new regulation⁽¹⁷⁾.

5.12. The EESC points out that the new EU directive on reducing the impact of certain plastic products⁽¹⁸⁾ (i.e. used fishing gears) combined with the new directive on port reception facilities⁽¹⁹⁾ open up new scenarios and opportunities for sustainable fisheries and the circular economy. The measure intended to encourage the return of fishing gear through incentives for fishers should be extended to the return of all other waste and marine litter collected during fishing activities.

5.13. This initiative should be fundamental for the sector because, according to the laws currently in force, fishers are obliged to pay to dispose of them in the ports. This means that, nowadays, fishers pay to clean up the ocean and dispose of waste that they have not themselves produced, but rather collected. The EESC believes that fishers could provide important added value and, with adequate training, the act of cleaning up could become another profitable economic activity along the same lines as fishing tourism (the blue economy)⁽²⁰⁾.

5.14. The EESC, in line with the Commission proposal to allocate 25 % of the entire EU budget to action for climate change, proposes that a significant share of this money be allocated to the renovation of ports, in order to 'close the loop' of marine litter management and foster a circular economy. Specific funds, in the framework of a broader strategy of marine litter prevention, should be allocated to cleaning up rivers⁽²¹⁾. The EESC considers that models of open governance involving public authorities and organised civil society at local level, such as 'river contracts', could be replicated with a structured approach, promoting the creation of cross-border networks⁽²²⁾.

5.15. Many stakeholders have pinpointed difficulties in achieving a level playing field in areas where there are other uses of the sea, particularly in areas shared with fleets from third countries⁽²³⁾. For this reason, a stronger EU role in international ocean governance could offer more opportunities in terms of environmental sustainability and fair competition.

⁽¹³⁾ GFCM, *The State of Mediterranean and Black Sea Fisheries*, 2016, p. 26. As highlighted by the GFCM-FAO, in single-species seas it is easier to carry out targeted fishing because few types of fish coexist there and so it is easy to set catch limitations. In contrast, in multi-species seas many species of fish can be found in the same area.

⁽¹⁴⁾ EESC opinion on *Reform of CFP*, point 1.3 (OJ C 181, 21.6.2012, p. 183) and *Multianual plan for small pelagic fisheries in the Adriatic Sea* (OJ C 288, 31.8.2017, p. 68).

⁽¹⁵⁾ EESC opinion on *Landing Obligation* (OJ C 311, 12.9.2014, p. 68). Point 1.2 '*Commission's proposal is unnecessarily complicated and will generate an undue and disproportionate amount of additional work for fishing operators when it comes to applying the landing obligation. As a result, it advocates opting for more pragmatic, clear, straightforward and flexible rules that genuinely give fishing operators time to adapt during a transitional period, without facing heavy penalties.*'

⁽¹⁶⁾ COM(2018) 368.

⁽¹⁷⁾ See footnote 6.

⁽¹⁸⁾ COM(2018) 340 final.

⁽¹⁹⁾ COM(2018) 33 final.

⁽²⁰⁾ EESC opinion on *Single use of plastics* (OJ C 62, 15.2.2019, p. 207).

⁽²¹⁾ UNEP Report, 2016. 80 % of marine litter proceeds from rivers.

⁽²²⁾ See footnote 20.

⁽²³⁾ MEDAC, questions on post-2020 EU funding for fisheries and maritime sector, February 2018.

5.16. The EESC supports the enforcement of controls on ships from third countries. Moreover, the Committee points out that a better traceability system for fish from third countries would be useful for tackling fraud and guaranteeing food safety.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

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: A Europe that protects: clean air for all'

(COM(2018) 330 final)

(2019/C 110/21)

Rapporteur: **Octavian Cătălin ALBU**

Referral	European Commission, 18/06/2018
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	19.6.2018
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	27.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	129/0/3

1. Conclusions and recommendations

1.1. In the last 30 years, air quality in the European Union (EU) has increased as a result of relevant policies enacted across the Union. However, there is still much to be done, with authorised values for the main categories of air pollutants recorded as being exceeded on many occasions. The EESC urges the Member States to cooperate closely, as this issue is critical for Europeans' health. The EESC feels that it is important to sound the alarm regarding air quality and environmental conditions.

1.2. The EESC considers that it is imperative to reduce pollution in the commercial, institutional, household and transport sectors. The institutions and Member States must set a good example here, and more support programmes must be set up to help individuals shift to clean, modern and more energy efficient forms of heating.

1.3. Since transport is one of the main sources of air pollution, the EESC welcomes the clean mobility package that includes several initiatives that, as well as lowering CO₂ emissions, will also decrease local and regional pollution.

1.4. The additional legislative measures proposed by the European Commission to remedy certain problems, such as Dieselgate, or action taken against Member States which have failed to comply with current rules on air pollution are a step in the right direction and the EESC endorses this approach.

1.5. The EESC firmly believes that the new environmental and transport regulations must be flanked by economic support measures to promote innovation and the development of new clean technologies, such as fuel cells, electric cars and alternative heating and ventilation systems.

1.6. The EESC is concerned that although progress with regard to reducing air pollution has been made in the agricultural sector, it is not enough. The EESC recommends that in future, the common agricultural policy, together with other financial and investment instruments, should focus more on initiatives to reduce the environmental impact and be more consistent and coherent with regard to aid granted to farmers with a view to implementing programmes which aim to meet this goal. One good idea here is cooperatives, where farmers can generate electricity from biogas produced from farming waste.

1.7. International cooperation is crucial for combating pollution and climate change, and the EESC welcomes the broad consensus among Member States on meeting the Paris Agreement objectives. The exchange of good practices in this area and the Green Diplomacy Network are very important. Furthermore, specific measures are needed to reduce pollutants in the Member States in order to meet the Agreement's targets.

1.8. The EESC urges the Member States to cooperate closely, as this issue is critical for Europeans' health. The EESC also recommends that the Member States and the European Commission work as closely as possible with civil society and the representatives of local and regional civic organisations to develop and carry out environmental protection programmes as well as campaigns to educate, inform and raise awareness among the general public regarding air quality.

2. Introduction

2.1. In the last twenty to thirty years, air quality in the EU has improved significantly thanks to specific policies implemented by the EU and the Member States in this area. These policies have sought to achieve a level of air quality which does not harm or pose a significant threat to human health and the environment. As a result, although the EU's GDP has increased, the quantity of pollutants in the atmosphere has fallen by 8 % for ammonia and 72 % for sulphur oxides ⁽¹⁾.

2.2. Air quality is a determining factor in public health. The biggest sources of air pollution are particulate matter (PM₁₀ and PM_{2,5}) and ground level ozone, which is directly affected by nitrogen oxides (NO_x) released into the atmosphere. According to the World Health Organisation, exposure to air pollution in the form of fine particles is responsible for 8 % of all deaths caused by lung cancer and 3 % of all deaths due to cardiovascular disease ⁽²⁾. These causes are responsible for over 400 000 premature deaths in the EU each year ⁽³⁾.

2.3. In view of this, there is growing concern among EU citizens regarding air pollution levels ⁽⁴⁾. As a result, by means of legislation, the EU and the Member States have set the goal of achieving a level of air quality that does not harm people's health or the environment, and are gradually reducing harmful emissions through full compliance with current EU legislation on air quality.

2.4. EU policies in this field are based around three pillars:

- the first pillar comprises the ambient air quality standards, to be attained by all Member States from — depending on the pollutant — 2005 or 2010,
- the second pillar consists of national emission reduction targets, which were recently revised and which have to be met by 2020 and 2030 and include an additional pollutant: fine particulate matter (PM_{2,5}),
- the third pillar comprises emissions standards for key sources of pollution: vehicles, ships and industrial and energy plants. Following the 2015 Dieselgate scandal, the package of Real Driving Emissions rules was established, and the Commission has proposed new lower CO₂ emission standards for new cars, vans and heavy-duty vehicles.

2.5. According to the 2017 EEA report on air quality in Europe, the main sources of air pollution in Europe are transport (road and otherwise), combustion for commercial/institutional/household use, energy generation, industrial processes, the agricultural sector and waste ⁽⁵⁾.

⁽¹⁾ *Air quality in Europe — 2017 report.*

⁽²⁾ 9 out of 10 people worldwide breathe polluted air, but more countries are taking action.

⁽³⁾ *Air quality in Europe — 2017 report.*

⁽⁴⁾ Eurobarometer special survey No 468 'Attitudes of European citizens towards the environment'.

⁽⁵⁾ *Air quality in Europe — 2017 report.*

2.5.1. As regards its contribution to total pollutant emissions, road transport is responsible for 39 % of nitrogen oxides (NO_x), 29 % of black carbon, 20 % of carbon monoxide (CO) and 11 % of particulate matter PM₁₀ and PM_{2.5}. Under the clean mobility package, the Commission is therefore aiming to establish new CO₂ emission standards for 2025 and 2030. New technologies — such as fuel cells, alternative fuels and the infrastructure for them — are promoted by revising the regulations⁽⁶⁾ and through action plans⁽⁷⁾. The new clean mobility package framework also recommends integrating the use of trains and lorries in order to boost efficiency⁽⁸⁾, including energy efficiency, and promotes the development of long-distance coach routes in order to reduce emissions and traffic congestion⁽⁹⁾.

2.5.2. Combustion for commercial/institutional/household use has been responsible for the bulk of pollution (42 % and 57 %) from particulate matter (PM_{2.5} and PM₁₀), carbon monoxide (CO) and black carbon (BC) particles, a major pollutant derived from incomplete combustion of fossil fuels and biomass. Pollution values for this sector have been more or less constant from 2000 to 2015.

2.5.3. Efforts have been made to reduce pollutant emissions (59 % for SO₂ and 19 % for NO_x of the total) from the electricity and heating generation sectors by developing and extending alternative energy sources and co-generation energy systems, modernising and increasing the performance levels of generation plants, optimising the energy performance of generation processes, making buildings more energy efficient, and phasing out the combustion of fossil fuels and replacing them with methane gas.

2.5.4. Measures to reduce emissions from industrial plants (50 % for non-methane volatile organic compounds (NMVOC) and 17 % for PM₁₀ particles) have been taken which are in line and comply with the rules in force at European level. In order to prevent and monitor pollution, any industrial installation must have a permit establishing limit values for pollutants and the necessary environmental protection measures.

2.5.5. Given that the agricultural sector produces 95 % of ammonia (NH₃) emissions and 52 % of methane (CH₄) emissions, reducing these is paramount. Measures to mitigate such emissions include agronomic measures (balanced use of nitrogen on farms, promoting ground cover and vegetable crops on arable land in order to make the soil more fertile), livestock measures (storing manure in closed spaces and using it in biogas facilities), energy measures (using biomass for heating, developing photovoltaic installations and reducing consumption of traditional fuels and electricity) and agri-environmental measures (boosting farmers' professional skills and encouraging them to adopt practices which generate a lower level of emissions).

2.6. The EESC flags up its concern about the state of the environment. The EESC has already sounded the alarm regarding this⁽¹⁰⁾ and emphasised that 'more efforts need to be made to prevent environmental damage from arising in the first place and that a prevention strategy should always be preferred over a cure'⁽¹¹⁾.

3. General comments

3.1. The EESC welcomes the measures taken by the EU to meet the objective of a level of air quality which is not harmful to people or the environment, but considers that these efforts need to be scaled up dramatically at both EU and national levels as the results achieved to date are not fully satisfactory. Although progress has been made in reducing emissions of pollutants, air quality still affects public health⁽¹²⁾.

3.2. The EESC is concerned that currently, across broad swathes of the EU, the atmospheric concentration of particulate matter exceeds limit values. Daily limit values have been exceeded in 19 % of monitoring stations for PM₁₀, and in 6 % of

⁽⁶⁾ COM/2017/0653 final — 2017/0291 (COD).

⁽⁷⁾ COM/2017/0652 final.

⁽⁸⁾ COM/2017/0648 final — 2017/0290 (COD).

⁽⁹⁾ COM/2017/0647 final — 2017/0288 (COD).

⁽¹⁰⁾ OJ C 451, 16.12.2014, p. 134.

⁽¹¹⁾ OJ C 283, 10.8.2018, p. 83.

⁽¹²⁾ European Court of Auditors, Special report No 23/2018.

these stations for PM_{2,5} particulates. Regrettably in 2015, 19 % of the EU's urban population was exposed to levels exceeding the limit values for PM₁₀ (up over the previous year) and 7 % for PM_{2,5} (down over the previous year).

3.3. The EESC would like to point out that in Central and Eastern Europe, millions of private residences rely on burning wood and coal for heating. According to the World Health Organisation, in Central and Eastern Europe this practice contributes now and will contribute in future to PM_{2,5} pollution, which is still at 2010-2015 levels⁽¹³⁾. More support measures are needed to engage the general public in shifting to cleaner forms of heating.

3.4. The EESC is also concerned that annual concentration values of nitrogen dioxide (NO₂) were exceeded to a significant extent in 22 Member States and in 10 % of monitoring stations, with levels more than twice the authorised values recorded in districts of a number of cities.

3.5. The EESC would point out that air quality is crucial for both people and business⁽¹⁴⁾. European and national decision-makers therefore need to take practical steps for establishing and enforcing a legislative framework in this field.

3.6. The EESC recognises that in order to reduce the level of pollutants emitted by the commercial, institutional and household sectors, Member States, with support from the Commission, must decisively support and carry out improvements in buildings' energy performance, improve the performance of electricity and heating plants, extend and modernise urban centralised heating networks and support alternative air conditioning systems. One example here is the head office of the European Central Bank, which uses an innovative and environmentally friendly heating and ventilation system.

3.7. The EESC points out that indoor air pollution must not be overlooked. The quality of the air we breathe indoors is crucial for our health, particularly for vulnerable people. Smoking, cooking, damp, ventilation systems, candles, cleaning agents in the form of detergents, waxes or varnishes, various building materials — all of these can become major sources of indoor air pollution. A consistent policy on healthy buildings is therefore needed.

3.8. The EESC considers that the Member States and the Commission need to devise and implement a new concept of urban development, focusing partly on implementing an environmentally friendly transport system, using incentives to encourage electric or hybrid forms of transport, using IT applications to warn residents when authorised values for air pollution are exceeded and supporting the extension of green areas in towns in order to significantly improve air quality.

3.9. The EESC considers that public access to information and data on air quality is an important factor in combating air pollution⁽¹⁵⁾. Information and education campaigns can raise public awareness of the danger of air pollution and the impact of action taken by individuals. It is important to acknowledge and welcome any actions to promote clean air by mothers concerned by the impact of pollution on their children's health. These women regard any restrictions on the use of the environment as a curtailment of their civil rights.

3.10. The EESC welcomes the work of NGOs and individuals that have taken legal action to call on the national authorities to roll out additional measures to reduce pollution. In countries such as the Czech Republic, Germany, Italy and the UK, the courts have ruled in favour of the people bringing these suits⁽¹⁶⁾.

3.11. The EESC believes that de-carbonisation strategies and renewable energy targets must be developed so as to have a real impact on the environment, without suffocating the Member States' economic development.

⁽¹³⁾ World Health Organisation: *Residential heating with wood and coal: health impacts and policy options in Europe and North America*.

⁽¹⁴⁾ Eurobarometer special survey No 468 'Attitudes of European citizens towards the environment'.

⁽¹⁵⁾ *Air quality in Europe — 2017 report*.

⁽¹⁶⁾ European Court of Auditors, Special report No 23/2018.

4. Specific comments

4.1. The Commission attaches great importance to upholding compliance with the standards for pollutants emitted by motor vehicles, particularly in the wake of the Dieseltgate scandal, and checks that the relevant obligations imposed by EU legislation are met.

4.2. The EESC supports the Commission, which has asked the Member States to analyse all possible modifications and improvements with a view to bringing the emissions generated by these vehicles under current regulatory thresholds and, if they do not meet these conditions, to propose that vehicles affected by this scandal be withdrawn on a mandatory and/or voluntary basis.

4.3. The EESC endorses the Commission's initiative of triggering non-compliance procedures against 16 Member States as regards PM₁₀ particle pollution, and against 13 Member States for nitrogen dioxide (NO₂) pollution, and recommends that these states adopt measures as rapidly as possible to reduce or eliminate periods in which pollution limit values are exceeded.

4.4. The EESC also welcomes the Commission's decision to bring three Member States (Hungary, Italy and Romania) before the European Court of Justice for failure to comply with limit values for PM₁₀ particulate matter pollution, and another three Member States (France, Germany and the UK) for failure to comply with limit values for NO₂ pollution. These six Member States failed to propose in good time specific and effective measures to bring pollution back down to authorised levels.

4.5. Given the high levels of pollution caused by motor vehicles, the EESC welcomes the measures proposed by the Commission to reduce emissions, set out in the mobility package, such as the Clean Vehicles directive, new CO₂ standards for both cars and heavy vehicles, an action plan for alternative fuels infrastructure and a battery initiative. These measures are also sure to have the effect of reducing the emissions discussed in this opinion.

4.6. The EESC welcomes the new rules proposed by the Commission with regard to significantly increasing the quality and independence of the procedures involved in type approval and testing vehicles before they are placed on the market, and to more effective checks on vehicles already on the market. The regulation laying down these rules, set to enter into force in September 2020, upholds the ban on defeat devices, seeks to reduce the pollutant values of vehicles and establishes the framework for the shift to low and no emission vehicles.

4.7. Given the high levels of ammonia (NH₃) and methane (CH₄) pollution from the agricultural sector⁽¹⁷⁾, active measures must be taken to reduce these. The EESC considers that in future, the common agricultural policy must focus more on assisting individual farmers and farming cooperatives to reduce emissions, by ensuring easier access to European banking institution financing in order to implement programmes which may lead to lower emissions of pollutants. In addition, future CAP rural development programmes should include agri-environmental measures which seek to reduce these emissions.

4.8. The EESC is concerned that although measures have been implemented in the agricultural sector, between 2000 and 2015 NH₃ and CH₄ emissions fell by only 7 %, despite farmers' efforts. The increase in the number of farm animals led to a 6 % EU-wide increase in non-methane volatile organic compounds (NMVOC), generated in particular by manure, although emissions per kilogram of meat fell.

4.9. Atmospheric pollution is a cross-border issue, and so the EESC considers that it is imperative that the Member States act in a coordinated fashion on the basis of targets and principles agreed across the EU, while also complying with the subsidiarity principle. There is precedence for this, and we must support as many such initiatives as possible.

4.10. The Committee believes that in order to bring about improved harmonisation of European and national policies, the Commission and the Member States need to work closely with civil society in order to inform the public and develop local and regional programmes.

⁽¹⁷⁾ Markus Amann, 'Measures to address air pollution from agricultural sources'.

4.11. The EESC praises the broad consensus voiced by the EU with regard to the Paris Agreement on climate change, and considers that the EU's efforts must uphold the spirit of that consensus and that the EU must act to meet the targets set, which will also improve air quality.

4.12. The EESC urges those Member States which have not yet done so to develop strategies to remove coal as a source of energy. Seven Member States have already taken coal out of their energy mix and nine others plan to do so ⁽¹⁸⁾.

4.13. The EESC believes that the EU must also share good practices with its international partners. We cannot ignore the effects of atmospheric pollution from other parts of the world, which affect us both directly and indirectly. The Green Diplomacy Network and coherence in development policy are more important than ever before.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁸⁾ Overview: National coal phase-out announcements in Europe. *Europe Beyond Coal*.

Opinion on the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) 2016/1139 of the European Parliament and of the Council as regards fisheries control’

(COM(2018) 368 final — 2018/0193 (COD))

(2019/C 110/22)

Rapporteur: **Emilio FATOVIC**

Referral	Parliament, 10.9.2018 Council, 5.7.2018
Legal basis	Articles 43(2) and 304 of the Treaty on the Functioning of the European Union
Plenary assembly decision	19.6.2018 and 18.9.2018
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	27.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	219/1/2

1. Conclusions and recommendations

1.1. The Economic and Social Committee (EESC) broadly endorses the Commission’s legislative proposal on fisheries control. However, some of the problems already raised by stakeholders in the sector have not been adequately addressed or clearly resolved.

1.2. The EESC refers once again to the principle that sustainability must be upheld from an economic, social and environmental point of view. It notes in this respect that the Commission’s proposal is not based on a clear impact assessment of an economic and social type, something that would however be appropriate in the light of the profound crisis being experienced by the sector in a number of European countries, with major implications for jobs and the economy in coastal areas.

1.3. The Commission proposal fails to take account of two serious and significant issues: Brexit and climate change, both of which are likely to change — in different ways — how and where fishing takes place. Appropriate studies and interventions are therefore needed to avoid imbalances in the fisheries sector.

1.4. The system of controls and sanctions, based on what is known as the ‘points system’ of licensing, should be implemented uniformly and equitably across the whole of the EU in order to guarantee both fair competition between stakeholders and the quality and traceability of fisheries products in the interests of, and for the health of, all European citizens. At the same time, penalties must be based on risk management criteria, they must be proportionate and they must act as an effective deterrent.

1.5. The EESC believes that digitisation is undoubtedly an important tool for ensuring more efficient and effective controls. Nevertheless, the Committee notes that, with respect to the previous legislation, obligations on fishing operators have not been reduced to any significant extent (this is particularly the case for small-scale fishing) and nor have they been sufficiently simplified, as the Commission said they would. It recommends conducting further investigations into the practical applicability of certain rules, particularly as regards vessels below 10 metres in length.

1.6. The EESC is opposed to the blanket obligation to install closed circuit television (CCTV) in vessels, on the grounds that this is contrary to basic labour law and the right to privacy and business secrecy. The EESC therefore proposes that Member States carry out risk assessments on certain fleet segments that tend to commit a high level of serious and

widespread infringements and, depending on their history of previous non-compliance, that supervisory authorities require these vessels to install CCTV. To verify compliance with the landing obligation, the EESC proposes stepping up the use of on-board observers and recommends introducing a voluntary scheme for installing CCTV, providing incentives for shipowners who decide to sign up. At the same time, it recommends making the temporary installation of CCTV mandatory where vessels have committed multiple serious infringements.

1.7. The new EMFF 2021-2027 will play a key role in enabling European vessels to adapt to the new legal provisions. It is imperative that funding be readily accessible at national level for all those who request it. In particular, the Committee is opposed to introducing retroactive rules whereby, in the event of a single serious infringement, the operator would be obliged to repay any funds previously received and correctly reported.

1.8. The EESC points out that the worst instances of fraud and failure to comply with basic labour and environment law occur in third countries, and yet fish caught as a result of such illegal practices still ends up on European tables with relative ease. It is important for the new traceability systems to address these problems as well, by monitoring the entire supply chain. It is also noted that cases of labour exploitation still occur to this day on some European vessels. The Committee therefore recommends that the supervisory authorities pay special attention to this issue and introduce harsh sanctions to put an end to it once and for all.

1.9. The EESC notes that it is difficult to adapt successful models offered by multiannual plans for single-species fisheries to mixed fisheries, and this can have a severe impact on the environment and on the economy. The Committee therefore recommends a system for collecting more detailed data on stock with a view to devising ad hoc strategies that can better protect biodiversity without causing excessive damage to the fisheries sector.

1.10. The EESC finds that the system of incentives to encourage fishing operators to return nets to land should be extended to all types of waste picked up at sea while fishing. An initiative of this kind would prove crucial for cleaning the seas, since to date fishing operators have had to pay for pollution that they have not caused. The EESC believes that, with appropriate training, fishing operators could provide important added value, contributing on the one hand to cleaning the sea and on the other to creating a virtuous mechanism whereby the activity they carry out is economically integrated.

2. Background

2.1. The success of the Common Fisheries Policy (CFP) depends primarily on implementing an effective control and enforcement system. These measures are provided for in four different legal acts: 1) the Fisheries Control Regulation; 2) the Regulation establishing a European Fisheries Control Agency (EFCA); 3) the Regulation establishing a system to combat illegal, unreported and unregulated fishing (IUU Regulation); and 4) the Regulation on the sustainable management of the external fishing fleets (SMEF).

2.2. With the exception of the SMEF Regulation, which was recently revised, the current Fisheries Control System (FCS) was designed prior to the reform of the CFP and for this reason is not completely consistent with it. Moreover, these measures date back over 10 years and neither reflect current and future needs in terms of fisheries data and fleet control, nor correspond to new fishing practices and techniques, and new control technologies and data exchange systems. Finally, they fail to take account of some important initiatives adopted by the EU, such as the plastics strategy, the digital single market strategy and ocean governance.

2.3. Thus, although the current FCS is an improvement on the previous set-up, certain shortcomings have been confirmed in the Commission's REFIT evaluation, in a special report by the European Court of Auditors and in a European Parliament resolution. Stakeholders, too, have confirmed that there are limitations in the present system, hence the need for a review of the current regulatory framework in its entirety.

3. Summary of the Commission proposal

3.1. The Commission proposal consists of amending five regulations and seeks to: 1) bridge the gaps between the CFP and other EU policies; 2) simplify the legislative framework and reduce unnecessary administrative burdens; 3) improve availability, reliability and completeness of fisheries data and information, in particular of catch data, and allow exchange and sharing of information; and 4) remove obstacles that hinder the development of a culture of compliance and the equitable treatment of operators within and across Member States.

3.2. *Amendments to Council Regulation (EC) No 1224/2009⁽¹⁾ establishing a Community control system for ensuring compliance with the rules of the common fisheries policy*

3.2.1. Inspection and surveillance. Clarification is provided of the inspection process and the duties of inspectors, masters and operators. Inspection reports will be digitised, making for better use and exchange of data between the relevant authorities and the Member States.

3.2.2. Sanctions. A list of common criteria is introduced to establish the types of serious infringement. Mandatory administrative sanctions and minimum levels of fines are established for serious infringements, to render the sanctioning system more effective and more of a deterrent in all the Member States and to ensure a level playing field. Furthermore, the 'points system' is strengthened and clarified for licensed vessels.

3.2.3. Data. Mandatory digitised tracking systems and catch declarations are introduced, to be applied to all EU fishing vessels, including those below 12 meters in length (LOA, length overall). For small-scale fishing, a simplified system using mobile phones is provided for. Recreational fishing will also be subject to more stringent controls. The use of digital tools is intended to guarantee the traceability of the entire supply chain (including products imported from third countries) and systematically monitor on-board activity, including by means of closed circuit television cameras (CCTV) to control the landing obligation.

3.2.4. Alignment with other EU policies. Reporting fishing gear losses is simplified by making entries in the (electronic) fishing logbook more accurate. The obligation to have the necessary equipment on board for retrieving gear is also extended to fishing vessels of less than 12 metres. Measures are introduced to mark and monitor fishing gear used in recreational fishing.

3.3. *Amendments to Council Regulation (EC) No 768/2005⁽²⁾ establishing a European Fisheries Control Agency*

3.3.1. The proposal extends the geographical scope of the inspection powers of the European Fisheries Control Agency (EFCA) by no longer limiting it to international waters. Amendments are introduced to simplify the management and exchange of data, as well as rules to simplify the EFCA's financial procedures.

3.3.2. In July 2018 the Commission combined these measures in proposal COM(2018) 499 to codify Regulation (EC) No 768/2005 on the EFCA, replacing and including the various rules that it incorporates. This proposal has already been endorsed by the EESC in a specific opinion on the subject⁽³⁾.

3.4. *Amendment to Regulation (EC) No 1005/2008⁽⁴⁾ establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing*

3.4.1. The amendment of the EU's Catch Certification Scheme includes setting up a data base to manage catch certificates (CATCH), which will allow for risk-based controls, reduce the risk of fraudulent imports and ease the administrative burden for the Member States. The operational functions of the CATCH will be developed in different phases. Implementing and delegated powers are conferred on the Commission relating to the functioning and further development of the CATCH. Inspections and sanctions are aligned with the new rules.

4. General comments

4.1. The Commission's legislative initiative is in line with the positions expressed by the Member States, regional and local authorities and stakeholders, and is generally endorsed. The purpose is to clarify the regulatory framework on controls, simplifying it, modernising it and bringing it into line with policy and regulatory developments, ensuring legal certainty and in practice making it easier to implement uniformly across the whole of the European Union.

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 128, 21.5.2005, p. 1.

⁽³⁾ EESC opinion (NAT/756) on the *European Fisheries Control Agency (codification)* (OJ C 62, 15.2.2019, p. 310).

⁽⁴⁾ OJ L 286, 29.10.2008, p. 1.

4.2. After careful analysis, it appears that in spite of the broad consultations which the Commission states it carried out, some of the problems raised by stakeholders in the fisheries sector (e.g. the landing obligation, excessive red tape and the proportionality of the sanctioning system) have not been adequately addressed and/or clearly resolved in the new legislative proposal⁽⁵⁾.

4.3. The EESC refers once again to the principle that sustainability must be upheld from an economic, social and environmental point of view. Thus, whilst the overriding objective continues to be the sustainability of fisheries, the fisheries sector must be placed in a position to accomplish this. This is why environmental measures cannot be divorced from the need to improve other crucial aspects such as working conditions and safety in the workplace, generational renewal, corporate profitability, vocational training of employees and the vitality of coastal communities.

4.4. The Committee notes that the Commission's proposed regulations fail to take account of two serious and significant issues: Brexit and climate change. The first should trigger a complete overhaul of the related stability mechanism, together with a reduction in the opportunities for fishing in waters that are today European. The other, climate change, is causing significant changes in the behaviour and habitats of fish, with increasing reports of large-scale migration.

4.5. The EESC notes that the Commission's proposal is not based on a clear economic and social impact assessment. This is compounded by the fact that the fisheries sector in some regions of the EU has been experiencing a crisis for over 20 years, and the measures adopted to date by the Commission on sustainability and aquaculture have not managed to buck the trend⁽⁶⁾. It is for this reason that the Committee has requested DG Employment to intervene promptly by launching a wide-scale debate in the framework of sector-specific social dialogue⁽⁷⁾ so as to pinpoint the most appropriate measures for evaluating and, if necessary, offsetting the economic and social impact of the proposals⁽⁸⁾.

4.6. The recent critical report by the Court of Auditors prioritises the need for the system of controls and sanctions, based on what is known as the 'points system' of licensing, to be implemented uniformly and equitably across the whole of the EU in order to guarantee both fair competition between stakeholders and the quality and traceability of fisheries products in the interests of, and for the health of, all European citizens.

4.7. The EESC believes that digitisation is undoubtedly an important tool for ensuring more efficient and effective controls. Equally positive is the fact that simplified digital control measures are provided for vessels of less than 12 metres in length (LOA), such as mobile phone geolocation apps, although in the open sea there are wide areas with no coverage, making it impossible to monitor vessels. Nevertheless, the Committee notes that, with respect to the previous legislation, obligations on fishing operators have not been reduced to any significant extent (this is particularly the case for small-scale fishing) and nor have they been sufficiently simplified, as the Commission said they would.

4.8. Digital control measures should make for real savings, both financially and time-wise. While extending all of the obligations to small-scale fishing would be possible insofar as Member States will have a two-year transition period, which should enable specific local features to be taken into account, this could be burdensome for vessels of less than 10 metres in length, which often have no control room and only a single crew-member. In this particular case, additional investigations are recommended to assess feasibility in practice, striking a balance between the need for controls and the effective capacity of fishing operators to comply with all these requirements.

4.9. In this respect, the EESC notes that the measures introduced to clarify the sanctions system will certainly be of benefit to the sector. However, it is essential to apply them in the same way in the various Member States and to ensure that they are based in practice on risk management criteria, that they are proportional and that they act as a deterrent. In particular, some contradictory aspects emerge from an analysis of the proposal, such as linking the amount of fines to the market value of the catch (from two to five times the value of the product), something that — depending on the geographical area, the period of the year and the relative abundance of the species — could vary enormously and even have the effect of encouraging infringements of the law.

⁽⁵⁾ The Mediterranean Advisory Council (MEDAC), the Long Distance Fleet Advisory Council (LDAC) and the Association of national organisations of fishing enterprises (EUROPÉCHE) have repeatedly issued requests and specific proposals for overcoming the problems currently facing the sector, but these are not reflected in the legislative package put forward by the Commission.

⁽⁶⁾ In Italy, with an 8 000 km coastline, the number of fishing vessels has declined by around 33 % in the last 30 years. Fishing vessels are on average aged 34 years and are in urgent need of being modernised or replaced by new vessels; over the past 30 years 18 000 jobs have been lost (the fishing sector in Italy has 27 000 workers). Data: Italian Ministry of Agriculture, Food and Forestry, 2016.

⁽⁷⁾ In the framework of the EU Sectoral Social Dialogue Committee — Sea Fisheries (EUSSDC).

⁽⁸⁾ EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see page 104 of the current Official Journal).

4.10. The EMFF is a crucial and essential tool for bringing about the transition to the new system of controls envisaged by the Commission. The Committee is against the principle — already contained in the present system of controls and the current EMFF — whereby a serious infringement triggers the immediate repayment of any EU funding received in the preceding five years. This rigid, retroactive measure is one of the main causes of delay in achieving the EMFF objectives, in that it has dissuaded many fishing operators from requesting EU funding for fear that they would have to repay it in the event of serious infringements, even though the infringements sometimes incur only very limited fines. It is therefore necessary to ensure that sanctions are more proportionate, so that their deterrent effect does not become a disincentive.

4.11. The EESC is totally opposed to the obligation to install CCTV on board fishing vessels in order to verify compliance with the landing obligation. The EESC believes that measures of this kind run counter to the fundamental rules of labour law and to the right to privacy and business secrecy, particularly since they are established on a blanket basis without any assessment of the potential risk in the light of previous repeated breaches of rules. The EESC therefore proposes that Member States carry out risk assessments on certain fleet segments that tend to commit a high level of serious and widespread infringements and, depending on their history of previous non-compliance, that supervisory authorities require these vessels to install CCTV. The Committee is convinced that achieving the sector's environmental sustainability objectives and revitalising it will not come about through 'Big Brother' style monitoring and controls of fishing activities, but by means of clear, certain and transparent rules and sanctions that are applied effectively and uniformly throughout the EU.

4.12. The EESC would in particular propose making better and more robust use of on-board observers. Furthermore, it recommends setting up a voluntary scheme for installing CCTV based, for example, on the incentive of a possible increase in catch size for species at MSY level (maximum sustainable yield), using the Member State's reserve quota where available, or priority and facilitated controls and landing schemes. At the same time, it recommends mandatory installation of CCTV on a temporary basis for vessels that have committed multiple serious infringements.

4.13. The EESC is of the view that the new EMFF 2021-2027 will play a key role in enabling European vessels to adapt to the new legal provisions. In particular, it is imperative that funding be readily accessible at national level for all those who request it.

4.14. As already stated in other opinions⁽⁹⁾, the EESC considers it important to establish fishing capacity by means of more appropriate parameters regarding tonnage and engine power, since these are crucial for ensuring the safety of the on-board crew as well as for achieving more sustainable levels of CO₂ emissions.

5. Specific comments

5.1. Overfishing is certainly one of the fundamental causes of the decline of fish in the sea. Nevertheless, the Committee considers that this fact should be considered alongside other practices that are also harmful to marine species, including pollution, climate change, maritime transport and underwater drilling (noise pollution). A more open approach is essential for devising effective strategies for protecting marine habitats.

5.2. An effective system of sanctions must be straightforward and clear to apply if it is to serve as a real deterrent. The Committee notes that even though it is the decisions and behaviour of the master of the fishing vessel that are in effect being sanctioned, the points-based licensing system may in some cases have an adverse effect on the crew, including tough measures such as the suspension of the fishing license. Where a fishing license is suspended⁽¹⁰⁾, protective measures must be put in place for those working on board fishing vessels: with contracts linking pay to a proportion of the catch, they risk losing their wages unless they can find another vessel to work on or can immediately change job. Given that the sector is in difficulty, this constant drain on human resources, skills and knowledge risks inflicting even more severe damage on the prospects for recovery.

5.3. The EESC agrees with the proposal to extend the system of controls to recreational fishing as well, since there have been many recent cases of this being used as a means of circumventing the rules in force for 'conventional' fishing. In particular, it recommends paying special attention to recreational fishing that constitutes a source of income, to distinguish it from recreational fishing for personal purposes and consumption. This measure is essential in order to protect fishing operators who comply with the law and to combat forms of unfair competition or, in more serious cases, illegal fishing.

⁽⁹⁾ EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see footnote 8).

⁽¹⁰⁾ The suspension of fishing licenses, based on the criterion of repeat offending, may last from a minimum of four months to a maximum of one year, and may result in the definitive withdrawal of the license.

5.4. Whilst agreeing that it is vital to guarantee the traceability of fishery products, abolishing the exemption from declaring estimated catches of less than 50 kg in the logbook may create problems, particularly for small-scale fishing operators. If they are to complete all the bureaucratic formalities, which may be lengthy in multi-stock waters such as the Mediterranean, they risk wasting an undue amount of time before landing, and therefore not being able to sell the fish caught at the best price. The Committee therefore recommends maintaining the existing threshold, and closely monitoring that this does not give rise to any undesired effects.

5.5. The new traceability device proposed by the Commission, particularly for imported products, is endorsed. Indeed, instances of fraud and failure to comply with basic labour law (ILO conventions) and environment law occur mainly in third countries, and yet fish caught as a result of these illegal practices still ends up on European tables with relative ease. However, it is important to note that exploitative labour practices still occur to this day on some European vessels⁽¹¹⁾, calling for special attention on the part of those responsible for controls and for harsh sanctions to put an end to such practices once and for all.

5.6. The Committee points out that the intensive network of traceability controls in place cannot be discontinued at the point of 'first sale', as the entire supply chain needs to be monitored, 'from the sea to the table'. Here, too, the Committee recommends actively involving all relevant stakeholders, from wholesale and processing right through to retail sales.

5.7. The 2017 Malta MedFish4Ever Declaration is one of the main pillars of EU action. Nevertheless, the EESC considers that specific technical and conservation measures for fish stocks should be adapted to the various fishing techniques and to the biological characteristics of the sea. The EESC has noted in particular that it is difficult to adapt successful models offered by multiannual plans for single-species fisheries to mixed fisheries, something that can have a severe impact on the environment and on the economy⁽¹²⁾. The Committee therefore recommends a system for collecting more detailed data on stock with a view to devising ad hoc strategies that can better protect biodiversity without causing excessive damage to the fisheries sector⁽¹³⁾.

5.8. As already highlighted in previous opinions⁽¹⁴⁾, the EESC believes that the combination of a rigid quota system with the new landing obligation represents one of the greatest problems in the sector. The high costs entailed in the transition to more sustainable fishing (e.g. selective nets) must be entirely supported by EMFF funding. The EESC would like to see a simplified and pragmatic system of controls, based on risk analysis, and envisions major action at national level, with stakeholder support, to promote the transition of a huge number of vessels.

5.9. The Commission proposes that all fishery products be weighed by registered operators at the time of landing, before being stored, transported or sold. The EESC thinks it is important to keep the current option of carrying out sample checks. In addition, where the fisheries products are transported prior to being placed on the market or where the first sale is in a third country, it recommends maintaining the current limit of transmission of due documentation to the competent authorities within 48 hours of landing in order to avoid delays and the consequent deterioration in quality.

⁽¹¹⁾ See article from *The Guardian* 'We thought slavery had gone away': African men exploited on Irish boats.

⁽¹²⁾ General Fisheries Commission for the Mediterranean (GFCM), *The State of Mediterranean and Black Sea Fisheries*, 2016, p. 26. As highlighted by the GFCM, part of the Food and Agriculture Organisation (FAO), in single-species seas it is easier to carry out targeted fishing because few types of fish coexist there and so it is easy to set catch limitations. In contrast, in multi-species seas many species of fish can be found in the same area.

⁽¹³⁾ EESC opinion on the *Multiannual plan for small pelagic fisheries in the Adriatic Sea* (OJ C 288, 31.8.2017, p. 68). EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see footnote 8).

⁽¹⁴⁾ EESC opinion on the *Landing obligation* (OJ C 311, 12.9.2014, p. 68). Point 1.2 '[The Committee] believes that the Commission's proposal is unnecessarily complicated and will generate an undue and disproportionate amount of additional work for fishing operators when it comes to applying the landing obligation. As a result, it advocates opting for more pragmatic, clear, straightforward and flexible rules that genuinely give fishing operators time to adapt during a transitional period, without facing heavy penalties'.

5.10. The EESC welcomed the Commission proposal on single-use plastics ⁽¹⁵⁾, and in particular the incentives to return broken or damaged fishing gear to land so that it can be recycled ⁽¹⁶⁾. This measure, combined with the new measure on ports ⁽¹⁷⁾, opens up new scenarios and opportunities for sustainable fisheries and the circular economy. The EESC finds that the system of incentives to encourage fishing operators to return nets to land should be extended to all types of waste picked up at sea while fishing. It is also important to verify that the introduction of increased producer responsibility does not result in firms in the fisheries sector paying more to purchase nets. The EMFF could be the most suitable financial instrument for supporting this.

5.11. An initiative of this kind would prove crucial for cleaning the seas, since to date fishing operators are the ones who have to pay to unload waste items collected while fishing. These items, among other things, constitute 90 % of what is caught in fishing nets, and fishing operators are also obliged to sort the waste and, if it is not possible to identify it, to classify it as 'special waste' calling for specific forms of treatment. In practice, under current rules, fishing operators have to pay to clean up the sea from pollution which they have not caused. The EESC believes that, with appropriate training, fishing operators could provide important added value, contributing on the one hand to cleaning the sea and on the other to creating a virtuous mechanism whereby the activity they carry out is economically integrated ⁽¹⁸⁾.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁵⁾ EESC opinion (NAT/742) on *Single-use plastics* (OJ C 62, 15.2.2019, p. 207).

⁽¹⁶⁾ COM(2018) 340 final.

⁽¹⁷⁾ COM(2018) 33 final.

⁽¹⁸⁾ EESC opinion on the *Strategy on plastics in a circular economy, including action on marine litter* (OJ C 283, 10.8.2018, p. 61).

EESC opinion (NAT/742) on *Single-use plastics* (see footnote 15).

EESC opinion (NAT/749) on the *European Maritime and Fisheries Fund (EMFF)* (see footnote 8).

Opinion of the European Economic and Social Committee on ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC’

(COM(2018) 315 final — 2018/0162 (COD))

(2019/C 110/23)

Rapporteur: **Tanja BUZEK**

Referrals	European Parliament, 11.6.2018 Council, 6.6.2018
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Section responsible	Transport, Energy, Infrastructure and the Information Society
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Outcome of vote (for/against/abstentions)	201/3/6

1. Conclusions and recommendations

1.1. The EESC broadly supports the objectives set out by the Commission in its proposal amending Directive 2008/106/EC of the European Parliament and of the Council ⁽¹⁾ on the minimum level of training of seafarers, repealing Directive 2005/45/EC of the European Parliament and of the Council ⁽²⁾ on the mutual recognition of seafarers’ certificates issued by Member States. The EESC considers the changes provided in the regulatory framework to be necessary, proportionate and cost effective.

1.2. Whilst acknowledging the fact that both directives have contributed to both the improvement of maritime education and training of seafarers working on board EU-flagged vessels and the professional mobility of seafarers certified in the EU, the EESC considers it advisable to take one step further in that field. Therefore, the EESC recommends capitalising on the revision of Directive 2008/106/EC to call for a wider European debate involving the Commission, the Member States, the training institutions and the industry on how to further invest in the European maritime skills base in order to safeguard both the competitiveness of the European fleet and the sector’s capacity to generate good quality jobs for European seafarers and other maritime professionals.

1.3. In particular, the EESC recommends working towards establishing an EU forum involving the training institutions, the industry, the broader maritime cluster and national maritime administrations to improve seafarers’ maritime training and to develop European maritime postgraduate courses which go beyond the internationally agreed minimum level of training of seafarers. Such advanced training would make it possible to create a competitive advantage for European seafarers by equipping them with skills above those required at international level and enhance the attractiveness of the seafaring professions in the EU, especially as regards women and young people.

1.4. The EESC emphasises the importance of developing future-proof learning packages with a particular focus on training on quality management, green skills and digital skills and considers that the promotion of advanced skills should go hand in hand with forms of certifying/labelling.

1.5. The EESC also recommends developing a European network of Maritime Education and Training institutions (METs) which would meet quality criteria in order to further improve the maritime educational system in Europe. It also recommends introducing, for the education of masters and officers, an ‘Erasmus’-type model for exchanges between METs across the EU adapted to the specific features of the sector.

⁽¹⁾ OJ L 323, 3.12.2008, p. 33.

⁽²⁾ OJ L 255, 30.9.2005, p. 160.

1.6. Regarding the revamped mechanism for the recognition of seafarers' certificates issued by third countries, the EESC sees it of utmost importance for requesting Member States to consult with national shipowners' associations and trade union organisations on the desirability of recognising a new third country, prior to submitting the request to the Commission. The EESC wishes further to clarify that — where available — the estimation of seafarers likely to be employed will only be one criteria in the decision process of the recognition of a new third country and that it needs to be followed in a transparent manner.

1.7. As regards the extension of the deadline for adopting a decision on the recognition of new third countries from 18 months to 24 months, and up to 36 months under certain circumstances, the EESC expresses concerns as to whether this is the right mechanism as the process may be unnecessarily lengthened for a country that clearly meets all the requirements. Therefore, the EESC asks for the process to be completed in as short a time as is reasonable with the proviso that it can be lengthened for as long as necessary if corrective action is required.

1.8. With a view to ensuring appropriate use of Community resources, the EESC proposes to amend Article 20 so that the provisions on the withdrawal of the recognition of a third country also apply to those third countries which fail to provide a substantial number of masters and officers for at least five years. The EESC wishes to clarify that the final decision for the withdrawal of a recognition or not will rest with the Member States under the normal procedures within COSS and that these procedures leave discretion to consider relevant information provided by Member States.

1.9. As there can be no compromise on maritime safety, the EESC recommends that those third countries which supply a limited number of masters and officers to the EU fleet should not undergo a less stringent reassessment regime than the other countries.

1.10. In addition to the proposed changes to the amendment procedure (Article 27) which provides that the Commission is empowered to amend Directive 2008/106/EC through delegated acts, the EESC calls on the Member States to take early action to implement amendments so as to negate the need for extensions and periods of pragmatic interpretation that have been made necessary by flag State inaction in previous instances.

2. Background

2.1. The EU legislation on maritime education, training and certification of seafarers is mainly based on minimum international requirements imposed by the Convention of the International Maritime Organisation (IMO) on Standards of Training, Certification and Watchkeeping (STCW), as amended.

2.2. In addition to the integration of the STCW Convention at EU level through Directive 2008/106/EC, as amended, the EU framework provides for a cost-effective common EU mechanism for the recognition of the systems of maritime education, training and certification of third-country seafarers. This mechanism is designed in such a way that the assessment and reassessment of third countries' compliance with the STCW Convention are carried out in a centralised and harmonised manner, avoiding the situation where each Member State would have to perform them individually. Especially since there are currently more than 40 third countries recognised at EU level for this purpose.

2.3. The regulatory system also features a simplified procedure for the recognition of seafarers' certificates issued by the Member States through Directive 2005/45/EC. This Directive aimed at encouraging the mobility of EU seafarers among EU flagged vessels, allowing for the recognition of the certificates held by masters and officers without any further compensation measures.

2.4. The above-mentioned legislative framework seeks to ensure a high level of safety of life at sea and the protection of the marine environment by minimising the risks of maritime accidents. To reach such a goal, there is a common understanding that the enhancement of the education, training and certification of the key personnel on board EU-flagged vessels is of paramount importance.

2.5. The proposal flows from the Commission Regulatory Fitness and Performance Programme (REFIT) that assesses the extent to which both Directives have met their objectives. The EESC notes that the proposed revision is the result of an in-depth evaluation that included a comprehensive study by the European Maritime Safety Agency (EMSA) (Study for the REFIT evaluation of Directives 2008/106/EC and 2005/45/EC dated September 2017⁽³⁾), a public consultation accompanied by a more targeted consultation, as well as dedicated workshops involving Member States together with the two sides of the industry, namely shipowners and trade unions representing seafarers.

2.6. The results of the REFIT evaluation were considered generally positive and it was concluded that the EU legislation had contributed to the elimination of substandard crews, the mobility of seafarers in the Union and the achievement of a level playing field between seafarers trained in the EU and those trained in the third countries.

2.7. However, some shortcomings were identified in the efficiency of the regulatory framework and the proportionality of some of its requirements. The intention of the Commission proposal is therefore to alleviate the deficiencies identified by simplifying and streamlining the existing legislation. In more concrete terms, further intervention was considered necessary, namely to:

- Ensure alignment with latest amendments of the STCW;
- Update the definition of certificates recognised between Member States through a merger of Directive 2005/45/EC with Directive 2008/106/EC;
- Design criteria for new recognition/reassessment of third countries for more efficient use of financial and human resources;
- Set priority criteria for the reassessment of third countries, focusing on the major supplying countries whilst considering extending the reassessment cycle for the other countries;
- Extending the deadline for the recognition of new third countries to give these countries enough time to adopt and implement corrective actions if need be.

3. Gist of the proposal

3.1. The general objective of the proposal is to simplify and streamline the existing legislation. In particular, this includes:

- The continuous alignment of the relevant EU legislation with the STCW Convention;
- The improvement of the efficiency and effectiveness of the centralised mechanism for the recognition of third countries;
- An increase of legal certainty regarding the mutual recognition of the seafarers' certificates issued by Member States.

3.2. The centralised mechanism for the recognition of seafarer' certificates issued by third countries requires that substantial human and financial resources are made available by the Commission, assisted in this task by the European Maritime Safety Agency, to evaluate new recognition requests by the Member States on the one hand, and, carry out the periodic reassessment of the already recognised third countries on the other hand.

3.3. For the sake of better use of the available resources, the Commission proposes to make the recognition process more transparent by allowing the requesting Member State to justify the reasons for submitting the recognition request. This measure consists in introducing a discussion between the Member States on the need to recognise new third countries.

3.4. Besides, the Commission proposes priority criteria for the reassessment of recognised third countries based on the notion that the available resources should be redirected from countries that provide a low number of seafarers to the EU fleet to those major labour supplying third countries.

⁽³⁾ <https://ec.europa.eu/transport/sites/transport/files/legislation/2017-09-stwc-support-study-refit-eval-dirs-20080106-20050045.pdf>

4. General comments

4.1. The EESC supports the Commission proposal to amend Directive 2008/106/EC on minimum level of training of seafarers, including the integration in its scope of the simplified procedure for the mutual recognition of seafarer certificates issued by the Member States, repealing Directive 2005/45/EC.

4.2. The EESC is of the opinion that this is a necessary revision as there is indeed scope for improving the efficiency of the administrative framework regarding the mutual recognition system under this Directive to enable more efficient allocation of Commission and EMSA financial and human resources.

4.3. The EESC particularly welcomes the emphasis the Commission places upon the level of transparency that should prevail in processing demands for the recognition of seafarers' certificates of new third countries. The EESC considers the new procedural step that allows the requesting Member State to present the reasons for submitting the recognition request as proportionate, transparent and cost-effective. The requesting Member States will still have an opportunity to unilaterally recognise the third country until a collective decision is made. Hence, the decision process leading to the recognition of a third country will strike a balance between the need for transparency as regards the control and good use of public money — cost to be accrued by the recognition — and the aim of maintaining the competitiveness of the EU fleet — competitive advantage for the EU fleet by employing seafarers from the relevant third country.

4.4. The EESC considers that the EU regulatory framework on maritime education, training and certification of seafarers has contributed to satisfy the needs of the shipping labour market by facilitating access to employment on board EU-flagged vessels for all masters and officers holding a valid STCW certificate, irrespective of their place of residence or nationality. Whilst there is no doubt shipping operates in a globalised labour market, the EESC wishes to recall the importance for the EU to massively invest in its own maritime skills base in order to safeguard a critical mass of European seafarers that sustains the competitiveness of European shipping and the maritime clusters across the EU. Hence creating the prospect of highly skilled jobs and rewarding careers at sea or on shore-based related activities, for young Europeans in particular whilst maintaining or even increasing the share of EU seafarers in the global seafaring workforce (the current 220 000 EU seafarers represent 18 % of the total number of seafarers globally) ⁽⁴⁾.

4.5. In light of the above, the EESC encourages the Member States to finally implement the recommendations contained in the EU Maritime Transport Strategy until 2018 ⁽⁵⁾ as well as the policy recommendations made by the Task Force on Maritime Employment and Competitiveness (TFMEC) ⁽⁶⁾ to the European Commission, when it comes to strengthening the effectiveness and efficiency of the educational system in maritime transport. In particular, the EESC calls on the EU Commission and the co-legislators to consider the recommendations listed below in this section.

4.6. The EESC recommends working towards the establishment of an EU forum involving the training institutions, the industry, the broader maritime cluster and national maritime administrations to improve seafarers' maritime training, and in turn their placement, career development and mobility. One key task of this network would be to develop European maritime postgraduate courses which go beyond the internationally agreed minimum level of training of seafarers (also referred to as 'maritime certificates of excellence', or 'STCW+') ⁽⁷⁾. Such advanced training would make it possible to create a competitive advantage for European seafarers by equipping them with skills above those required at international level.

4.7. In light of the above, the EESC emphasises the importance of developing future-proof learning packages with a particular focus on training on quality management, green skills and digital skills. The latter is of paramount importance as shipboard technology, information and communication data exchange and shore-based support systems are evolving rapidly. The EESC considers that the promotion of advanced skills should go hand in hand with forms of certifying/labelling so that the upgrade of the maritime education will be a precious asset to help European seafarers advance their career prospects. This will in turn enhance the attractiveness of the seafaring professions in the EU, especially as regards women and young people, while also improving the efficiency and quality of ship operations, including continuing innovation and cost reduction.

⁽⁴⁾ SWD (2016) 326 final.

⁽⁵⁾ COM(2009) 8 final.

⁽⁶⁾ The Task Force on Maritime Employment and Competitiveness was set up by Commission Vice-President Kallas and delivered its report on 9 June 2011.

⁽⁷⁾ COM(2009) 8 final.

4.8. In the same vein, it would also be advisable to consider developing a European network of METs that would meet quality criteria in order to further improve the maritime educational system in Europe. To that end, the EESC recommends drawing inspiration from the European network of inland navigation schools — EDINNA (Education Inland Navigation) founded in 2009 to foster the harmonisation of education and training curricula upwards. This platform proved to be an excellent tool for enabling the exchange of know-how and a concerted approach towards the development of professional competencies. The EESC further recommends introducing, for the education of masters and officers, an 'Erasmus'-type model for exchanges between METs across the EU adapted to the specific features of the sector.

4.9. Furthermore, the EESC calls for a concerted political drive by the EU and the Member States to support the industry as it strives to respond to the challenges of digitalisation, automation and the necessary greening of the sector. The EESC observes that these challenges can be more readily met by guaranteeing a European-based high-quality maritime training and education system that is future-proof. In this regard, the EESC welcomes the imminent launching of the four-year project SkillSea. This project will foster cooperation between the industry — including the European social partners in maritime transport, the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) — education and training providers and national authorities, with a view to enhancing maritime educational curricula upwards in Europe.

5. Specific comments

5.1. The EESC welcomes the fact that Directives 2005/45/EC and 2008/106/EC have been amalgamated as it considers that such a merger makes implementation more effective and is likely to improve clarity and simplify the framework of seafarers' training and certification. Such consolidation will in particular address the problem of the obsolete definition of certificates in Directive 2005/45/EC and provide clarification and alignment of the definition of seafarers' certificates recognised by the Member States. It must indeed be ensured that the definition of seafarers' certificates is updated to accord with the new definitions that were introduced in 2012. Such an update is likely to increase legal certainty in the mutual recognition scheme between EU Member States.

5.2. A new Article 5b aims to include the mutual recognition of seafarers' certificates issued by Member States in the scope of Directive 2008/106/EC. The EESC sees this addition as essential as it provides clarification as to which certificates shall be recognised mutually for the purpose of allowing seafarers certified by one Member State to work on board vessels flying the flag of another Member State.

5.3. The EESC fully supports and further encourages labour mobility to help masters and officers certified in the EU and shipowners in Europe find each other in a smoother manner. In this regard, the EESC notes with satisfaction that according to the Commission ⁽⁸⁾, in the year 2015 itself, more than 47 000 endorsements of Certificate of Competency issued initially by another Member State were valid in the Union, representing approximately 25 % of the total number of masters and officers available to work on board EU-flagged vessels.

5.4. The figures mentioned above show that the scheme for the mutual recognition of seafarers' certificates issued by Member States have produced encouraging results when it comes to fostering the mobility of EU seafarers among EU-flagged vessels. Furthermore the EESC highlights the importance of continuously contributing to protecting European jobs at sea, securing the future of the METs across the EU and safeguarding the European maritime know-how as a whole.

5.5. The EESC supports the proposal for an alignment of Directive 2008/106/EC to the latest amendments of the STCW Convention so as to avoid legal inconsistencies in the Directive in relation to the international regulatory framework. Such an alignment is likely to safeguard harmonised implementation at EU level, help crews to acquire new skills and competences — in particular the training and qualification requirements for seafarers working on board passenger ships and ships falling under the Code of Safety for Ships using Gases or other Low-flashpoint Fuels (IGF Code) and the Code of Safety for Ships operating in Polar Waters (Polar Code) by the IMO — while supporting career development.

5.6. The EESC questions a disproportionate use of Community financial and human resources for assessing new third countries which may fail to provide a substantial number of masters and officers. Therefore, the EESC fully supports the Commission proposal that every new request submitted by a Member State for the recognition of a third country be accompanied by an analysis including estimates of the number of officers and masters likely to be employed from that

⁽⁸⁾ SWD(2017) 18 final.

country. In addition, the EESC sees it of utmost importance for Member States to consult with the national shipowners' associations and trade union organisations on the desirability of recognising a new third country, prior to submitting the request to the Commission. However, the EESC wishes to clarify that — where available — the estimation of seafarers likely to be employed will only be one criteria in the decision process of the recognition of a new third country and that it needs to be followed in a transparent manner.

5.7. For the sake of further effectiveness and better use of available resources, the EESC is pleased to note that under the proposal (Article 19), justification will have to be given and discussed amongst Member States when a Member State wishes to lodge a request for the recognition of a new third country. The EESC wishes to clarify that the final decision on the recognition of a new third country or not will rest with the Member States under the normal procedure which includes qualified majority voting in the Committee on Safe Seas and prevention of pollution from ships (COSS). The EESC further welcomes the fact that an allowance is made so that a Member State can unilaterally recognise a third country's certificates while the result of the assessment is awaited. The EESC strongly supports such an allowance which offers a proportionate and cost-effective solution whilst preserving the competitiveness of the EU fleet.

5.8. With regard to the extension of the deadline for adopting a decision on the recognition of new third countries from 18 months to 24 months, and to 36 months under certain circumstances, the EESC considers the proposed measure as justified as long as there is a compelling need for the third country to implement corrective actions. However, the EESC expresses concerns as to whether lengthening the recognition process automatically is the correct mechanism as it may be the case that a country that clearly does meet all of the requirements has the process unnecessarily lengthened. The EESC would hence suggest that the aim continues to be to complete the process in as short a time as is reasonable with the provision that this can be lengthened for as long as necessary if corrective action is required.

5.9. The revised Article 20 introduces a distinctive reason to derecognise a third country on the basis of not providing any seafarers for at least five years to the EU fleet. The EESC wishes to clarify that the final decision on the withdrawal of recognition or not will rest with the Member States under the normal procedures within COSS and that the procedure leaves discretion to consider relevant information provided by Member States. In principal support of this revision the EESC wishes to point out that for the sake of appropriate use of resources, the argument still applies whether a third country fails to provide any or a substantial number of masters and officers. Against this background and in full line with the procedures, the EESC proposes that the recognition of a third country can be revoked in case a third country fails to provide a substantial number of masters and officers for at least five years.

5.10. The EESC questions the rationale behind the amendment to Article 21 requiring that the reassessment period can be extended to 10 years based on priority criteria. The EESC understands that from a strictly mathematical point of view, third countries which supply a high number of seafarers pose, in theory, a bigger threat to the safe operation of vessels than those which provide limited numbers of seafarers. For the above-mentioned reasons, and whilst assuming that there can be no compromising on maritime safety, the EESC recommends that those third countries which supply a limited number of masters and officers to the EU fleet should not undergo a less stringent assessment regime.

5.11. The EESC supports the amendment to Article 25a which is a necessary amendment to make it possible to use in a transparent manner the information provided by the Member States on the number of endorsements attesting recognition of certificates issued by third countries for the purpose of derecognising and prioritising the reassessment of third countries, as provided for in Article 20 and Article 21.

5.12. The EESC is fully aware that given the global nature of shipping, the goal must be to prevent a conflict between the international commitments of Member States and their Union commitments. This calls for a continuous alignment of the European framework with the STCW Convention, allowing for the establishment of a level playing field between EU and third countries in the implementation of the international framework on maritime education, training and certification of seafarers. In the light of the above considerations, and in the event of future amendments to the STCW Convention, the EESC considers it relevant to empower the Commission to amend, through delegated acts, to ensure smoother and quicker adaptation to the changes in the STCW Convention and Code.

5.13. In the above respect, the EESC calls on the Member States to take early action to implement amendments so as to negate the need for extensions and periods of pragmatic interpretation that have been made necessary by flag State inaction in previous instances.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Proposal for a Council Regulation establishing the Research and Training Programme of the European Atomic Energy Community for the period 2021-2025 complementing Horizon Europe — the Framework Programme for Research and Innovation’

(COM(2018) 437 final — 2018/0226 (NLE))

(2019/C 110/24)

Rapporteur: **Giulia BARBUCCI**

Referral	European Commission, 12.7.2018 Council of the European Union, 13.7.2018
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	20.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	208/3/4

1. Conclusions and Recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the proposal for a regulation for the European Atomic Energy Community (Euratom) research and training programme 2021-2025, emphasising its continuity with previous programmes on fusion research and development, nuclear fission and safety, and with the Joint Research Centre (JRC), while also addressing new areas of activity such as radiation protection and the decommissioning of nuclear power plants.

1.2. The EESC considers the Euratom budget to be proportionate to the objectives set and considers it essential to maintain this financial allocation regardless of the outcome of the Brexit negotiations. The Committee also considers it crucial in this respect to manage the United Kingdom's exit from the Euratom programme with the utmost care, particularly with regard to research already in progress, shared infrastructure and the social impact on staff (e.g. working conditions) both on British soil and elsewhere.

1.3. The EESC considers the Joint European Taurus project (JET) to be a key factor for the development of the International Thermonuclear Experimental Reactor (ITER) project, ITER being, from a scientific point of view, the successor to JET. For this reason, the Committee considers it important that JET remain operational (as an EU project or as a joint EU-UK project) until the ITER project comes into operation.

1.4. The EESC believes that the innovative aspects introduced in the programme, such as its simplification, the broadening of objectives (ionising radiation and plant decommissioning), enhanced synergies with the Horizon Europe programme and the possibility of financing education and training actions for researchers (e.g. Marie Skłodowska-Curie) are in line with citizens' expectations and boost the efficiency and effectiveness of the programme.

1.5. The Committee emphasises that nuclear safety must be understood as a dynamic concept, which entails constant monitoring of and adjustments to existing legislation in accordance with recent developments and innovations, covering the whole life span of the plants. Plants located on borders between EU countries should be given particular attention, with increased coordination between national and local authorities and the effective involvement of citizens and workers.

1.6. The EESC considers education — beginning with compulsory education — and training to be an essential factor in attracting young people to scientific and technological subjects. This is critical in terms of increasing the number of European researchers in the sector in the future. Currently there are not sufficient numbers to meet demand from industry and research.

2. Introduction

2.1. The proposal for a regulation establishing the Research and Training Programme of the European Atomic Energy Community (Euratom) for the period 2021-2025 is part of the legislative package for the 'Horizon Europe' Framework Programme for Research and Innovation 2021-2027 ⁽¹⁾. The proposed programme will be implemented for five years in accordance with Article 7 of the Euratom Treaty, with the possibility of a two-year extension to match the duration of Horizon Europe and the Multiannual Financial Framework (MFF).

2.2. The Horizon Europe programme will have a budget of EUR 100 billion for the period 2021-2027, of which EUR 2,4 billion will be allocated to the Euratom programme. The Horizon Europe framework programme also provides the frame of reference for the instruments and means of participation, as well as provisions for implementation, assessment and governance. Research areas supported by the Euratom programme are not included in Horizon Europe, for both legal reasons (separate treaties) and managerial ones (avoiding duplication), strengthening synergies between programmes.

2.3. The EESC has drafted an ad hoc opinion on the proposal for a Horizon Europe programme ⁽²⁾, and the present opinion is closely related to it in terms of its vision and recommendations. The EESC has also drafted two other opinions linked to this one: one on the ITER project ⁽³⁾ and the other on the decommissioning of nuclear power stations ⁽⁴⁾.

3. Gist of the proposal

3.1. The Euratom research and training programme deals with the different applications of nuclear energy in Europe, both for energy production and for other purposes in other sectors (e.g. ionising radiation in the medical sector). The European Union's efforts aim to promote innovation and develop secure technologies, reducing risks and ensuring optimum radiation protection. Euratom therefore makes it possible to complement the Member States' contributions by sharing innovation, research and training processes.

3.2. The proposal determines the budget and the common set of research objectives for both direct actions (carried out directly by the Commission via the joint research centre — JRC) and indirect actions (undertaken by public or private stakeholders financed by the programme), to be implemented in accordance with the work programmes agreed with Member States.

3.3. The Euratom programme 2021-2025 will be implemented under direct management. However, the Commission may decide, if deemed appropriate and effective, to use a shared and/or indirect management scheme, by contracting Member States, individuals, businesses, third countries, international organisations or citizens from third countries to carry out certain parts of the programme in accordance with Article 10 of the Euratom Treaty.

3.4. The proposed programme will continue with the key research activities of the ongoing Euratom programme (**radiation protection, nuclear safety of installations, security in the international policy framework, radioactive waste management and fusion energy**), but will place increased emphasis on decommissioning and on non-power applications such as **ionising radiation**. The proposed budget of EUR 1 675 000 000 for the period 2021-2025 is shared between research and development for nuclear fusion (EUR 724 563 000), nuclear fission, nuclear safety and radiation protection (EUR 330 930 000) and the JRC (EUR 619 507 000).

3.5. Broadening the range of objectives increases the cross-cutting nature of the instrument, enabling it to better serve citizens. In particular, the growing number of different applications for **ionising radiation** means that protection from excessive exposure to radiation is needed for people and the environment. Ionising radiation technologies are used every day in Europe in a number of fields, in particular the medical sector. As a result, research into **radiation protection** will also be developed using a cross-cutting approach, with regard both to the production of nuclear energy and to the medical sector, without excluding other forms of use in industry, agriculture, the environment and security.

3.6. Another innovative component is research aimed at developing and evaluating technologies for the **decommissioning** and environmental remediation of nuclear facilities, in response to increasing requests on their part. This component is essential to closing the loop with regard to the other safety aspects already dealt with by the ongoing

⁽¹⁾ COM(2018) 435 final.

⁽²⁾ INT/858, Horizon Europe (OJ C 62, 15.2.2019, p. 33).

⁽³⁾ TEN/680, MFF and ITER (see page 136 of the current Official Journal).

⁽⁴⁾ TEN/681, Multiannual Financial Framework, nuclear decommissioning and radioactive waste (see page 141 of the current Official Journal).

programme: **nuclear safety** (i.e. the safety of reactors and fuel cycles), **spent fuel and radioactive waste management, radiation protection and emergency preparedness** (radioactive accidents and research into radioecology) and **measures to implement policies on nuclear security, safeguards and non-proliferation**.

3.7. These initiatives will be accompanied by a specific action to support the development of **fusion energy**, a potentially inexhaustible source of energy with a reduced environmental impact. In particular, the proposal focuses on ensuring continuity in the implementation of the fusion roadmap, which should lead to the first power plant being built in the second half of this century. That is why the EU will continue to support the **ITER** project, through a specific programme⁽⁵⁾, and, looking ahead, the **DEMO** project.

3.8. Finally, in addition to research activities, the proposal provides the possibility for nuclear researchers to participate in education and training programmes (e.g. the Marie Skłodowska-Curie actions), in order to maintain a high level of expertise, as well as for specific financial support to allow access to European and international research infrastructure (including the JRC).

4. General comments

4.1. The EESC welcomes the proposal for a regulation for the Euratom programme 2021-2025. In particular, the Committee takes a positive view of the growing interconnections in the Horizon 2020 framework programme, with a view to ensuring common mechanisms for governance, access to and management of funds, as well as the integration of research and training activities, avoiding pointless duplication.

4.2. The EESC considers the Euratom budget to be proportionate to the objectives that the EU has set in the nuclear sector. For this reason, the Committee considers it essential that the financial allocation be maintained, regardless of the outcome of the Brexit negotiations. The Committee also considers it crucial in this respect to manage the United Kingdom's exit from the Euratom programme with the utmost care, particularly with regard to research already in progress, shared infrastructure and the social impact on staff (e.g. working conditions) both on British soil and elsewhere⁽⁶⁾.

4.3. In particular, the EESC stresses that to implement the ITER project, support is needed from the JET project. The JET facility is located in the United Kingdom and is funded by Euratom. Parts of the ITER facility currently under construction are tested using the JET project, and, from a scientific point of view, ITER is the successor to the JET project. This facility is the only one of its kind worldwide and cannot be replaced. For this reason, the Committee considers it important that JET remain operational (as an EU project or as a joint EU-UK project) until the ITER project comes into operation.

4.4. The Committee supports the approach of the proposal for a regulation, which is mainly aimed at providing continuity to research and to projects already under way, such as the ITER project. The latter is an important objective in the process of decarbonisation⁽⁷⁾, energy supply and industrial development⁽⁸⁾. The new programme also includes interesting new features and broadens the range of research and innovation activities geared to development and growth that are eligible for funding.

4.5. The EESC warmly welcomes the proposal to include ionising radiation actions among those that are eligible for funding. This increases the cross-cutting nature of the programme in line with the *societal challenges* objective of Horizon Europe. In this regard it is important for the results of research and innovation, i.e. patents and new technologies, to be disseminated rapidly and systematically, given their wide scope of application⁽⁹⁾.

4.6. It is important for the public to be informed of the results obtained through financing and joint efforts at European level. This will increase people's confidence in science and research, as well as raising awareness of the importance of the European Union and of a specific strategy designed to improve quality of life for all.

⁽⁵⁾ TEN/680, MFF and ITER (see footnote 3).

⁽⁶⁾ <https://www.nature.com/articles/d41586-018-06826-y>.

⁽⁷⁾ OJ C 107, 6.4.2011, p. 37.

⁽⁸⁾ OJ C 229, 31.7.2012, p. 60.

⁽⁹⁾ INT/858, Horizon Europe (see footnote 2).

4.7. The Committee also takes a favourable view of extending funding for research into and the sharing of knowledge on the decommissioning and environmental remediation of nuclear facilities, both to address the growing needs of Member States and to close the loop in terms of managing nuclear energy production processes. This must of necessity result in the safe environmental remediation of decommissioned plants.

4.8. The EESC believes that extending the programme to education and training activities, such as the Marie Skłodowska-Curie actions, is crucial to maintaining high standards of expertise in the EU. However, it is important to establish quantitative as well as qualitative objectives, since at present there are not enough European researchers in the sector to cover all the needs of the European production and research system ⁽¹⁰⁾.

5. Specific comments

5.1. The new nuclear safety framework put in place after the Fukushima disaster ⁽¹¹⁾ addresses citizens' concerns. The European Union has established a system of systematic controls (peer reviews) and dynamic and multi-level safety mechanisms which have increased the safety standards of plants. The Committee recommends monitoring to ensure the correct implementation of this directive and that it be updated and adapted in response to new challenges, covering the whole life span of plants, from planning new reactors to the continual upgrading of existing ones until they are decommissioned ⁽¹²⁾. In this context we believe that monitoring activities carried out by external and independent bodies can guarantee higher safety standards.

5.2. Since many reactors are located on the boundary between two or more EU Member States, it is important to establish a reinforced framework for cooperation between Member States, with a view to setting up mechanisms to provide rapid responses to unforeseeable cross-border accidents ⁽¹³⁾, ensuring effective collaboration and coordination between the local and national authorities concerned. This process, based on Article 8 of Directive 2014/87/Euratom, should also provide effective, far-reaching information and training activities aimed at workers and citizens, which should be supported through specific funding lines. Similar initiatives should also be developed with neighbouring third countries which share the same risks ⁽¹⁴⁾.

5.3. The Committee takes the view that subcontracting could be a factor giving rise to uncertainty with regard to the maintenance of nuclear power plants and therefore recommends that it be limited and closely monitored ⁽¹⁵⁾.

5.4. The EESC considers it essential to encourage and support young people's interest in scientific and technological subjects, something that requires the active and informed involvement of school teachers. The latter, through continual training and updating, should be positive vehicles for knowledge and encourage open discussions with students on the topic, free from prejudices and stereotypes.

5.5. In particular, the EESC supports initiatives (including through the Erasmus+ programme) aimed at promoting STEAM subjects in schools, i.e. science, technology, engineering and maths together with art. Through this approach, students are encouraged to adopt a systematic and experimental attitude by being given the opportunity to resolve real world problems in a creative manner. Research and projects already financed by the EU in recent years have yielded very positive results, showing that this approach generates interest in technical, mathematical and scientific subjects, which subsequently become a first option for students when choosing their university studies ⁽¹⁶⁾.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽¹⁰⁾ OJ C 237, 6.7.2018, p. 38.

⁽¹¹⁾ Directive 2014/87/EURATOM of the Council (OJ L 219, 25.7.2014, p. 42) and linked directives.

⁽¹²⁾ OJ C 341, 21.11.2013, p. 92.

⁽¹³⁾ OJ C 318, 29.10.2011, p. 127.

⁽¹⁴⁾ OJ C 487, 28.12.2016, p. 104.

⁽¹⁵⁾ OJ C 237, 6.7.2018, p. 38.

⁽¹⁶⁾ OJ C 75, 10.3.2017, p. 6.

Opinion of the European Economic and Social Committee on ‘Proposal for a Council decision amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it’

(COM(2018) 445 final — 2018/0235 (NLE))

(2019/C 110/25)

Rapporteur: **Ulrich SAMM**

Referral	European Commission, 12.7.2018
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	20.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	202/0/5

1. Conclusions and recommendations

1.1. The EESC notes that achieving clean energy is a high priority and to this end **fusion energy** is recognised as a potential long-term solution with Europe being at the forefront of developing fusion technologies which are carbon-free, sustainable and help secure our mix of energy supplies.

1.2. The EESC emphasises that the high level of long-term investment needed for the development of a fusion power plant does still entail some industrial risk, but in the event of success the realisation of a fusion power plant would be a newly introduced factor that would significantly change the existing energy supply by providing a **disruptive innovation**, with fusion fuel being abundant and virtually inexhaustible.

1.3. The proposal addresses the key challenges facing the **next MFJ** to sustain the positive momentum of the **ITER** project. A collaboration of seven global partners (EU, United States, Russia, Japan, China, South Korea, and India) is at present constructing in Cadarache, France the first 500 MW thermal output fusion reactor ITER. The start of operations is 2025 and full performance operation (500 MW) is planned for 2035. The EESC appreciates the positive progress during recent years, after overcoming problems by a major overhaul of the ITER project (new senior management and a revised ITER baseline schedule).

1.4. The EESC encourages the Commission to emphasise more the importance of the necessity to link the ITER project and the European fusion research organised by EUROfusion, which is funded under the **Research and Training Programme** (Euratom) and operates the **Joint European Torus (JET)**, an important experimental facility located in Culham, United Kingdom. Besides construction, ITER needs thorough preparation and only a strong European research community can maintain the accompanying programmes and leadership.

1.5. The EESC acknowledges the **EU added value**, as can be seen from the success of EUROfusion. This is the research programme in Europe involving by far the most Member States (except Luxembourg and Malta), contributing with essential projects, which altogether make the EU a world leader in this area.

1.6. The EESC welcomes that the new **European Roadmap** to the realisation of fusion energy developed by EUROfusion provides a well-defined path towards a first fusion power plant based on intensified industrial involvement, education of fusion scientists and engineers all over Europe and strong collaboration outside Europe. The roadmap anticipates ITER being in routine operation at high performance in 2035 and based on the results, the design of a first fusion power plant (DEMO), supplying for the first time electricity to the grid, will be finished around 2040 when construction begins.

1.7. The EESC understands that ITER has important issues that can only be addressed in JET and it therefore echoes the concerns about the effect of **Brexit** on a continuation of JET. To minimise risks in the operation of ITER and optimise its research plan, the EESC considers it important that JET continues to be operated (as a EU, or a joint EU-UK facility) in the period between 2020 and first operation of ITER, as there are no back-up solutions to the loss of JET during this time.

1.8. The Commission's proposal gives the budget for ITER, but there is no mention of the adequacy of the budget needed for the accompanying fusion research programme. The EESC emphasises that the **budget reserved for EUROfusion** in the period 2021-2025 must be compatible with the goals of the fusion roadmap, in which the work on ITER is essential.

1.9. The EESC is pleased about the relevance of investments in fusion technology for **industry and SMEs**. In the period from 2008 to 2017 Fusion for Energy awarded contracts and grants to the value of approximately **EUR 3,8 billion** throughout Europe. At least 500 companies including SMEs, and more than 70 R & D organisations, from about 20 different EU Member States and Switzerland have benefited from investment in ITER activities. Furthermore, non-EU ITER Parties have also signed contracts with European industry to support the manufacture of their own components for ITER, which brings additional **new jobs and growth** to European companies. The EESC takes note that the biggest contributor to the net impact from ITER investments is the development of spin-offs and technology transfers, which create new business opportunities in other sectors.

1.10. The EESC is convinced that European fusion research in general and the realisation of ITER in particular can serve as an outstanding example demonstrating the power of joint European projects. It is important for the **public to be informed** of the results obtained through financing and joint efforts at European level. This will increase people's confidence in science and research, as well as raising awareness of the importance of the European Union.

2. Introduction

2.1. **ITER** (International Thermonuclear Experimental Reactor) is an international scientific collaboration project launched in 2005 between seven global partners (the ITER Parties are: EU, United States, Russia, Japan, China, South Korea, and India). The project aims at demonstrating the scientific and technological feasibility of fusion energy for peaceful purposes by construction and operation of the first **500 MW** fusion reactor ITER in Cadarache, France. The EESC has supported this project already by several opinions⁽¹⁾. ITER is the next step on the path to fusion energy, the most innovative and promising sustainable energy source capable of coping with the growing demand for energy, alongside the development of renewable energies.

2.2. In 2015, a major overhaul of the ITER project included the appointment of a new senior management in the ITER Organisation (IO) as well as in F4E. A **revised ITER baseline schedule** was endorsed by the ITER Council on the 19 November 2016. This schedule establishes December 2025 as the earliest technically achievable date for First Plasma and sets the target date for full performance operation (500 MW), using deuterium-tritium fuel, in 2035. A positive appreciation of ITER's progress in recent years was confirmed by independent assessments, which acknowledged the stabilisation of the project and a realistic basis for its completion.

2.3. The European contribution to the IO is provided by EU's Domestic Agency '**Fusion for Energy**' (F4E) located in Barcelona, Spain. F4E is a Joint Undertaking established according to Chapter 5 of the Euratom Treaty. Pursuant to its Statutes, F4E has its own budgetary discharge procedure through the European Parliament, following a recommendation of the Council of the EU. In 2015, a new F4E financial regulation was adopted; the responsibility for the supervision of ITER, and therefore of F4E, was transferred from DG RTD to DG ENER.

2.4. In addition to the construction of ITER, a profound and broad scientific support for fusion research is given by the **Research and Training Programme**⁽²⁾, which complements the general research programme Horizon Europe⁽³⁾. Besides the classical nuclear research activities this programme covers fundamental research activities on the development of fusion

⁽¹⁾ OJ C 302, 7.12.2004, p. 27; OJ C 318, 29.10.2011, p. 127; OJ C 229, 31.7.2012, p. 60.

⁽²⁾ Opinion TEN/678 Research and Training Programme 2021-2025 (Euratom), Rapporteur: Giulia Barbucci (see page 132 of this Official Journal).

⁽³⁾ Opinion INT/858 Horizon Europe, Rapporteur: Lobo Xavier (OJ C 62, 15.2.2019, p. 33).

energy along the **Fusion Research Roadmap**, which describes an optimised path that goes via ITER and a Demonstration Electricity plant (DEMO) to the commercial utilisation of fusion plants. The Fusion Research Roadmap not only describes the main facilities that are needed, but also the research that needs to be pursued in support of ITER and DEMO.

2.5. The Fusion Research Roadmap has been developed by **EUROfusion**, which is responsible for coordinating the European fusion research activities. This consortium brings together 30 National Research Institutes and about 150 Universities from 26 EU countries plus Switzerland and Ukraine. The HQ of EUROfusion is located in Garching, Germany, while the flagship experiment **Joint European Torus (JET)** is located in Culham, United Kingdom.

3. Gist of the proposal

3.1. The proposal⁽⁴⁾ addresses the key challenges for the **next MFF** to sustain the positive momentum in the project, ensure the steady progress of the construction and assembly, and retain the commitment of all ITER Parties. Meeting these challenges will require sustained EU leadership of the project, which needs to be underpinned by excellent performance of F4E and full compliance of the EU with its share of funding obligations and in-kind contributions.

3.2. The **resources** needed by **Euratom** to enable the successful completion of the facility and the start of the operation/experimental phase are detailed in the Commission Communication on 'the EU Contribution to a Reformed ITER Project' adopted by the Commission in June 2017.

3.3. The Commission invites the European Parliament and the Council to set the maximum level of the Euratom commitments for ITER in the Multiannual Financial Framework for the period 2021-2027 at EUR **6 070 000 000** (in current values). This is considered to be the critical mass of funding needed to make the ITER-related EU action work effectively, corresponding to the new baseline for the construction of ITER. The proposed budget is based on the earliest technically achievable date for the ITER construction without any contingencies and therefore assumes that all major risks can be mitigated.

4. General comments

4.1. The EESC notes that ensuring competitiveness and securing our energy supplies is of prime concern but is only sustainable when combined with combating climate change. Energy sources that are **carbon-free and sustainable** are therefore crucial for our future prosperity and well-being. Achieving clean energy is a high priority and for this goal, fusion energy is recognised as a potential long-term solution with Europe being at the forefront of developing fusion technologies.

4.2. The EESC emphasises that the high level of long-term investment needed for the development of a fusion power plant does still entail some industrial risk, but in the event of success the realisation of a fusion power plant would be a newly introduced factor that would significantly change the existing energy supply by providing a **disruptive innovation**. The fusion fuel is abundant and virtually inexhaustible: Tritium can be produced from Lithium, a metal ubiquitous in the Earth's crust and in seawater and Deuterium is found in natural water.

4.3. The EESC would like to point out the distinct **safety features** of fusion compared to conventional nuclear fission. A fusion power plant is inherently safe: only a few grams of fuel make up the plasma, which rapidly extinguishes itself in case of any malfunction. Deuterium-tritium reactions release neutrons that will activate wall materials. The resulting radioactive by-products are short-lived, thus the majority of materials can be recycled after a certain decay time and no new nuclear waste storage is needed.

4.4. The EESC encourages the Commission to emphasise more the importance of the need to link the ITER project and the European fusion research organised by **EUROfusion**. Besides construction, ITER needs thorough preparation and accompanying programmes. Within Europe, a coordinated programme using JET and other devices, along with modelling and simulations helps to test and develop ITER operating scenarios, and project and optimise the performance of ITER and design of DEMO. The operation of the JET tokamak with a deuterium-tritium mixture and with an ITER-like wall is key to the preparation of ITER operation.

⁽⁴⁾ COM(2018) 445 final.

4.5. The EESC acknowledges the **EU added value**, as can be seen from the success of EUROfusion. This is the research programme in Europe involving by far the most Member States (except Luxembourg and Malta) contributing with essential projects which altogether make the EU a world leader in this area. Investments and research funding have been for the benefit of industries, research organisations and universities.

4.6. The EESC is convinced that European fusion research in general and the realisation of ITER in particular can serve as an outstanding example demonstrating the power of joint European projects. It is important for the **public to be informed** of the results obtained through financing and joint efforts at European level. This will increase people's confidence in science and research, as well as raising awareness of the importance of the European Union in achieving a distant and difficult goal that would not be possible through the efforts and financing of individual countries and that will have important long-term repercussions, not only in technological and industrial terms, but also on research, industry and SMEs, with a significant impact on the economy and job creation, even in the short and medium term.

5. Specific comments

5.1. The EESC acknowledges that the new **European Roadmap** to the realisation of fusion energy provides a well-defined path towards a first fusion power plant based on intensified industrial involvement, education of fusion scientists and engineers all over Europe and strong collaboration outside Europe. The roadmap covers the short-term period until ITER comes into operation (2025), the medium-term which runs until ITER is in routine operation at high performance (2035) and the long-term towards a first fusion power plant (DEMO), supplying electricity to the grid for the first time.

5.2. ITER is the key facility of the roadmap as it is expected to achieve most of the important milestones on the path to fusion power. Thus, the vast majority of resources proposed in the short term for EUROfusion are dedicated to ITER and its accompanying experiments, one of which is the **Joint European Torus (JET)** in Culham, England. The EESC acknowledges that JET has demonstrated that building and operating a large fusion research infrastructure is efficient and maximises the scientific and industrial benefits.

5.3. The EESC supports the request from the ITER Organisation for valuable input from results to be obtained on **JET** during the period before the First Plasma in ITER. Since JET has unique capabilities as it is the only tokamak capable of operation with Tritium, having the ITER first wall materials and providing full remote handling, its operation can make contributions to the ITER research plan with view to reducing risks, cost savings and operational licensing for ITER. This is particularly important because the budget for ITER proposed by the Commission is without any contingencies and therefore assumes that all major risks can be mitigated.

5.4. The EESC understands that ITER has important issues that can only be addressed in JET and it therefore joins the concerns about the effect of **Brexit** on the continuation of JET. To minimise risks in the operation of ITER and to optimise its research plan, the EESC considers it important that JET continues to be operated (as a EU, or a joint EU-UK facility) in the period between 2020 and first operation of ITER, as there are no back-up solutions to the loss of JET during this time.

5.5. The Commission's proposal includes the budget for ITER, but nothing is mentioned about the adequacy of the budget needed for the accompanying fusion research programme. The latter is addressed in a separate proposal⁽⁵⁾, however, here in turn there is no mention of the needs of ITER. The EESC emphasises that the **budget reserved for EUROfusion** in the period 2021-2025 must be compatible with the goals of the fusion roadmap, in which the work for ITER is essential, while the DEMO design activities need to be strengthened.

5.6. The EESC is pleased with the relevance of investments in fusion technology for industry and SMEs. The EU investment in the construction of ITER brings important benefits to **European industry** and the research community gives them the opportunity to engage in cutting-edge R & D, technology, design and manufacture work for ITER components. The resulting creation of new knowledge and spin-offs generates economic growth and promotes employment. In the

⁽⁵⁾ COM(2018) 437 final and opinion TEN/678, Rapporteur: Giulia Barucci (see footnote 2).

period from 2008 to 2017, Fusion for Energy awarded 839 contracts and grants worth approximately **EUR 3,8 billion** throughout Europe. At least 500 companies including SMEs, and more than 70 R & D organisations, from about 20 different EU Member States and Switzerland have benefited from investment in ITER activities. Furthermore, non-EU ITER parties have also signed contracts with European industry to support the manufacture of their own components for ITER, which brings additional **new jobs and growth** to European companies.

5.7. The EESC takes note of the comprehensive information provided by the Commission ⁽⁶⁾, which reveals that the biggest contributor to the net impact from ITER investments is the development of spin-offs and technology transfers. Technologies developed for ITER create new business opportunities in other sectors, because working on ITER increases the **competitiveness** of European companies in the global economy, it provides an opportunity for traditional companies to enter the **high tech market** and also offers European high-tech industries and SMEs a unique opportunity to innovate and develop products for exploitation outside of fusion.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽⁶⁾ 'Study on the impact of the ITER project activities in the EU' ENER/D4/2017-458, (2018), Trinomics (Rotterdam) and Cambridge Econometrics.

Opinion of the European Economic and Social Committee on

‘Proposal for a Council Regulation establishing the nuclear decommissioning assistance programme of the Ignalina nuclear power plant in Lithuania (Ignalina programme), and repealing Council Regulation (EU) No 1369/2013’ and

(COM(2018) 466 final — 2018/0251 (NLE))

‘Proposal for a Council Regulation establishing a dedicated financial programme for decommissioning of nuclear facilities and management of radioactive waste, and repealing Council Regulation (Euratom) No 1368/2013’ and

(COM(2018) 467 final — 2018/0252 (NLE))

‘Report from the Commission to the European Parliament and the Council on the evaluation and implementation of the EU nuclear decommissioning assistance programmes in Bulgaria, Slovakia and Lithuania’

(COM(2018) 468 final)

(2019/C 110/26)

Rapporteur: **Rudy DE LEEUW**

Referral	European Commission, 12.7.2018
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	20.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	177/8/6

1. Conclusions and recommendations

1.1. The EESC endorses the Commission’s proposal and highlights the suggestions for future support put forward in the opinion.

1.2. The EESC does not suggest amending the proposal, but instead calls for closer monitoring of activities in areas raised in the opinion, particularly:

- a sustainable development oriented approach in the choice of energy sources;
- proper consideration of the specific situation in Lithuania in particular, as well as in other countries concerned with regard to socioeconomic aspects;
- dissemination throughout the EU of knowledge acquired in the area of dismantling and on the issue of training workers;
- safe and sustainable management of nuclear waste generated;
- strengthening of performance indicators by including performance in relation to protecting workers from radiation.

1.3. In addition to experts and authorities, civil society should be encouraged and assisted to get involved in monitoring these activities.

1.4. The Committee invites the European Commission to assess the situation determined by the end of life of several nuclear power plants in the EU and present a report with proposals to minimise the costs and the risks of decommissioning the reactors and stocking the radioactive waste. The report should also pay attention to the effects of the considerable reduction within the EU of the capacity to reprocess fuel and nuclear waste due to Brexit and on the contrary in the UK the reprocessing overcapacity.

2. Gist of the proposals

2.1. The Commission proposes to continue, during the period covered by the post-2020 multiannual financial framework (MFF 2021-2027), the funding programmes for financial assistance for 'Decommissioning of Nuclear Facilities and Management of Radioactive Waste' for Bulgaria (Kozloduy 1-4), Slovakia (Bohunice V1 1-2) and Lithuania (Ignalina 1-2) for the other part.

2.2. These proposals bring in two modifications.

- More flexibility in the use of the budget as stated: '... Additional budgetary flexibility may be obtained by re-distributing funds amongst the actions where and when needed in line with the actions' progress'. This takes into account the variable and often unpredictable level of expenditures in a given year.
- Joining the decommissioning programme of some JRC nuclear installations in Germany, Italy, Belgium and the Netherlands.

3. General comments

3.1. We note, with satisfaction, that with one of the programme's aims reached (to better address the needs and ensure the safe decommissioning of the facility), the next stage will focus on decommissioning activities that involve radiological safety challenges. These activities should also be assessed based on an approach geared towards a sustainable energy mix, in accordance with the international agreements to which the EU is party (the Paris Climate Agreement, the EU's commitment to a zero-carbon economy, etc.).

3.2. The report on the evaluation and implementation of the EU nuclear decommissioning assistance programmes in Bulgaria, Slovakia and Lithuania ('the report' from here on) confirms that it is financially feasible to continue the programmes. We note that the post-2020 MFF budget estimates for continuing and finalising the Kozloduy and Bohunice programmes correspond to less than a quarter of the 2014-2020 MFF estimates (EUR 63 million for Kozloduy and EUR 55 million for Bohunice) and will ensure that the agreed end state of the decommissioning is reached. The budget estimate for the post-2020 MFF is EUR 522 million, which exceeds the 2014-2020 MFF.

3.3. The EESC stresses that concerns remain regarding Lithuania. The Committee notes that the budget set out by the Commission only covers 70 % of the needs for this period and considers therefore that this proposal does not show solidarity, nor does it provide sufficient financial assistance for a project that is also important for neighbouring countries. The successful dismantling of the Ignalina plant is the most significant challenges in terms of nuclear safety facing the European Union and should be tackled in such a way as to guarantee a reduction in risk to EU citizens.

3.4. We appreciate the initiative of the Commission to add some JRC installations to the programme for Bulgaria and Slovakia. The budget estimate for dismantling JRC nuclear facilities amounts to EUR 348 million. The Committee stresses the importance of the exemplary role the EU has to play when managing its own JRC operations, since it is an exclusive competence of the Commission (JRC) as licence holder. Under the Euratom Treaty, the JRC has to manage its historical nuclear liabilities and decommission its nuclear installations that have been shut down. The programme has great potential to create and share knowledge. In this way it helps EU Member States decommission their own installations.

3.5. With regard to knowledge, the EESC also highlights the importance of measuring the economic and social consequences of dismantling, e.g. on the labour market, health indicators and the structural development of Member States' regions. It is essential to seize the opportunity that dismantling activities present for providing additional theoretical and practical training to local workforces in areas that are critical for the future. This training cannot be excluded from the funding.

3.6. The EESC, within the call for closer monitoring, recommends that financial resources within the programme should be allocated for ensuring appropriate participation of local and national interested organizations of civil society with the aim to ensure independent, credible and permanent public monitoring of activities implemented under this financial assistance.

3.7. The Committee notes with satisfaction that Slovakia, Bulgaria and Lithuania have made significant progress in decommissioning their reactors in the time agreed. Nevertheless, the Committee points out that there will be some challenges in the near future: dismantling the core of the reactor and other operations in the reactor buildings. The report says little about nuclear waste management constraints, in particular for carbon, and old reactors in France and the UK. The EESC suggests that the report examine further the question of nuclear waste, which is a very important long-term issue.

3.8. The Committee also points out the good practice, specifically on the site of Ignalina, of helping former nuclear power plant workers find jobs locally — not only a socially valuable endeavour, but also conducive to developing specific decommissioning-related abilities and transferring knowledge. The Committee considers this an interesting way of addressing these people's needs. Moreover, this approach could be supported by measures to train workers. Research institutes should be encouraged to participate actively in such projects, which should receive proper financial support.

3.9. The scope of the programmes is in line with EU safety policy encapsulated in three directives:

- 1) Council Directive 2011/70/Euratom⁽¹⁾ establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste;
- 2) Council Directive 2009/71/Euratom⁽²⁾ and its amendment Council Directive 2014/87/Euratom⁽³⁾ establishing a Community framework for the nuclear safety of nuclear installations;
- 3) Directive 2013/59/Euratom⁽⁴⁾ laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation.

3.10. But, for historical reasons, they partially derogate regarding the ultimate responsibility of the Member States to ensure that there are adequate financial resources for nuclear decommissioning and radioactive waste management. The Committee has already agreed with this stance for solidarity reasons.

3.11. In addition, increased nuclear safety is of crucial interest, not only at regional or national level, but at European or even global level. That is why a joint effort on the safe management of the technological problems associated with nuclear dismantling and the acquisition of knowledge in the field is not only important for the regions or Member States concerned, but also for the whole European Union. It is also why the EESC highlights the need for close cooperation between the Member States and the programme participants on one hand and the Commission on the other.

3.12. The Committee notes with satisfaction that the programme has made it possible to develop new highly effective tools for reducing the volume of waste. The Committee recommends the Commission take a proactive approach to helping to share knowledge on this subject.

3.13. We recognise the relevance of the key performance indicators used to monitor the progress of decommissioning and its financial costs. The EESC emphasises the benefit of careful monitoring and efficient implementation of the programme requirements. The Committee highlights that activities funded by the EU should promote high-quality jobs, while complying with the highest safety and radiation protection levels in line with the relevant aforementioned European directives.

4. Specific comments

4.1. In line with these considerations the Committee considers that it should be possible to obtain a more concrete picture of the state of the operational radiological protection on each site in question, as well as an ALARA ('As Low As Reasonably Achievable') strategy. It is of course the exclusive responsibility of the Member State concerned to make sure this is the case, in accordance with Article 5 of Council Directive 2013/59/Euratom laying down basic safety standards for protection against the risks from exposure to ionising radiation. Maintaining the radiation dose workers are exposed to in

⁽¹⁾ OJ L 199, 2.8.2011, p. 48.

⁽²⁾ OJ L 172, 2.7.2009, p. 18.

⁽³⁾ OJ L 219, 25.7.2014, p. 42.

⁽⁴⁾ OJ L 13, 17.1.2014, p. 1.

the range of an optimised value of the effective dose is a symptomatic indicator, corresponding to one of the objectives of the programmes to focus on radiological safety. This data has to be available in the register of the safety and radiological authorities of the Member States concerned.

4.2. Another concern is the final disposal of radioactive waste. This is clearly the exclusive responsibility of the Member State. The Committee nevertheless recommends that the Commission support not only the sharing of knowledge, but also dynamic cooperation between Member States, when legally possible. This will help reach a high level of safety within reasonable economic parameters.

4.3. Cooperation with local safety authorities seems to be a point on which little information is given. Nevertheless some problems, identified in the proposal for a Council Regulation establishing a dedicated financial programme for decommissioning of nuclear facilities and management of radioactive waste, and repealing Council Regulation (Euratom) No 1368/2013, require further attention, especially when *'the lengthy authorisation procedures by national authorities ... make it difficult to manage the programme ...'*. The Commission has many tools to enhance this cooperation, including the ENSREG group.

4.4. The Committee points out that several nuclear power plants in the European Union have reached or are reaching the end of life and will require to be decommissioned. This is the exclusive responsibility of the Member State, however the EESC invites the European Commission to assess the situation and present a report with proposals to minimise the costs and the risks of decommissioning the reactors as well as stocking the radioactive waste. The report should also pay attention to the effects of the considerable reduction within the EU of the capacity to reprocess fuel and nuclear waste due to Brexit and on the contrary in the UK the reprocessing overcapacity.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Recommendation for a Council Decision authorising the opening of negotiations for a Convention establishing a multilateral court for the settlement of investment disputes’

(COM(2017) 493 *final*)

(2019/C 110/27)

Rapporteur: **Philippe DE BUCK**

Co-Rapporteur: **Tanja BUZEK**

Referral	13.12.2017 (European Commission)
Legal basis	Article 207 TFEU
Section responsible	REX
Adopted in section	23.11.2018
Adopted at plenary	12.12.2018
Plenary session No	539
Outcome of vote (for/against/abstentions)	206/3/3

1. Conclusions and recommendations

1.1. The EESC fully acknowledges that investor-state dispute settlement (ISDS) in trade and investment treaties has become ever more controversial to a number of stakeholders over questions of legitimacy, consistency and transparency. These criticisms include, but are not restricted to, procedural and substantive considerations.

1.2. The EESC has participated actively throughout the debate around the reform and modernisation of investment protection. It adopted opinion REX/464 and REX/411, and both opinions expressed several concerns and issued recommendations.

1.3. Hence, the EESC welcomes the EU Commission’s efforts towards a multilateral reform of ISDS under the auspices of UNCITRAL and considers it vital that the EU remains open to all approaches and ideas that have surfaced regarding ISDS reform.

1.4. The EESC particularly welcomes the increased commitment towards transparency, allowing non-governmental organisations to monitor and even participate in the discussions.

1.5. The EESC considers it vital that Working Group III of UNCITRAL will welcome the input of all relevant stakeholders in an effort to increase inclusiveness, and calls for an improved and more balanced invitation of stakeholders. The EESC further calls on the Commission to use its best endeavours to involve the EESC actively in the work of Working Group III.

1.6. The EESC has always recognised that FDI is an important contributor to economic growth and that foreign investors must have global protection against direct expropriation, be free from discrimination and enjoy equivalent rights to domestic investors.

1.7. However, equally, the EESC has always underlined that the right of the States to regulate in the public interest must not be undermined.

1.8. In the context of establishing a Multilateral Investment Court (MIC), the EESC underlines that a number of fundamental questions have to be addressed: the scope, the protection of public interest, accessibility and relations with domestic courts.

1.9. The scope: Although the EESC believes that a more holistic approach covering both concerns about substantive and procedural aspects of investment protection would be preferable, the EESC notes that the mandated scope has been limited to the procedural aspects of the settlement of disputes between investors and states.

1.10. The public interest: The EESC considers it vital that the MIC should not in any way affect the ability of the EU and Member States to fulfil their obligations under international environmental, human rights and labour agreements as well as protection of consumers and to have procedural safeguards against claims that target domestic public interest legislation. Therefore, the EESC is of the opinion that this could only be sufficiently achieved by the inclusion of a hierarchy clause and a public interest carve-out.

1.11. Third-party rights and counterclaims: While the EESC considers permitting *amicus curiae* submissions as a first step that, however, needs to essentially ensure their due consideration by judges, it welcomes the inclusion in the mandate of the possibility of third-party interventions and recommends investigating the role of third parties that can be local residents, workers, unions, environmental groups or consumers.

1.12. Relations with domestic courts: The EESC considers that the MIC may under no circumstances affect negatively the EU's judicial system and the autonomy of EU law. It notes that the question of the relationship between domestic courts and the MIC is viewed differently by different stakeholders, but encourages the Commission to further investigate the issue of the exhaustion of local remedies and how it could work in the context of the MIC.

1.13. Independence and legitimacy of the judges: The appointment of judges on a permanent basis is key in starting to build case-law and improve predictability, while their qualifications require a demonstrable expertise in a wide area range of law. The EESC welcomes the commitments on setting clear and high-level criteria to ensure the rule of law and public trust and calls on the selection process to be transparent and subject to principles of public scrutiny.

1.14. An effective system: While a secretariat should be tasked with the effective administration of the MIC, sufficient resources need to be guaranteed for its functioning, and administrative costs should be covered by the Parties on an equitable basis taking into account different criteria. SMEs should enjoy the same level of protection and access to dispute settlement at reasonable conditions and costs and all decisions of the MIC should be enforceable and made public.

1.15. High level of protection and potential transition period: It is important to note that none of the agreements concluded by the EU or Member States will be automatically placed under the jurisdiction of an MIC and that during a potential transition period the agreed dispute settlement procedures shall continue to apply in order to guarantee a high level of protection of investments, given the constitutionality and viability of an MIC under EU law.

2. Background

2.1. Developed by more than 3 200 treaties since the 1970s, the system of investment protection comprises substantive investment protection clauses and the dispute settlement procedure clauses that foresee a mechanism where foreign investors can put forward claims against host states (ISDS) in accordance with legal provisions foreseen in the treaties.

2.2. The EESC notes a recent publication in the framework of the OECD Working Papers on International Investment, by policy analyst Joachim Pohl, entitled 'societal benefits and costs of international investment agreements — a critical review of aspects and available empirical evidence' ⁽¹⁾.

2.3. In recent years, the reform of investor-state dispute settlement (ISDS) has been central in the debate around the EU's investment policy with the system of investment protection attracting ever more controversy over questions of the legitimacy, of consistency and transparency from a number of stakeholders. These criticisms include, but not exhaust, procedural and substantive considerations.

2.4. These concerns were expressed in particular during two public consultations organised by the European Commission — the first during the negotiations for the Transatlantic Trade and Investment Partnership (TTIP) ⁽²⁾ in 2014, the second in the framework of multilateral reform efforts regarding investment dispute resolution ⁽³⁾ in 2017.

⁽¹⁾ http://www.oecd-ilibrary.org/finance-and-investment/societal-benefits-and-costs-of-international-investment-agreements_e5f85c3d-en

⁽²⁾ http://trade.ec.europa.eu/consultations/index.cfm?consul_id=179

⁽³⁾ http://trade.ec.europa.eu/consultations/index.cfm?consul_id=233

2.5. The European Parliament in its TTIP resolution of 8 July 2015 requested the Commission 'to replace the ISDS system with a new system for resolving disputes between investors and states which is subject to democratic principles and scrutiny, where potential cases are treated in a transparent manner by publicly appointed, independent professional judges in public hearings and which includes an appellate mechanism, where consistency of judicial decisions is ensured, the jurisdiction of courts of the EU and of the Member States is respected, and where private interests cannot undermine public policy objectives' ⁽⁴⁾.

Developments at EU level

2.6. In response to critics of the current ISDS system and to pressure from civil society on the need to reform it, the Commission proposed the Investment Court System (ICS), a system of investor-state dispute settlement, and included it in the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the EU-Singapore and the EU-Vietnam Free Trade Agreements.

2.7. In this context, in CETA a specific provision is envisaged in Article 8.29, calling on the Parties to consider the possibility of establishing a Multilateral Investment Court (MIC) in the future: 'the Parties shall pursue with other trading partners the establishment of a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes. Upon establishment of such a multilateral mechanism, the CETA Joint Committee shall adopt a decision providing that investment disputes under this Section will be decided pursuant to the multilateral mechanism and make appropriate transitional arrangements'.

2.8. However, none of the abovementioned agreements is ratified yet, and there is also a case related to the ICS included in CETA pending at the Court of Justice of the European Union ⁽⁵⁾. A decision will not be reached for several months.

2.9. The EESC takes note that no investment protection chapter was included in the EU-Japan Economic Partnership Agreement, due to the fact that Japan was not able to accept the EU proposal on the ICS.

Involvement of the EESC

2.10. Throughout this process, the European Economic and Social Committee (EESC) has participated actively in the debate around the modernisation and reform of investment protection, and the ISDS system in particular, also by organising two public hearings in June 2016 ⁽⁶⁾ and most recently in February 2018 ⁽⁷⁾. In this context, the EESC adopted Opinion REX/464 'The position of the EESC on specific key issues relating to the Transatlantic Trade and Investment Partnership (TTIP) negotiations' ⁽⁸⁾ as well as Opinion REX/411 on 'Investor protection and investor to state dispute settlement in EU trade and investment agreements with third countries' ⁽⁹⁾.

2.11. The EESC recognised that FDI is an important contributor to economic growth, and foreign investors must have global protection against direct expropriation, be free from discrimination and enjoy equivalent rights as domestic investors.

2.12. At the same time the EESC underlined that a state's right to regulate in the public interest is paramount and must not be undermined by the provisions of any International Investment Agreement (IIA). An unambiguous clause which horizontally asserts this right is essential.

⁽⁴⁾ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0252+0+DOC+XML+V0//EN>

⁽⁵⁾ On 6 September 2017, Belgium requested an Opinion from the Court of Justice of the European Union on the compatibility of the ICS with (1) the exclusive competence of the CJEU to provide the definitive interpretation of European Union Law; (2) the general principle of equality and the 'practical effect' requirement of European Union Law; (3) the right of access to the courts and; (4) the right to an independent and impartial judiciary (https://diplomatie.belgium.be/sites/default/files/downloads/ceta_summary.pdf).

⁽⁶⁾ <https://www.eesc.europa.eu/en/agenda/our-events/events/public-hearing-framework-eesc-own-initiative-opinion-position-eesc-specific-key-issues-ttip-negotiations>

⁽⁷⁾ <https://www.eesc.europa.eu/en/agenda/our-events/events/multilateral-investment-court-hearing>

⁽⁸⁾ See 'The position of the EESC on specific key issues of the Transatlantic Trade and Investment Partnership (TTIP) negotiations (OJ C 487, 28.12.2016, p. 30).

⁽⁹⁾ See EESC Own-initiative Opinion on Investor protection and investor to state dispute settlement in EU trade and investment agreements with third countries (OJ C 332, 8.10.2015, p. 45). The opinion contains an appendix which makes reference to a possible multilateral instrument for the settlement of disputes between investors and states.

2.13. In conclusion, the EESC considered that the European Commission's proposal for the ICS was a step in the right direction but must be further improved in a number of areas in order to function as an independent international judicial body. In addition, the EESC took note that some stakeholders question the need for a separate investment arbitration system in properly functioning and highly developed domestic legal systems.

2.14. The EESC raised several concerns that relate more specifically to ISDS in its opinion on 'Investor protection and investor to state dispute settlement in EU trade and investment agreements with third countries' ⁽¹⁰⁾. These included: conflict of interest and bias of arbitrators; frivolous claims; the nature of the arbitration industry; the resort to ISDS without seeking other means of redress; the unnecessary use of ISDS between countries with developed judicial systems; the potential incompatibility of ISDS with EU law; and opacity of proceedings.

Multilateral level

2.15. At the same time, discussions on a reform of the ISDS are also taking place at multilateral level. On 10 July 2017, following a formal request from many of its members, including the European Union Member States ⁽¹¹⁾, the United Nations Commission on International Trade Law (UNCITRAL) decided to establish a government-led Working Group III, authorised with a mandate to (1) identify and consider concerns regarding ISDS; (2) consider whether reform was desirable in light of any identified concerns; and (3) if the Working Group were to conclude that reform was desirable, develop any relevant solutions to be recommended to the Commission ⁽¹²⁾.

2.16. From a broader perspective, the United Nations Conference on Trade and Development (Unctad) also contributes to the current debate on reforming the ISDS, offering an analysis of the current IIAs regime and recommendations for the modernisation of the IIAs. These include promoting joint interpretations of treaty provisions, amending or replacing outdated treaties, referencing global standards, engaging multilaterally, and terminating or withdrawing from old treaties ⁽¹³⁾.

2.17. According to Unctad statistics, highlighted at the EESC public hearing in February 2018, 107 investment agreements containing ISDS have been terminated and not replaced in recent years. Last year more investment agreements were terminated than concluded ⁽¹⁴⁾. The EESC notes that some countries have started to reconsider their approach to ISDS.

2.18. Besides reforming ISDS, the EESC would like to stress that various policy instruments may also contribute to ensuring a viable environment for investments, including:

- strengthening the domestic judiciary,
- providing insurance to investors, such as through the Multilateral Investment Guarantee Agency of the World Bank,
- dispute prevention,
- more conciliatory forms of dispute settlement, such as mediation,
- investment promotion, and
- State-to-state Dispute Settlement.

⁽¹⁰⁾ See footnote 9.

⁽¹¹⁾ The EU is not a state and therefore not a member, but has enhanced observer status within UNCITRAL.

⁽¹²⁾ <http://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/CN.9/WG.III/WP.142&Lang=E>

⁽¹³⁾ http://unctad.org/en/PublicationsLibrary/diaepcb2017d3_en.pdf

⁽¹⁴⁾ Unctad IIA Issues Note, 'Recent Developments in the International Investment Regime' (May 2018), available at <http://investmentpolicyhub.unctad.org/Publications/Details/1186>

2.19. Lastly, the EESC takes note of the United Nations Human Rights Council resolution 26/9 of 26 June 2014, through which it decided 'to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate shall be to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises' ⁽¹⁵⁾. This so-called UN binding treaty, currently under discussion by the Members of the UN, intends to codify international human rights obligations for the activities of transnational corporations. The EESC observes potential effects in the context of trade and investment treaties in the future.

Commission mandate

2.20. On 13 September 2017, the European Commission published its recommendation for a 'Council Decision authorising the opening of negotiations for a Convention establishing a multilateral court for the settlement of investment disputes' ⁽¹⁶⁾. The mandate, as amended by the Member States, was adopted in Council on 20 March 2018 ⁽¹⁷⁾.

2.21. The adopted negotiating directives seek to establish a permanent court with independent judges able to deliver persistent, predictable and consistent decisions on disputes over investment between investors and states, based on bilateral or multilateral agreements, when both (or at least two) parties to these agreements have agreed to place them under the jurisdiction of the court. An appeal Tribunal is also foreseen. Overall, the court must function in a cost-effective, transparent and efficient manner, including on the appointment of judges. The court must also allow for third-party interventions (including for example interested environmental or labour organisations).

3. General comments

3.1. The EESC welcomes the European Commission's efforts towards a multilateral reform of investor to state dispute settlement. The EESC also acknowledges the broader dynamic on ISDS reform, the multilateral efforts under UNCITRAL as well as different national efforts.

3.2. The EESC considers it vital that the EU remains open to all options for reform of ISDS, especially in light of several other approaches and ideas that have surfaced regarding ISDS reform. Proposals developed by other countries and organisations should be considered and assessed in particular by UNCITRAL Working Group III.

3.3. In this context, the EESC takes note that the Commission's public consultation on 'Options on a multilateral reform of investment dispute resolution' was primarily focusing on technical questions surrounding the establishment of a permanent MIC. The EESC would like to underline the wide range of opinions among stakeholders as to whether the Commission's evaluation took into account alternative opinions.

3.4. Although the process of negotiations on establishing an MIC has not been launched yet and it is expected to be a long and complex process, the EESC welcomes the European Commission's increased commitment towards transparency, in particular the publication of the draft negotiating mandate. The EESC commends the Council for publishing the final mandate approved by Member States. This is an important step in ensuring that discussions and potential negotiations take place in a transparent, accountable and inclusive way.

3.5. Holding discussions under the auspices of UNCITRAL is, in terms of transparency in particular, a step in the right direction, as it allows non-governmental organisations to monitor and even participate in the discussions. Nevertheless, the EESC notes that not all relevant stakeholders have been granted access to the proceedings yet and that more organisations — representing business, trade unions and other public interest organisations — should be invited by UNCITRAL in the context of Working Group III. The decision-making process should be fully transparent and based on consensus.

⁽¹⁵⁾ <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntnc.aspx>

⁽¹⁶⁾ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2017:493:FIN>

⁽¹⁷⁾ <http://data.consilium.europa.eu/doc/document/ST-12981-2017-ADD-1-DCL-1/en/pdf>

3.6. The EESC considers it vital that the working group will welcome the input of all stakeholders in an effort to increase inclusiveness and that the stakeholder selection process should be further improved and balanced. In this context, we call for the European Commission to ensure the more active involvement of the EESC.

3.7. The establishment of an MIC is a long-term project that requires the engagement of a critical mass of states willing to become Parties to the court. Therefore, the EU should undertake all diplomatic efforts that are necessary to convince third countries to engage in those negotiations. The EESC considers it particularly important that this project is also carried out and supported by developing countries.

3.8. Any future MIC would aim to streamline the dispute settlement procedure in cases launched between investors and states under a wide range of existing international investment agreements. Despite a certain level of similarity between substantive investment protection clauses included in Bilateral Investment Treaties (BITs) or Free Trade Agreements (FTAs) with Chapters on Investment Protection, full harmonisation of the system is difficult to achieve.

3.9. This would require a broader reform. Although not implemented yet, and under examination by the European Court of Justice (ECJ), the ICS, as provided in the EU-Canada Comprehensive Economic and Trade Agreement (CETA) ⁽¹⁸⁾, and the EU-Singapore ⁽¹⁹⁾, EU-Vietnam and EU-Mexico Free Trade Agreements, with more to follow in the future ⁽²⁰⁾, could provide experience and contribute to the development of rules for an MIC.

3.10. The objective of the European Commission's recommendation is to establish a new system of dispute resolution between investors and states. The EESC recognises that a number of concerns expressed by civil society could be addressed by the new system. Nevertheless, a number of fundamental issues remain open and require further clarification.

Fundamental questions

3.11. Recognising that the multilateral reform process of ISDS is still in its initial stages, a number of fundamental questions are raised by stakeholders in the context of establishing an MIC. These are concentrated around the aspects of scope — whether the reform shall cover substantive or procedural elements of investment protection, or both; accessibility — whether it will only be possible for investors to launch claims under an MIC or third parties as well; and the exhaustion of local remedies — whether available local remedies shall be exhausted first, before an investor is able to launch a case under a future MIC. This opinion looks at these questions.

3.12. Looking at these questions, the EESC wishes to point out, that a possible setting up of an MIC should take into account both the principle of subsidiarity and article 1 of the TEU, which provides that 'decisions are taken as openly as possible and as closely as possible to the citizen' ⁽²¹⁾.

3.13. The EESC takes note of concerns that the MIC might result in the expansion of the system of ISDS without properly addressing existing concerns on the ICS first, including its compatibility with EU law. The EESC shares the view that an international investment court should under no circumstances become a general substitute for domestic dispute settlement in countries with adequate judicial systems.

3.14. Several stakeholders have expressed significant concerns about reforming the procedure before assessing the substantive law to be applied by a future MIC and empowering an institutionalised multilateral body to interpret these norms. Equally, there are concerns that this could possibly create a new legal power base in itself. Other stakeholders agree with the views of the European Commission that substantive law is defined in the underlying agreements.

⁽¹⁸⁾ <https://www.eesc.europa.eu/en/agenda/our-events/events/multilateral-investment-court-hearing>

⁽¹⁹⁾ In Opinion 2/15 of 16 May 2017, the Court of Justice of the European Union provided clarity on the nature of the EU-Singapore Free Trade Agreement, declaring which parts of the agreement are of exclusive EU competence and which are of so-called 'mixed competence', requiring ratification by national parliaments (<https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-05/cp170052en.pdf>).

⁽²⁰⁾ For instance, the EU-Chile Free Trade Agreement (currently in the process of update), the EU-Japan Economic Partnership Agreement (which was concluded in 2017, and does not contain a Chapter on Investment Protection but it was agreed by the Parties that the issue will be further discussed and addressed in the future), as well as the future free trade agreements with Australia and New Zealand.

⁽²¹⁾ Moreover, this rule is also part of international human rights treaties, including the European Convention on Human Rights (ECHR).

4. Scope of the proposed reform between substantive protection clauses and dispute settlement procedure

4.1. The EESC notes that the scope of the proposed multilateral reform has been limited to the procedural aspects of the settlement of disputes between investors and states.

4.2. Although the EESC believes that a more holistic approach, covering both concerns about substantive and procedural aspects of investment protection, would be preferable, it recognises the complexity of such an approach and the need to gather political support at multilateral level.

4.3. Looking at the discussions conducted under the auspices of UNCITRAL, a number of challenges have been identified by Working Group III. These include the question of whether it is possible to move towards a procedural reform of the investor-state dispute settlement before a substantive one. UNCITRAL considers this to be a difficult but not impossible task. In this context, Working Group III will look into issues that may be related to procedure but, at the same time, may be significantly affecting the legitimacy and consistency of the system as a whole, such as: a code of conduct for adjudicators, third-party funding and parallel proceedings.

4.4. Substantive investment protection is normally granted through a number of principles, including: national treatment, most-favoured-nation treatment (MFN), fair and equitable treatment and guarantee of transfer of capital. However, limitations apply in the claims that foreign investors can bring to dispute settlement. For instance, claims cannot be based solely on the grounds of loss of profit or on a mere change of national legislation.

4.5. States take different measures to address expressed concerns. These range from more holistic approaches, such as developing new models of agreements that aim to reform both the substantive as well as the procedural elements of investment protection, to more targeted approaches that focus either on the reform of the substantive or the procedural component of investment protection. The EESC notes that the EU has already started to promote a more holistic approach, at least at bilateral level, through the ICS.

4.6. The objective expressed by the Commission is that, once established, an MIC should become the standard model for investment-related dispute resolution in all future agreements of the EU, while it should also ultimately replace the procedural mechanisms in existing EU and Member States' investment agreements.

4.7. In this context, if it goes ahead, the establishment of an MIC should reform the existing ISDS system in a manner that, on one hand ensures effective protection of foreign direct investments and, on the other hand, fully addresses the concerns raised by stakeholders. We would like to note that, in this regard, considerable progress has been achieved, especially in the context of the most recent modern free trade agreements negotiated by the EU.

5. The public interest

5.1. The EESC considers it vital that the MIC should not in any way affect the ability of the EU and the Member States to fulfil their obligations under international environmental, human rights and labour agreements as well as on the protection of consumers.

5.2. First and foremost, the agreement establishing the MIC should contain a hierarchy clause that ensures that in the event of any inconsistency between an international investment agreement and any international environmental, social or human rights agreement binding on one Party to a dispute, the obligations under the international environmental, social, or human rights agreement shall prevail, in order to avoid precedence being given to investors' agreements⁽²²⁾. This clause is particularly important to ensure that Parties to the MIC have the necessary freedom to reach the goals under the Paris agreement which requires a significant regulatory change to achieve a successful energy transition.

5.3. Procedural safeguards against claims that target domestic public interest legislation are needed to guarantee a Party's right to regulate in the public interest, as they see fit, over the protection of the investor. The EESC is of the opinion that this could only be sufficiently achieved by the inclusion of a public interest carve-out. However, this must be accompanied by appropriate guarantees that it will not be abused for protectionist reasons. In this context, the right to regulate in the area of

⁽²²⁾ For a critical analysis of past ISDS tribunal cases see Andreas Kulick, *Global Public Interest in International Investment Law* (Cambridge University Press 2012), 225-306.

social protection needs to explicitly mention collective agreements, including tripartite and/or generalised (*erga omnes*) agreements, in order to exclude them from being made subject to interpretation as breach of an investor's legitimate expectation⁽²³⁾.

5.4. The EESC notes that Article 8.18(3) CETA already ensures that an investor may not submit a claim if the investment has been made through fraudulent misrepresentation, concealment, corruption, and conduct amounting to an abuse of process. A possible future agreement establishing the MIC should ensure that this clause is extended to applicable law in terms of fraud, human rights abuses, or violations of (international) environmental, social, or consumer law.

5.5. Stringent criteria to prevent frivolous claims and ensure the early dismissal of non-meritorious cases should be also incorporated into the rules of procedure of the MIC. The existence of preliminary expedited procedures to dismiss frivolous claims is important, as it will address one of the criticisms against the current system, ensuring that it will not be misused in the future. In addition, such an expedited procedure for claims without legal merit will contribute to the reduction of costs of the functioning of the court.

5.6. The EESC notes that one area of concern raised during its public hearing was the possibility of third-party funding of disputes. Third-party funding may not serve the original aims of investment agreements and may result in perverse incentives. The EESC therefore recommends investigating the impact and need for third-party funding and its regulation under the MIC⁽²⁴⁾.

6. Third-party rights and counterclaims

6.1. The EESC considers permitting *amicus curiae* submissions⁽²⁵⁾, which are currently already possible under a significant number of ISDS proceedings, a welcome first step in order to ensure a balanced and fair system. However, the EESC sees it essential to ensure that the convention setting up the MIC not only permits *amicus curiae* submissions as to their admissibility, but also ensures that the judges are required to take them into due consideration in their deliberations.

6.2. The EESC therefore welcomes the inclusion in the mandate for the MIC of the possibility of third-party interventions. However, the EESC recommends investigating the role of third parties beyond the current UNCITRAL rules in order to ensure a balanced and fair system and effective rights for affected third parties that can be local residents, workers, unions, environmental groups, or consumers.

6.3. The EESC welcomes the Commission's efforts in the context of the Investment Court Proposal in TTIP for the possibility of third-party interventions and the clarification in the mandate that such interventions shall be open to all stakeholders that have a legal interest in a case. The EESC requests the Commission to ensure that standing criteria under the MIC shall not be unnecessarily constraining and shall allow fair access to proceedings fully in line with and in the spirit of the EU's obligations under the Aarhus Convention.

6.4. Some stakeholders support the view that the MIC should also be able to hear claims raised by third parties as well as counter-claims by states against investors as in line with existing developments under the old ISDS system. This issue raises a number of legal and practical questions that need to be carefully examined. For instance, this possibility depends on the applicable law, in other words the substantive provisions included in the agreements placed under the jurisdiction of the court.

6.5. The EESC requests the Commission to ensure that the MIC at the very least does not close the door for claims by affected third parties against foreign investors. To this extent, a convention establishing the MIC could contain provisions that would allow for such claims when Parties to an international agreement have agreed to the jurisdiction of the MIC for such disputes.

⁽²³⁾ See footnote 8.

⁽²⁴⁾ <http://ccsi.columbia.edu/work/projects/third-party-funding-in-investor-state-dispute-settlement/>

⁽²⁵⁾ *Amicus curiae*: literally, friend of the court. A person with a strong interest in or views on the subject matter of an action, but not a party to the action, may petition the court for permission to file a brief, ostensibly on behalf of a party but actually to suggest a rationale consistent with its own views. For more information: <https://legal-dictionary.thefreedictionary.com/amicus+curiae>.

7. Relationship with domestic courts

7.1. The EESC considers that the MIC may under no circumstance negatively affect the EU's judicial system and the autonomy of EU law. The EESC recalls that in Opinion REX/411 it held that there are considerable EU treaty-related and constitutional law concerns regarding the relationship between ISDS and the EU legal order. It therefore felt it was 'absolutely vital for compliance of ISDS with EU law to be checked by the ECJ in a formal procedure for requesting an opinion, before the competent institutions reach a decision and before the provisional entry into force of any IIAs, negotiated by the EC'.

7.2. In this context, the EESC would like to draw attention to two cases examined by the European Court of Justice, which were based on the former ISDS arbitration system and are relevant to the discussion. First, in its Opinion 2/15 of 16 May 2017 on the EU-Singapore FTA, the ECJ determined that the EU does not have exclusive competence on ISDS, finding that ISDS 'removes disputes from the jurisdiction of the courts of the Member States'. Second, in its judgement in case C-284/16, *Slowakische Republik v Achmea BV* on intra-EU investment agreements, the ECJ found that ISDS removes disputes from the jurisdiction of EU Member States courts and, as a result, also from the system of judicial remedies in the EU legal system.

7.3. The EESC commends the Belgian government for requesting an opinion pursuant to Article 218(11) TFEU on the compatibility of the Investment Court System in CETA with the EU Treaties as requested by the EESC in its Opinion on Specific key issues of the Transatlantic Trade and Investment Partnership (TTIP) negotiations⁽²⁶⁾. The EESC expresses the hope that ECJ Opinion 1/17 will give the EU institutions the much-needed guidance on important questions of European constitutional law.

7.4. The EESC acknowledges that some stakeholders consider that the most effective way of preserving the powers of domestic courts is by limiting standing before the Multilateral Investment Court to states and international organisations such as the EU. State-to-state dispute settlement is also the default dispute settlement mechanism under public international law, has been used in several investment agreements already, and should therefore be preferred in relation to investment law. The EESC notes that other stakeholders consider that investor-to-state dispute settlement is a more effective option in the case of investment, in their view offering a neutral, depoliticised and cost-effective resolution of disputes. It has been the default system for the settlement of disputes on investment since its establishment decades ago.

7.5. The EESC notes that the question of the relationship between domestic courts and the Multilateral Investment Court is viewed differently by different stakeholders. While some consider that the Multilateral Investment Court should be considered a last resort, following the mandatory exhaustion of local remedies, others support that the 'no U-turn approach' currently followed by the Commission also constitutes a good basis in the context of the Multilateral Investment Court.

7.6. Under the 'no U-turn approach' an investor has the right to address the local tribunals or the ICS/MIC directly. However, once the case is concluded in either forum, an investor cannot re-open it using another forum. Some stakeholders believe that this approach responds successfully to concerns raised by the fact that investors have the possibility to seek relief in multiple fora, for the same alleged violation. They also note that several International Investment Agreements follow this approach⁽²⁷⁾. According to an analysis provided by Unctad⁽²⁸⁾, '[the no U-turn clause] attempts to preclude a simultaneous international claim by an investor alleging breaches of the IIA, and domestic proceedings by the investor's subsidiary alleging breaches of a contract or domestic law'.

⁽²⁶⁾ See footnote 8.

⁽²⁷⁾ Many agreements concluded by the US and Canada include no U-turn provisions. For instance, the Canada-Jordan BIT (2009) in Art. 26 on conditions precedent to submission of a claim to arbitration.

⁽²⁸⁾ Unctad series on Issues in International Investment Agreements II, Investor-State Dispute Settlement (Unctad, 2014): http://unctad.org/en/PublicationsLibrary/diaeia2013d2_en.pdf

7.7. The requirement to exhaust domestic remedies first, is a fundamental principle of customary international law and international human rights law. There are also several investment agreements concluded by EU Member States with third countries that expressly require applicants to exhaust domestic remedies⁽²⁹⁾. The rationale of the rule is that it gives the state where the violation occurred an opportunity to redress it by its own means, within the framework of its domestic legal system and is applied whenever international and domestic proceedings are designed to obtain the same result⁽³⁰⁾. The International Court of Justice found that this is so important that it cannot be construed as having been implicitly set aside through an international agreement⁽³¹⁾. For these reasons, some stakeholders consider it important that this rule would be made explicit in the agreement setting up the MIC.

7.8. Given the debate above, the EESC encourages the European Commission to further investigate the issue of the exhaustion of local remedies and how it could work in the context of the MIC.

8. Independence and legitimacy of the judges

8.1. Irrespective of its institutional structure (a stand-alone international organisation or tied to an existing institution) the independence of an MIC should be safeguarded. The appointment of judges on a permanent basis is considered a key factor in starting to build case-law, thus improving predictability and moving away from the approach of the ISDS, which is often perceived as 'ad hoc'.

8.2. If MIC were to be go ahead, having permanent judges should be the ultimate objective. In the initial stages of the establishment of the court, it should be able to organise itself taking into account the number of cases that the court will be dealing with. This depends on the number of the initial Parties to the Convention establishing the court and the number of agreements they bring under the jurisdiction of the court.

8.3. Although the method for the appointment of the judges is not provided in the Recommendations of the European Commission for a mandate, the EESC welcomes the commitments on setting clear and high-level criteria, including on the qualifications of candidates and the respect of a code of conduct, such as the Magna Carta of Judges⁽³²⁾, which shall guarantee no conflicts of interest and the independence of the judges. This is essential to ensure the rule of law and public trust.

8.4. With regard to the qualifications of judges, not only demonstrable expertise in the area of public international law should be required, but also in areas such as investment, consumer, environmental, human rights and labour law and dispute resolution. This is crucial in order to ensure that the judges will have the necessary experience to deal with the different types of cases, and are able to fully understand and properly assess the legal context, pertaining to different sectors and types of investments that will be brought under the jurisdiction of the court.

8.5. Furthermore, the EESC supports a procedure for the appointment of the judges that is transparent and follows criteria that will ensure the equitable representation of all the Parties to the Convention establishing the court. The selection process should be transparent and subject to the principles of public scrutiny.

8.6. Ensuring transparency, accessibility of information to the broader public as well as accessibility to stakeholders, for instance through accreditation, is another crucial element to improve the credibility and the legitimacy of the system. The UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration and the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (the 'Mauritius Convention on Transparency') should provide a base level for the rules on transparency in a future MIC.

9. An effective system

9.1. A secretariat should be tasked with the effective administration of an MIC. Although it is not currently clear whether the court will be a newly founded organisation or tied to an existing international organisation, it shall be guaranteed that sufficient resources are allocated for the functioning of the secretariat.

⁽²⁹⁾ See for instance Article 5 of the 1976 Germany-Israel BIT, Article 8 of the 1978 Egypt-Sweden BIT, Article 7 of the 1981 Romania-Sri Lanka BIT, Article 8 of the 2007 Albania-Lithuania BIT, Article XI of the 1992 Uruguay-Spain BIT, Article X of the 1991 Uruguay-Poland BIT.

⁽³⁰⁾ *Interhandel (Switz. v US)*, Preliminary Objections, 1959 I.C.J. Rep. 6, at 27 (Mar. 21). Available at <http://www.icj-cij.org/docket/files/34/2299.pdf>, at 27.

⁽³¹⁾ *Elettronica Sicula SpA (ELSI) (Italy v US)*, Judgment, 1989 I.C.J. Rep. 15, 28 I.L.M. 1109 (July 20), para. 50.

⁽³²⁾ <https://rm.coe.int/16807482c6>

9.2. It is suggested by the draft mandate that the administrative costs be covered by the Parties on an equitable basis, taking into account different criteria, including the level of economic development of the Parties, the number of agreements covered per Party and the volume of international investment flows or stocks of each Party.

9.3. With regard to the allocation of costs related to the adjudication of the cases (excluding the remuneration of judges which it is proposed should be fixed), the draft mandate is silent. The EESC requests clarification on this issue.

9.4. A substantial amount of FDI is conducted by small and medium-sized (SME) companies, which need to enjoy the same level of protection and access to dispute settlement, at reasonable conditions and costs.

9.5. The possibility of providing a conciliation mechanism that would aim at helping parties to solve a dispute in an amicable manner should be also considered.

9.6. All decisions of the MIC should be enforceable and made public.

10. High level of protection and potential transition period

10.1. It is important to note that a key prerequisite for an agreement to be submitted under the jurisdiction of the court is that both parties to the agreement need to give their consent. This effectively means that none of the agreements signed either by the EU or the Member States of the EU will be automatically placed under the jurisdiction of the court, unless the third party agrees as well.

10.2. In this regard, during a potential transition period between the current ISDS system and the ICS, and until the establishment of an MIC, the agreed dispute settlement procedures shall continue to apply in order to guarantee high-level protection of investments, given its constitutionality and viability under EU law, pending the case submitted by Belgium to the Court of Justice of the EU⁽³³⁾.

Brussels, 12 December 2018.

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

⁽³³⁾ See footnote 5.

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III)’

(COM(2018) 465 final — 2018/0247 (COD))

(2019/C 110/28)

Rapporteur: **Dimitris DIMITRIADIS**

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1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III) for the period 2021-2027.

1.2. The EESC also welcomes the statement that IPA III should put performance at the core of the instrument thus allowing greater steering in overall funding allocations reflecting beneficiaries commitments and progress towards reforms. The use of performance indicators will contribute to the overall assessment of IPA III and is in accordance with its former recommendations for IPA II ⁽¹⁾.

1.3. The EESC is convinced that the establishment of the Instrument for Pre-accession Assistance is in accordance with the European Commission’s new strategy for the Western Balkans ‘A credible enlargement perspective for and enhanced EU engagement with the Western Balkans’, 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 to 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 ⁽²⁾. It is also in accordance with the European Union’s enlargement policy in view of a possible future accession of Turkey.

1.4. The EESC reaffirms its position based on Article 49 of the Treaty on European Union, which provides that any European state which respects the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and that commits to promoting these values, may apply to become a member of the Union.

1.5. The EESC welcomes the fact that the financial reference provided for under the draft Regulation on IPA III for the period 2021 to 2027 will be approximately EUR 14,5 billion according to the European Commission proposal.

⁽¹⁾ EESC opinion on the Instrument for Pre-accession Assistance/European Neighbourhood Instrument (OJ C 11, 15.1.2013, p. 77).

⁽²⁾ 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.

- 1.6. The EESC also welcomes the fact that 25 % of EU expenditure will contribute to climate objectives.
- 1.7. The EESC welcomes the fact that IPA III introduces more flexibility by not establishing partner allocations from the outset. The IPA programming framework should be based on evolving needs and ensure a balance between predictability and performance-based funding.
- 1.8. The EESC underlines that remarks made after the mid-term IPA II evaluation⁽³⁾ and many of the previous EESC recommendations⁽⁴⁾ should be fully adopted both by the European Commission and the candidates and potential candidates.
- 1.9. The EESC underlines the importance of Pre-accession Assistance in furthering economic reforms and creating a favourable and predictable business environment in order to foster entrepreneurship, business creation and help SMEs grow, thus increasing competitiveness, economic growth and creating new, decent jobs.
- 1.10. The EESC stresses the importance of Economic Reform Programmes (ERPs) and of a meaningful involvement of social partners and other CSOs in the process of development and implementation of these programmes. The EESC calls for more funds, including organisational grants, to be allocated to the capacity building of social partners and CSOs in order for them to effectively participate in these processes. Improvements in the quality and the content of social dialogue in candidates and potential candidates should be encouraged.
- 1.11. The EESC considers the financing provided by IPA III as important for the integration of the Western Balkan economies into the EU.
- 1.12. The EESC embraces the view that the progress of the IPA beneficiaries towards reforms is essential for the absorption (between 64,3 % and 88,9 % for IPA II) and the exploitation of these funds and emphasises the need to reinforce a culture of cooperation between the Western Balkan beneficiaries. The case of Turkey is far more complicated and delicate. Financing a country where a further deterioration regarding civil rights is not entirely out of the question requires caution and the need for the application of the conditionality principle.
- 1.13. The EESC underlines the need to use Pre-accession Assistance to increase the capacity of the administration of candidates and potential candidates in order to prepare them for the future usage of structural funds and for participation in the EU's common agricultural policy (CAP).
- 1.14. The EESC strongly believes that the EU should establish strict and efficient mechanisms monitoring the distribution of the Pre-accession Assistance to all candidates and potential candidates. Especially in the case of Turkey more attention should be given to stop the chronic delays in various sectors.
- 1.15. The EESC suggests that implementation of IPA III will need to be accelerated, particularly in the early years, to prevent structural backlogs in contracting and implementation, and to progressively absorb current delays. The Commission should pay particular attention to indirect management with beneficiaries. The mid-term evaluation has shown that while the impact in terms of increased ownership is considered positive, contracting performance has been poor and there have been long delays in implementation, especially in Turkey.
- 1.16. The EESC underlines that monitoring must be done on the basis of the indicators set out in the proposal of the European Commission. The relevant performance indicators will be defined and included in the IPA programming framework and proportionate reporting requirements imposed on recipients of EU funds. The enlargement reports will be taken as a point of reference in assessing the results of IPA III assistance. The performance reporting system should ensure that data for monitoring of the implementation and results are collected efficiently, effectively and on time.
- 1.17. The EESC believes that the Commission should regularly monitor its actions and review progress made towards delivering results. The evaluations will assess the Instrument's effects on the ground based on the relevant indicators and targets and a detailed analysis of the degree to which the Instrument can be deemed relevant, effective and efficient, that it provides enough EU added value and is coherent with other EU policies. The evaluations will include lessons learnt to identify any shortcomings/problems or any potential to further improve the actions or their results and to help maximise their exploitation/impact.

⁽³⁾ https://ec.europa.eu/europeaid/evaluation-instrument-pre-accession-assistance-ipa-ii-draft-report_en

⁽⁴⁾ See reference in footnote 1.

1.18. The EESC strongly believes that benchmarks should be established and best practices must be spread across the candidates and potential candidates to enhance their active fund absorption.

1.19. The EESC emphasises that the new draft Regulation also attaches importance to increased coordination and cooperation with other donors and financial institutions, private sector included.

1.20. The EESC invites the European Commission to explore the potential for a longer-term perspective in implementation. This will increase the level of predictability and will relieve the time pressure, especially where substantial delays are accumulated during the current period.

1.21. The EESC sees a need to improve the overall quality of (work) documents used for sector approach planning as well as to clarify the sector approach planning with all relevant parties. To that end, recommends also taking measures to improve the European Commission's capacity to mainstream horizontal issues. There is a general need to strengthen the capacities of all the institutions involved in the delivery of Pre-accession Assistance. This should also include a proportionate use of technical assistance to support these institutions in the candidates and potential candidates.

1.22. The EESC believes that IPA III should be used to increase the understanding of fundamental EU values as well as to promote the added value of Pre-accession Assistance amongst the general population in the candidates and potential candidates. This should be done through grant programmes administered by the delegations of the European Union.

1.23. The EESC welcomes the fact that Pre-accession Assistance should be linked to the (a) rule of law; (b) good governance and fundamental rights; (c) socioeconomic development; (d) adoption of EU policies and *acquis*; (e) good neighbourly relations and reconciliation; and (f) regional cooperation.

2. The Rule of Law, good governance and fundamental rights

2.1. The EESC underlines that there is still a big divergence between EU standards and those in all candidates and potential candidates. The situation appears to be more difficult in Turkey then it was before, especially after the failed coup d'état of July 2016 and the imposition of martial law.

2.2. The EESC believes that IPA III should continue its investments in the rule of law related projects that have helped countries to establish robust and professional law enforcement and judicial bodies, independent and free from external influence.

2.3. The EESC also believes that specific interest should be shown in the formation of an efficient system to protect the borders, manage migration flows, prevent humanitarian crises and provide asylum to those in need. Technical assistance from the EU to support good governance practices in these areas may prove to be very helpful. Moreover, all candidates and potential candidates must develop mechanisms to prevent organised crime and stop terrorism and illegal immigration. Turkey should show a more robust commitment to the implementation of the Agreement signed with the EU on 28 March 2016 aimed at stopping the flow of irregular migration via Turkey to Europe⁽⁵⁾.

2.4. The EESC underlines that the public sector in all candidates and potential candidates still suffers from problems such as clientelism, opacity, corruption and inequality.

2.5. The EESC is aware of the fact that in all candidates and potential candidates minorities are still facing a lot of problems because of discriminatory behaviours and attitudes.

2.6. The EESC strongly believes that priority in the Pre-accession Assistance should be given to initiatives reforming and de-politicising the public sector, promoting transparency and accountability, enhancing e-Government and improving management. In this respect, the Pre-accession Assistance should be used to create meaningful opportunities for the involvement of the widest possible array of CSOs in the formation of governmental policies.

(5) <http://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-eu-turkey-statement-action-plan>

2.7. The EESC strongly believes that civil society should be acknowledged as a significant agent for insuring the rule of law, and that thus civil society initiatives should be prioritised in the Pre-accession Assistance programmes.

2.8. The EESC also believes that funding institutions facilitating and promoting equality and respect for civic rights should be also a priority in the Pre-accession Assistance.

3. Socioeconomic development

3.1. The EESC acknowledges that the need for financial assistance to these partners is manifested by the persisting high unemployment rates (e.g. 21,6 % in FYROM, 35,3 % in Kosovo ^(*) for the first quarter of 2018) and the slow catching up with the EU countries in terms of per capita GDP.

3.2. The EESC is fully aware of the fact that poverty, high unemployment, the informal economy, low wages, corruption, malfeasance, the emigration of skilled workers and the brain drain are affecting all Western Balkan partners ⁽⁶⁾ and Turkey.

3.3. The EESC believes that the role of education in all Western Balkan partners and Turkey, including equal access to education systems, is crucial in terms of promoting European values, cultivating tolerance towards minorities, enhancing gender equality, fighting against prejudice and strengthening social cohesion.

3.4. The EESC also believes that through IPA III, a 'social cohesion agenda' must be implemented by improving the efficiency and effectiveness of education systems and in that way addressing skills gaps and skills mismatches, as well as challenges in the labour market generated by digital and technological changes in the economy. Enhanced financial support for vocational education programmes and apprenticeship and lifelong learning schemes, as well as closer involvement of social partners and other relevant CSOs in their design, would help address the skills mismatch in the labour market and reduce the high levels of unemployment as well as the number of unfilled job vacancies.

3.5. The EESC underlines the importance of establishing mechanisms through the Pre-accession Assistance to combat poverty and give access to the labour market, especially to the young, women and minority groups, thus preventing emigration and the brain drain.

3.6. The EESC considers the deepening and the widening of social dialogue as the *sine qua non* prerequisite for socioeconomic development. Social partners must have an important role in the design and implementation of policies.

3.7. The EESC strongly believes that enhancing the capacity to strengthen macroeconomic stability and supporting progress towards becoming a functioning market economy with the capacity to cope with competitive pressures and market forces within the Union should be a priority in all the candidates and potential candidates during the distribution of the Pre-accession Assistance. However, the business level of the economies of the IPA III beneficiaries also requires special attention. Entrepreneurship, self-employment, SMEs and micro-financing should not be neglected.

3.8. The EESC calls for special attention to be given to the improvement of private sector market orientation and the competitiveness of private enterprises through the distribution of the Pre-accession Assistance.

3.9. The EESC believes that operational grants covering at least 36 months for CSOs should be made available within IPA III.

3.10. The EESC considers that the impact of the small re-granting schemes addressing rural/grassroots and small CSOs under IPA II should be further increased, especially through a much deeper involvement of CSOs in all the planning stages for each of the re-granting schemes.

3.11. The EESC highlights the need to provide help through the Pre-accession Assistance institutions in facilitating digital technologies and distribution, protecting the environment and setting the highest nuclear safety standards.

(*) This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

(6) EESC opinion on Economic and social cohesion and European integration of the Western Balkans — challenges and priorities (OJ C 262, 25.7.2018, p. 15).

3.12. The EESC also believes that the formation of institutions promoting equal access to childhood education, developing vocational education, improving the quality of higher education and enhancing lifelong learning, and the introduction of mechanisms/bodies governing labour relations, procedures for collective bargaining and labour dispute settlement and a structured dialogue between the social partners, should be given priority in terms of obtaining the Pre-accession Assistance.

4. Adoption of EU policies and *acquis*

4.1. The EESC is aware that there is a major divergence between EU standards and what applies for all the candidates and potential candidates.

4.2. The EESC believes that importance should be attached to the promotion of alignment of standards, policies and practices of candidates and potential candidates to those of the Union, including State aid rules.

4.3. The EESC stresses that, besides the harmonisation with the legislative part of the *acquis communautaire*, candidates and potential candidates will need to familiarise and possibly harmonise themselves with policies that are currently being discussed and developed within the EU such as the European Pillar of Social Rights, the UN Millennium Development Goals (MDGs) and the 2030 Agenda for Sustainable Development, as well as the cooperation between EU Member States regarding the flows of refugees and migrants and integrated border control.

5. Good neighbourly relations and reconciliation

5.1. Western Balkan candidates and potential candidates and Turkey are still affected by the wounds of war and conflict, ethnic hatred, irredentist movements and frozen conflicts which might erupt again. It is necessary to strongly encourage the most pressing bilateral issues to be settled before their accession to the EU, although insisting on solutions to all outstanding issues could delay this process. Encouraging the rebuilding of their trade and other economic relations could contribute to conflict resolution and economic growth.

5.2. The EESC welcomes initiatives by state educational and cultural institutions, academia and civil society organisations in the areas of reconciliation, good neighbourhood relations and adopting a critical approach to the past.

5.3. The EESC highlights that strengthening the capacities of civil society organisations and the social partners, including professional associations, and encouraging networking at all levels among EU-based organisations and those of beneficiaries should facilitate the process of integration.

5.4. The EESC believes that IPA III should provide funding for CSOs aiming at improving civic space for engagement and participation. Support for civil society infrastructure and regional thematic civil society platforms and networks should be extended in IPA III.

6. Regional cooperation

6.1. Energy and transport networks should be a factor for the development and interconnectivity of the region. This would ensure that the citizens of the candidates and potential candidates of the Western Balkans and Turkey 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 as well as traditional jobs.

6.2. The EESC believes that priority in the Pre-accession Assistance should be given to institutions and initiatives creating links between the candidates and potential candidates in the fields of energy, communication, digitalisation, innovation, transportation and protection of the environment. The case of cooperation between the cities of Kula in Bulgaria and Boljevac in Serbia that wished to purchase specialised vehicles, surveillance drones and personalised protective equipment to fight forest fires could be an example of good practice ⁽⁷⁾.

6.3. The EESC supports the Transport Community Treaty signed by the EU and the Western Balkan candidates and potential candidates on 12 July 2017 and encourages the parties to further develop it. In this regard, the European Commission, the European Investment Bank and the partners from 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.

⁽⁷⁾ <https://ec.europa.eu/transparency/regdoc/rep/3/2018/EN/C-2018-3051-F1-EN-MAIN-PART-1.PDF>

6.4. The improvement of infrastructure will reduce transport and energy costs and facilitate large investments in the area, as well as facilitate intra-regional trade. Moreover, the promotion of the digital upgrading and gradual reduction of roaming charges in the Western Balkans will contribute to business development, increased productivity and improvements in the quality of life. However the lack of infrastructure is not the main obstacle for cooperation between the Western Balkan partners. The hostilities of the past and the pending unresolved disputes between them have limited the scope and content for cooperation. This could be partly remedied by the encouragement of IPA to IPA cross border cooperation projects.

6.5. Media and other forms of communication should be used in order to highlight the presence and the significance of the EU's activities in the candidates and potential candidates. Furthermore, the capacity of local civil servants in project management and implementation should be built up throughout the whole process of the accession to the EU.

7. Specific comments on IPA III draft regulation

7.1. The EESC sees the proposal as building upon the achievements and the lessons learned during the previous programming periods, and finds it fit for delivering its objectives. Nonetheless, it reiterates that the candidates and potential candidates are exposed to quite different challenges compared to the Member States and that a great deal of flexibility is therefore vital.

7.2. The EESC completely endorses the stated objectives of IPA III, but wishes to underline, that direct effects are difficult to observe in the short run. It therefore recommends that the added value of future interventions be thoroughly assessed in terms of extent of engagement, political weight and advocacy for most beneficiaries. The fact that the budget support granted in the current programming period has been a catalyst for institutional change and enhanced policy dialogue in the recipient countries (e.g. Serbia, Montenegro and Albania) should be praised.

7.3. Bearing in mind the difficult situation of the large majority of the beneficiaries, the EESC recommends that sufficient simplification be provided when it comes to setting up the document requirements and that focus be given to support and ensuring ownership of the results by the recipients. To that end, efforts to develop further indirect management mode with the beneficiary country should continue, accompanied by capacity building actions so as to help stakeholders to constructively engage in the overall programming process.

7.4. The EESC sees a need for strengthening the complementarity of IPA III with the actions financed under other sources of funding in the candidates and potential candidates.

7.5. The EESC suggests that special measures be taken during the negotiation process at national level in the candidates and potential candidates as to overcome the chronic delays, bottlenecks and inefficiencies that have emerged during the current programming period. Of course, the relatively limited scale of IPA funds comparative to national budgets in some of the beneficiaries and the need for a stable consensus between the European Commission and their national institutions should be taken into consideration and should underpin policy dialogue.

8. Best practices

8.1. Application templates: There is a need for further simplification and especially unification within IPA but also vis-à-vis other donors and national legislation requirements. There are too many guidelines and instructions — there is scope for unification, with the specifics then being summarised in a separate chapter.

8.2. Qualifications, knowledge and skills of the contracting authorities should be improved, including the controlling/auditing bodies, especially in cases where an issue needs interpretation and requires a lot of time for a response.

8.3. Under some grant schemes there are excessive requirements concerning the analysis of the project environment, the situation in the regions, etc. which is very demanding on the ordinary applicants. It can work the other way around. The contracting administrations can hire experts to carry out such analyses and assess how viable a project is.

8.4. More user friendly approach to applicants: application packages can be reviewed in advance or consulted by officers from the respective administrations (or technical assistance providers) and additional time should be provided to comply with the administrative requirements.

- 8.5. Contract amendments: flexibility and faster processing should be ensured. Usually a programme is defined over one to two years, and a lengthy application process follows; flexible means of amending contracts will be therefore necessary.
- 8.6. Public relations, branding and visibility: there is scope for simplifying and optimising requirements. Furthermore, the visibility of the projects financed by the EU must be increased.
- 8.7. Sector Fiches and Project Fiches regarding the indicators' target values should be modified in order to synchronise them with the actual implementation period.
- 8.8. Sector Reform Contracts will contribute to the implementation of policy reforms and achievement of sector specific results. Possible measures to be undertaken in IPA III are: engagement of skilled staff in the operational structure; provision of adequate and continuous technical support for the operational structure. Key stakeholder ownership of the process should be enhanced. Challenges in programming: sequencing of contracts in the programme may lead to the breach of the contract deadline and many issues may subsequently arise in the implementation process.
- 8.9. Potential risks which emerged during the reporting period of IPA II have shown that there is a need to secure commitment and efficient interministerial cooperation and coordination. This is due to the complexity of interventions and shared responsibilities between specific national institutions, considering that the envisaged reforms are the responsibility of different government sectors.
- 8.10. The problems in preparation for procurement/contracting at project level mainly consists of difficulties in meeting the set preconditions, challenges in coordination and sequencing with the other related projects/contracts, but also the lack of capacity for timely preparation of quality tender documentation.
- 8.11. From the contracting standpoint, key lessons learned that should be taken into consideration further on are: insufficient capacity due to staff fluctuations in the beneficiary institutions; low quality of the documentation submitted by the beneficiaries; lack of in-house hands-on specialised expertise for complex projects; the need to enhance key stakeholder ownership of the process; challenging sequencing of contracts in the programme that may lead to the breach of the contract and/or implementation deadline; timely fulfilment of the preconditions, etc.
- 8.12. A problem which often arises pertains to a discrepancy between the indicators as included in the initial Sector/Project Fiches and the subsequent values by the end of the reporting period of the programme. Also, the quality and the scope of the indicators are inadequate in some cases, which prevents efficient monitoring of implementation of the programme.
- 8.13. The content of some contracts which are being managed by decentralised authorities depends on the results of the previous contracts concluded by central contracting authorities. Therefore there is a danger concerning the timely tendering and implementation of contracts which are being run by decentralised authorities.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

Opinion of the European Economic and Social Committee on ‘Neighbourhood, Development and International Cooperation Instrument and Nuclear Safety Cooperation Instrument’

(COM(2018) 460 final — 2018/0243 (COD))

(2019/C 110/29)

Rapporteur: **Cristian PÎRVULESCU**

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1. Conclusions and recommendations

1.1. *Neighbourhood, Development and International Cooperation Instrument*

1.1.1. The European Economic and Social Committee supports the general and specific objectives of the proposal and considers that the move to streamline the instruments used in relation to neighbourhood and third countries is welcome and useful. The EU must build a constructive, realistic and pragmatic relationship with the neighbourhood and third countries, in which values should remain central.

1.1.2. The Committee notes the determination evident in this proposal, on the part of the Commission and the other European institutions and the Member States, to support the development of civil society, democracy and human rights protection systems. The functioning of the new consolidated instrument should be, in all the phases, from planning to monitoring and evaluation, geared to promote EU values, including the rule of law, integrity, pluralism, democracy and protection of human rights. In this context, the Committee urges the European Commission to significantly increase the allocation for the human rights and democracy, and civil society thematic programmes.

1.1.3. The Committee supports the objective of the Neighbourhood, Development and International Cooperation Instrument which is to uphold and promote the Union's values and interests worldwide in order to pursue the objectives and principles of its external action. The communication further states that when implementing this Regulation, consistency with other areas of external action and with other relevant EU policies will be ensured as reflected in the 2030 Agenda for Sustainable Development (2030 Agenda). This means taking into account the impact of all policies on sustainable development at all levels — nationally, within the EU, in other countries and at global level.

1.1.4. The Committee takes this opportunity to remind the European Union that the 2030 Agenda envisages a world in which every country, taking into account different levels of national development and capacities, enjoys sustained, inclusive and sustainable economic growth, social development, including decent work for all, and environmental protection. A world in which democracy, good governance and the rule of law as well as an enabling environment at national and international levels, are essential elements for sustainable development.

1.1.5. This major responsibility to support the 2030 Agenda's plan of action for people, planet and prosperity requires a greater focus on the support instruments, and how they are organised and tie in with the difficult realities of global politics. Streamlining and unifying the instruments used constitutes a big step forward towards efficient, priority-oriented action in pursuit of the proposed objectives. The EU is often in a position to act decisively in support of the most vulnerable groups and individuals. This is a responsibility which must be kept up and duly shouldered.

1.1.6. Neighbourhood and third countries face a number of major, diverse and overlapping problems. In the current global climate, in which reforms promoting democratisation, political stabilisation and economic development appear to have stalled, the EU must step up its efforts rather than abandoning them. It should maintain permanent contact with the governments of neighbouring and third countries, motivating and encouraging them to cooperate responsibly. Its partnership-based relations with these governments should be solid, assertive and firmly geared towards improving the living conditions of the people living there.

1.1.7. The Committee is in favour of the EU being proactive between now and 2030, to support the end of poverty and hunger; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the planet and its natural resources.

1.1.8. The Committee welcomes the move in this proposal to reduce the administrative burden on the EU institutions and the Member States and focus more on the political objectives and the commitment to external partners. The Committee welcomes and supports the significant advances put forward in the proposal: greater simplification and flexibility and better monitoring of results.

1.1.9. The Committee welcomes the fact that the European Parliament's budgetary and scrutiny powers would be expanded following the incorporation of the activities currently financed by the European Development Fund (EDF) into the EU budget.

1.1.10. The Committee encourages the European Commission to build on the gains and advances made with the preceding instruments. For example, the Instrument for Democracy and Human Rights recognised all the economic, social and cultural rights, and promoted social dialogue⁽¹⁾. The civil society organisations fighting for freedom, democracy, human rights and fair electoral processes were supported despite the hostile attitude of some governments towards them. This commitment should be maintained and advanced.

1.1.11. The Committee highlights the importance of democratic and electoral processes in the neighbourhood and third countries, and encourages the European Commission to give priority to the development of strong and independent electoral institutions. The EU institutions should work closely with the Venice Commission, the Council of Europe, the OSCE and the networks of electoral experts so as to give substance to their crucial support towards fair and solid electoral processes.

1.1.12. The Committee encourages the Member States to fully cooperate, by virtue of their longstanding relationship with neighbourhood and third countries, in order to enhance the results of the functioning of the instrument.

1.1.13. The Committee supports the recommendations put forward in the opinion by the Committee of the Regions and also encourages the Commission to ensure in all cases that the relevant stakeholders, including local and regional authorities, are duly consulted and have timely access to relevant information allowing them to play a meaningful role during the design, implementation and associated monitoring process of programmes. The Committee also highlights that democracy at subnational level should be included in the guiding principles, as the local and regional level is where citizens can experience democracy most directly.

1.2. Nuclear Safety Cooperation Instrument

1.2.1. In regard to the European Instrument for Nuclear Safety, after the Fukushima nuclear catastrophe, it became perfectly clear that the problems and risks of using nuclear energy are global. Unfortunately, the proposal does not engage at strategic and political level with the legitimate demand for long-term planning for nuclear energy coming from citizens, civil society, and the business sector.

⁽¹⁾ Opinion of the European Economic and Social Committee on the European Instrument for Democracy and Human Rights (EIDHR), rapporteur: Mr Iuliano (OJ C 182, 4.8.2009, p. 13); opinion of the European Economic and Social Committee on *The Development Cooperation Instrument (CDI) of the European Union: the role of organised civil society and the social partners*, rapporteur: Mr Iuliano (OJ C 44, 11.2.2011, p. 123).

1.2.2. The Committee welcomes the intention of the Commission to include activities in the nuclear field that are in line with the development and international cooperation policy for health, agriculture, industry and social projects addressing the consequences of any nuclear accident. However, it is not clear how the budget available and the institutional settings in place are able to deliver on this intention in practice.

1.2.3. The role of the International Atomic Energy Agency is essential and the agency should take responsibility in ensuring transparency and early warning with regard to the development of new nuclear power plants worldwide. The EU should fully cooperate with global institutions and organisations to promote nuclear safety.

1.2.4. Renewed efforts are necessary in order to ensure that existing and planned sites in the European neighbourhood operate with high standards of transparency and safety. The EESC urges all Member States to support this objective and make nuclear safety a key objective of bilateral and multilateral relations with the partner countries.

1.2.5. Moreover, considering the key global challenges related to nuclear energy, and the presence of a high number of nuclear energy sites in its neighbourhood, the Committee sees the projected financial envelope for the implementation of this Regulation for the 2021-2027 period of EUR 300 million in current prices as highly insufficient.

2. General comments

2.1. *Background to the proposal — Neighbourhood, Development and International Cooperation Instrument*

2.1.1. The communication sets the main priorities and overall budgetary framework for EU external action programmes under the heading 'Neighbourhood and the World', including the establishment of the Neighbourhood, Development and International Cooperation Instrument.

2.1.2. Through this proposal the EU will continue to be able to play an active role in promoting human rights, prosperity, stabilisation, development, security, fighting root causes of irregular migration, trade, the fight against climate change and the protection of the environment among other issues. However, it will be able to do so in a more comprehensive way while providing more flexibility to move resources to where they are needed as the international context changes.

2.1.3. This proposal provides an enabling framework through which external action policies and international obligations can be implemented. The international obligations include the 2030 Agenda for Sustainable Development, the Paris Agreement on Climate Change, the Addis Ababa Action Agenda, the Sendai Framework for Disaster Risk Reduction (2015-2030) and UN Security Council Resolution 2282 (2016) on sustaining peace. Within the EU, the policy framework includes the Treaty provisions on external action, which are further detailed through the EU Global Strategy on Foreign and Security Policy, the new European Consensus on Development, the renewed EU-Africa Partnership and the reviewed European Neighbourhood Policy, amongst other policy documents. The Regulation will also constitute the framework for implementing the successor partnership to the current Cotonou Agreement, which establishes an association and partnership between the members of the African, Caribbean and Pacific Group of States, and the European Union and its Member States.

2.1.4. The impact assessment concluded that most instruments aside from those with a very specific nature such as humanitarian aid with its principle of neutrality could be merged into one instrument, namely: the Common Implementing Regulation, Development Cooperation Instrument, European Development Fund, European Fund for Sustainable Development, External Lending Mandate, European Neighbourhood Instrument, European Instrument for Democracy and Human Rights, Guarantee Fund, Instrument contributing to Stability and Peace, and Partnership Instrument. Those instruments that should remain separate are: the instrument for pre-accession assistance; humanitarian aid; the common foreign and security policy budget; overseas countries and territories including Greenland; the EU's Union Civil Protection Mechanism; the EU aid volunteers scheme; support for the Turkish Cypriot community; the Emergency Aid Reserve; and the new European Peace Facility.

2.1.5. Streamlining a number of instruments within one broad instrument will provide an opportunity to rationalise management and oversight systems, and so reduce the administrative burden for EU institutions and Member States. Instead of focusing on multiple programming processes, debates would be more focused on political objectives and engagement with external partners. In addition, actions that receive cumulative funding from different Union programmes will be audited only once, covering all involved programmes and their respective applicable rules.

2.1.6. Simplification does not mean there would be less scrutiny or accountability. The interinstitutional balance would be fully preserved. Rather, the budgetary and scrutiny powers of the European Parliament would be extended by the incorporation of the activities currently financed by the European Development Fund into the EU budget.

2.1.7. The financial envelope is to be composed of:

a) EUR 68 000 million for geographic programmes:

- for the EU's Neighbourhood at least EUR 22 000 million;
- for Sub-Saharan Africa at least EUR 32 000 million;
- for Asia and the Pacific EUR 10 000 million;
- for Americas and the Caribbean EUR 4 000 million;

b) EUR 7 000 million for thematic programmes:

- for Human Rights and Democracy EUR 1 500 million;
- for Civil Society Organisations EUR 1 500 million;
- for Stability and Peace EUR 1 000 million;
- for Global Challenges EUR 3 000 million;

c) EUR 4 000 million for rapid response actions.

2.1.8. The emerging challenges and priorities cushion of an amount of EUR 10 200 million will increase the amounts referred to in Article 6(2) in accordance with Article 15.

2.1.9. The countries most in need, in particular the Least Developed Countries, low income countries, countries in crisis, post-crisis, fragile and vulnerable situations, including small island developing states, are to be given priority in the resource allocation process.

2.1.10. The Stability and Peace and Human Rights and Democracy programmes, as well as the rapid response actions, are open to entities from all countries due to the Union interest to have the widest possible offer in light of the worldwide scope of the actions, the difficult circumstances in which assistance is provided and the need to act rapidly. International organisations are also eligible.

2.1.11. The new European Consensus on Development ('the Consensus'), signed on 7 June 2017, provides the framework for a common approach to development cooperation by the Union and its Member States to implement the 2030 Agenda and the Addis Ababa Action Agenda. Eradicating poverty, tackling discrimination and inequalities, leaving no one behind and strengthening resilience are at the heart of development cooperation policy.

2.1.12. In particular, as agreed in the Consensus, actions under this Regulation are expected to contribute 20 % of the Official Development Assistance funded under this Regulation to social inclusion and human development, including gender equality and women's empowerment.

2.1.13. In order to ensure resources are provided to where the need is greatest, especially to the Least Developed Countries and the countries in a situation of fragility and conflict, this Regulation should contribute to the collective target of reaching 0,20 % of the Union Gross National Income towards Least Developed Countries within the timeframe of the 2030 Agenda.

2.1.14. This Regulation should reflect the need to focus on strategic priorities, both geographically — the European Neighbourhood and Africa, as well as countries that are fragile and most in need, but also thematically — security, migration, climate change and human rights.

2.1.15. The European Neighbourhood Policy, as reviewed in 2015, is aimed at stabilising neighbouring countries and strengthening resilience, particularly by balancing the three dimensions of sustainable development: economic, social and environmental. In order to attain its objective, the reviewed European Neighbourhood Policy has been focusing on four priority areas: good governance, democracy, the rule of law and human rights, with a particular focus on engaging further with civil society; economic development; security; migration and mobility, including tackling the root causes of irregular migration and forced displacement.

2.1.16. Whilst democracy and human rights, including gender equality and women's empowerment should be reflected throughout the implementation of this Regulation, Union assistance under the thematic programmes for human rights and democracy and civil society organisations should have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of the governments and public authorities of the third countries concerned.

2.1.17. Civil society organisations should embrace a wide range of actors with different roles and mandates which includes all non-State, not-for-profit structures, non-partisan and non-violent, through which people organise to pursue shared objectives and ideals, whether political, cultural, social or economic. Operating from the local to the national, regional and international levels, they comprise urban and rural, formal and informal organisations.

2.1.18. This Regulation should enable the Union to respond to challenges, needs and opportunities related to migration, in complementarity with Union migration policy and its 2030 Agenda commitment. This commitment (SDG 10.7) recognises the positive contribution of migrants for inclusive growth and sustainable development; acknowledges that international migration is a multi-dimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses; and commits to cooperate internationally to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons. Such cooperation should also strengthen the resilience of communities hosting refugees.

2.2. *Specific comments*

2.2.1. The Sustainable Development Goals (SDGs) provide a good basis for increasing consistency between internal and external policies and the Committee considers that focusing on SDGs 16.3, 16.6 and 16.7, promoting democracy, the rule of law, transparent institutions and participatory and representative decision-making are important to unify efforts and give them strategic direction.

2.2.2. The new instrument has the advantage of promoting the consistency of external measures and action. This consistency should be promoted both at the level of European governance of the instrument and at the level of neighbourhood and third countries. The central and local administrations of these countries are not equally equipped to coordinate and implement the programmes. Arrangements for coordinating the various activities at the level of each government should be set up with the assistance of the EU and with the support and participation of civil society and social stakeholders.

2.2.3. The range of challenges and needs in the partner countries means that stronger planning processes are needed for each country. This is recognised in the 2030 Agenda's Means of Implementation and SDG 17 which states that 'The scale and ambition of the new Agenda requires a revitalised Global Partnership to ensure its implementation. This Partnership will work in a spirit of global solidarity. It will facilitate an intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, the private sector, civil society and other actors and mobilizing all available resources.'

2.2.4. The Committee believes that such a process should be established and the process should generate an integrated plan for each country, which would be subject to political consensus and a priority for the administrative level. This plan will, in practice, ensure synergies and complementarities, and help to identify measures and the impact of European support in the partner countries.

2.2.5. The Committee considers that efforts to simplify the administrative and financial procedures should be made a priority, so as to make it much easier for civil society organisations and local authorities to access EU financial support.

2.2.6. The Committee supports the position that the amount allocated to external action should not be less than the sum of the European Development Fund and the other external financing instruments combined. It also agrees with transferring the flexibilities of the EDF to the EU budget.

2.2.7. The Committee highlights the importance of SDG 16, specifically the governance structure of the new instrument and of the decision-making procedures within it. As the representative of European organised civil society, with expertise and links in many neighbourhood and third countries, the Committee offers to play a role in this instrument, in all phases of its measures and projects.

2.2.8. The Committee hopes that the replacement of the existing European Instrument for Democracy and Human Rights, which supports SDG 16, specifically interventions in the area of human rights, fundamental freedoms and democracy in third countries, will in no way affect the coverage and structure of those measures, but rather strengthen them.

2.2.9. The Committee appreciates that there is an urgent need for action at national and international levels to combat climate change and supports the EU's objective of dedicating at least 25 % of its budget to this purpose.

2.2.10. The Committee wants to reiterate the 2030 Agenda's statement on the interlinkages and integrated nature of the SDGs which are of crucial importance in ensuring that the purpose of this Agenda is realised. We recommend setting up cross-cutting programmes, which would cover several relevant areas of action and be able to deliver tangible results in the individual third countries. As an example, climate change is adversely affecting agricultural activities in sub-Saharan Africa. The fact that it is not possible to farm the land is leading to the break-up of communities and constitutes a major cause of migration to Europe. In practice, these people could be considered 'climate refugees', and this requires a complex response, at the centre of which should be halting desertification, as well as rolling out support programmes both for those at risk and for those who have decided to migrate.

2.2.11. The third countries which are also countries of origin for migrants and refugees should be assisted towards improving their capacities and economic infrastructure, and helped in facing the biggest challenges — economic, political, social and environmental. The instrument should engage with the root causes of migration, especially with regard to the refugees, and use strategically the existing resources so as to promote, peace, stability, democracy and prosperity in the partner countries.

2.2.12. The Committee notes that 10 % of the EU's financial envelope is expected to be dedicated to addressing the root causes of irregular migration and forced displacement and to supporting migration management and governance including the protection of refugees and migrants' rights within the objectives of this Regulation. The Committee takes this opportunity to remind the EU and its Member States to adhere to their international obligations with regards to migrants.

2.2.13. As with the planning process referred to above, when it comes to monitoring, assessing and reporting on the implementation of the Regulation, the Committee recommends including a country-by-country perspective. Grouping the actions and indicators by country could help to identify synergies and complementarities, or the lack thereof, and their consistency with the fundamental objectives of EU policy.

2.2.14. As a general principle, the Committee would encourage the European Commission to ensure in all cases that the relevant stakeholders in partner countries, including civil society organisations and local authorities, are duly consulted and have timely access to relevant information allowing them to play a meaningful role during the design, implementation and associated monitoring processes of programmes.

2.2.15. The Committee welcomes the move to apply the principle of living up to responsibilities when it comes to partner countries, and considers that using partner countries' systems to implement the programmes is also the right tack. However, it should be pointed out that this can only happen if the right conditions are in place and if there are credible guarantees as to the efficiency, integrity and impartiality of those systems.

2.2.16. As regards the geographic programming and the establishment of a specific, tailor-made framework for cooperation, the Committee recommends that the European Commission should not only take into account national indicators, but also focus on territorially defined communities at risk of being ignored. Rural communities and communities that are remote from capital cities and urban centres are often critically precarious and vulnerable. They should first become visible, and be taken into account in the planning process.

2.2.17. The geographic programming should also take into account the situation of non-territorial social groups and communities that may face serious problems, such as young people, older people, people with disabilities and other categories.

2.3. *Background to the proposal — the European Instrument for Nuclear Safety*

2.3.1. The objective of the new European Instrument for Nuclear Safety is to promote the establishment of effective and efficient nuclear safety standards in third countries in accordance with Article 206 of the Euratom Treaty, building on the experience of nuclear safety activities within the Euratom Community.

2.3.2. The objective of this Regulation is to complement those nuclear cooperation activities that are financed under [the Regulation NDICI], in particular in order to support the promotion of a high level of nuclear safety, radiation protection, and the application of effective and efficient safeguards of nuclear materials in third countries, building on the activities within the Community and in line with the provisions of this Regulation. This Regulation shall in particular aim at:

- (a) the promotion of an effective nuclear safety culture and implementation of the highest nuclear safety and radiation protection standards, and continuous improvement of nuclear safety;
- (b) responsible and safe management of spent fuel and radioactive waste and the decommissioning and remediation of former nuclear sites and installations;
- (c) establishing efficient and effective safeguard systems.

2.3.3. Actions funded under this proposal should be consistent and complementary to those carried out under the Neighbourhood, Development and International Cooperation Instrument, covering nuclear activities, the Instrument for Pre-Accession, the Decision on Overseas Countries and Territories, the common foreign and security policy and the newly proposed European Peace Facility, which is financed outside the EU budget.

2.3.4. The EU nuclear industry operates in a global market with a value of EUR 3 trillion up to 2050 and directly employs half a million people. Across 14 Member States, 129 nuclear power reactors are in operation, and new-build reactors are planned in 10 of those states. The EU has the most advanced legally binding standards for nuclear safety worldwide, and European companies are heavily involved in global nuclear fuel production. (EESC Press Release *EESC urges the EU to adopt a more comprehensive nuclear strategy (PINC)*, No 58/2016, 22/09/2016).

2.4. *Specific comments*

2.4.1. The Committee welcomes the proposal in the form of a Regulation, ensuring its uniform application, binding nature in its entirety and direct applicability. The Union and the Community are able to complement and responsible for complementing Member States' activities in dealing with potentially dangerous situations or in the event of particularly costly interventions. As the Proposal indicates, in some areas where Member States are not active, the Union and the Community remain the main, and sometimes the only, actors to intervene.

2.4.2. After the Fukushima nuclear catastrophe, it became perfectly clear that the problems and risks of using nuclear energy are global. The EU has a unique profile, which makes it one of the main responsible and resourceful actors in the global drive for both nuclear safety and also clean energy technologies.

2.4.3. Unfortunately, the proposal does not engage at strategic and political level with the legitimate demand for long-term planning for nuclear energy coming from citizens, civil society, and the business sector. It is not clear how the EU will use its resources to address the key challenges of nuclear energy, in relation to growing concerns and needs for clean and affordable energy, in the EU and in the world.

2.4.4. The role of the International Atomic Energy Agency is essential and the agency should take responsibility in ensuring transparency and early warning with regard to the development of new nuclear power plants worldwide. The EU should fully cooperate with global institutions and organisations to promote nuclear safety.

2.4.5. The EU should actively promote the highest standards of nuclear safety and make sure that the most advanced European procedures, best practices and technology are promoted worldwide, with a view to ensuring that newly planned installations and reactors are safe.

2.4.6. Renewed efforts are necessary in order to ensure that existing and planned sites in the European neighbourhood operate with high standards of transparency and safety. The EESC urges all Member States to support this objective and make nuclear safety a key objective of bilateral and multilateral relations with the partner countries.

2.4.7. The EESC maintains its view that the European Commission failed to reflect on the burning issues of the competitiveness of nuclear power, its contribution to security of supply and to climate change and carbon targets, its safety along with the questions of transparency and preparation for emergencies, in its proposal for an illustrative programme (PINC) on nuclear production targets and investment ⁽²⁾.

2.4.8. The Committee welcomes the intention of the Commission to ensure coherence and complementarity with the Neighbourhood, Development and International Cooperation Instrument, including by implementing activities in the nuclear field that are ancillary to its broader objectives, mainly peaceful uses of nuclear energy in line with the development and international cooperation policy for health, agriculture, industry and social projects addressing the consequences of any nuclear accident. However, it is not clear how the budget available and the institutional settings in place are able to deliver on this intention in practice.

2.4.9. Considering the key global challenges related to nuclear energy, and the presence of a high number of nuclear energy sites in its neighbourhood, the Committee sees the projected financial envelope for the implementation of this Regulation for the 2021-2027 period of EUR 300 million in current prices as highly insufficient.

Brussels, 12 December 2018.

The President
of the European Economic and Social Committee
Luca JAHIER

⁽²⁾ European Economic and Social Committee, Opinion on the Nuclear Illustrative Programme, rapporteur: Brian Curtis, adopted on 22 September 2016 (OJ C 487, 28.12.2016, p. 104).

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