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## Information and Notices

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## I

*(Resolutions, recommendations and opinions)*

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

563RD PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE –  
INTERACTIO, 22.9.2021–23.9.2021

**Opinion of the European Economic and Social Committee on the role of Cohesion policy on The role of cohesion policy in combatting inequalities in the new programming period following the COVID-19 crisis. Complementarities and possible overlaps with the Recovery and Resilience Facility (RRF) and national recovery plans**

**(Own-initiative opinion)**

(2021/C 517/01)

Rapporteur: **Ioannis VARDAKASTANIS**Co-rapporteur: **Judith VORBACH**

Plenary Assembly decision	25.3.2021
Legal basis	Rule 32(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	8.9.2021
Adopted at plenary	23.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	211/0/6

**1. Conclusions and recommendations**

1.1. Next Generation EU (NGEU) is not only based on solidarity between Member States but also symbolises the fact that the Member States have a shared vision for the future. Its confidence-boosting effect has already helped to reduce the likelihood of a deep crisis in some countries and its positive impact will come fully into play when actual spending starts. While the EESC highly appreciates that the EU has managed to draw up and adopt such a wide-ranging mechanism in such a short time period, the EESC also demands that every effort is made for its further improvement and to tackle possible shortcomings.

1.2. Overall, the EESC advocates a prosperity-focused economic and social policy where people's well-being is prioritised and no-one is left behind. In this opinion we focus on the ways in which cohesion policy and NGEU, primarily through its flagship Recovery and Resilience Facility (RRF) <sup>(1)</sup>, propose to remedy inequalities. NGEU will in fact contribute to upward

<sup>(1)</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

convergence between Member States and may also enhance the fiscal space for social policy measures. But ultimately, the extent and the way that inequalities within countries and imbalances between regions are to be combatted through NGEU is the big challenge for the coming years.

1.3. There was already a huge problem of inequalities before the COVID-19 pandemic. The crisis has further highlighted and exacerbated these longstanding gaps in our societies, including the unequal distribution of income and wealth and access to healthcare and education. These inequalities vary according to gender, age, educational backgrounds and disability, as well as across regions, sectors and occupations. The pandemic has disproportionately affected women and young people. The incidence of COVID-19 infections has been highest for the most deprived people, which in turn can adversely affect their income. Poorer people are also less likely to be in a position to telework, which has proved to be a major factor in job losses.

1.4. The EU should take advantage of the unique opportunity represented by NGEU, to resolve deficiencies in social, economic and environmental policies and to implement a prosperity-focused approach. The EESC welcomes the fact that social goals, and particularly the goal of economic, social and territorial cohesion, are embedded in the six pillars of the RRF and that the assessment criteria for the National Recovery and Resilience Plans (NRRPs) include their social impact. Rightly, the Member States also have to explain how the NRRPs contribute to gender equality and equal opportunities for all. However, the EESC believes that the focus on fair distribution within the NRRPs and NGEU as a whole needs to be greatly enhanced and made more specific.

1.5. In order to make sure that NRRPs have a stronger social dimension, the EESC suggests that the Commission not only develops a methodology for reporting on social expenditure as provided for in Article 29(4) of the RRF regulation, but that it also develops a methodology assessing the social impact of the structural reforms proposed in the NRRP. In that context, it is highly debateable that the delegated act, which will provide specifications concerning the social dimension, will be made available only after the NRRPs have been drawn up and even after their approval.

1.6. One great challenge is ensuring coherence and synergies between cohesion policy and NGEU, particularly the RRF and React-EU. While it is important to avoid overlaps and confusion in the implementation of programmes, it is also crucial to ensure that the programmes do not contradict or undermine one another. Moreover, the potential prioritisation of RRF funding over cohesion policy due to the pressure on quick absorption may reduce attention and capacity to deal with the programming and implementation of cohesion policy funding for 2021-2027, contributing to further delays and issues of take-up of cohesion resources.

1.7. The EESC is concerned that, due to its different legal basis (see point 3.4), the provisions for reducing inequalities enshrined in cohesion policy are not reflected adequately in the rules governing the use of NGEU and the RRF. It is important that the extent and clarity of the social dimension within cohesion policy serve as a model for NGEU and the RRF. Furthermore, cohesion policy's strict rules on stakeholder consultation and particularly the partnership principle should be taken at very least as a blueprint for RRF procedures in order to direct investments efficiently towards measures of social inclusion and to fight inequality.

1.8. Given the conditionality of the disbursement of funds on the implementation of country-specific recommendations, it is all the more important that the European Semester is reformed, including minimum standards for the consultation of social partners and civil society, as outlined in the EESC's resolution on the involvement of organised civil society in the RRFs<sup>(?)</sup>. In the context of cohesion policy, NGEU and country-specific recommendations, the EESC strongly recommends a detailed focus on all different aspects of inequality and striving for sustainable and inclusive growth as well as a close follow-up of the way the funds have been spent.

1.9. Moreover, the EESC calls for the systematic integration of the European Pillar of Social Rights and the social scoreboard into NGEU and the evaluation of the NRRPs. As part of this integration, it must be ascertained that NGEU is aligned with the creation of decent jobs. Therefore, the disbursement of RRF funds to companies should be linked to certain criteria such as the application of collective agreements or providing high-quality jobs on the basis of national laws and

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(?) Involvement of Organised Civil Society in the National Recovery and Resilience Plans — What works and what does not? — European Economic and Social Committee (OJ C 155, 30.4.2021, p. 1).

regulations derived from national social partners' agreements. It needs to be ensured that the benefits of both the recovery and the green and digital transitions are shared by all people living in the European Union.

## 2. General comments

2.1. The EU has for a long time relied on its cohesion policy (CP), and particularly funds such as the Regional Development Fund and Social Fund, to reduce inequalities both between and within Member States. In 2020 the COVID-19 pandemic caused an extraordinary systematic and economic shock and exacerbated existing imbalances between Member States in a way that Cohesion Funds were unable to tackle alone. This led to the creation of a new funding initiative known as Next Generation EU (NGEU), a EUR 750 billion recovery package to be shared across the Member States.

2.2. NGEU is not only based on solidarity between Member States but is also a significant breakthrough in the process of European integration, including for example debt mutualisation, by which we refer to the common issuing of bonds and collectively taking on debt. NGEU's confidence-boosting effect has already helped to reduce the likelihood of a deep crisis in some countries and its positive impact will come fully into play when actual spending starts. Due to its boosting effect on economic growth it will help to reduce unemployment. In the long run, NGEU is expected to considerably contribute to environmental, economic and social sustainability. The EESC considers that the NGEU represents a unique opportunity to strengthen the European social model and to build a competitive and integrated EU by contributing to a rapid, fair and sustainable economic recovery. Ultimately, it is likely that all Member States become net beneficiaries<sup>(3)</sup>. Finally, the EESC believes that European funds are not just numbers, objectives and deadlines, but symbolise the fact that the EU Member States have a shared vision of the future.

2.3. The RRF is the centrepiece of NGEU, with EUR 672,5 billion in loans and grants available to support reforms and investments undertaken by EU Member States. The aim is to mitigate the economic and social impact of the coronavirus pandemic and make European economies and societies more sustainable, inclusive, resilient and better prepared for the challenges and opportunities of the green and digital transitions.

2.3.1. It is structured around six 'pillars', including economic, social and territorial cohesion; health and social resilience; and policies for the next generation, children and youth. Member States are required to foster synergies and promote close coordination between National Recovery and Resilience Plans (NRRPs) and cohesion policy programming. Moreover, NRRPs should effectively address challenges caused by increasingly divergent economic developments and different recovery paths which are not directly identified in the European Semester. Particularly relevant are the country-specific recommendations from the years 2019 and 2020.

2.4. As well as the RRF, NGEU also includes Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU), allocated EUR 47,5 billion. This is a new initiative aimed at extending the crisis response and crisis repair measures delivered through the Coronavirus Response Investment Initiative and the Coronavirus Response Investment Initiative Plus. However, in comparison with other measures, the budget available is quite small. It can therefore only contribute in a limited way to green, digital, sustainable, inclusive and resilient recovery of the economy. The funds from REACT-EU will be made available to the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Fund for Aid to the Most Deprived (FEAD).

2.5. Additionally, through cohesion programmes for the 2021-2027 programming period, a total of EUR 377,8 billion will be granted to Member States. This amount will be allocated through the following funds:

- the European Regional Development Fund (ERDF) aiming to correct development imbalances between its regions;
- the Cohesion Fund supporting EU projects in trans-European Transport Networks, environmental infrastructure and projects in the area of energy efficiency and the use of renewable energy or sustainable urban mobility;
- the European Social Fund (ESF), and
- the newly created Just Transition Fund

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<sup>(3)</sup> The nonsense of Next Generation EU net balance calculations, Bruegel.



### 3. Complementarities, synergies and gaps between the RRF and cohesion policy

3.1. Overall, the EESC advocates a prosperity-focused economic and social policy where people's well-being is prioritised and no-one is left behind. Among others, key policy objectives must be sustainable and inclusive growth, quality of life and reducing inequalities. The EESC calls for these objectives to be integrated into various policy areas, including tax, labour market, industrial and monetary policy. Within the European Semester, the Economic Governance Framework and the Multiannual Financial Framework, greater focus on solving the problem of rising inequality is strongly recommended. In this opinion we focus on the ways in which cohesion policy and NGEU, primarily through its flagship RRF, propose to remedy these inequalities.

3.2. The NGEU gross pay-outs are not based on very clear criteria. As such, NGEU is very likely to enable the EU's weaker economies to recover more quickly from — and to contribute to — upward real convergence, which the EESC considers very welcome. However, the extent and the way inequalities within countries and imbalances between regions are to be combatted through NGEU is less clear. In any case, overlaps between cohesion policy and NGEU mean that even adverse effects are very likely.

3.2.1. A level playing field in social and employment policies is of key importance and the NGEU provisions should require such reforms. The EESC points to its various proposals for tackling inequality within countries, for example through linking the public procurement system to certain criteria and programmes of support for vulnerable groups (e.g. Youth Guarantee). Quality of jobs and collective bargaining systems should be also promoted in this regard.

3.2.2. The support provided by NGEU funds may relieve the pressure on public budgets and enhance the fiscal space of more indebted countries in particular, which might also be used to improve social policy measures in order to soften inequalities. Moreover, the EESC recommends analysing the factors that have played a significant role in the deterioration of public finances in some Member States in the context of the COVID-19 crisis.

3.3. One great challenge is ensuring coherence and synergies between cohesion policy and NGEU, particularly the RRF and React-EU. From the NRRPs that have been submitted and made public as part of the RRF process, RRF and cohesion policy programmes appear at first glance to have a number of common goals<sup>(4)</sup>. However, the processes used to determine where investment goes seem to differ greatly, raising the question of whether the two can work in harmony. While it is important to avoid overlaps and confusion in the implementation of programmes, it is also crucial to ensure that the programmes do not contradict or undermine one another. The principles of cohesion policy, with its strict rules on stakeholder consultation, should be taken over by the RRF procedures in order to direct investments efficiently to measures for social inclusion.

3.4. Cohesion policy has a long tradition regarding the strategic earmarking of funds and resources for social objectives, as well as partnership and the mandatory establishment of Monitoring Committees representing a wide range of stakeholders and social partners in selecting projects. The effectiveness of these principles, while not waterproof in assuring quality investments, has nevertheless been generally proven over time by audits and *ex-post* evaluations. Unfortunately, these proven practices were only partly used when designing the NRRPs. The EESC calls on Member States to adopt practices such as the establishment of Monitoring Committees during the implementation phase of the NRRPs. The Monitoring Committees should include representatives of the social partners and civil society organisations.

3.5. If we look at the most recent Common Provisions Regulation (CPR)<sup>(5)</sup> governing how Cohesion Funds are used, the rules that determine whether actions are eligible for funding are quite clear. For example, Article 73 states that 'for the selection of operations, the managing authority shall establish and apply criteria and procedures which are non-discriminatory, transparent, ensure accessibility to persons with disabilities, gender equality'. The EESC is concerned, that due to its different legal basis (see point 3.4) the provisions for reducing inequalities enshrined in cohesion policy are not reflected adequately in the rules governing the use of NGEU and the RRF. It is important that the extent and clarity of the social dimension within cohesion policy serves as a model for NGEU and the RRF.

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<sup>(4)</sup> Recovery and Resilience Facility, European Commission.

<sup>(5)</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).



3.6. Regarding partnership, Article 8 states that 'For the Partnership Agreement and each programme, each Member State shall organise and implement a comprehensive partnership', which includes 'relevant bodies representing civil society, such as environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination.' The Enabling Conditions in the Annex to the regulation also strictly specify that EU funding must not contribute to the segregation of people in institutional care.

3.7. Like cohesion policy, economic, social and territorial cohesion are mentioned explicitly in the scope and objectives of the RRF. However, due to the fact that NGEU is based on the emergency Article 122 TFEU for unforeseeable, severe economic difficulties, the main principle there is solidarity. The RRF, on the other hand, is based on Article 175 TFEU, meaning that cohesion should be an objective reflected in the NRRPs<sup>(6)</sup>. A weak territorial dimension in the NRRFs can have potential implications for cohesion policy and territorial cohesion, including the reduction of internal disparities, the role of subnational levels, and the multi-level governance principle.

3.8. The overlap between cohesion policy and the RRF in some areas, including the green and digital transitions, raises particular concerns in terms of overlaps. In addition, the broad scope of RRF coverage of different subject areas makes it more challenging to define a clear focus and ensure coordination with cohesion policy interventions in terms of cohesion policy's demarcation of the various sources, which is of the upmost importance for the reasons set out below. This is another reason why monitoring and participation of organised civil society is of such importance.

3.9. The potential prioritisation of RRF funding over cohesion policy due to the pressure on quick implementation/absorption (e.g. emergency nature, shorter lifespan, and tight timetable for NRRP) may reduce attention and capacity to deal with the programming and implementation of cohesion policy funding for 2021-2027, contributing to further delays and issues of take-up of cohesion resources.

3.10. Civil society and social partners have worked tirelessly to ensure strong wording in the Common Provisions Regulation (CPR), which governs the use of Cohesion Funds as well as other EU funding. The regulation for the period 2021-2027 clearly defines how resources should be used to further the social inclusion of marginalised groups and not further segregate them. It also sets out clear rules for the inclusion of civil society and social partners in the selection, governance and monitoring of EU-funded operations. This strongly contrasts with the RRF. Article 18(4)(q) merely requires that national authorities provide a summary of the consultation process. In practice, the lack of more detailed legal provisions regarding the involvement of social partners and civil society has resulted in completely inadequate public consultation on the part of the Member States and extremely poor levels of transparency, with many Member States not making their draft NRRPs publicly available at all.

3.10.1. The EESC understands that the timeframe between the approval of NGEU and the deadline for the submission of NRRPs was short. It believes, however, that full and meaningful consultation of civil society and social partners should have been seized by the Member States as an opportunity to assist in more easily drafting quality NRRPs, rather than seen as a burden that many Member States chose to resist.

3.11. The lack of public scrutiny during the drafting period has resulted in a concern that Member States will use the RRF to circumvent rules that prevent them using Cohesion Funds for certain types of investment. This has already proven to be the case in some of the small number of draft NRRPs made available to the public, particularly regarding rules for investment in social inclusion. The rules set out in the CPR, particularly in its enabling conditions, were introduced at the demand of civil society and social partners. If there is no need to demonstrate that actions funded in parallel by the RRF will respect the strict principles upheld in the CPR in order to be approved, we have far less assurance that these principles will be respected. While it must be admitted that the CPR itself has not always managed to prevent misuse of funds, the regulation at least offers a basis on which to contest or request a halt to funding that does not meet the enabling conditions. With the RRF the ability to contest or halt the misuse of funds remains uncertain.

3.12. The EESC criticises the fact that the partnership principle was not respected in the designing of many NRRPs. The EESC sees the partnership principle and the involvement of organised civil society as key to effective policies and ownership. The partnership principle is part of cohesion policy's DNA. We have seen good examples of active participation by citizens, local communities and civil society. For the implementation and a possible redesign of the NRRPs a more ambitious system of stakeholder consultation should be implemented taking the partnership principle as a blueprint. On

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<sup>(6)</sup> Recovery and Resilience Facility, European Commission.

local matters, community-led development strategies (CLLD), integrated territorial investments in cities, Urban Innovative Actions and Interreg cross-border cooperation provide many project examples across the EU, and this should also be reflected in the implementation of the NRRP.

#### 4. Combatting inequalities through cohesion policy, Next Generation EU and the RRF

4.1. Policymakers still face a high level of uncertainty concerning the evolution of the pandemic. Growth forecasts for the period from 2019 to 2023 have been revised downward in several countries. There will be considerable and increasing divergence in growth within the EU, which can to a large extent be explained by differing effects of the pandemic on different economic sectors. For example, countries with a large tourism sector suffered greatly, and arts and entertainment, trade, travel and accommodation, the retail sector and transport have also been hard hit <sup>(7)</sup>.

4.1.1. In addition the pandemic exacerbated longstanding gaps in our societies, including the unequal distribution of income and wealth, unequal access to healthcare and education and a different exposure to environmental damages and also caused social and financial exclusion. For example, in Germany the number of long-term unemployed people increased to over 1 million. Precarious workers in particular lost their jobs, as the number of unemployed precarious workers increased by 40 %, most of them young people and women. In general, inequalities vary across gender, age and educational backgrounds as well as across regions, sectors and occupations. Vulnerable groups such as, for example, people with disabilities and migrants, suffer the most from the consequences of the health crisis.

4.2. In general, recessions are likely to cause more suffering from income losses for poorer people than for richer people. However, when an economic upturn comes around, poorer people are not the first to rebound, meaning the social inequalities caused, for example, by a financial crisis can be felt for decades. The increase in inequality resulting from the current crisis could be even sharper due to the adverse impact of the pandemic. We have seen that the incidence of COVID-19 infections is highest for the most deprived people, which in turn can adversely affect their income. Poorer people are also less likely to be in a position to telework, which has proved to be a major factor in job losses.

4.2.1. Moreover, sectors dominated by low-income workers (e.g. restaurants, travel, entertainment) have been particularly hard hit <sup>(8)</sup>. As the pandemic accelerated automation and digitalisation, including artificial intelligence, the demand for high-skilled labour increased, while low-skilled workers dropped out of the labour market <sup>(9)</sup>. It is also likely that long-term unemployment will have long-lasting effects such as a loss of skills and could hinder their reintegration into employment. Moreover, school and university closures affected the vulnerable parts of society the most.

4.3. Beyond the effect the pandemic had on material wellbeing, the EESC would also like to underline the disproportionate impact it had on people's safety and the enjoyment of their basic rights. It is no secret that health and care facilities became hotbeds for infections with high numbers of deaths, particularly when it came to older people and people with disabilities.

4.3.1. Overwhelmed hospitals in some Member States also put in place a *triage* system to determine who would or would not be allowed to receive emergency treatment. In some cases, serious discrimination arose. Age and disability were used to justify turning patients away, clearly exposing the priorities by which governments measure the worth of their different citizens. It is of paramount importance that this never happens again, and that vulnerable people are not treated as second-class citizens.

4.4. The EESC also points to the lack of high-quality data concerning the distribution of wealth. However, as early as 2016, the ECB concluded in its Household Finance and Consumption Survey that the distribution of household net wealth is 'heavily skewed' in the euro area, in that the wealthiest 10 % own 51,2 % of total net wealth <sup>(10)</sup>. Other projections estimate an even more unequal distribution of wealth, suggesting that the richest one percent of households constitute a share of up to 32 % of total wealth. COVID-19 is very likely to deepen wealth inequality further. Overall, it seems to have

<sup>(7)</sup> The great COVID-19 divergence: managing a sustainable and equitable recovery in the European Union, Bruegel.

<sup>(8)</sup> WP-2021-06\_30032021.pdf.

<sup>(9)</sup> Stantcheva\_covid19\_policy.pdf.

<sup>(10)</sup> European Central Bank, The Household Finance and Consumption Survey: results from the Second wave, No 18 / December 2016.

induced an increase in savings. However, low-income households have cut their spending to a lesser extent than high-income earners. Because of the necessity of meeting subsistence needs, low-income households returned faster to pre-crisis levels than higher income earners <sup>(11)</sup>.

4.5. The pandemic disproportionately affected women. Women have had a higher likelihood of being laid off, furloughed or having to reduce their formal working hours for several reasons. They are more represented in some occupations that were hardest hit by lockdowns and a larger share had part-time or alternative work contracts. Firms have tended rather to protect workers on permanent work contracts. Moreover, women left their jobs or reduced their working hours due to the increase in childcare obligations caused by school closures. In addition, the pandemic widened the gender gap in unpaid home working <sup>(12)</sup>.

4.6. NGEU is meant to be one of the EU's main tools for mitigating the adverse social impact of the crisis, strengthening social resilience and enhancing employment. However, its success depends on how it is implemented. It is important that the various resources are spent effectively and in a timely manner, so that the recovery can be accomplished. Moreover, an efficient use of resources will also generate a climate of trust between Member States. All in all, it will be essential that NGEU is not simply used to continue investments already planned before the pandemic, but to react very clearly to putting in place reforms to help prevent a reoccurrence of the worst impacts that COVID-19 has had on our societies.

4.7. The EESC welcomes the fact that social goals, and particularly the goal of economic, social and territorial cohesion, are embedded in its six pillars and that the assessment criteria for the recovery and resilience plans include their social impact, and Member States have to explain how the RRFs contribute to gender equality and equal opportunities for all. However, the EESC is concerned that the social dimension might not be adequately represented in the NRRPs or that certain measures are labelled 'social' although they do not contribute to the social goals as specified in the regulation. So far, it seems unlikely that social disparities are effectively tackled by NRRPs. In order to make sure that each NRRP has a strong social dimension, the EESC suggests that the Commission not only develops a methodology for reporting on social expenditure as provided for in Article 29(4) of the RRF regulation, but that it also develops a methodology assessing the social impact of the structural reforms proposed in the NRRP. What is more, the focus on fair distribution needs to be further enhanced and made more specific.

4.8. The RRF should be used for reforms to help Member States recover from the impact of the pandemic. The EESC calls for investment to go first and foremost to groups which have been the most severely impacted by COVID-19, and lessons should be learned from where we saw people suffer the most during this health crisis. Particular investment should be targeted towards helping people back into quality employment, particularly women, young people, the long-term unemployed, people from ethnic minorities, people with disabilities and older people, whose share in overall society is likely to rise. Finally, the sustainability of pension systems has to be safeguarded.

4.8.1. It is imperative to reinforce public health services and public care, particularly in Member States where severe shortages have been revealed due the COVID-19 crisis. It is the opinion of the EESC that the RRF is a unique opportunity for Member States to reform these types of services and also to create offers of personalised support for people in their community, including support for personal assistance and in-home support.

4.9. Moreover, it has to be ascertained that NGEU is aligned with the creation of decent jobs. The EESC recommends carrying out a policy approach already proven in the context of European structural funds, namely to link the disbursement of RRF funds to certain criteria. For instance, companies should only benefit from RRF resources if they apply collective agreements or provide high-quality jobs on the basis of national laws and regulations derived from national social partners' agreement, agree to reduce the number of precarious jobs (for example fixed-term, temporary employment unilaterally imposed by the employer) or have strong institutions for codetermination.

4.10. The delegated acts on the Recovery and Resilience Scoreboard and on the methodology for reporting social expenditure, including on children and youth, have yet to be provided. The EESC explicitly supports the European Parliament's call for the Commission 'to ensure full transparency with regard to the timeline for the approval' of these acts,

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<sup>(11)</sup> Stantcheva\_covid19\_policy.pdf.

<sup>(12)</sup> Stantcheva\_covid19\_policy.pdf.

as well as ‘the swift approval of these delegated acts before the summer recess’<sup>(13)</sup>. It is highly debateable that the specifications concerning the social dimensions will be provided after the NRRPs have been drawn up and even after they are approved.

4.11. Unfortunately, a specific condition for spending a certain amount of RRF resources for social projects is also lacking. Indeed, the share of spending directly linked to social targets is unclear and seems to be quite small. The EESC demands a clear report on the share and design of spending and projects that are deemed to meet social targets in general and social cohesion in particular. It also has to be ensured that the green and digital investments and all other NGEU expenditure are implemented respecting the target of social sustainability. Again, a clearer picture of the intended investment is demanded.

4.12. The reliance of RRFs on the European Semester process, country-specific recommendations and conditionalities is problematic, because in past years there have been a number of debatable recommendations, regarding, for example, health expenditure or pensions. Instead of linking the RRF to the European Semester, a clear earmarking of funds as a strict conditionality that ensures an effective absorption of EU funds would have been more appropriate. Given the conditionality of the disbursement of funds on the implementation of country-specific recommendations, it is all the more important that the European Semester is reformed, including minimum standards for the consultation of social partners and civil society, as outlined in the EESC’s resolution on the involvement of organised civil society in the RRFs<sup>(14)</sup>. Effective involvement of national parliaments and the European Parliament is also needed.

4.12.1. In the context of cohesion policy, NGEU and country-specific recommendations, the EESC strongly recommends a detailed focus on all different aspects of inequality and striving for sustainable, resilient and inclusive growth as well as a close follow up of the way the funds have been spent. It needs to be ensured that the benefits of both the recovery and the green and digital transitions are shared by all Europeans, while bearing in mind implementation of the work to combat digital exclusion and energy poverty, which could be exacerbated by the transition.

4.12.2. The EESC welcomes the focus on the European Pillar of Social Rights and on the social scoreboard in the Semester process — and therefore also on NGEU. However, the EESC calls explicitly for their systematic integration into NGEU and the evaluation of the RRFs. The EESC particularly points to the positive signal from the Porto Summit that we should go beyond GDP as a measure of prosperity. NGEU must not only be assessed on the base of its interplay with the European Semester, but it must also be seen as a means of territorial and social cohesion and of implementing the respective programmes.

4.13. All in all, the EESC calls on the European Union to take advantage of the unique opportunity represented by NGEU to accelerate and foster much needed structural reforms and resolve deficiencies in social, economic and environmental policies and to implement a prosperity-focused approach. Given the long-term impact and deployment of the Funds, the EESC recommends building a consensus among political parties, social stakeholders, entrepreneurs, trade unions and civil society, to ensure the success of this opportunity to the greatest extent possible. The EESC believes that European funds are not just numbers, objectives and deadlines, but symbolise the fact that the European Union has a shared vision of the future.

Brussels, 23 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(13)</sup> Motion for a Resolution on the right of information of the Parliament regarding the ongoing assessment of the national recovery and resilience plans.

<sup>(14)</sup> Involvement of Organised Civil Society in the National Recovery and Resilience Plans — What works and what does not? — European Economic and Social Committee.

## Opinion of the European Economic and Social Committee on Securing media freedom and diversity in Europe

(Own-initiative opinion)

(2021/C 517/02)

Rapporteur: **Christian MOOS**

Plenary Assembly decision	20.2.2020
Legal basis	Rule 32(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	7.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	223/2/8

### 1. Conclusions and recommendations

1.1. Media freedom, including the safety and security of journalists, and media pluralism are cornerstones of liberal democracy as agreed by all Member States in the EU Treaties.

1.2. While Europe overall remains a continent with free and diverse media, the developments within the EU are alarming. Some EU Member States are no liberal democracies anymore, bringing independent media under political control and actively limiting the diversity of media.

1.3. Threats to media freedom and declining media pluralism are not confined to a few Member States, but a general trend across the EU. All Member States urgently have to take steps to preserve media freedom and media plurality.

1.4. As some Member States are unwilling to adopt the necessary measures, it is the EU institutions' obligation to enforce European values and guarantee the functioning of liberal democracy and the rule of law in all EU Member States.

1.5. Key challenges include the guaranteeing of the safety, security and independence of journalists in all Member States at any time, the shielding of independent media from political influence and steps against shrinking media plurality driven by political willingness and economic imperatives.

1.6. The EESC welcomes the broad range of reports and initiatives by the European Parliament <sup>(1)</sup> and the Commission; however, it underlines that achieving concrete improvements concerning media freedom and plurality on the national level is the major task ahead as underlined in the annual report 2021 by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists <sup>(2)</sup>.

1.7. The EESC calls on the Commission to use Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council <sup>(3)</sup> on a general regime of conditionality for the protection of the Union budget without delay to address the acute threat to media freedom and pluralism in some Member States.

<sup>(1)</sup> Report by Magdalena Adamowicz MEP, EP — European Parliament resolution of 25 November 2020 on strengthening media freedom: the protection of journalists in Europe, hate speech, disinformation and the role of platforms (OJ C 425, 20.10.2021, p. 28).

<sup>(2)</sup> <https://www.coe.int/en/web/media-freedom>.

<sup>(3)</sup> Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433 I, 22.12.2020, p. 1).

1.8. The EESC welcomes the Commission's plan to propose measures for increasing the safety of journalists and underlines the necessity of a legal ban on Strategic Lawsuits Against Public Participation (SLAPP).

1.9. The EESC calls on the Commission to make public procurements in the media sector and public support to media companies more transparent and fair.

1.10. The EESC strongly supports the Commission's plan for a 'European Media Freedom Act' to equip the Commission with effective legal instruments to enforce media freedom and media pluralism in the Common Market.

1.11. The EESC considers impartial public support to media companies an investment in quality journalism, just as independent and impartial public broadcasting companies are an indispensable contribution to media plurality.

1.12. The EESC proposes the creation of a fully independent European public service broadcaster.

1.13. The EESC underlines the importance of further developing media literacy and supports the proposal to set up a 'European Agency' to bolster media skills of EU citizens through educational programmes.

## **2. Media freedom and diversity as a prerequisite for democracy**

2.1. Article 19 of the Universal Declaration of Human Rights (UDHR), Article 10(1) of the European Convention on Human Rights (ECHR) and Article 11(1) of the Charter of Fundamental Rights of the European Union (CFR) guarantee the right to seek, receive and impart information and ideas without interference by public authorities and regardless of frontiers. Media independence and diversity are essential to guarantee this freedom of information.

2.2. The media freedom and pluralism guaranteed by Article 11(2) CFR are also a prerequisite for democracy. They must be respected at all levels so that citizens of the Union can effectively exercise their right to participate in its democratic life, as enshrined in Article 10(3) of the Treaty on European Union (TEU).

2.3. A diverse media landscape, alongside political parties and civil society, makes an indispensable contribution to the formation of opinions and intentions in democratic decision-making processes.

2.4. Independent media make an indispensable contribution to the implementation of the principle of transparency to which the Union institutions and other bodies are bound by Article 15 of the Treaty on the Functioning of the European Union (TFEU).

2.5. As the 'fourth estate', investigative journalists perform a watchdog role over the actions of the executive, legislative and judicial branches, as well as private entities. In so doing they increase the accountability of elected decision-makers at all levels.

2.6. Member States in which media freedom or diversity is restricted are not democracies and infringe EU values (Article 2 TEU) and aims (Article 3 TEU).

2.7. Though some EU Member States continue to be among the global frontrunners in guaranteeing media freedom and diversity, threats to media freedom and declining media pluralism in the EU are not confined to individual countries — adverse trends are evident in differing degrees across the EU.

2.8. The internal decline of media freedom and media pluralism undermines the EU's ability to support democracy in its neighbourhood, where recent crises in some states have shown that the situation concerning media freedom, media plurality and the security of journalists is even worse in some countries.

2.9. Some EU Member States have now left the circle of democratic states and in the past decade have manifested the most rapid development towards autocracy in the world. Curtailing media freedom and diversity has been a feature of this development.

2.10. The pandemic has further accelerated this development or has been used to legitimise further inroads into media freedom.



2.11. Reporters without Borders' 'World Press Freedom Index 2021' as well as the Freedom House annual Freedom and the Media and Freedom on the Net reports clearly show that the 'EU struggles to defend values at home' <sup>(4)</sup>.

### 3. Threats to media freedom and diversity

#### 3.1. *The threat to journalists*

3.1.1. For the media to fulfil their mission, journalists must be able to work unhampered and be confident that they are at all times fully protected as individuals by the EU and all its Member States. This is now no longer the case.

3.1.2. Since 2015, at least 16 journalists have been killed in the EU in the course — or as a result — of their work. Daphne Caruana Galizia, Giorgos Karaivaz, Ján Kuciak and his fiancée Martina Kušnírová and Lyra McKee, Peter de Vries and their colleagues must not be forgotten.

3.1.3. Journalists are increasingly exposed to verbal and physical attacks and coverage of protests and demonstrations in particular is becoming more dangerous, with the danger coming from both demonstrators and the forces of law and order. With more than a hundred cases related to the pandemic, the threat has reached new proportions in Europe <sup>(5)</sup>.

3.1.4. In some European non-EU countries the situation of journalists is catastrophic; the drastic developments against independent journalists in Belarus is a very alarming example.

3.1.5. Social media and the group dynamics seen there lower the threshold for harassment and threats. Some coordinated campaigns exist aimed at hindering the work of the media or individual journalists. This raises the question of a possible need to regulate social media platforms without restriction of fundamental freedoms.

3.1.6. Female journalists are more likely than their male colleagues to be targets of verbal and physical attacks, as well as of online harassment and threats, which are often misogynist, sexual or macho in nature.

3.1.7. In some Member States, measures to counter disinformation and bans on libel are designed so they can be used to criminalise critical reporting and threaten journalists with incarceration or hefty fines.

3.1.8. Strategic Lawsuits Against Public Participation (SLAPP) are increasingly used to silence civil society stakeholders and journalists.

3.1.9. The current economic challenges faced by media companies have led to cuts in the number of journalists in regular employment. For freelance journalists who are increasingly precarious and vulnerable, legal disputes pose a threat to livelihoods even if the claims introduced are unfounded.

3.1.10. In particular at local level there are unprecedented 'news deserts' and often independent media are replaced by so-called municipal news, free newspapers, which are owned by local economic and political elites and can endanger media freedom and pluralism.

3.1.11. The purpose of the threats is to induce self-censorship. They undermine media freedom in Europe.

#### 3.2. *Threats to media freedom*

3.2.1. In order for the media to operate freely, the legal framework guaranteeing their freedom and diversity must ensure that journalists and media companies can carry out their work free of political interference.

3.2.2. There are serious concerns in a number of Member States about the independence of media regulators, which in some cases serve as a de facto tool for governments to exert influence on the media landscape. Truly independent bodies for the voluntary self-regulation of the media can be a means of shielding media from political influence.

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<sup>(4)</sup> Reporters without Borders: 2021 World Press Freedom Index, <https://rsf.org/en/ranking> (accessed: 24 May 2021).

<sup>(5)</sup> International Press Institute: COVID-19: Number of Media Freedom Violations by Region, <https://ipi.media/covid19-media-freedom-monitoring/> (accessed: 8 April 2021).



3.2.3. Some Member States use discriminatory tax legislation and targeted advertising budgets to influence the media.

3.2.4. Some Member States have used the danger of spreading disinformation about the pandemic to legitimise restrictions on press freedom to prevent critical reporting of the management of the crisis.

3.2.5. Public media under direct political control or under indirect political control through supervisory bodies which are not run in full respect of journalistic freedom are a serious threat to media freedom. There are mounting attempts to exert direct political influence over the coverage of independent media, as well as verbal attacks by politicians and legal action against critical media and journalists.

3.2.6. In several Member States, excessive proximity of media entrepreneurs to the government or those it has placed in government offices, as well as ownership by political parties or states of media companies with an unduly high market share, lead to sizeable restrictions on media freedom and diversity.

3.2.7. Even in functioning liberal democracies, the existence of independent and impartial public service broadcasting as a guarantee of diversity of opinion is being questioned and calls are being made for political influence over the composition of the programmes and over the content distributed.

### 3.3. *Threats to media diversity*

3.3.1. Over the past 3 years, consolidation in the EU media market, including the advertising market and distribution channels, has risen notably and constitutes a medium or high risk to media freedom across the EU, according to the 2020 Media Pluralism Monitor <sup>(6)</sup>.

3.3.2. Changes in media usage patterns as a result of the digital revolution are calling into question the business models of the established media. Newspapers and small media outlets at local level, which are a backbone of media diversity in the EU, are particularly affected. They are becoming easy targets for politically driven consolidation.

3.3.3. The ever growing importance of digital media increases the market power — and hence influence on opinions — of large platforms, which as foreign companies often circumvent European regulation.

3.3.4. The economic consequences of the pandemic, in particular the fall in advertising revenues, are accelerating ongoing changes in the media market and further constraining media diversity.

## 4. Recommendations to strengthen media freedom and diversity in Europe

### 4.1. *General recommendations*

4.1.1. The EESC notes that individuals and governments who cast doubt on the freedom or pluralism of the media by their words or actions are unsuitable to chair either the EU institutions or their preparatory bodies or to represent the Union.

4.1.2. The EESC welcomes the fact that Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget strengthened the corrective arm of the rule of law toolbox, including media freedom and pluralism.

4.1.3. The EESC welcomes the fact that the European Commission's Rule of Law Report, including country monitoring on media pluralism and media freedom, and the debate in the Council of the European Union have also strengthened the preventive arm of the rule of law toolbox in the EU.

4.1.4. The EESC calls for the effectiveness of the preventive arm to be strengthened by the inclusion in future of Member State specific reform recommendations in the country chapters of the Rule of Law Report, the implementation of which will be evaluated in the report from the following year.

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<sup>(6)</sup> Elda Brogi et al. 2020: Monitoring Media Pluralism in the Digital Age. Application of the Media Pluralism Monitor in the European Union, Albania and Turkey in the years 2018-2019, Fiesole, p. 50.

4.1.5. The EESC is committed to making the protection of media freedom and diversity a focus of the Conference on the Future of Europe in order to raise awareness of the importance of this challenge and to further intensify the debate on the necessary measures.

#### 4.2. *Recommendations on the protection of journalists*

4.2.1. The EESC stresses that the best protection for journalists is the rigorous prosecution of all cases of harassment, threats and attacks against them.

4.2.2. The EESC calls on the Commission to use Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget without delay to address the acute threat to media freedom and pluralism in some Member States. This clearly includes the denial of access to European funding for Member States which infringe against media freedom.

4.2.3. The EESC supports the European Parliament's position<sup>(7)</sup> of bringing an action under Article 256 TFEU in the event of the Commission's failure to act.

4.2.4. The EESC welcomes the Commission's plan to make tangible proposals for the consistent implementation of the Committee of Ministers Recommendation on the protection of journalism and the safety of journalists and other media actors<sup>(8)</sup> in all EU Member States and to monitor compliance with it in the ambit of its Rule of Law Report.

4.2.5. The EESC welcomes the Commission's commitments to providing financial support for projects concerning the legal and practical protection of journalists and suggests that, in addition, consideration be given to ways of ensuring that the Member States' social security systems cover the professional risks of — in particular freelance — journalists.

4.2.6. The EESC points out that Member States' security authorities are obliged to protect journalists. It proposes stepping up police training in dealing with journalists, with the involvement of press associations and journalists' organisations, in order to promote the exchange of best practice.

4.2.7. With regard to the protection of journalists from harassment and threats online, the EESC draws attention to its opinion on tackling illegal content online<sup>(9)</sup> and highlights their particular vulnerability because of their highly visible public role.

4.2.8. The EESC points out that any measures to be adopted must cater for gender equality and the protection of journalists belonging to minorities.

4.2.9. The EESC recognises that the guarantee of the principle of transparency and the right to freedom of information has seen improvement at EU level, but not in all Member States. It calls on all Member States to comply unflinchingly with EU standards and points to the need for further improvement, including at EU level<sup>(10)</sup>.

4.2.10. The EESC welcomes the establishment of the expert group on SLAPP and the Commission's plan to put forward a proposal by the end of 2021 to protect journalists and civil society from SLAPP. It believes that a legal ban on SLAPP takes precedence over complementary measures to support those affected.

4.2.11. The EESC underlines the importance of initiatives from civil society, such as the Coalition Against SLAPPs in Europe (CASE)<sup>(11)</sup>, to protect journalists from SLAPP and calls for increased EU support.

4.2.12. The EESC notes that, in relation to SLAPP, the provisions of the Brussels I<sup>(12)</sup> and Rome II Regulations<sup>(13)</sup> must not lead to a reduction in legal protection through the choice of jurisdiction for vexatious legal cases (libel tourism). It stresses the need to bear this issue in mind in the forthcoming review of the two regulations.

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<sup>(7)</sup> P9\_TA(2021)0103.

<sup>(8)</sup> CM/Rec(2016)4.

<sup>(9)</sup> OJ C 237, 6.7.2018, p. 19.

<sup>(10)</sup> OJ C 487, 28.12.2016, p. 51; OJ C 13, 15.1.2016, p. 192.

<sup>(11)</sup> <https://www.the-case.eu>.

<sup>(12)</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.2.2012, p. 1).

<sup>(13)</sup> Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) (OJ L 199, 31.7.2007, p. 40).

#### 4.3. *Recommendations for strengthening media independence*

4.3.1. The EESC calls on the Commission to complement the methodology of the Rule of Law Report by evaluating the independence of state and public broadcasting.

4.3.2. The EESC points out that the effective prosecution of corruption affords some protection against government interference in the media and therefore calls on the Commission, in addition to enforcing anti-corruption standards, to take all necessary measures, regardless of political considerations, to ensure that no money is used from the new Multiannual Financial Framework and the NextGenerationEU recovery instrument to curtail media diversity or on other forms of corruption.

4.3.3. The EESC calls on all Member States to establish national transparency registers along the lines of the European Transparency Register, since these also make contacts between politicians and media entrepreneurs transparent. Transparency registers should be incorporated into an EU-wide multilevel transparency register.

4.3.4. The EESC calls on the Commission to explore whether the pilot project for the creation of a publicly accessible database of information on ownership in the media economy can be developed in such a way as to include information on the promotion and contracting of media companies by the EU, its Member States, regional and local authorities, bodies governed by public law, public undertakings and private undertakings in which one or more of these entities hold a majority of voting shares.

4.3.5. The EESC calls on the Commission to come forward with a proposal for EU-wide minimum standards for all public procurement and supporting of media companies by the entities mentioned in point 4.3.4.

4.3.6. The EESC welcomes the Commission's proposals to tackle disinformation in general<sup>(14)</sup> and in relation to COVID-19 on social media<sup>(15)</sup>, but points to the risk that Member States may use the fight against disinformation to justify restricting media freedom. The phenomena of disinformation and hate speech urgently need to be looked at in depth, inter alia, in further EESC opinions.

#### 4.4. *Recommendations for strengthening media diversity*

4.4.1. The EESC is critical of the fact that the Commission's Rule of Law Report reduces the question of market pluralism to the matter of transparency in media ownership and neglects the degree of market consolidation. It calls on the Commission to adapt the methodology of the report in order to better mirror in future the extent to which media diversity is at risk in all Member States.

4.4.2. The EESC welcomes the Commission's 'Europe's Media in the Digital Decade' action plan<sup>(16)</sup> and its goal of preserving news media as a public good, in particular the provision of European support to prevent media diversity from being curtailed by the fallout of the pandemic.

4.4.3. The EESC underlines that quality journalism requires a sustainable economic basis and calls for a continuation of EU support to media companies as an investment in good journalism. Investments will serve to end the process of consolidation in the media sector, which threatens the plurality in the media market. This does not rule out the ability of media companies to legitimately purchase other media outlets or build strategic alliances as economically sustainable media companies are a guarantor of their independence, as long as the principle of transparency is respected and no monopolies are created.

4.4.4. The EESC notes that the value of media companies lies in their diversity and that the creation of 'national champions' destroys this value, which is something that distinguishes the media and creative industries from other sectors of the economy.

4.4.5. The shrinking space for independent media calls for urgent public and private support mechanisms to sustain journalism as a public good. More research is needed for efficient public support mechanisms guaranteeing arms' length criteria and innovative sustainable new business models for public interest journalism.

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<sup>(14)</sup> COM(2020) 790 final.

<sup>(15)</sup> JOIN(2020) 8 final.

<sup>(16)</sup> COM(2020) 784 final.

4.4.6. The EESC strongly supports the Commission's plan for a 'European Media Freedom Act' to equip the European Commission with effective legal instruments to enforce media freedom and media pluralism in all EU Member States. The EESC calls on the Commission to examine how European competition law can be deployed and developed to stop further consolidation in the media market, in particular that driven by national governments, to avoid the creation of media monopolies in national media markets in the EU, in particular by governments or actors close to them.

4.4.7. The EESC draws attention to its opinion on the Commission's initiative for a common system of a digital services tax on revenues resulting from the provision of certain digital services<sup>(17)</sup> and points out that this tax (DST) is likely to offset distortions of competition between traditional and digital media (especially those based abroad).

4.4.8. The EESC underscores the importance of independent and impartial public service broadcasting in ensuring media diversity and draws attention to the agreement in Protocol No 29 to the TEU.

4.4.9. The EESC notes that the free market is unable to provide EU-wide media services in the field of broadcasting and therefore calls for the creation of an independent and impartial European public service broadcaster.

4.4.10. In all cases where the free market is unable to ensure media diversity, the EESC sees independent and impartial public service broadcasting as a model for guaranteeing this, including in online and print media.

4.4.11. The EESC stresses that barrier free access to media is a fundamental part of media freedom and it is concerned by increased forms of direct or indirect discrimination on the basis of disability in the media. The EESC calls for enacting legislation to remove restrictive practices that have the effect of impairing or nullifying an individual's participation in media freedom and diversity.

#### 4.5. *Recommendations for strengthening media literacy*

4.5.1. The EESC welcomes the Commission's numerous proposals to strengthen citizens' media literacy<sup>(18)</sup>, with a particular focus on digital skills. This is of utmost importance in order to enhance citizens' resilience to disinformation.

4.5.2. The EESC supports the proposal to set up a 'European Agency for Citizenship Education' to bolster the media skills of EU citizens through educational programmes. It calls on the Commission to examine the possibility of establishing such a central institution in a timely manner and to ensure that one of its remits is the provision of training in dealing with — especially digital — media.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(17)</sup> OJ C 367, 10.10.2018, p. 73.

<sup>(18)</sup> JOIN(2020) 8 final; COM(2020) 624 final; COM(2020) 784 final; COM(2020) 790 final.

**Opinion of the European Economic and Social Committee on Emergency measures to support employment and income during the pandemic crisis**

**(Own-initiative opinion)**

(2021/C 517/03)

Rapporteur: **Cinzia DEL RIO**

Plenary Assembly decision	26.4.2021
Legal basis	Rule 32(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	7.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	211/1/4

### 1. Conclusions and recommendations

1.1. The EESC endorses the EU strategy for tackling the crisis triggered by the pandemic, ensuring the recovery and resilience of the Member States' economic, social and health systems, and safeguarding the production system, employment and income support.

1.2. The EESC supports the establishment of SURE as an innovative financial instrument which delivers on European solidarity to preserve jobs, provide income support to workers and support businesses, as well as a tool for integration and socioeconomic resilience in the EU.

1.3. The EESC underlines the social value of SURE, which by issuing social bonds intended to finance initiatives with a social objective anticipates the Next Generation EU programme.

1.4. The EESC welcomes the SURE initiative, which by financing short-time work schemes, income support and business support has protected a quarter of the total working population, preserving jobs and businesses' productive capacity, as well as having a positive impact on the economy and the labour market. However, these figures do not sufficiently highlight the individual measures financed by the various countries, the amounts involved and the categories of workers covered by the aid.

1.5. The EESC proposes that a SURE observatory be set up for as long as SURE is in operation, involving the social partners and other civil society organisations. The observatory would be tasked with monitoring and assessing the impact in individual countries of the measures which receive financing, in order, inter alia, to identify models for systems in the future that could be used to reduce working time and support incomes in similar crisis situations.

1.6. During times of economic crisis, the speed with which decisions and choices are made can make all the difference. For this reason, the EESC appreciates the speed with which the European Commission set up SURE and concluded negotiations with the Member States in a short space of time, demonstrating its capacity to respond to the severity of the crisis.

1.7. The EESC recommends combining the use of SURE with active labour market policies and vocational training and re-skilling programmes aimed at creating stable and quality employment, combating in-work poverty and fragmented and unstable forms of work, which do not provide any guarantee of adequate social security coverage and also affect public welfare systems.

1.8. The EESC believes that SURE is one of the tools that can provide incentives to employers to retain workers despite the fall in productive activity. Measures to allocate part of working time to training can be encouraged through collective agreements. This allows companies to adapt the skills of their workers by setting aside part of their hours for training, with the time staff spend in training being funded by SURE.

1.9. The EESC stresses the need to shape and complete Europe's social dimension more consistently, while ensuring Europe's competitiveness in the global context and including with a view to the new challenges of the green and digital transitions, drawing on the measures set out in the European Pillar of Social Rights Action Plan, including measures and investments to support employment, education and active labour market policies.

1.10. The EESC supports the Commission communication suspending the general escape clause of the Stability and Growth Pact and calls for a 'shift' towards a revised and rebalanced economic governance framework geared towards promoting productive investment. It will be essential to help Member States put their public finances on a sustainable footing and in this way increase confidence in investment.

1.11. The EESC believes that the support and participation of the social partners brings added value to European and national policies. It is therefore essential that they are involved in the measures co-financed by SURE, leveraging collective bargaining in specific sectors hit particularly hard by the crisis. However, this must not be merely a formality: the social partners must be given a genuine and legitimate role in proceedings.

1.12. The EESC fully acknowledges the positive results of SURE highlighted in the Commission's report of March 2021 and endorses the proposal for its stabilisation in support of workers and businesses as a tool for the EU's integration and socioeconomic resilience in times of crisis such as the current one. This should take place following monitoring and evaluation by the SURE Observatory, which the EESC proposes to set up.

1.13. The EESC welcomes the Commission Recommendation (EU) 2021/402 <sup>(1)</sup> (EASE), which takes the strategic approach of gradually shifting from the emergency measures deployed during the pandemic to the new ones needed to ensure a job-rich recovery, notably active labour market policies such as temporary hiring incentives for vulnerable groups, upskilling and reskilling opportunities and entrepreneurial support, including for the social economy.

## 2. Introduction

2.1. The European economy has been severely damaged by the ongoing pandemic. The EESC welcomes the economic and social measures put in place by the EU using extraordinary tools to tackle the fallout of the crisis triggered by the pandemic, considering that they are a great opportunity to shape a fairer and more solidarity-based Europe and a competitive social market economy and to tackle the new challenges arising from the green and digital transitions. In addition to the Next Generation EU plan, these tools include:

- national measures implemented on the basis of the easing of EU fiscal rules;
- national measures to support liquidity, approved under the temporary and more flexible rules on State aid;
- bolstering the lines of credit for businesses guaranteed by the European Investment Bank (EIB), with the establishment of a new guarantee fund;
- the European Stability Mechanism (ESM), which was established by amending the Lisbon Treaty with a view to providing unconditional loans to finance healthcare;
- the European instrument for temporary support to mitigate unemployment risks in an emergency (SURE).

2.2. This opinion seeks to analyse the impact of the emergency measures aimed at limiting unemployment, supporting income and helping businesses, with a particular focus on the SURE instrument.

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<sup>(1)</sup> Commission Recommendation (EU) 2021/402 of 4 March 2021 on an effective active support to employment following the COVID-19 crisis (EASE) (OJ L 80, 8.3.2021, p. 1).



2.3. By April 2020, more than 50 million workers in European countries had been included in short-time work programmes <sup>(2)</sup> or similar ad hoc measures intended to deal with the partial or total loss of working hours. Eurofound recorded 500 measures, most of them aimed at supporting businesses (35 %), keeping up income (in addition to short-time work measures, 20 %) and protecting employment (13 %) <sup>(3)</sup>. Businesses operating in the field of manufacturing, trade, services, tourism and culture have been most affected by the crisis <sup>(4)</sup>.

2.4. Short-time work schemes covering hours not worked had already been deployed in most European countries and are the most widely used tool for protecting jobs during periods of economic crisis, as they have a positive impact on both workers and businesses. In its 2020 report on the SURE programme, the European Commission points out that 'By avoiding wasteful redundancies, short-time work schemes can prevent a temporary shock from having more severe and long-lasting negative consequences on the economy and the labour market in Member States. This helps to sustain families' incomes and preserve the productive capacity and human capital of enterprises and the economy as a whole <sup>(5)</sup>.'

2.5. In countries where these programmes were already in place, governments rolled out ad hoc measures to make access easier, simplify eligibility criteria, extend coverage and increase economic support, but there are major differences between countries <sup>(6)</sup>.

2.6. These measures have enabled companies to cover the reduction in working hours triggered by the contraction in economic activity at little or no cost to themselves, significantly reducing the number of jobs at risk due to lack of liquidity. In several EU countries, some categories of workers in atypical jobs were not eligible for support, particularly workers on casual contracts, and, in some cases, even agency workers and workers on fixed-term contracts; in other countries, public support schemes were extended to cover certain forms of self-employment <sup>(7)</sup>. Procedures and criteria for accessing these subsidies differ from one country to another in terms of coverage, beneficiaries, duration, etc. <sup>(8)</sup>.

2.7. Short-time work schemes have helped to prevent the rupture of the employment relationship, which is very costly for companies and workers. In the second quarter of 2020, these job retention schemes significantly reduced job losses from an estimated 12 % to 4 % in OECD countries. In the EU, figures show that the number of workers officially employed but working zero hours doubled to 17 % in the second quarter of 2020 compared to the same period in 2019 <sup>(9)</sup>.

2.8. The employment crisis has hit women and young people particularly hard; they often have atypical contracts and low-paid jobs and are more vulnerable to unstable employment which does not provide any guarantee of adequate social security coverage. In addition, they account for a very high proportion of the workforce in the particularly hard-hit tourism, hotel and catering sectors, as well as in culture and leisure and in the non-profit social services sector. The economic recovery will need to include specific reforms and measures coordinated with the social partners to address the various forms of gender- and age-based inequality, including that existing even before this crisis, and deploy actions geared to the short, medium and long term <sup>(10)</sup>.

2.9. In addition to measures offsetting reduced working hours, various countries adopted measures to protect against layoffs in companies receiving public support under short-time working schemes. This was done both to prevent abuse during the period of crisis and to impose conditions on the use of national and European funds, which must be used to

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<sup>(2)</sup> COVID-19: *Implications for Employment and working life*, Eurofound, March 2021.

<sup>(3)</sup> COVID-19: *Policy responses across Europe*, Eurofound, June 2020.

<sup>(4)</sup> OECD *Employment Outlook 2021*, chap. 2.

<sup>(5)</sup> COM(2021) 148 final, *SURE: Taking stock after six months*, 22 March 2021; see also European Parliament Briefing *SURE Implementation*, April 2021.

<sup>(6)</sup> OECD — *Employment Outlook 2021*, ch. 2, table 2.1 *Job retention schemes in OECD countries* – *ibid.* Eurofound.

<sup>(7)</sup> COVID-19: *Policy responses across Europe*, Eurofound, June 2020.

<sup>(8)</sup> OECD data, ETUI, EC, EP factsheet.

<sup>(9)</sup> COVID-19: *Policy responses across Europe*, Eurofound, June 2020, Eurostat data compiled by Eurofound.

<sup>(10)</sup> EC analysis, Eurofound and see also ILO-UN Women Joint Programme, *Policy tool, Assessing the gendered employment impacts of COVID-19 and supporting a gender-responsive recovery*, March 2021.



stave off layoffs and to support businesses on a temporary basis until the economy gets back on track. In some countries, collective agreements forbid companies laying off workers when those companies are receiving financial support <sup>(11)</sup>.

2.10. Collective bargaining has played an important role, with specific agreements and protocols to address and manage the health crisis in the workplace and bring in ad hoc contractual provisions during the pandemic. These have changed both the way in which work is organised and working conditions (e.g. Germany, France, Italy, Sweden, Spain, Austria and Denmark). Some countries have also adopted other forms of business support (such as moratoria on mortgage payments and deferral or suspension of tax payments, rent or social security dues), which hold off payment commitments and are intended to support businesses, particularly SMEs, and self-employed people with a view to maintaining jobs and providing short-term liquidity.

### 3. SURE: features, regulation and initial results

3.1. The EU's SURE instrument is a temporary fund providing financial assistance of up to EUR 100 billion in the form of loans granted to the Member States on favourable terms to stave off unemployment, support short-time work schemes and support the income of all workers. The fund will remain operational until 31 December 2022.

3.2. The bonds issued for the first time by the European Commission under the SURE instrument are 'social bonds', enabling investors to know for certain that the funds raised are going to be used for social purposes. Demand has been ten times higher than supply and ensured competitive returns on the market.

3.3. Since its introduction, over 90 % of the total envelope has been allocated by the Council — based on Commission proposals — to 19 Member States <sup>(12)</sup>. Of these, 15 countries have used it to help finance short-time work schemes or similar measures and 14 have used it also to finance measures to help the self-employed.

3.4. Some countries did not apply for SURE funding. Their governments have given various reasons for this: in some countries, the national funds available were sufficient to cover the additional public expenditure incurred by the increase in unemployment; additional resources could be raised on the market at equally advantageous rates; the administrative procedures for accessing SURE were too costly, and other countries have used the temporary measures put in place by the Commission on budget flexibility and state aid <sup>(13)</sup>.

3.5. Based on the reports submitted by the Member States, the Commission's March 2021 report <sup>(14)</sup> estimates that SURE supported between 25 and 30 million workers in 2020: a quarter of the workforce in those Member States which received SURE funds. Specifically, it supported about 21,5 million employees and 5 million self-employed people. In addition, SURE helped between 1,5 million and 2,5 million businesses, or 12 to 16 % of businesses in the Member States which received SURE funds <sup>(15)</sup>.

3.6. The report points out that the public support schemes financed by SURE are reducing labour costs for businesses and providing an alternative form of household income support, with better outcomes than traditional unemployment benefits. Furthermore, the Commission points out that the employment support schemes are most effective in countries that already had national support schemes to mitigate the impact of unemployment.

3.7. By the end of 2020, 80 % of the budget for eligible measures had been disbursed. Almost all Member States have already spent or plan to spend the total amount granted under SURE.

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<sup>(11)</sup> ETUI — Policy Brief No 7, 2020

<sup>(12)</sup> See COM(2021) 148 final, *SURE: Taking stock after six months*, 22 March 2021; see also European Parliament Briefing *SURE Implementation*, April 2021, and the European Commission's SURE web page for updates on allocations to Member States.

<sup>(13)</sup> Eurofound, *ibid.*, chap. 3, 2021.

<sup>(14)</sup> COM(2021) 105 final, Communication from the Commission to the Council — *One year since the outbreak of COVID-19: fiscal policy response*.

<sup>(15)</sup> COM(2021) 148 final, *SURE: Taking stock after six months*, 22 March 2021; see also European Parliament Briefing *SURE Implementation*, April 2021.

3.8. Member States saved around EUR 5,8 billion of interest by using SURE rather than issuing sovereign debt themselves, thanks to the high credit rating of the Commission. Future disbursements are likely to generate further savings.

#### 4. General comments

4.1. The EESC endorses the EU strategy for tackling the crisis triggered by the pandemic, ensuring the recovery and resilience of the Member States' economic, social and health systems, and safeguarding employment. The EESC considers that the strategy will be able to shape and complete Europe's social dimension, while ensuring Europe's competitiveness in the global context. The action plan for implementing the European Pillar of Social Rights sets out the measures to be taken to encourage the investments needed for sustainable and inclusive growth.

4.2. The EESC has repeatedly stressed the need to achieve greater economic and social convergence in the EU. This will make the European social market economy more competitive and ensure that everyone can enjoy their rights without hindrance, and support the establishment of a labour market able to adapt to the changes taking place with measures and strategies in line with the European Pillar of Social Rights and the green and digital transitions. It is essential that Member States make good use of the support they receive from the Recovery and Resilience Facility <sup>(16)</sup>.

4.3. It is important to support the growth and productivity of sustainable businesses, including SMEs and micro-enterprises. SURE is one of the tools that can provide incentives to employers to retain workers despite the fall in productive activity. Collective agreements should also be encouraged on new forms of adjustment of working time providing access to training courses, as well as measures to support businesses to preserve jobs, skills and income.

4.4. SURE is key for protecting workers and mitigating the severe socioeconomic repercussions of the pandemic on the entire system of employment. It provides financial support for national short-time work schemes and similar measures, including in ongoing employment relationships, protecting jobs and limiting unemployment and workers' loss of income, while also alleviating the costs of unemployment benefits and social security dues for businesses, as they are largely covered by public resources through the emergency measures.

4.5. The EESC welcomes the speed with which the Commission drafted the proposal to set up SURE and the way negotiations were immediately held with Member States and concluded within a few weeks. SURE highlights the importance of short-time work and short-term income support programmes and encourages Member States to use them. One of the goals of the European Semester, in the medium and long term, is to promote investment geared towards full and stable employment and towards tackling new forms of poverty, including through socially sustainable structural reforms.

4.6. The EESC considers that the financial support granted by the EU to the Member States in the form of loans on good terms is important, and is pleased that the bonds issued by the Commission are 'social bonds' for specific purposes.

4.7. The financing of short-time work schemes and the forms of income support have a positive impact on the economy as a whole. They maintain the relationship between employer and employee, helping to preserve workers' skills and the productive capacity of companies, and ensure that the pandemic does not cause further lasting harm to the economy and the labour market.

4.8. The EESC believes that the establishment of SURE is another step on the road towards a solidarity-based system in the EU that respects the principles of subsidiarity and proportionality, as it is a form of European safe asset, which can be reinforced by the European bonds that will be used to finance the Next Generation EU programme <sup>(17)</sup>. The EESC stresses that an important benefit of SURE is that it demonstrates the EU's ability to, where necessary, create a lending capacity and

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<sup>(16)</sup> EESC Resolution on the European Economic and Social Committee's contribution to the 2022 European Commission's work programme (June 2021) (OJ C 341, 24.8.2021, p. 1).

<sup>(17)</sup> Christina Katami, *Protecting employment in 2021 and beyond: what can the new SURE instrument do?*, ELIAMEP Policy Paper, 2021; L. Andor, *Protecting Jobs and Incomes in Europe: Towards an EU Capacity for Employment Stabilisation in the Pandemic Period*, 2021, in Caetano J., Vieira I., Caleiro A., *New Challenges for the Eurozone Governance*.

issue a 'common safe asset' using the Community method, rather than intergovernmental agreements as for the ESM and the EFSF.

4.9. The EESC calls for a review of SURE's assistance and access procedures with a view to simplifying the administrative procedures and reporting mechanisms.

4.10. The EESC recommends combining using SURE with active policy measures and vocational training and retraining initiatives that are beneficial for both workers and businesses<sup>(18)</sup>. The current circumstances have reignited the debate on how to make employment services more efficient, including in times of crisis. In periods when workers are necessarily less taken up with work, training should be encouraged for re-skilling or to support them as they switch to new jobs which are both skilled and stable. Unfortunately, there are very few examples of active policies in this field<sup>(19)</sup>.

4.11. The EESC considers that the SURE programme in individual Member States should guarantee coverage of all employees and all types of self-employment and atypical work, where young people figure significantly.

4.12. The limited data available show that both the European institutions and the national institutions have failed to engage with the social partners in determining the best use of SURE; the EESC recommends that provision be made for a mechanism to ensure ongoing consultation.

4.13. The EESC has taken note of the estimates regarding the individuals and businesses supported by SURE<sup>(20)</sup>, but notes that these figures fail to identify either the individual measures financed by the Member States and the respective budgets, or their impact on the capacity to mitigate the risks of unemployment and on income protection.

## 5. Specific comments — what is the impact?

5.1. The crisis triggered by the pandemic has placed great strain on the EU's economic, social and health systems and has affected people's lives and the operations of companies, increasing forms of inequality within each country and, in some cases, between countries. For this reason, the EESC points to the need to define and complete the EU's social dimension more fully and consistently, drawing on the measures set out in the European Pillar of Social Rights Action Plan, while ensuring Europe's competitiveness in the global context.

5.2. The EESC has already highlighted<sup>(21)</sup> the need to resume the process of reviewing the EU's economic governance framework, which was suspended until 2022 by the Commission communication of 20 March 2020<sup>(22)</sup>. The EESC supports this communication, which expresses the intention of deciding on a future deactivation of the general escape clause of the Stability and Growth Pact informed by an overall assessment of economic performance based on quantitative criteria. For this reason, the EESC calls for a 'shift' towards a revised and rebalanced economic governance framework geared towards prosperity, preferably with simplified rules and less pro-cyclicality reflecting the post-pandemic context. It will be essential to help Member States put their public finances on a sustainable footing and so increase confidence in investment.

5.3. The EESC supports the adoption of SURE, one of the measures included in the economic and social package which aims to counter the impact of the pandemic. The EESC considers that SURE is an innovative financial instrument which delivers on European solidarity and which has anticipated the Next Generation EU programme by issuing the first social bonds.

5.4. SURE has proved to be a safety net able to secure and protect existing jobs and safeguard businesses of various types and with due regard for national competences in terms of social protections. However, the social protection measures adopted under SURE must be accompanied by active labour market policies for creating quality, stable jobs and systems for adapting skills, combating in-work poverty and fragmented and unstable forms of work which do not provide any guarantee of adequate social security coverage and also affect public welfare systems.

<sup>(18)</sup> COVID-19: *implications for employment and working life*, Eurofound, March 2021.

<sup>(19)</sup> OECD — *Employment Outlook*, Chap. 2.5 Combining job retention policies with job reallocation, 2021 and Eurofound, *ibid.* with examples of measures adopted in some countries.

<sup>(20)</sup> COM(2021) 148 final, SURE: *Taking stock after six months*, 22 March 2021.

<sup>(21)</sup> EESC Resolution on the European Economic and Social Committee's contribution to the 2022 European Commission's work programme, adopted at the June 2021 plenary session (OJ C 341, 24.8.2021, p. 1).

<sup>(22)</sup> COM(2020) 123 final.

5.5. The EESC welcomes the European Commission's 'EASE' Recommendation, which was adopted as part of the process of implementing the European Pillar of Social Rights and which is geared towards providing effective and active support for employment in the wake of the COVID-19 crisis. This recommendation takes the strategic approach of gradually shifting from the emergency measures deployed during the pandemic to the new measures needed to ensure a job-rich recovery, especially in the green and digital sectors. Effective policies fostering quality job creation and job to job transitions should be accompanied by well-performing employment services delivering tailor-made support for jobseekers, particularly youth, women and social entrepreneurs.

5.6. The support and participation of the social partners is a priority for the EESC. It is therefore fundamental that they be given a role at European and national levels in discussing, engaging in and negotiating the measures co-financed by SURE, leveraging collective bargaining in specific sectors hit particularly hard by the crisis. However, this must not be merely a formality: the social partners must be given a genuine and legitimate role in proceedings.

5.7. The EESC considers that it is important to point out that SURE resources should also be used to finance initiatives to curb the spread of the virus in the workplace. These initiatives should comprise health and safety measures geared towards prevention and protection, with a view to alleviating the costs incurred by companies as they adapt production to safety protocols.

5.8. The EESC proposes that a SURE observatory be set up for as long as SURE is in operation, which the social partners and other civil society organisations can join. The observatory would be tasked with monitoring and assessing the impact in individual countries of the measures which receive financing, and analysing best practices and protection schemes deployed in each country in order to identify models for systems that could also be used in the future to reduce working time and support incomes in similar crisis situations.

5.9. The EESC fully acknowledges the positive results of SURE highlighted in the Commission's report of March 2021. The SURE programme meets the temporary criteria for support to Member States in helping workers and businesses surmount the crisis, save jobs and pave the way for economic and social recovery. The EESC endorses the proposal for its stabilisation in support of workers and businesses as a tool for the EU's integration and socioeconomic resilience in times of crisis such as the current one. This should take place following monitoring and evaluation by the SURE Observatory. This proposal stems from the debate involving governments, social and economic partners, civil society organisations, academics and scholars from the various European countries, as well as within the Commission itself <sup>(23)</sup>.

5.10. In the event of an economic crisis, the EESC calls on the European institutions to play a more effective and supportive role in social matters, role in social matters, particularly by regulating and financing measures to support workers and businesses. The European institutions should promote a public debate for the establishment of a permanent European unemployment reinsurance scheme with a different legal basis, taking into account previous EESC opinions <sup>(24)</sup>.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(23)</sup> See Christina Katami, *Protecting employment in 2021 and beyond: what can the new SURE instrument do?*, ELIAMEP Policy Paper, 2021; L. Andor, *Protecting Jobs and Incomes in Europe: Towards an EU Capacity for Employment Stabilisation in the Pandemic Period*, 2021, in Caetano J., Vieira I., Caleiro A., *New Challenges for the Eurozone Governance*, and EC and Eurofound report + OECD COVID-19: *Implications for Employment and working life*, Eurofound, March 2021; COM(2021) 148 final. *SURE: Taking stock after six months*, 22 March 2021; see also European Parliament Briefing *SURE Implementation*, April 2021.

<sup>(24)</sup> EESC opinion on common minimum standards (OJ C 97, 24.3.2020, p. 32); Beblavy Miroslav, Karolien Lenaerts, *Feasibility and added value of a European Unemployment Benefits Scheme*, CEPS, 2017.

**Opinion of the European Economic and Social Committee on Key components of sustainable quality work during and after recovery**

**(Exploratory opinion at the request of the Slovenian Presidency)**

(2021/C 517/04)

Rapporteur: **Andrej ZORKO**

Request by the Slovenian Presidency Letter of 19.3.2021  
of the Council

Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	7.9.2021
Adopted at plenary	23.9.2021
Plenary session No	563
Outcome of vote	
(for/against/abstentions)	146/24/54

## 1. Conclusions and recommendations

1.1. Quality of work is one of the fundamental components of quality of life. The principle of quality of work for quality of life must be followed, as this is a prerequisite for sustainable social development. The EESC therefore firmly believes that it should be given special attention in EU policies, as it must prevent the risks of inequality, poverty, social exclusion and unfair competition.

1.2. The EESC firmly believes that the problems and challenges that exist in the field of quality work should be addressed in the light of the principles of the European Pillar of Social Rights and the 2030 Agenda Sustainable Development Goals. The ILO international standards of decent work <sup>(1)</sup> should also be considered, along with the Charter of Fundamental Rights of the European Union <sup>(2)</sup>. It therefore calls on the Member States and the social partners, in the context of social dialogue and collective bargaining, to identify and find solutions to the changes which have been accelerated by the pandemic in the labour market, at appropriate levels and according to national circumstances.

1.3. The EESC believes that the European Union and Member States should take a more ambitious approach to supporting, coordinating and implementing efforts towards active labour market policies while protecting workers' fundamental rights and ensuring a sustainable and competitive business environment for companies in the global economy. The European Pillar of Social Rights should guide the implementation of the principles of social Europe, social justice and sustainable recovery.

1.4. Building on the experience of the pandemic in the field of work, the European Commission and the Member States, actively involving the social partners and other stakeholders, could monitor the functioning of or, where appropriate, review and, if necessary, amend existing regulations and develop appropriate policies to ensure decent and sustainable quality work. This could include protecting workers and proper work organisation leading to higher productivity and innovation, while promoting the positive elements of digitalisation, including the need of workers to digital training to promote their employability <sup>(3)</sup>. There should be particular focus on legislation and policies on artificial intelligence and ensuring that all stakeholders have the opportunity to participate in the adoption of new solutions, through consultation and negotiation with workers and employers.

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<sup>(1)</sup> <https://www.ilo.org/global/topics/decent-work/lang-en/index.htm>.

<sup>(2)</sup> OJ C 326, 26.10.2012, p. 391.

<sup>(3)</sup> OJ C 374, 16.9.2021, p. 16.



1.5. The EESC calls on the European Commission, notably within the reinforced European Semester and other existing mechanisms, to establish new mechanisms and/or <sup>(4)</sup> continue identifying medium- and long-term labour market needs. This would allow Member States, actively involving the social partners and civil society organisations, to develop longer-term planning and implementation of employment policies, including planning for the training and lifelong learning of workers and providing solutions to address the skills gap. It is also important to strengthen public employment services and their cooperation with the private sector in order to help integrate the most vulnerable groups into the labour market more effectively.

1.6. The EESC reiterates that active labour market policies (ALMP) need to be effective and targeted in order to reach good employment outcomes <sup>(5)</sup> and highlights the need for Member States and social partners to engage in developing active labour market policies that promote quality work. The EESC highlights also its support for a gradual approach to common minimum standards in the field of unemployment insurance to ensure quality work in Member States <sup>(6)</sup>.

1.7. The Member States must create the necessary conditions to ensure both adequate participation (collective governance) in design processes and the implementation of employment or labour market policies.

1.8. The EESC encourages the Member States and the social partners to strengthen social dialogue at national level. It also recommends capitalising on the traditional content of social dialogue to include other, more strategic content oriented towards sustainability and solutions. This would be, for example, anticipating the future needs of companies and workers with certain competencies and skills, joint activities for training workers, ensuring a fair transition to the digital and green economies, and regulating as well as developing balanced solutions for the work of platforms, and similar important development issues.

1.9. The EESC recognises the importance of the social partners and collective agreements for maintaining the balance of the labour market. Appropriate training for the social partners is crucial for the further development of social dialogue <sup>(7)</sup>. This is proving to be both a critical and a key point for the further development of social dialogue, which should also work towards ensuring sustainable quality work.

1.10. The EESC believes that the Commission and the Member States should reinforce the capacity of the social partners and civil society. It is necessary to create an environment of trust in social dialogue, recognise its importance and involve social partners and other stakeholders in a timely manner in formulating measures and in the decision-making process itself, where appropriate and in line with development needs. A strong framework for information and consultation with workers is needed to deal properly with the green and digital transition while ensuring the quality of work <sup>(8)</sup>.

1.11. The EESC recognises that the Recovery and Resilience Facility could make a positive contribution to strengthening and ensuring the quality of work and of the role of the social partners in implementing it. It therefore proposes that the Commission hold annual meetings with the social partners and civil society organisations in order to obtain opinions on implementing the facility. Due to the diversity of situations in the Member States, it would make sense to carry out consultations separately and jointly formulate guidelines and recommendations for continuing to implement the facility successfully.

1.12. The EESC notes that the Recovery and Resilience Facility does not directly address the components of quality work, and therefore calls on the Commission to supplement this part of the facility. Quality of work is key to achieving the targets set by the Recovery and Resilience Facility. Vulnerable groups, such as precarious and young workers, who have been hit hardest by the epidemic, should not be overlooked.

1.13. The EESC calls for research to be carried out to monitor labour market developments during the recovery period more closely. It is also necessary to take into account changes in business models that have an impact on the way work is carried out and on workers' fundamental rights, as well as digitalisation and the introduction of new technologies, with particular focus on skills gaps and the labour market transition. The implications for the organisation of work and other important aspects of quality work should be carefully examined and explored, considering both positive solutions and the

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<sup>(4)</sup> Depending on the situation in Member States.

<sup>(5)</sup> OJ C 125, 21.4.2017, p. 10, point 3.19.

<sup>(6)</sup> OJ C 97, 24.3.2020, p. 32; OJ C 429, 11.12.2020, p. 159, point 1.6.

<sup>(7)</sup> Voss, Eckhard, Broughton, Andrea, Pulignano, Valeria, Franca, Valentina, Rodriguez, Contreras, Ricardo. *Exploring the connections between EU- and national-level social dialogue*. Luxembourg: Publications Office of the European Union, 2018.

<sup>(8)</sup> For example, the EESC resolution on the Porto Summit, OJ C 286 du 16.7.2021, p. 6 and the OJ C 341, 24.8.2021, p. 23.

perils of rapid digitalisation. The Committee stresses the need to factor in countries' diversity and the consequences of the pandemic for both society and the labour market. Changes need to be evaluated using a holistic approach.

## 2. Background

2.1. The EESC recognises the diversity and multifaceted nature of the concept of sustainable quality work and points out that it is made up of various components that directly or indirectly affect people's quality of life, workers' rights and workers' social security. At the same time the EESC also recognises that employers and Member States have a central role in ensuring quality work, including promoting skills, quality employment, new and diverse forms of work, security, well-being of workers and competitiveness of companies. The Commission seems to be aware of this, given that a considerable amount of programmes and financial assistance during the COVID-19 pandemic, in particular the SURE programme, have been aimed at both economic recovery and maintaining people's social security. The EESC firmly believes that economic recovery and development of the European economy are not possible without preserving and developing social security while ensuring competitive environment for European companies in global economy and that economic and social recovery must go hand in hand.

2.2. The EESC believes that it is the responsibility of the Commission, the Member States and European and national social partners to plan and implement measures to ensure sustainable quality work. Therefore, strategy and measures to ensure sustainable quality work need to be developed and implemented as soon as possible on the basis of joint efforts by all relevant actors.

2.3. Ensuring fair, competitive conditions for the European economy, investing in innovation and development, preventing social dumping, encouraging job creation and promoting fair working conditions and appropriate incentives should be key components of the European Union's and Member States' strategies and can make a significant contribution to raising the quality of work.

2.4. With the right conditions European business can contribute to sustainable prosperity, more quality jobs and strengthened welfare. This requires favourable framework conditions as regards especially ensuring a reliable supply of energy, skilled workforce, good transport infrastructure, and effective labour markets.

2.5. The concept of sustainable quality work is one of the essential components of quality of life and must be considered together with the concept of sustainable development, taking into account the larger context of sustainable growth and employment, in particular the transition to a green economy and digitalisation, which must be fair to all stakeholders. In this connection, the EESC draws particular attention to the opinions it has already adopted in this context.

2.6. The EESC firmly believes that implementing the 2030 Agenda Sustainable Development Goals, in particular Goal 8, adopted by the 193 United Nations Member States in 2015 <sup>(9)</sup>, can make a significant contribution to ensuring sustainable quality work also taking into account economic growth, full and productive employment. Especially during the recovery period, the European Commission should focus more on achieving these objectives and encourage Member States to achieve them.

2.7. The EESC also points out that implementing the principles set out in the European Pillar of Social Rights and the related action plan, as well as the relevant international legal standards <sup>(10)</sup> is of the utmost importance in ensuring sustainable quality work. The EESC has already adopted a number of opinions in this context and calls on the European institutions and the Member States according to their competences to play an active part in implementing them together with the social partners and other stakeholders.

2.8. When designing measures to ensure sustainable, quality work, account must be taken of the various factors affecting quality of life, ensuring decent work, reducing inequalities and social exclusion, preventing poverty and ensuring the competitiveness of the European economy while promoting smooth transition towards digital and green society and economy. All these factors must be balanced with the Sustainable Development Goals and the social partners and civil society organisations must be actively involved in designing measures. In this context, the EESC stresses the importance of a broader social consensus.

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<sup>(9)</sup> Transforming our world: the 2030 Agenda for Sustainable Development.

<sup>(10)</sup> ILO standards and Articles 151 and 156 TFEU.



2.9. The EESC is aware of a number of elements, factors and circumstances that influence the quality of work and its sustainable provision and it has acknowledged this in its opinion <sup>(11)</sup>. These are elements such as the level and predictability of workers' wages, forms and methods of work, the working environment, occupational health and safety, employment stability, lifelong learning, training of workers, regular and predictable working hours, protection of workers' rights, work-life balance and active and effective social dialogue.

2.10. The EESC notes that ensuring decent work is one of the essential elements of ensuring quality work. It therefore calls on the Commission, the Member States and social partners to pay more attention to the issues of decent and quality work.

2.11. The EESC is aware that providing components of quality work also depends on the resilience of European companies in the global market, as well as on the internal market situation, various business models and economic policies. It therefore calls on the Commission and the Member States to create, together with the social partners, conditions that encourage sustainable investments and thus enable employers to provide quality work on a sustainable basis and to tackle unfair practices. Member States should help to speed up this situation through various incentives, policies and appropriate regulations.

### 3. COVID-19

3.1. The EESC acknowledges that economic activity has been declining asymmetrically during the epidemic and that the SURE mechanism put in place by the Commission during the pandemic has helped to preserve a large number of jobs. In order to avoid redundancies and prevent people's income security deteriorating, Member States have adopted various short-time work schemes, wage subsidies for employees, furloughs (e.g. workers in activities that have not been allowed to operate) with a lower percentage of wages, various active employment policy measures, protection for young people and the elderly, subsidies partly compensating for loss of income, and basic income for certain groups of people, etc. However, the EESC stresses that these temporary measures should not overshadow the need for sound and sustainable economic policies in the EU and Member States aiming to create new growth and jobs.

3.1.1. The EESC regrets that the Commission has not actively made appropriate involvement of the social partners and other stakeholders an important criterion for taking up these funds. In some Member States, social partners have not been actively involved in defining labour market measures and policies. Recovery and ensuring quality work will be more difficult in these countries.

3.2. The EESC acknowledges that during the epidemic the way some work activities are carried out has changed, to the effect that some changes will continue during the recovery period and beyond. It is therefore crucial to recognise these changes, address them appropriately, monitor them and develop them in the direction of ensuring lasting quality of work, with the aim of creating additional opportunities for companies and workers. Particular attention should be paid to the impact and consequences of digitalisation and of the introduction of artificial intelligence in jobs.

3.3. The EESC points out that the epidemic has put the spotlight on certain economic and business models and forms and ways of working that had been overlooked or given too little attention before the epidemic. Care must be taken to ensure that these more frequent forms of business and working do not adversely affect the labour market or the quality of work and do not constitute unfair practices.

3.4. The EESC welcomes the Commission Recommendation on Effective Active Support to Employment (EASE) following the COVID-19 crisis and calls on the Member States to prioritise labour market policies in a way that makes investing in people one of the key elements in overcoming the crisis, taking into account the need for green and digital transitions. Member States should include EASE measures agreed with the social partners in their national recovery and resilience plans.

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<sup>(11)</sup> OJ C 125, 21.4.2017, p. 10, point 3.4.

3.5. The EESC is concerned that the mental wellbeing of European workers has deteriorated considerably during the pandemic, especially among young people and those who have lost their job<sup>(12)</sup>. Therefore, the EESC calls for a holistic and joint approach, aiming at combining ambitious health, safety and mental wellbeing policies.

3.6. The EESC reiterates the position and proposals it has set out in various opinions<sup>(13)</sup> on issues relating to the future of work, digitalisation, home working, organisation of working time, lifelong learning and training, and work-life balance. All stated about quality work is valid for all who work, regardless of their nationality that is why immigration and integration of third country nationals is important.

3.7. In view of the changes brought about by the pandemic, the parallel evolution of digitalisation and the fact that the quality of work is affected by many factors, this opinion focuses on only some aspects highlighted by the Slovenian Presidency which require particular attention when it comes to the development of quality work. These are: 1) adapting the working environment to an ageing population, 2) training and lifelong learning, 3) ensuring equality, 4) taking into account the benefits and traps of digitalisation and artificial intelligence, and 5) the role of the social partners.

#### **4. Adapting the working environment to an ageing population**

4.1. With Europe's ageing population, working lives are also becoming longer in most Member States and the effective retirement age is rising. This, in turn, requires the creation of suitable working conditions for older people. It is primarily about adapting to their psychophysical abilities while also making sure that their skills base remains up-to-date to the labour market needs. Improving health protection at the workplace and access to lifelong learning for older workers are also indispensable in ensuring the quality of work of older workers.

4.2. While ensuring adequate working conditions is a primary duty of the employer, tripartite cooperation between the social partners and governments also has an important role to play in this respect, as, with their knowledge of working procedures and workers themselves, they can, through social dialogue and collective agreements at appropriate level, help to create a working environment that enables older workers to work properly.

4.3. Member States also have an important role to play. By providing an appropriate level of social protection, access to quality health services and various incentives and subsidies for employers, they can help create a working environment that enables people to work safely and productively as they get older.

4.4. The EESC proposes that more attention be paid to implementing demography-related labour market policies in the context of the European Semester. It is essential to actively involve the social partners in strategies and in implementing policies and measures relating to older people in the labour market, including appropriate integration into the labour market.

4.5. Modern and innovative ways for younger and older generations to work together need to be developed. Appropriate, two-way transfer of knowledge and experience is essential.

#### **5. Training and lifelong learning**

5.1. In its opinions, the EESC has repeatedly stressed the importance of lifelong learning and training for both unemployed and employed workers<sup>(14)</sup>.

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<sup>(12)</sup> Eurofound (2021), Living, working and COVID-19 (Update April 2021): Mental health and trust decline across EU as pandemic enters another year, Publications Office of the European Union, Luxembourg, page 4.

<sup>(13)</sup> OJ C 129, 11.4.2018, p. 44; OJ C 197, 8.6.2018, p. 45; OJ C 237, 6.7.2018, p. 8; OJ C 367, 10.10.2018, p. 15; OJ C 440, 6.12.2018, p. 37; OJ C 232, 14.7.2020, p. 18.

<sup>(14)</sup> As expressed in OJ C 374, 16.9.2021, p. 38.

5.2. The EESC underlines the importance of timely anticipation of workers' and employers' needs in terms of skills and strategic planning in this area. This requires the social partners to work together, particularly at sectoral and business level.

5.3. Particular attention should be paid to the long-term unemployed and to those who have been out of the labour market for a long period of time. Prolonged absence from the labour market holds employability back significantly, especially given the speed of digital change <sup>(15)</sup>. With the closure of certain activities, leaving workers at home, the pandemic deepened the problem. That is why effective active employment policies are necessary in these situations.

5.4. Training activities should focus on adequately raising employers' awareness of the importance of timely planning as regards skills and competencies needs for future work. In this regard, the EESC recommends that special attention be paid to digital training plans for workers.

5.5. The EESC recommends that Member States also consider financial and tax incentives for more active training of workers by their employer, either in the form of direct funding or in the form of tax breaks for companies.

## 6. Ensuring equality

6.1. The EESC takes the view that during and after recovery, it is essential to maintain equality with regard to personal circumstances and to prevent all forms of discriminatory practices. While recognising the opportunities offered by diverse forms of work, there is also a danger that these could increase worker inequality, including gender-based equality <sup>(16)</sup>. Ways must be found to ensure the equal treatment of workers, through all appropriate channels, including both legislation and collective agreements.

6.2. The EESC notes that equality was not guaranteed during the pandemic, as the measures adopted did not cover all workers and all businesses. Small and medium-sized businesses, workers in precarious forms of work, self-employed people, migrants, young people and women have often been denied access to compensation for loss of income or not covered by measures. This means that poverty and social exclusion have increased during the epidemic. A number of businesses have also ceased operating, leading to a loss of jobs.

6.3. The EESC notes that the situation of women in the labour market has deteriorated significantly during the pandemic <sup>(17)</sup>: many women have lost their jobs, work-life balance has worsened and, ultimately, precariousness has increased.

6.4. The situation of migrants in the labour market and young people, who are increasingly struggling to find a job, has also deteriorated. In addition, they are faced to an even greater extent with precarious forms of work, which does not guarantee a quality life.

6.5. Inequality is most reflected in the level of income and employment stability. The EESC therefore firmly believes that labour market policies must address the pay gap, together with measures that promote wage transparency, tackle horizontal and vertical labour market segregation, incentivise fulltime work for women and address unpaid care-related constraints and the implementation of the principle of equal pay for work of equal value. Measures must also be taken to ensure that workers' rights are respected. Social dialogue with a focus on collective bargaining in non-standard activities such as domestic work, care work, platform work and the like should also be encouraged.

## 7. Digitalisation and artificial intelligence

7.1. Digitalisation has a major impact on industrial relations, given the positive and negative consequences of employers implementing it in work processes.

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<sup>(15)</sup> The digital skills and training of worker vary widely across EU countries, and this exacerbates disparities between workers' situations. In 2019, on average less than 25 % of businesses in the EU provided digital training, ranging from 6 % in Romania to 37 % in Finland.

<sup>(16)</sup> OJ C 220, 9.6.2021, p. 13.

<sup>(17)</sup> <https://eige.europa.eu/news/covid-19-derails-gender-equality-gains>.

7.2. Digital solutions also raise concerns regarding contractual relations between workers and employers. In order to ensure sustainable components of quality work, it is necessary to monitor developments in the labour market and to ensure that adequate mechanisms are in place to protect workers' fundamental rights, without hampering the development of digital solutions. The EU, the Member States, the social partners and other stakeholders should all play a role in finding fair solutions for people's concerns. The EESC stresses that increased digitalisation in working life can bring benefits, while also posing challenges. In this regard the EESC acknowledges that swift implementation of the European Social Partners framework agreement on digitalisation can play an important role<sup>(18)</sup>.

7.3. There is an urgent need to manage artificial intelligence in the workplace, in particular with regard to preventing discriminatory practices, unlawful surveillance of workers — including the right to disconnect — and other detrimental treatment of workers. The social partners must be included in the processes of adopting and implementing legislation on artificial intelligence.

Brussels, 23 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(18)</sup> The European Social Partners framework agreement\_and\_studies/2020-06-22\_agreement\_on\_digitalisation\_-\_with\_signatures.pdf.

## ANNEX

The following amendments, which received at least a quarter of the votes cast, were rejected during the discussions (Rule 43 (2) of the Rules of Procedure):

**AMENDMENT 3****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 2.9****Amend as follows:**

Section opinion	Amendment
<p>The EESC is aware of a number of elements, factors and circumstances that influence the quality of work and its sustainable provision and it has acknowledged this in its opinion<sup>(1)</sup>. These are elements such as the level and predictability of workers' wages, forms and methods of work, the working environment, occupational health and safety, employment stability, lifelong learning, training of workers, regular and predictable working hours, protection of workers' rights, work-life balance, active and effective social dialogue and the like.</p> <p><sup>(1)</sup> OJ C 125, 21.4.2017, p. 10, point 3.4.</p>	<p>The EESC is aware of a number of elements, factors and circumstances that influence the quality of work and its sustainable provision and it has acknowledged this in its opinion<sup>(1)</sup>. These are elements such as the level and predictability of workers' wages, forms and methods of work <b>including the need for diverse forms of work and flexibility within the framework of social dialogue</b>, the working environment, occupational health and safety, employment stability, lifelong learning, training of workers, regular and predictable working hours, protection of workers' rights, work-life balance, active and effective social dialogue and the like.</p> <p><sup>(1)</sup> OJ C 125, 21.4.2017, p. 10, point 3.4.</p>

**Outcome of the vote:**

In favour: 92

Against: 120

Abstention: 15

**AMENDMENT 4****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 3.3****Amend as follows:**

Section opinion	Amendment
<p>The EESC points out that the epidemic has put the spotlight on certain economic and business models and forms and ways of working that had been overlooked or given too little attention before the epidemic. <b>Care must be taken to ensure that</b> these more frequent forms of business and working do not adversely affect the labour market or the quality of work and do not constitute unfair practices.</p>	<p>The EESC points out that the epidemic has put the spotlight on certain economic and business models and forms and ways of working that had been overlooked or given too little attention before the epidemic. <b>While it is important to enhance entrepreneurship and self-entrepreneur friendly policies both at European and national level and promote sustainable development of</b> these more frequent forms of business and working <b>it should be ensured that they</b> do not adversely affect the labour market or the quality of work and do not constitute unfair practices.</p>

**Outcome of the vote:**

In favour: 90

Against: 125

Abstention: 16

**AMENDMENT 5****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery**

**Point 6.2****Amend as follows:**

Section opinion	Amendment
The EESC notes that equality was not guaranteed during the pandemic, as the measures adopted did not cover all workers and all businesses. Small and medium-sized businesses, workers in <i>precarious</i> forms of work, self-employed people, migrants, young people and women have often been denied access to compensation for loss of income or not covered by measures. This means that poverty and social exclusion have increased during the epidemic. A number of businesses have also ceased operating, leading to a loss of jobs.	The EESC notes that equality was not guaranteed during the pandemic, as the measures adopted did not cover all workers and all businesses. Small and medium-sized businesses, workers in <i>less stable and secure</i> forms of work, self-employed people, migrants, young people and women have often been denied access to compensation for loss of income or not covered by measures. This means that poverty and social exclusion have increased during the epidemic. A number of businesses have also ceased operating, leading to a loss of jobs.

**Outcome of the vote:**

In favour: 88

Against: 138

Abstention: 14

**AMENDMENT 6****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 6.3****Amend as follows:**

Section opinion	Amendment
The EESC notes that the situation of women in the labour market has deteriorated significantly during the pandemic <sup>(17)</sup> : many women have lost their jobs, work-life balance has worsened and, ultimately, <i>precariousness</i> has increased.	The EESC notes that the situation of women in the labour market has deteriorated significantly during the pandemic <sup>(17)</sup> : many women have lost their jobs, work-life balance has worsened and, ultimately, <i>the challenge of finding more stable and secure employment</i> has increased.
<sup>(17)</sup> <a href="https://eige.europa.eu/news/covid-19-derails-gender-equality-gains">https://eige.europa.eu/news/covid-19-derails-gender-equality-gains</a> .	<sup>(17)</sup> <a href="https://eige.europa.eu/news/covid-19-derails-gender-equality-gains">https://eige.europa.eu/news/covid-19-derails-gender-equality-gains</a> .

**Outcome of the vote:**

In favour: 80

Against: 143

Abstention: 10



**AMENDMENT 7****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 6.4****Amend as follows:**

Section opinion	Amendment
The situation of migrants in the labour market and young people, who are increasingly struggling to find a job, has also deteriorated. In addition, they are faced to an even greater extent with <i>precarious</i> forms of work, <b>which does not guarantee a quality life</b> .	The situation of migrants in the labour market and young people, who are increasingly struggling to find a job, has also deteriorated. In addition, they are faced to an even greater extent with <b>the challenge of finding more stable and secure</b> forms of work.

**Outcome of the vote:**

In favour: 80

Against: 143

Abstention: 10

**AMENDMENT 8****Tabled by:**

BARRERA CHAMORRO Maria del Carmen

MEYNENT Denis

SALIS-MADINIER Franca

ZORKO Andrej

**SOC/685****Key components of sustainable quality work during and after recovery**

**Point 6.5****Amend as follows:**

Section opinion	Amendment
Inequality is most reflected in the level of income and employment stability. The EESC therefore firmly believes that labour market policies must address the pay gap, together with measures that promote wage transparency, tackle horizontal and vertical labour market segregation, incentivise fulltime work for women and address unpaid care-related constraints and the implementation of the principle of equal pay for work of equal value. Measures must also be taken to ensure that workers' rights are respected. Social dialogue with a focus on collective bargaining in non-standard activities such as domestic work, care work, platform work and the like should also be encouraged.	Inequality is most reflected in the level of income and employment stability. The EESC therefore firmly believes that labour market policies must address the pay gap, together with <b>binding</b> measures that promote wage transparency, tackle horizontal and vertical labour market segregation, incentivise fulltime work for women and address unpaid care-related constraints and the implementation of the principle of equal pay for work of equal value. Measures must also be taken to ensure that workers' rights are respected. Social dialogue with a focus on collective bargaining in non-standard activities such as domestic work, care work, platform work and the like should also be encouraged.

**Outcome of the vote:**

In favour: 102

Against: 113

Abstention: 16

**AMENDMENT 10****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 7.3****Amend as follows:**

Section opinion	Amendment
<b>There</b> is an urgent need to manage <b>artificial intelligence</b> in the workplace, in particular with regard to preventing discriminatory practices, unlawful surveillance of workers – <b>including the right to disconnect</b> – and other detrimental treatment of workers. The social partners must be included in the processes of adopting and implementing legislation on artificial intelligence.	<b>To ensure transparent and balanced development of artificial intelligence there</b> is an urgent need to manage <b>it</b> in the workplace, in particular with regard to <b>mitigating unfounded concerns, promoting the autonomy of workers and</b> preventing discriminatory practices, unlawful surveillance of workers and other detrimental treatment of workers. The social partners must be included in the processes of adopting and implementing legislation on artificial intelligence.

**Outcome of the vote:**

In favour: 88

Against: 136

Abstention: 10

**AMENDMENT 11****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 1.1****Amend as follows:**

Section opinion	Amendment
<p>Quality of work is one of the fundamental components of quality of life. <b><i>The principle of quality of work for quality of life must be followed, as this is a prerequisite for sustainable social development.</i></b> The EESC therefore firmly believes that <b><i>it</i></b> should be given special attention in EU policies, as it <b><i>must prevent</i></b> the risks of inequality, poverty, social exclusion and unfair competition.</p>	<p>Quality of work is one of the fundamental components of quality of life <b><i>and must be considered together with the concept of sustainable development, taking into account the larger context of sustainable growth and employment, in particular the transition to a green economy and digitalisation. At the same time the EESC recognises the role of employers with a view to promoting skills, employment, diverse forms of work, security, well-being of workers and competitiveness of companies.</i></b> The EESC therefore firmly believes that <b><i>quality of work as a component of economic growth and employment</i></b> should be given special attention in EU policies, as it <b><i>can make a significant twin contribution to enhancing sustainable growth, employment and productivity while tackling</i></b> the risks of inequality, poverty, social exclusion and unfair competition.</p>

**Outcome of the vote:**

In favour: 79

Against: 136

Abstention: 11

**AMENDMENT 12****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery**

**Point 1.2****Insert new point:****Position: After existing point — Same level**

Section opinion	Amendment
	<p><i>The EESC stresses that comprehensive and well-focused action is needed to ensure a responsive, resilient and inclusive labour markets in Member States, including as a result of the pandemic with special focus on providing flexible jobs. However the EESC points out that labour market developments must be supported, not overregulated or hindered. Special attention should be paid to the principles of subsidiarity and proportionality as regards the competences of the EU and the Member States and the various instruments at their disposal. As regards ensuring solid economic foundation to support fair transitions in Europe focus should be in creating a fair, stable and predictable regulatory framework for business including avoiding administrative burdens for companies.</i></p>

**Outcome of the vote:**

In favour: 79

Against: 144

Abstention: 7

**AMENDMENT 15****Tabled by:**

ARDHE Christian

HOŠTÁK Martin

KONTKANEN Mira-Maria

LE BRETON Marie-Pierre

**SOC/685****Key components of sustainable quality work during and after recovery****Point 1.12****Amend as follows:**

Section opinion	Amendment
<p>The EESC notes that the Recovery and Resilience Facility does not directly address the components of quality work, and therefore calls on the Commission to <b>supplement this part</b> of the facility. Quality of work is key to achieving the targets set by the Recovery and Resilience Facility. Vulnerable groups, <b>such as precarious and young workers</b>, who have been hit hardest by the epidemic, should not be overlooked.</p>	<p>The EESC notes that the Recovery and Resilience Facility does not directly address the components of quality work, and therefore calls on the Commission to <b>ensure that these components are adequately addressed in the implementation</b> of the facility. Quality of work is key to achieving the targets set by the Recovery and Resilience Facility. Vulnerable groups, who have been hit hardest by the epidemic, should not be overlooked.</p>

**Outcome of the vote:**

In favour: 82

Against: 140

Abstention: 8

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**Opinion of the European Economic and Social Committee on ‘Towards a Fair Food Supply Chain’****(Exploratory opinion)**

(2021/C 517/05)

Rapporteur: **Branko RAVNIK**Co-rapporteur: **Peter SCHMIDT**

Referral	Letter from the Slovenian Presidency of the Council, 19.3.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted in section	9.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	211/1/6

**1. Conclusions and recommendations**

1.1. The EESC welcomes the EU Directive on unfair trading practices (UTPs) in the agricultural and food supply chain as a step forward in addressing imbalances of power along the chain. UTPs are a complex phenomenon with wide societal implications, and regulation plays a key role in this context. The Committee urges Member States to transpose and implement the Directive and address UTPs as a matter of urgency.

1.2. The European food supply chain proved to be remarkably resilient during the COVID-19 outbreak. Consumers had access at all times to almost all food items. Despite being exposed to the risks of infection, workers across the food supply chain did a tremendous job.

1.3. However, early observations show that there are also notable behavioural changes in production, distribution and consumption. The EESC advocates supporting the transformation of Europe's food systems so that they are more environmentally, economically and socially sustainable, resilient, fair and inclusive and, above all, provide European consumers with healthy, sustainably produced safe food. The EESC notes that cooperation (rather than competition) among food chain operators is essential to foster a more resilient and sustainable food system in order to ensure a fair share for the operators and prevent denigration.

1.4. The EESC stresses its recommendation that weaker operators, especially farmers, be paid a fair and just price that allows suppliers to receive an income that is adequate for investment, innovation and sustainable production<sup>(1)</sup>. A mechanism should be set up to follow up on the monitoring of the distribution of the gross value-added in the food supply chain. According to Commission figures the share of gross value-added in the food supply chain going to the primary producer fell from 31 % in 1995 to 23,4 % in 2015 (latest figures available).

1.5. The EESC also stresses its recommendation to tackle UTPs that are not considered within the minimum requirements of the Directive<sup>(2)</sup> and welcomes the efforts undertaken by several Member States to address issues such as buying below production cost, double race auctions, or protecting all actors in the supply chain regardless of their size or their position in the food chain. The EESC welcomes that the Commission decided to regulate UTPs in the food supply chain. However, the EESC regrets that the Commission did not foster a harmonised approach to avoid fragmentation in the single market. The EESC considers that future additional measures should be compatible with the single market and subject

<sup>(1)</sup> EESC opinion on *Improving the food supply chain* (OJ C 440, 6.12.2018, p. 165).

<sup>(2)</sup> EESC opinion on *Promoting a fairer agro-food supply chain* (OJ C 34, 2.2.2017, p. 130) and EESC opinion on *Improving the food supply chain* (OJ C 440, 6.12.2018, p. 165).

to a proper impact assessment. Nevertheless, the EESC welcomes that the Member States are transposing and implementing the Directive, ensuring more fairness in the food supply chain, and calls for a more harmonised approach in the future.

1.6. The EESC calls on Member States to put in place laws that protect all business actors. Size is not necessarily a proxy of market power and, consequently, all business operators, large and small, should be protected against UTPs.

1.7. The EESC also encourages Member States to establish mechanisms allowing them to monitor, evaluate and enforce the implementation of the transposition laws and create forums for dialogue in cooperation with stakeholders.

1.8. Currently, the imbalances of economic and bargaining power in European (but also global) food systems put pressure on the profitability of the agricultural sector and the wages, the decreasing investment potential of small and medium-sized food enterprises and the abandonment of local family retail. Therefore, evidence-based corrective mechanisms are needed to ensure a balanced development of actors in the European food supply chain and to support a fair share in the economic benefits of food production and distribution inside and outside the EU, thus fostering sustainable food systems. The Commission has not drawn conclusions from the impact assessments on the Farm to Fork strategy.

1.9. The EESC highlights the importance of all stakeholders having the right tools and information to benefit from the Directive. The EESC consequently calls on the European Commission, the Member States and the European External Action Service (EEAS) to ensure that stakeholders know their rights and the procedures to implement them, including when it comes to transnational trade, both within the EU and from third countries.

1.10. The EESC reiterates that promoting fairer trading practices should be part of a comprehensive EU food and trade policy, encompassing the whole supply chain and ensuring the implementation of the UN Sustainable Development Goals (SDGs).

## 2. Introduction

2.1. Unfair trading practices (UTPs) are defined as 'business-to-business practices that deviate from good commercial conduct and are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another' <sup>(3)</sup>. The food supply chain is particularly vulnerable to UTPs, due to strong imbalances of power between operators. UTPs can occur at all stages of the supply chain, and UTPs originating at one level of the chain may have effects on other parts of the chain, depending on the market power of the actors involved <sup>(4)</sup>.

2.2. As described in detail in the EESC opinions on *A fairer agro-food supply chain* adopted in 2016 <sup>(5)</sup> and *Improving the food supply chain* in 2018 <sup>(6)</sup>, concentration of bargaining power has led to the abuse of positions of dominance, causing weaker operators to become increasingly vulnerable to UTPs. This transfers economic risk from the market up the supply chain and has a particularly negative impact on consumers and some operators, e.g. farmers, workers and SMEs. According to Commission figures the share of gross value-added in the food supply chain going to the primary producer fell from 31 % in 1995 to 23,4 % in 2015 (latest figures available). According to the Commission, the problem of UTPs has been acknowledged by all stakeholders in the food supply chain, and it has been reported that the majority of operators have experienced UTPs <sup>(7)</sup>.

2.3. The Directive (EU) 2019/633 of the European Parliament and of the Council <sup>(8)</sup> on UTPs in the agricultural and food supply chain was adopted in April 2019. The Directive is short, concise and based on a few key principles. Member States were required to transpose the Directive into national law by 1 May 2021 and apply it six months later. This is part of a wider governance agenda, which aims to achieve a more efficient and fairer food supply chain, and also includes producer

<sup>(3)</sup> EC, 2014.

<sup>(4)</sup> Agri-Market Task Force, 2016.

<sup>(5)</sup> EESC opinion on Promoting a fairer agro-food supply chain (OJ C 34, 2.2.2017, p. 130).

<sup>(6)</sup> EESC opinion on *Improving the food supply chain* (OJ C 440, 6.12.2018, p. 165).

<sup>(7)</sup> EC Communication, 2014.

<sup>(8)</sup> Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (OJ L 111, 25.4.2019, p. 59).



cooperation and measures to enhance market transparency. The Farm to Fork strategy <sup>(9)</sup> is also designed to contribute to improving farmers' position in the food supply chain.

2.4. The Slovenian Presidency of the EU has requested that the EESC draw up an exploratory opinion on the effective achievement of the Directive's objectives in practice, on Member States' best practices in regulating the food supply chain, as well as on the steps needed to ensure that this process does not come to a halt.

### 3. EESC position on UTPs

3.1. In its 2018 opinion <sup>(10)</sup>, the EESC welcomed the Commission (EC) proposal to reduce the occurrence of UTPs as a necessary first step to protecting weaker operators, in particular farmers, workers and certain operators, and to improving governance in the food supply chain. A regulatory approach and a legislative framework with effective and robust enforcement mechanisms is the way UTPs can be effectively addressed at EU level. This was also reiterated in the 2020 EESC opinion on the Farm to Fork Strategy <sup>(11)</sup>.

3.2. The EESC regretted, however, that the EC only introduced a minimum common standard of protection across the EU by prohibiting just a specific number of UTPs. A ban on all abusive practices is necessary.

3.3. On enforcement, the EESC welcomed the EC proposal to create a harmonised EU framework of enforcement authorities.

3.4. In addition to tackling UTPs, the EESC recommended that the EC should encourage and support business models that play a role in making the supply chain sustainable, rebalancing it and improving efficiency, in order to strengthen the position of weaker operators.

### 4. Transposition and implementation of the UTP Directive — state of play

4.1. Member States are currently in the process of transposing and implementing the Directive <sup>(12)</sup>. Most farmers' associations, trade unions and food processors consider that the planned measures are not sufficient to protect them. Nevertheless, they supported the proposed measures to implement the UTP Directive and even called for higher ambitions, while in some cases retailers have expressed diverging views.

4.2. By November 2021, the EC will present an interim report on the transposition of the Directive and, in 2025, an evaluation on the effectiveness of the Directive. This evaluation will be based on Member States' annual reports and results from the EC surveys targeting stakeholders on the state of UTPs in the food supply chain <sup>(13)</sup>. The EESC suggests that the Commission also consults buyers and collect their experience with the directive. The cooperation mechanism as set up by the Directive should provide a suitable forum for the enforcement authorities and the Commission to discuss the effectiveness of the Directive, based on the annual reports by Member States. During these regular meetings, best practices, but also lacunae can be identified and approaches of Member States can be compared.

4.3. The EESC welcomes that the Commission decided to regulate unfair trading practices in the food supply chain. However, the EESC regrets that the Commission did not foster a harmonised approach, which causes fragmentation in the single market. Nevertheless, the EESC welcomes that the Member States are transposing and implementing the Directive, ensuring more fairness in the food supply chain, and calls for a more harmonised approach in the future.

### 5. Good practices in the transposition/implementation process

5.1. The EESC welcomes the ambitious national transposition laws (hereinafter referred to as 'good practices') that prohibit some UTPs that are allowed under certain conditions in the Directive. For example, the ban on returning unsold products to the supplier without paying for them or passing the buyer's storage cost on to the supplier, which has been enacted by the German transposition law <sup>(14)</sup>.

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<sup>(9)</sup> F2F Strategy.

<sup>(10)</sup> EESC opinion on *Improving the food supply chain* (OJ C 440, 6.12.2018, p. 165).

<sup>(11)</sup> EESC opinion on 'Farm to Fork': a sustainable food strategy (OJ C 429, 11.12.2020, p. 268).

<sup>(12)</sup> National transposition by MS.

<sup>(13)</sup> EC website.

<sup>(14)</sup> Pending approval in the second chamber, thus not yet communicated officially to the EC. Scheduled for 28.5.2021.

5.2. The EESC welcomes the introduction of articles in the transposition laws which forbid buying below the production cost, including all operators. This is the case in Spanish law <sup>(15)</sup>, which, besides forbidding all operators buying under the production cost, forbids the destruction of value along the food supply chain. Likewise, the Italian legislator has been mandated to address this issue in the transposition law <sup>(16)</sup>. In Germany, the German Federal Parliament will carry out an audit of the possible ban of purchasing below the production cost within the evaluation that will take place two years after the entry into force.

5.3. This is part of a wider package of initiatives promoted by the European Commission, including for example price market observatories <sup>(17)</sup>, which is essential to support transparency and fairness in the sector. In addition, the importance of reciprocity in international trade also needs to be mentioned <sup>(18)</sup>.

5.4. The EESC welcomes the laws establishing an ombudsperson for monitoring their implementation. In Spain, an independent agency (AICA) has been set up to monitor the implementation of the law, while an ombudsperson is mandated to encourage voluntary codes of conduct. In Germany, those affected by UTPs will be able to turn to present their anonymous complaints to an independent ombudsperson, including reporting unfair practices that are not listed in the legislation. The ombudsperson will also be able to initiate investigations and forward violations to the Federal Office of Agriculture and Food (BLE), as well as monitoring production costs and price developments <sup>(19)</sup>.

5.5. Size is not necessarily a proxy of market power and, consequently, all business operators, large and small, should be protected against UTPs. The EESC calls on Member States to put in place laws that protect all business actors. Where this level of ambition is not reached, it recognises the merit of the countries whose laws cover larger actors at least in key sectors. In Germany, for example, the EUR 350 million threshold is maintained for agricultural, fishery and food production companies, but for meat, fruit, vegetables and horticultural products, the threshold will be set at a turnover of EUR 4 billion, resulting in more actors being protected by the law <sup>(20)</sup>. The Belgian preliminary law eliminates the 'step approach' offering all business actors below the EUR 350 million threshold protection against UTPs regardless of their size relative to the buyer. Spain offers special protection for primary producers but all operators, regardless of their size and/or market position, are protected by law.

5.6. Double race auctions <sup>(21)</sup> have been linked to severe negative impacts for farmers <sup>(22)</sup>, who are de facto forced to participate in this practice due to the imbalance of power between buyers and sellers. Banning double race auctions would contribute to avoiding cases in which suppliers are taken to sell under the cost of production. While the process to transpose the Directive in Italy is not finalised yet, the EESC is following with interest the ongoing discussion on the possibility to ban double race actions in the country, where the legislator has been mandated to address this issue in the transposition law.

5.7. The EESC also considers as a good practice the obligation to have written contracts for all operations, and to include them in a database for greater transparency and control. The Spanish law includes such an obligation with very good impact on trade relations. The contract should include concepts such as quality, duration, price, price indicator, renegotiation, renewal and termination with notice.

5.8. The EESC welcomes the clause of the German law setting a first evaluation two years after entry into force of the law, and the fact that, besides reviewing compliance with existing prohibitions, the German Federal Parliament may also expand the list of prohibited UTPs <sup>(23)</sup>; it also notes the Belgian preliminary law, which provides for the possibility of adding UTPs to the list at any time through a royal decree after consultation with stakeholders.

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<sup>(15)</sup> Ley 12/2013, de 2 de agosto, de medidas para mejorar el funcionamiento de la cadena alimentaria. This law will be amended by a Bill which is currently being negotiated, referred to in Spanish as *Proyecto de Ley por el que se modifica la Ley 12/2013 de medidas para mejorar el funcionamiento de la cadena alimentaria*.

<sup>(16)</sup> Gazzetta Ufficiale della Repubblica Italiana, 23.4.2021.

<sup>(17)</sup> European Commission market observatories. See also the example of the French Food Sector Price and Margin Surveillance Programme.

<sup>(18)</sup> EESC opinion on Compatibility of EU trade policy with the European Green Deal (OJ C 429, 11.12.2020, p. 66).

<sup>(19)</sup> BLE website.

<sup>(20)</sup> This clause only applies until May 2025, after which the threshold will go down to EUR 350 million.

<sup>(21)</sup> Double-race auctions are mechanisms used by buyers to place suppliers against each other in short-notice online auctions, in which they are incentivised to offer their produce at the lowest possible price.

<sup>(22)</sup> Oxfam case study.

<sup>(23)</sup> The evaluation would also include the results of an examination of a possible ban on the purchase of food and agricultural products below their production costs.

## 6. Identified gaps

6.1. The EESC insists that all the UTPs mentioned by the Directive can have a harmful impact on the weakest actors of the chain, including the so-called 'grey practices'. Weaker suppliers might feel compelled to sign an agreement with a more powerful buyer that contains terms of contract that are not in their interest. While the possibility of a 'blanket ban' forbidding all the UTPs has been discussed in several Member States, it has proven difficult to reach this level of ambition without EU intervention. Similarly, in its 2018 opinion, the EESC called for a comprehensive ban on UTPs and for the possibility for Member States to extend the list of UTPs initially prohibited. It remains to be seen what mechanisms of revision the transposition laws will introduce.

6.2. The Directive grants suppliers, suppliers' organisations and non-profit organisations operating on behalf of suppliers the right to file complaints. However, the EESC is concerned that there might be events in which an illegal UTP is taking place, an affected party (e.g. a worker) obtains relevant information, but the enforcement authorities are not able to tackle it because there is not a formal complaint by an affected operator or its organisation. As affected operators might be reluctant to file complaints, even when their rights are not being respected, the EESC calls on the EC to closely monitor and evaluate the extent to which changes might be needed to better protect the most vulnerable parties who depend on operators, such as workers, farmers and fisherpersons. The UTP Directive does not presuppose a written contract. However, it presupposes a sales relationship. Thus, the EESC stresses its suggestion to expand protection for cases in which a UTP takes place but there is no (written) contract. The EESC already called for the introduction of the right to bring class actions<sup>(24)</sup>.

6.3. The Directive's 'step approach' implies that, in certain situations, an operator who is weak in terms of market power but large in turnover is not protected by the law. This introduces uncertainty for suppliers who are not aware of the annual turnover of their business partners. The EESC invites the EC and EU Member States to monitor and address the negative consequences of this 'step approach' and consider protecting all business actors regardless of their size.

6.4. Stable, balanced and long-term business relations between food chain operators can help farmers to participate more in the added value of the products while farmers are taking a smaller and further shrinking percentage of the final price due time. Regionality and quality aspects can keep value added in the region versus imports of raw material from third countries with mostly lower production standards than in the EU. Better labelling of origin would bring more transparency into food supply chains.

## 7. Vulnerabilities in the agro-food supply chain exposed by COVID-19

7.1. Overall, the European food supply chain proved to be remarkably resilient during the COVID-19 crisis. Consumers had access at all times to almost all food items. Despite being exposed to the risks of infection, workers across the food supply chain did a tremendous job. However, COVID-19 affects the entire global agri-food system. It exerts a symmetric but asynchronous shock on global and national food systems, which affects: 1) supply and demand channels at different times; 2) all elements of the food system, from primary production to food processing, retail and food service (HORECA), international trade and logistics systems, and intermediate and final demand; 3) factor markets (labour and capital) and intermediate goods of production. The transmission channels of these effects include numerous macroeconomic factors (e.g. exchange rates, energy prices, access to financial markets) and, above all, the contraction of aggregate economic activity and an increase in unemployment.

7.2. Restrictions on the free movement of workers (the Commission issued guidelines on persons with essential functions, e.g. seasonal workers) from one Member State to another have affected many areas of food production and processing (e.g. fruit and vegetable harvesting and meat and dairy processing) which rely on the labour of seasonal workers from other Member States or third countries. In addition, migrant workers often live and work in poor conditions and are at higher risk of infection, as demonstrated by outbreaks in slaughterhouses and meat packing plants worldwide. This creates both a serious public health problem and a break in the food supply chain.

7.3. Furthermore, by disrupting food transport due to containment measures and logistical disruptions, this pandemic has also led to protectionism that affects food imports and exports. At the same time, many have stressed the importance of regionally produced food in the EU and the traditional benefits of short supply chains and local production and commerce. Short supply chains and local production and commerce have proved even more attractive during the crisis as people look

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<sup>(24)</sup> EESC opinion on *Promoting a fairer agro-food supply chain* (OJ C 34, 2.2.2017, p. 130).

for new and more direct ways to buy their food and producers find new outlets for their products. However, one of the most important aspects is the realisation of the need to continue fair and sustainable trade at regional and international levels. Trade restrictions can jeopardise stability, which would particularly affect low-income populations.

7.4. The lockdown has brought the hospitality and part of the food industry (e.g. the hotel and restaurant sector and other 'out of home' industries and food delivery services, wholesalers and retailers located in touristic zones) to their knees, with far-reaching consequences. Apart from the establishments themselves, the disruption of activities also broke the consolidated food supply system on which many farmers and suppliers of agricultural products relied. Suppliers of fresh produce were hit hard, high-quality wine, cheese and prime cuts of meat normally sold in restaurants were replaced by standard products bought in supermarkets and consumed at home (FAO, 2020; OECD, 2020). Some producers responded by moving closer to retail or online markets where they found very good compromises and agreements in so many cases, but many were unable to adapt and lost customers and income. Agro-tourism, which often helps farmers diversify their income sources, was also hit hard by the COVID-19 restrictions.

7.5. The COVID-19 crisis dramatically accelerated the shift to online and this looks set to continue. A recent McKinsey study<sup>(25)</sup> shows that, in 2020, the online channel for groceries in Europe grew by 55 % and the shift is set to continue with 50 % of consumers who used online channels throughout the pandemic intending to continue.

7.6. The emergence of COVID-19 and its rapid global spread is a major shock to the EU and the global economy. Immediate and comprehensive budgetary, liquidity and policy measures have been taken to provide relief to the most affected sectors. The EU has an extensive toolkit of market intervention measures and several of these were activated during the COVID-19 crisis to support farm incomes. However, the response was limited as there were virtually no funds in the EU budget to finance additional emergency measures for agriculture in the last year of the 2014-2020 budget period.

7.7. Finally, the EC has launched a European Green Deal with implications also for agriculture (F2F and Biodiversity Strategies), and the Next Generation EU stimulus package allocated an additional EUR 7,5 billion to EAFRD. The impact assessments on the Farm to Fork strategy are worrying for the EU. Nevertheless, the EESC calls for more balanced policy support in favour of the agri-food sector compared to some other parts of the economy where the economic structure is much more resilient and profitability levels are much higher.

## 8. Next steps

8.1. The room for manoeuvre that the Directive leaves for Member States to draft the laws implementing the Directive has allowed each of them to put in place tailor-made legislation that is well suited to their national context. As mentioned before, some Member States have raised the level of ambition above the minimum harmonisation standards of the Directive and put in place laws that offer additional protection to EU and non-EU suppliers.

8.2. While it is expected that suppliers of a particular Member State will easily have access to the particularities of their national transposition law (including the complaint mechanism and the competent authority), this might not be the case for suppliers exporting to other EU Member States and for non-EU suppliers exporting to the EU. The EESC welcomes the dissemination effort that the EC has undertaken with the publication of the *Brochure on the Directive on UTPs*<sup>(26)</sup>, but points out that this document only contains information related to the minimum harmonisation standards. To offer the right tools for exporters to benefit from the national transposition laws, the EESC invites the EC to ensure that all the most relevant information related to each of the laws is easily available to exporters.

8.3. The EESC stresses that it is in the interest of all stakeholders for the Directive to apply to any business relation in which at least the buyer or the seller is an EU company even when the supplier is a non-EU actor. The EESC invites the EC and the EEAS to take advantage of the dissemination potential of the EU delegations in third countries to provide information to non-EU suppliers. This information must go beyond the general guidelines of the Directive and include practical information on the particularities and enforcement authorities of Member States.

<sup>(25)</sup> <https://www.mckinsey.com/industries/retail/our-insights/disruption-and-uncertainty-the-state-of-european-grocery-retail-2021>

<sup>(26)</sup> EC Brochure.

8.4. The EESC welcomes the consideration of the agri-food supply chain as a strategic ecosystem for the European recovery and calls for further cooperation in the supply chain and dialogue with stakeholders to facilitate the transition towards more sustainable food systems in a way that is as inclusive as possible. In this regard, the EESC notes the importance, diversity and scale of initiatives undertaken along the food supply chain to support the sustainability transition by investing in encouraging sustainable and local production.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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## III

*(Preparatory acts)*

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

563RD PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE –  
INTERACTIO, 22.9.2021–23.9.2021**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 — Better Regulation: Joining forces to make better laws***(COM(2021) 219 final)**(2021/C 517/06)*Rapporteur: **Heiko WILLEMS**

Referral	Letter from the Commission, 1.7.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	2.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote	
(for/against/abstentions)	231/0/4

**1. Conclusions and recommendations**

1.1. The EESC welcomes that better regulation remains a priority for the new Commission. It calls on the Commission and the EU legislators to consistently deepen and advance the EU better regulation system in all its aspects and systematically use the tools and guidelines for better regulation in their work.

1.2. The EESC underlines that better regulation is an essential component of good governance and law-making. It can help to ensure transparent, accountable and participative policy-making processes that deliver rules that are evidence-based, independently scrutinised, simple, clear, coherent, effective, sustainable, fit-for-purpose, proportionate, future-proof and easily implementable. This is an essential precondition for ensuring the democratic legitimacy of and public trust in the EU and its institutions.

1.3. The EESC stresses that the better regulation instruments must remain policy-neutral and clearly separated from political decision-making, which is to be left to the designated and legitimate political bodies. Economic, environmental and social aspects of Union legislation should always be considered on an equal footing while relying on both quantitative and qualitative analysis for assessing their impacts.

1.4. The EESC draws attention to the fact that the COVID-19 pandemic is an unprecedented health, social and economic crisis in post-1945 Europe. It therefore calls on the Commission to pay particular attention to the multiple impacts of its proposed actions on these dimensions under the present extraordinary circumstances, in order to support a speedy and full recovery.



## 2. General remarks

2.1. The EESC notes the significant delay in the delivery of the Communication. It urges the Commission to regain the time lost, clarify its proposals as per the comments below and implement its proposed actions as swiftly as possible.

2.2. The EESC underlines that better regulation can help create the best possible regulatory frameworks for citizens, workers, businesses and public administrations. It stresses that better regulation should contribute to completing the single market in all areas, improve its functioning and strengthen its resilience and competitiveness, enable research and innovation, spur sustainable growth and the creation of high-quality jobs, support the green and digital transition, and strengthen its social dimension and the social market economy as set out in Article 3 of the TFEU.

2.3. The EESC encourages the Commission to continue to promote the principles and tools of better regulation across all its services, inter alia, through regular staff training at all levels to ensure awareness of and compliance with those principles and tools.

2.4. Referring to its previous opinions <sup>(1)</sup>, the EESC recalls that better regulation 'is not intended to be about "more" or "less" regulation in the EU, or about deregulating specific policy areas or giving other areas greater priority and thus calling into question the values for which the EU stands: social protection, environmental conservation and fundamental rights' <sup>(2)</sup>. It furthermore stresses that better regulation must not over-bureaucratise EU policy-making nor replace political decisions by technical procedures.

## 3. Specific remarks

3.1. The EESC is the institutional voice of organised civil society in the EU and serves as intermediary between the EU legislators and civil society organisations and social partners. The EESC has gathered considerable experience with and expertise on all issues relating to better regulation. It presents hereafter its assessment on specific aspects covered by the Communication as well as on other aspects not covered by it which it deems necessary to stress.

### 3.2. Subsidiarity and proportionality

3.2.1. The EESC recalls its recommendations on subsidiarity and proportionality in its previous opinions <sup>(3)</sup>. It reiterates that the Union should act only where these principles are fully respected and where common action adds value for all. To ensure this, the Committee encourages the Commission to fully implement the suggestions made by the 'Task Force on subsidiarity, proportionality and doing less more efficiently' <sup>(4)</sup>.

### 3.3. Evidence gathering and public consultations

3.3.1. The EESC welcomes the Commission's announcement to streamline and facilitate the gathering of evidence. It also welcomes the aim to better involve relevant stakeholders and the scientific community in policy-making and facilitate public access to evidence underpinning proposals.

3.3.2. On stakeholder consultation, the EESC refers to its opinion <sup>(5)</sup> and the opinion of the Refit Platform <sup>(6)</sup> which it helped to draw up. It stresses that public consultations are an essential part of evidence gathering and must never be done *pro forma* on predetermined outcomes. The Commission should always aim at consulting those most immediately affected by the proposed measures and ensure representativeness. Furthermore, public consultations should not affect the EESC's consultative role or the autonomy or prerogatives of the social partners as provided for in the Treaties, in particular with regard to social and employment matters (social dialogue).

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<sup>(1)</sup> OJ C 13, 15.1.2016, p. 192, OJ C 262, 25.7.2018, p. 22.

<sup>(2)</sup> COM(2015) 215 final.

<sup>(3)</sup> OJ C 487, 28.12.2016, p. 51 and OJ C 262, 25.7.2018, p. 22.

<sup>(4)</sup> C(2017) 7810.

<sup>(5)</sup> OJ C 383, 17.11.2015, p. 57.

<sup>(6)</sup> REFIT Platform Opinion on submissions XXII.4.a by the DIHK and XXII.4.b by a citizen on Stakeholder consultation mechanisms. Date of adoption: 7.6.2017.



3.3.3. The EESC encourages the Commission to closely adhere to the guidelines in Chapter VII of the Better Regulation Toolbox on stakeholder consultations <sup>(7)</sup> when planning and implementing consultations. It stresses in particular that questionnaires should always be clear, simple and user-friendly, be provided in an editable format, allow for open answer and comments, allow for the uploading of additional documents and avoid leading questions.

3.3.4. The EESC reminds the Commission that, given its representative function, the Committee is well suited to help identify stakeholders most affected by proposed policy measures. It calls on the Commission to consult the Committee more closely when developing consultation strategies and identifying relevant target groups.

3.3.5. The EESC welcomes the Commission's intention to better inform stakeholders on how their contributions were used. Proper feedback on how contributions informed the decision-making is essential to ensure the public's continued trust and participation in policy-making.

3.3.6. The EESC calls on the Commission to respond to the long-standing request of the EESC to explain in practical detail how it weights contributions received during public consultations according to their representativeness. In times of disinformation, mass campaigning (e.g. through social media) and the use of bots, such weighting becomes increasingly important.

#### 3.4. *Impact assessments (IAs)*

3.4.1. The EESC recalls its opinion <sup>(8)</sup> on how to improve the European IA ecosystem.

3.4.2. The EESC stresses that, by default, the Commission should substantiate every legislative proposal with a fully developed IA. If the Commission fails to do so, it needs to explain in detail the reasons for its decision and provide all information and data that underpins and/or supports the proposal.

3.4.3. The EESC calls on the European Parliament and Council to live up to their commitment in the Interinstitutional Agreement on Better Law-Making <sup>(9)</sup> and carry out their own IAs on their substantial amendments during the legislative process, including on changes made during trilogue negotiations. It suggests that the Commission and legislators together with the Regulatory Scrutiny Board (RSB) develop a joint set of criteria to help define 'substantial' and better determine when amendments require additional impact analysis.

3.4.4. The EESC recalls its invitation <sup>(10)</sup> to the Commission to set up an intelligent evaluation matrix that would allow dynamic modelling of the impact of substantial amendments by the co-legislators by objectifying the impact of certain parameters but also qualitative data. In this respect, the EESC calls for the setting-up of a pilot project on intelligent modelling.

3.4.5. The EESC notes with concern the findings of the RSB's 2020 annual report <sup>(11)</sup> on the quality of Commission IAs in which it states that, 'in 2020, the Board issued far fewer positive opinions (12 % of opinions) and more negative opinions (46 % of opinions)'. It continues that: 'the average quality score of initial submissions was also noticeably lower than in preceding years. [...] In many cases the lower quality was due to a lack of sufficient time to prepare the impact assessments, given ambitious political deadlines to deliver on the new Commission's priorities'. The EESC therefore urges the Commission to set realistic deadlines in order to always allow its services to conduct fully developed IAs.

3.4.6. The EESC notes with concern the RSB report's finding on the Commission's reporting of options on which it says that: 'The set of options was often not complete. Options tended to focus only on the preferred (political) choice, without including alternate ones supported by the main stakeholder groups. Other impact assessments omitted key choices because departments considered that they needed to receive political guidance first'. The EESC stresses that the purpose of IAs is to present evidence and analysis for making political choices and not to justify the Commission's preferred choice. It urges the Commission to refrain from biased reporting.

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<sup>(7)</sup> Better regulation toolbox — European Commission (europa.eu).

<sup>(8)</sup> OJ C 434, 15.12.2017, p. 11.

<sup>(9)</sup> OJ L 123, 12.5.2016, p. 1 ([https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016Q0512\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016Q0512(01)&from=EN)).

<sup>(10)</sup> OJ C 14, 15.1.2020, p. 72.

<sup>(11)</sup> [https://ec.europa.eu/info/sites/default/files/rsb\\_report\\_2020\\_en\\_0.pdf](https://ec.europa.eu/info/sites/default/files/rsb_report_2020_en_0.pdf).

3.4.7. The EESC welcomes the Commission's intention to 'mainstream the United Nations' sustainable development goals (SDGs)', which is in line with the Committee's earlier request<sup>(12)</sup>, and align IAs towards supporting the 'twin transition'. By the same token, the Committee points out that IAs must remain a factual, evidence-based and policy-neutral exercise and that the IA process must not be geared towards justifying a politically preferred outcome and must not replace political decision-making by the competent bodies. Relevant impacts must not be ranked according to political preferences but always be analysed on an equal footing. The EESC will remain particularly vigilant on the practical implementation of this mainstreaming in the course of the revision of the Better Regulation Toolbox, which it will examine in a supplementary opinion if necessary.

3.4.8. The EESC stresses the need to systematically 'think small first' and apply the 'SME-test' comprehensively in its IAs. It reminds the Commission of the ten principles to guide policy-making for SMEs as set out in the Small Business Act for Europe (SBA). It underlines that for SMEs, and especially for micro-enterprises, Union legislation must be effective and easily applicable. It welcomes the Communication's announcement to consult with the EU SME envoy during its IA deliberations and calls on the SME envoy to maintain a structured dialogue and collaboration with national organisations concerned with SME interests. Finally, the EESC calls on the Commission to limit burdens on SMEs, including micro-enterprises and more systematically assess the possibility of lighter regimes, based on a case-by-case assessment to determine whether all SMEs are affected or only micro-enterprises, as stipulated in Tool #22 of the Better Regulation Toolbox, without undermining the achievement of the objectives defined by the legislation or established norms and standards.

3.4.9. The EESC recalls its previous opinion<sup>(13)</sup> where it states that IAs can and must also be undertaken systematically for delegated and implementing acts. It reminds the Commission that 'the fact of having performed an IA on the legislative text from which the delegated and implementing acts stem cannot suffice to justify the non-performance of an IA on the derived acts. Each individual act must be evaluated on its own merits [...]'.<sup>(14)</sup>

3.4.10. The EESC welcomes the Commission's announcement to integrate strategic foresight into EU policymaking and refers to its own opinion on this issue<sup>(14)</sup>. As the representative of a wide variety of voices from all Member States, and as an observing member of the European Strategy and Policy Analysis System (ESPAS), the EESC is ready to provide important input and information for the foresight process.

### 3.5. Regulatory Scrutiny Board

3.5.1. The EESC highly welcomes the work of the Regulatory Scrutiny Board in ensuring regulatory oversight. In order to ensure that the Board can fully deliver on its mandate, the EESC calls on the Commission to ensure that the Board has at its disposal sufficient resources and capacities.

3.5.2. The EESC points out that the Board is not formally independent. Four out of its seven members are members of the Commission. To ensure a better balance, the EESC suggests the Board be expanded to include one additional external member.

### 3.6. Burden reduction and the 'one-in, one-out' approach

3.6.1. The EESC notes the Commission's intention to limit the flow of regulatory costs and burdens stemming from new regulations and reducing unnecessary existing costs and burdens on citizens, business and public administrations. By the same token, the Committee reiterates its call for a qualitative approach that operates on an equal footing with quantitative analysis, also taking into account the expected benefits of the legislation<sup>(15)</sup>. As the Committee stated in its opinion<sup>(16)</sup>, 'regulatory costs need to be proportionate to the benefits they create'. It therefore stresses that the principle of proportionality remains of paramount importance when introducing new legislation. Furthermore, the Commission should always assess the cost of non-action, for instance in relation to the deepening of the Single Market as well as to social and environmental challenges.

3.6.2. By the same token, the EESC emphasises that burden reduction must not lead to de-harmonisation in the Single Market or create deregulation pressure. Burden reduction must not undermine policy objectives, lower the EU's high economic, social and environmental standards, or prevent the adoption of new initiatives when these bring clear added value. However, burdens must be reduced when they are proven to not be necessary to achieving the policy objective.

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<sup>(12)</sup> OJ C 14, 15.1.2020, p. 72.

<sup>(13)</sup> OJ C 262, 25.7.2018, p. 22.

<sup>(14)</sup> OJ C 220, 9.6.2021, p. 67.

<sup>(15)</sup> OJ C 434, 15.12.2017, p. 11.

<sup>(16)</sup> OJ C 487, 28.12.2016, p. 51.

3.6.3. With regard to the 'one-in, one out' approach (hereafter 'OIOO'), whereby every legislative proposal creating new burdens should relieve people and businesses of an equivalent existing burden at EU level in the same policy area, the EESC notes with concern that, contrary to the Commission's announcements, the Communication does not present the operational and methodological details of OIOO. This complicates the EESC's ability to scrutinise the possible benefits and challenges relating to the application of OIOO. The Committee therefore calls on the Commission to provide these details with no further delay and reserves the right to provide additional assessment on the OIOO methodology once published.

3.6.4. The EESC stresses that though OIOO can be an instrument for better regulation, it must not be seen as a 'stand alone' burden reduction instrument. Instead, it must serve as a complementary tool to and in synergy with the existing EU better regulation tools including IAs, public consultations, evaluations and regulatory scrutiny. The EESC welcomes the Commission's assurance that OIOO will not be applied mechanically or based on *ex ante* numerical targets, but on the basis of a case-by-case evaluation that will determine specifically what can be simplified, streamlined or eliminated, while at the same time bearing in mind the benefit of the legislation. The Committee will remain particularly vigilant that the Commission translates this assurance into practice. Furthermore, the Committee highlights the role of the Fit for Future Platform, of which it is a member, in advising the Commission on simplifying Union legislation and reducing unnecessary burdens while ensuring that the Union's policies are forward-looking and relevant in the light of new challenges, including social, environmental, geopolitical, technological and digital developments.

3.6.5. The EESC stresses that the implementation of the OIOO must be seen as a joint institutional effort that requires close cooperation between all EU institutions throughout the entire legislative cycle. In line with point 3.4.3 in this opinion, the EESC calls on the European Parliament and Council to ensure that Union legislation meets its objectives in the most cost-efficient way. This necessitates close cooperation between the legislators and the Commission at all stages of the policy process as well as Member States' sharing of information with the Commission on the costs and benefits resulting from EU legislation once implemented.

3.6.6. The EESC welcomes the Commission's intention to provide, in every impact assessment, an estimation of both administrative and adjustment costs arising from its proposed intervention. It notes, however, that only administrative costs will be offset by the OIOO instrument while adjustment costs are to be offset by other instruments such as the Recovery and Resilience Facility, the cohesion policy and agricultural funds, and the Just Transition Mechanism. Given that adjustment costs can impose a significant burden on companies, most notably on SMEs and micro enterprises, the Committee invites the Commission to include, alongside the cost estimation, concrete proposals for measures to support enterprises in adjusting to and complying with new regulatory frameworks and maintain employment stability and ensure vocational training and re-training for workers.

3.6.7. The EESC notes the Commission's intention to consider the replacement of 27 national regulations with one harmonised framework automatically as 'out'. This represents a mechanical approach that the Commission claims to refrain from. Harmonisation does not by default result in efficiency gains; its effects must be assessed case-by-case. The Committee therefore calls on the Commission to define 'outs' always on the basis of an individual cost-benefit analysis.

3.6.8. On the flexibility arrangements for OIOO, the EESC asks the Commission to clarify the criteria upon which it will decide on exemptions as well as on 'exceptional circumstances' for trading.

3.6.9. The EESC notes that the OIOO approach will be applied only to initiatives included in the Commission's 2022 annual work programme, thereby excluding major policy initiatives tabled during the first half of the Commission's mandate. The Commission thereby fails to deliver on the pledge of Commission President Ursula von der Leyen in her Working Methods<sup>(17)</sup> as well as in her Mission Letters to the Commissioners that 'the College will apply the "one in, one out" principle [...] on each legislative proposal creating new burdens.'

3.6.10. The EESC calls on the Commission to set up an adequate reporting framework on the implementation of the OIOO approach in order to ensure a proper evaluation in the years to come.

### 3.7. Fit for Future Platform

3.7.1. The EESC welcomes the creation of the Fit for Future Platform (hereafter 'the Platform'). It reminds that the Platform's mandate is on *ex post* evaluation and not to propose new legislation. The Committee will participate actively in its work.

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<sup>(17)</sup> P(2019) 2.

3.7.2. The EESC points out that submissions made via the 'Have your say: Simplify!' website must continue to contribute to the Platform's annual work programme, even if they are not covered by Annex II of the Commission's work programme. Furthermore, the Platform should continue to be able to advise the Commission on horizontal workflows of better regulation.

3.7.3. The EESC suggests that the person or organisation making a submission to the Platform receives reasoned follow-up feedback from the Commission on how the case has been dealt with.

### 3.8. *Ex post monitoring and evaluations*

3.8.1. The EESC firmly supports the 'evaluate first' principle and encourages the Commission to ensure its systematic application.

3.8.2. The Committee is pleased with the established successful cooperation with the Commission in the *ex post* evaluation work, in which its contribution has been found to be useful in enhancing the Commission's evaluations with input from the organised civil society. The Committee calls for continuous strengthening of this cooperation. It also urges the EESC evaluations to be included in the envisaged common evidence register — the Joint Legislative Portal.

3.8.3. On monitoring of implemented Union legislation, the EESC cautions that monitoring and reporting obligations to collect necessary information and data must always be proportionate and must not unduly burden citizens, businesses or public administrations.

3.8.4. The EESC notes with concern the findings of the RSB report on the Commission's evaluations. As the report states: 'evaluation conclusions did not appropriately reflect the findings. The Board regularly expressed concerns that the conclusions were selective readings of the evidence, or not clear enough on the weaknesses of the evidence collected. This is a crucial deficiency as it prevents the evaluation from fulfilling its main function as a learning exercise'. The EESC urges the Commission to report in an unbiased manner on the performance of Union legislation.

3.8.5. The EESC notes with concern that Commission services are not obliged to resubmit evaluation reports in the case of a negative opinion by the Regulatory Scrutiny Board. It suggests to apply the same regime for IAs to evaluations and oblige Commission services to revise reports in case of a negative first opinion and formally obtain a positive opinion by the Board.

### 3.9. *Implementation and Enforcement*

3.9.1. The EESC refers to its recommendations on implementation and enforcement in its opinion <sup>(18)</sup>.

3.9.2. The EESC welcomes the Commission's long term action plan for better implementation and enforcement of single market rules <sup>(19)</sup> and encourages it to implement its proposed actions swiftly.

3.9.3. The EESC reiterates that most regulatory burden for citizens and business continues to be generated at national level due to the procedure and method of transposition and inadequate application of Union law by national authorities. If national legislators — using their margin of discretion — decide to add requirements on the national level, they should do this transparently, notify the Commission and other national authorities and explain their reasons, in line with their commitment in the Interinstitutional Agreement on Better Law-Making. Member States should also keep in mind the possible impacts of their additions on the integrity and proper functioning of the single market and should, if possible, avoid measures that could cause significant distortion and fragmentation.

3.9.4. Additionally, the EESC advocates, as stated in its opinions <sup>(20)</sup>, to principally give priority to regulations rather than directives to avoid inconsistent regulatory frameworks across the EU and support Single Market integration. However, the EESC notes that existing levels of protection of citizens, consumers, workers and the environment must not be decreased.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(18)</sup> OJ C 262, 25.7.2018, p. 22.

<sup>(19)</sup> [https://ec.europa.eu/info/sites/default/files/communication-enforcement-implementation-single-market-rules\\_en\\_0.pdf](https://ec.europa.eu/info/sites/default/files/communication-enforcement-implementation-single-market-rules_en_0.pdf).

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

**Opinion of the European Economic and Social Committee on Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting**

(COM(2021) 189 final — 2021/104 (COD))

(2021/C 517/07)

Rapporteur: **Marinel Dănuț MURESAN**

Referral	Council of the European Union, 22.6.2021 European Parliament, 23.6.2021
Legal basis	Articles 50 and 114 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	2.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	226/0/7

## 1. Conclusions and recommendations

1.1. The EESC welcomes the proposal for a Corporate Sustainability Reporting Directive ('CSRD'), and considers that high-quality sustainability reporting will be a key component in the implementation of the European Green Deal, including the ambitious targets of the Fit for 55 Package.

1.2. Notably, the CSRD's expansion to cover all large companies meeting certain conditions, as well as listed SMEs, is going to support transforming the European economy in line with the Paris Agreement, as is the mandate for EFRAG to develop coherent EU Non-Financial Reporting Standards.

1.3. Following the Action Plan on Financing Sustainable Growth, the EESC welcomes the European Commission's focus on incentivising the disclosure of high-quality sustainability data by companies and financial institutions. The public and private sectors must work in tandem towards this outcome, with the legislative framework for sustainable finance and corporate reporting playing a crucial role in this regard.

1.4. The EESC would encourage the co-legislators to evaluate the operational and administrative costs involved in the gradual and voluntary inclusion of SMEs in the scope of the Directive, and to consider potential additional support measures to help offset any administrative and operational burdens for this crucial segment of the economy.

1.5. The EESC greatly welcomes the European Commission's clarification of and adherence to the principle of 'double materiality', and the description thereof provided in paragraph 3 of the proposal.

1.6. The EESC supports the mandate given to the European Financial Reporting Advisory Group (EFRAG) to prepare the technical advice for developing a European non-financial reporting standard. This standard-setting process must involve all stakeholders with a material interest in the preparation and use of sustainability reporting: the relevant financial and non-financial corporate stakeholders, the social partners and civil society must be guaranteed a clear role at all stages.

1.7. The EESC would encourage the European Commission, the European Supervisory Authorities, and the co-legislators to ensure careful alignment — in terms of content and sequencing — of the different components of the sustainability reporting framework, including those covering financial institutions.



1.8. The EESC would also encourage the European Commission and EFRAG to consider how specific country-by-country reporting requirements on sustainability risks and impacts, for all in-scope entities, may encourage more granular and material disclosures.

1.9. Lastly, the EESC would encourage the European Commission to consider bolstering financial and sustainability literacy. While this proposal will ensure that companies and financial institutions are able to provide accurate data to end users, future beneficiaries, and other end investors, a complementary effort is needed to empower them to channel their savings to sustainable investments with sufficient confidence. The EESC thus welcomes the commitments made in this regard as part of the Strategy for Financing the Transition to a Sustainable Economy <sup>(1)</sup>.

## 2. Commission proposal

2.1. The Non-Financial Reporting Directive 2014/95/EU of the European Parliament and of the Council <sup>(2)</sup> (the NFRD), amending the Accounting Directive, was adopted in 2014. Companies within the scope of the NFRD had to report in accordance with its provisions for the first time in 2018 (covering the financial year 2017).

2.2. In accordance with the NFRD, in 2017 the Commission published non-binding reporting guidelines for companies <sup>(3)</sup>. In 2019, it published additional guidelines on reporting climate-related information <sup>(4)</sup>. These guidelines have not sufficiently improved the quality of information companies disclose pursuant to the NFRD.

2.3. The European Commission committed itself to proposing a revision of the Non-Financial Reporting Directive in the European Green Deal and its 2020 Work Programme <sup>(5)</sup>.

2.4. In March 2018, the European Commission released the Action Plan on Financing Sustainable Growth <sup>(6)</sup>, which reiterated the need for further standardisation of the non-financial information to be provided by corporates, necessary to guide investment decisions. Subsequent to the Action Plan, the European Commission released three legislative proposals that have further defined the data required from corporate entities for this purpose, namely, the Taxonomy Regulation <sup>(7)</sup>, the Sustainable Finance Disclosures Regulation <sup>(8)</sup>, and the Low-Carbon Benchmark Regulation <sup>(9)</sup>.

2.5. In its May 2018 own-initiative report on sustainable finance, the European Parliament called for the further development of reporting requirements in the framework of the Non-Financial Reporting Directive (NFRD) <sup>(10)</sup>. In its December 2020 resolution on sustainable corporate governance, it welcomed the Commission's commitment to reviewing the NFRD, called for an extension of the scope of the NFRD to include additional categories of companies, and welcomed the Commission's commitment to developing EU non-financial reporting standards <sup>(11)</sup>. The European Parliament also considered that non-financial information published by companies pursuant to the NFRD should be subject to a mandatory audit.

2.6. The NFRD, together with the Sustainable Finance Disclosure Regulation (SFDR) and the Taxonomy Regulation, are the central components of the sustainability reporting requirements underpinning the EU's sustainable finance strategy.

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<sup>(1)</sup> COM(2021) 390 final.

<sup>(2)</sup> Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups (OJ L 330, 15.11.2014, p. 1).

<sup>(3)</sup> Commission Communication C(2017) 4234 final (OJ C 215, 5.7.2017, p. 1).

<sup>(4)</sup> Commission Communication C(2019) 4490 final (OJ C 209, 20.6.2019, p. 1).

<sup>(5)</sup> Communication from the Commission on the European Green Deal (COM/2019/640 final), Adjusted Commission Work Programme 2020 (COM(2020) 440 final).

<sup>(6)</sup> COM(2018) 97 final.

<sup>(7)</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

<sup>(8)</sup> Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

<sup>(9)</sup> Regulation (EU) 2019/2089 of the European Parliament and of the Council of 27 November 2019 amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks (OJ L 317, 9.12.2019, p. 17).

<sup>(10)</sup> European Parliament resolution of 29 May 2018 on sustainable finance (2018/2007(INI)) (OJ C 76, 9.3.2020, p. 23).

<sup>(11)</sup> European Parliament resolution of 17 December 2020 on sustainable corporate governance (2020/2137(INI)) (OJ C 445, 29.10.2021, p. 94).



2.7. The objective of this proposal is therefore to improve sustainability reporting in order to better harness the potential of the European single market to contribute to the transition towards a fully sustainable and inclusive economic and financial system, in accordance with the European Green Deal, including the Fit for 55 Package, and the UN Sustainable Development Goals.

### 3. General comments

3.1. Europe is currently emerging from a health emergency which has brought to the fore the need for a resilient financial and economic system to safeguard against unexpected crises in the future. As maintained by the European Central Bank, the pandemic has served as ‘a stark reminder that preventing climate change from inflicting permanent harm on the global economy requires a fundamental structural change to our economy, inducing systematic changes in the way energy is generated and consumed’<sup>(12)</sup>. At the same time, the ECB underlines that failing to act with urgency threatens human life itself, particularly the poorest and most vulnerable. High-quality non-financial corporate reporting is a crucial component in ensuring that both dimensions of the issue at hand are duly addressed.

3.2. Concurrently, progress on the Capital Markets Union will ensure that European industry, the backbone of which is comprised of SMEs contributing to more than half of European GDP<sup>(13)</sup>, will continue to thrive, create quality jobs, and lead to the long-term competitiveness of the European Union. This progress is contingent on capital being allocated to companies that are transitioning to meet the goals of the Paris Agreement, and which will support the goals of the European Green Deal, as well as on ensuring that financial and sustainability education become an integral component of Europe’s commitments.

3.3. High-quality, comparable, relevant corporate data, adhering to the double materiality approach, is a key prerequisite in ensuring that the financial sector is able to assess the sustainability profile of non-financial and financial clients and counterparties, enabling it to support its clients towards meeting the goals of the Paris Agreement. The EESC encourages the co-legislators to ensure that the proposal at hand meets this key objective, which will form the basis of a sustainable recovery from the COVID-19 pandemic, and ensure the long-term competitiveness and growth of the single market.

3.4. The European Financial Reporting Advisory Group is tasked with developing the technical standards (‘standards’) that will put the legislative text into practice. Following EFRAG’s final report on the matter<sup>(14)</sup>, the EESC would encourage the EU Platform on Sustainable Finance and the International Platform on Sustainable Finance to consult closely with EFRAG on assessing an appropriate level of granularity of the standards, ensuring that reporting entities provide data that is material and comparable. Owing to the fast pace of international developments in the field of sustainability reporting, including the widespread use of the GRI, SASB, and TCFD frameworks by companies and financial institutions alike, the EESC would recommend that the standards be informed by the key provisions of these frameworks. As also outlined by EFRAG, international cooperation in this regard should nonetheless not hamper the EU’s ambition as a global leader in sustainability, in terms of the scope and speed of the development of the EU regulatory framework. Ensuring balanced representation of key stakeholder groups, including social partners, in the EFRAG’s governing structure, will ensure this process is undertaken as robustly as possible.

3.5. Coherence in the adoption of sustainability reporting practices across all EU-27 jurisdictions will be crucial in the provision of comparable, high-quality data. The EESC would encourage the co-legislators to ensure that the negotiations lead to an outcome flexible enough so that the provisions of the Directive are not subject to extensive modification in the transposition process, given that a Regulation was not adopted. This element would be crucial in ensuring cohesive reporting requirements across the EU-27, prevent market fragmentation, and encourage the unhindered flow of capital equally across all jurisdictions. While the EESC fully expects that the forthcoming standards will be applied consistently across the EU-27, it is important to underline the importance of ensuring that the outcome of both the transposition of the CSRD and the standard-setting leads to high-quality, comparable and material disclosures of sustainability information across the EU-27. Previous empirical work undertaken by civil society has demonstrated significant regional differences, which may undermine this aim<sup>(15)</sup>.

<sup>(12)</sup> <https://www.ecb.europa.eu/press/key/date/2020/html/ecb.sp200717~1556b0f988.en.html>

<sup>(13)</sup> [https://ec.europa.eu/growth/smes\\_en](https://ec.europa.eu/growth/smes_en)

<sup>(14)</sup> [https://ec.europa.eu/info/sites/default/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/210308-report-efrag-sustainability-reporting-standard-setting\\_en.pdf](https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/210308-report-efrag-sustainability-reporting-standard-setting_en.pdf)

<sup>(15)</sup> [https://www.allianceforcorporatetransparency.org/assets/Research\\_Report\\_EUKI\\_2020.pdf](https://www.allianceforcorporatetransparency.org/assets/Research_Report_EUKI_2020.pdf), p. 51.

## 4. Specific Comments

### 4.1. Scope

4.1.1. The EESC welcomes the expanded scope of the Directive to include listed SMEs — with the exclusion of those listed on multilateral trading facilities (MTFs) or on SME growth markets — as well as the provisions for voluntary reporting for non-listed SMEs and the 3-year transition period and simplified standard for listed SMEs. Due to the significant administrative and operational burdens faced by SMEs in procuring the appropriate data and preparing their reports, exacerbated by the effects of the COVID-19 pandemic, the EESC supports the current scope of the proposal in this regard. This balanced approach allows for a predictable pathway for SMEs to meet increasing expectations for sustainability information among their investors and wider stakeholders, while allowing for the flexibility and time to meet these requirements gradually and voluntarily.

4.1.2. The EESC would recommend that the European Commission expedite a specific impact assessment and cost-benefit analysis devoted to the effects of the phase-in period and the simplified reporting standard on both listed and unlisted SMEs. A significant element of this analysis should include concrete empirical evidence and recommendations concerning the inclusion, within a reasonable period, of listed and unlisted SMEs operating in high-risk sectors, within the scope of the Directive. Should it be required, the European Commission should also consider additional support measures to assist SMEs in their forthcoming reporting requirements.

### 4.2. Disclosure of risks and impacts along value chains

4.2.1. The EESC welcomes the proposed Directive's approach of including reporting requirements covering the value chain of in-scope entities. Considering the complexity of modern value chains, the EESC would recommend clearer and more detailed qualifiers for when the whole-value chain approach to reporting should be adhered to, in line with the provision of the proposed Directive for this reporting to be done 'as appropriate', as per recital 29. As significant ESG risks and impacts result from activities in value chains, the EESC would like to emphasise that these additional specifications should not detract from the requirement to report in a way that promotes full transparency of the impacts of activities undertaken in value chains.

### 4.3. Alignment of Reporting Requirements in terms of timing and content

4.3.1. The EESC would emphasise that the success of the proposal is predicated on a careful sequencing and alignment of reporting requirements between the CSRD and other legislative frameworks. Especially as it pertains to the needs of those in-scope entities that are both users and preparers of non-financial information, it will be significant to ensure that enough time is allowed for the collection, assessment, and disclosure of the relevant data. Such coordination should ensure that the non-financial clients of financial in scope entities are required to disclose the data necessary in the first instance, subsequently allowing financial entities to assess it and prepare their own disclosures.

4.3.2. The European Commission and co-legislators should assess these sequencing requirements, especially as they influence those in-scope entities that will be subject to sustainability reporting requirements under the Capital Requirements Regulation<sup>(16)</sup>, Article 8 of the Taxonomy Regulation, the SFDR Delegated Acts<sup>(17)</sup>, and any forthcoming standards relating to the development of the Social Taxonomy, as well as other taxonomies. Complying with these requirements will be dependent on the availability of high-quality data provided on the basis of the proposal at hand. The information required through CSRD disclosures should be similar in scope to the data to be disclosed under these related requirements, including those of the delegated acts of the Taxonomy Regulation, which can be further clarified in the proposed Directive and in the work of EFRAG in developing the standards, as appropriate.

### 4.4. Assurance

4.4.1. The EESC recognises the significance of ensuring the high quality and verifiability of the non-financial data disclosed under the proposed Directive. The role of assurance is critical in this regard, and the EESC welcomes the proposal's recommendation for the use of limited assurance to verify the non-financial data of the in-scope entities.

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<sup>(16)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

<sup>(17)</sup> C(2021) 2800 final.

4.4.2. Due to the absence of a commonly-agreed framework for the reasonable assurance of sustainability information and the premature quality of certain forms of non-financial data, it is recommended that the assurance requirements remain at the level of assessment required for limited assurance.

#### 4.5. *Human Rights*

4.5.1. The EESC welcomes the more granular identification of sustainability topics on which data is to be disclosed, including those topics relating to the impacts on vulnerable communities and workers. In conjunction with the progress planned on the release of a proposal on Sustainable Corporate Governance, the EESC considers that the proposal at hand provides a significant opportunity for the development of a practical framework for the assessment of the financial risks derived from business operations influencing communities, while also promoting a sound understanding of the impacts of business operations on the same communities. The further specification of both the reporting and due diligence requirements should carefully balance the needs of the social partners, through a formal consultation right.

4.5.2. The EESC would encourage the co-legislators to consider a clearer definition of the stakeholders to be considered and consulted in this process, and to ensure the full alignment of these requirements with the provisions of the forthcoming proposal on Sustainable Corporate Governance. The process that companies should undertake to comply with stakeholder consultation requirements should, on the one hand, be underlined by identifying only the most relevant stakeholders, while, on the other, ensuring that these processes are appropriately designed, straightforward, and do not add undue complexity for the companies under the expanded scope of the proposed Directive.

#### 4.6. *Transition Planning*

4.6.1. The EESC is supportive of the need for companies in transition to attract finance. The emphasis of the proposal on the need to report on the compatibility of business models and strategies with the transition to a sustainable economy and the limiting of global warming to 1,5 °C is thus crucial. Considering the report of the International Energy Agency on achieving net-zero by 2050 <sup>(18)</sup>, ensuring robust, high-quality data to meet this requirement of the proposed Directive will be a crucial enabling factor in ensuring companies have credible transition plans, and that banks and capital markets may aid them in meeting their goals. The EESC would support more granularity in the requirements demonstrating this alignment, in a proportionate manner. Such requirements should include further information on the transition scenarios adopted by corporates, as well as the elements determining their compatibility with the objectives of the Just Transition.

#### 4.7. *Development of the EU non-financial reporting standards*

4.7.1. The EESC reiterates its support for the mandate extended to EFRAG for the provision of technical advice with regard to developing EU non-financial reporting standards. The EESC would like to draw attention to the fact that its mandate requires 'proper due process, public oversight and transparency' including the consultation of a wide range of stakeholders in the development of the standards, and would emphasise the importance of ensuring that trade unions, wider social partners, SMEs, and other stakeholders with a material interest in the development of the standards, including financial and non-financial companies and civil society organisations, be included and consulted throughout the development of the technical advice. In this regard, the EESC supports the efforts undertaken by EFRAG to seek stakeholder views on the development of its due process <sup>(19)</sup>, and expects an outcome that will ensure the inclusion of all aforementioned stakeholders.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(18)</sup> <https://www.iea.org/reports/net-zero-by-2050>

<sup>(19)</sup> [https://www.efrag.org/Assets/Download?assetUrl=%2fsites%2fwebpublishing%2fSiteAssets%2fEFRAG%2520Due%2520Process%2520Procedures\\_V04.pdf](https://www.efrag.org/Assets/Download?assetUrl=%2fsites%2fwebpublishing%2fSiteAssets%2fEFRAG%2520Due%2520Process%2520Procedures_V04.pdf)

**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 — Fostering a European approach to Artificial Intelligence**

(COM(2021) 205 final)

(2021/C 517/08)

Rapporteur: **Marie-Françoise GONDARD-ARGENTI**

Referral	European Commission, 1.7.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Adopted in section	2.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	235/0/7

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes this revised coordinated plan on artificial intelligence (AI), resulting from collaboration between the European Commission and the Member States, and calls for its expedited implementation by all stakeholders playing their part.

1.2. The EESC supports the Commission's holistic approach to its strategy for inclusive and sustainable AI, based on the creation of an ecosystem of excellence and trust. The proposals for plans and regulations, each the subject of a separate opinion, are the two pillars for positioning Europe as a global player in AI.

1.3. In order to yield the expected economic, social, environmental and public health benefits for all of Europe's citizens without distinction, the plan must inject new momentum into education by incorporating ethical and environmental issues, lifelong learning and skills development, as well as innovation challenges and support for workers and businesses, including smaller ones.

1.4. In the world of work, trust is the key to success, and AI is no exception to this rule. The EESC believes that this new plan should give social dialogue and the social partners a key role throughout the process. While the question of skills is essential, consideration must be given to all issues pertaining to automation in the world of work.

1.5. The EESC recommends that the Commission, within the policy framework it intends to establish, strongly encourage Member States to strengthen social and civic dialogue on AI issues and tools.

1.6. The EESC points out that trust hinges on the right of every worker, consumer or citizen to the explicability of algorithmic processes in so far as these have an impact on their lives and their environment. The new coordinated plan must be part of this requirement of transparency and explicability, inseparable from the right of every citizen to challenge decisions taken solely by an algorithm.

1.7. The EESC believes that the EU can establish itself as a credible global leader in AI provided there is unwavering coordination between EU institutions, Member States and organised civil society — social partners, consumers and citizens — with a clear definition of individual responsibilities. By operating between European institutions, between them and Member States and between Member States, this coordination will maximise the overall impact while ensuring the rapid and consistent implementation of investment policies and programmes.

1.8. While AI is intrinsically global in nature, the scale of its deployment is a decisive factor. By elevating Member States to key players on the global AI stage, the coordinated plan is a cornerstone of the European AI strategy.

1.9. The EESC welcomes the fact that the revised coordinated plan proposes specific measures to boost the implementation of the national strategies and increase synergies. However, the plan only takes on its full significance in tandem with the European data strategy — the creation of a European space for data and data protection — and the strategy for cybersecurity.

1.10. To overcome the lack of binding coordination, the EESC calls for a scheme providing for ongoing monitoring of progress using performance indicators devised by all stakeholders.

1.11. The EESC encourages the Member States to use the Recovery and Resilience Facility — as well as other financial instruments such as Horizon Europe, the Digital Europe programme and InvestEU — to support the development and uptake of AI, especially among the smallest businesses. A recent EIB report sheds light on the road ahead <sup>(1)</sup>.

## 2. General comments

2.1. The Commission intends to make the EU the global driving force for human-centric, inclusive, safe, sustainable and trustworthy AI. Drawing lessons from the pandemic, it wants to speed up investment, strengthen the current measures and align them rigorously to foster synergies and agility <sup>(2)</sup>. The EESC endorses this course of action aimed at bolstering the EU's internal and international excellence and would like to see it rolled out with real urgency and resolve.

2.2. The EESC notes the progress made since the first coordinated plan in 2018. The updated plan clearly sets out the priorities: investing in infrastructure and data-sharing, fostering excellence by harnessing innovation and skills, and ensuring trustworthiness and transparency across the value chain. The investment of EUR 7 billion in 2019 (+ 30 %) is encouraging.

2.3. The coordinated plan is designed to ensure that algorithms comply with fundamental and social rights and the right to non-discrimination. This opinion goes hand in hand with the opinion on the related proposal for a regulation dealing with the ethical aspects and establishing harmonised rules on AI <sup>(3)</sup>.

2.4. The EESC believes that the ethical framework and recognised and shared norms, together with a coordinated plan, are the key, defining catalysts providing the confidence for Europeans' commitment to AI while ensuring a competitive advantage and an asset at global level.

2.5. This trust on the part of citizens is inextricably linked to the right to the explicability of algorithms and the possibility of challenging any decision affecting their lives. Developers of AI and its applications, as well as users, must be vigilant, with regular audits and testing. People must remain in control of decision-making.

2.6. The EESC is concerned about the risk of fragmentation linked to the different national strategies and calls on the Member States to step up their cooperation, particularly on cybersecurity, a sovereign prerogative that nevertheless forms the backbone of the plan, in the interest of the EU.

2.7. The EESC calls for sustainable AI when it comes to AI's economic, social and environmental objectives and at the same time its economic, social and environmental responsibilities.

## 3. Specific comments

3.1. Fully justified, the Commission's objectives require it to work together with the Member States, the private sector and organised civil society to:

- accelerate investment in AI with a view to a rapid and resilient economic and social recovery, based on advanced digital solutions;
- deploy the planned structures and programmes in a timely manner to reap the legitimate rewards of first-movers in the production and adoption of technologies;
- optimise AI policy alignment to remove fragmentation and act together to address a global challenge.

3.2. The EESC endorses the Commission's intention to invest at least EUR 1 billion per year between 2021 and 2027 from the Digital Europe and Horizon Europe programmes: the projected leverage effect will propel public and private investment in AI to a level of EUR 20 billion per year over that period. The Recovery and Resilience Facility (RRF) will bolster this leverage effect.

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<sup>(1)</sup> Artificial intelligence, blockchain and the future of Europe.

<sup>(2)</sup> OJ C 240, 16.7.2019, p. 51.

<sup>(3)</sup> EESC opinion on the Regulation on artificial intelligence (see page 61 of this Official Journal).



### 3.3. Creating favourable conditions — data and infrastructure

3.3.1. The EESC calls on the Commission and the Member States to step up cooperation and coordination within AI governance when it comes to implementation of the national strategies, and the sharing of knowledge, expertise and best practices to accelerate the development and uptake of AI, and thus rise to the global challenges of AI.

3.3.2. Availability, accessibility and free flow of data are the prerequisites for the development of AI, tying in with the strategy on data, data protection and cybersecurity. The EESC points out that the smooth exchange of personal data depends on close coordination and full compliance with the GDPR. As with data security and transparency, norms can provide a competitive advantage in global competition<sup>(4)</sup>. The EESC supports the development of the European data space and of sector-specific spaces.

3.3.3. Apart from some AI systems that do not rely on data, the performance of AI depends directly on the volume, relevance and quality of the data available. The EESC therefore considers it essential to maximise this potential to facilitate flexible, interoperable and secure data exchanges. The EESC supports singling out key sectors such as industrial production, the Green Deal, mobility, health, finance and energy, so as to carefully monitor developments and assess the progress made.

3.3.4. The EESC supports:

- the objective of significantly increasing the computing power available in Europe for the purposes of using and developing data in real time and the objective of producing the requisite processors in the EU as part of a sustainable development agenda;
- the concept of data of general interest in the sense of public authorities opening up data that is helpful to them or to promote the sharing of data deemed essential<sup>(5)</sup>, combining it with data from players operating in Europe but not involved in its industrial policy.

3.3.5. The EESC expects to see greater involvement of the Member States in research and innovation aimed at developing the structures, infrastructure and tools needed for the common good and for the purposes of contributing to the EU's AI sovereignty.

### 3.4. Fostering excellence from the laboratory to the market — innovation and partnerships

3.4.1. The EESC supports the holistic approach aimed at making the EU a place where excellence thrives from basic research and innovation to placing on the market. The EESC considers it essential that the EU and the Member States accelerate their cooperation in order to create the conditions conducive to innovation, AI business opportunities, and the development of talent and skills in line with Europe's human-centred and trust-based vision of AI. The EESC is pleased to note that the cross-cutting collaborative structures support these objectives.

3.4.2. The EESC welcomes the Commission's objectives of promoting experimentation, strengthening regional digital innovation hubs in cooperation with national and regional initiatives, and sharing experiences. These innovation hubs and on-demand platforms help VSEs and SMEs to take ownership of AI, in addition to targeted financial support. The EESC considers it important to support start-ups, scale-ups and traditional SMEs in AI development.

3.4.3. The EESC stresses, however, that this policy of centres of excellence must not undermine the normal and long-term funding of 'standard' research laboratories, for fear of delaying the emergence of disruptive technologies.

3.4.4. The EESC would like to promote programmes for organisations and MSMEs aimed at encouraging AI take-up, by developing targeted support networks. The initiatives put in place to support MSMEs' access to AI (the testing and experimentation facilities (TEFs), Digital Innovation Hubs (DIHs) and AI-on demand platform) should be strengthened and assessed as to their practical impact on such businesses, with a view to improving them.

3.4.5. A recent study, commissioned by the EESC, showed the extent to which scaling-up is a prerequisite when it comes to access to the required skills, to data pools for algorithms and to the necessary funding, and with regard to the targeting of a market that is sufficiently developed to ensure the rapid amortisation of costly infrastructure. Policy-makers must therefore prioritise MSMEs and put forward tailored policies. In view of the economic damage caused by the pandemic, it is now imperative to support start-ups, scale-ups and traditional SMEs in AI development.

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<sup>(4)</sup> *Norms over force. The enigma of European power*, Zaki Laidi, 2005.

<sup>(5)</sup> Regulation on data governance.



3.4.6. The EESC supports the development of ‘sandboxes’ to test new ideas in conditions close to reality and foster agility. The EESC calls for better sharing of results and their mutual recognition without borders.

3.4.7. Research excellence reflects the talents and skills that are found in laboratories, but also users’ trust in AI. The EESC therefore wants higher education programmes to generate world-class talent in innovation and commercial development. It calls on the EU to provide the conditions for retaining talent and attracting skills from abroad. The EESC calls for a stable and trusted global business environment to enable companies and workers to take greater ownership of AI for the benefit of research and innovation.

3.4.8. Civil society organisations deserve to be supported in implementing AI solutions and to be among the beneficiaries of AI funds and resources. This is particularly the case with social services, in full compliance with the right to privacy and the rules on the processing and storage of data, including biometric data.

### 3.5. Making AI work for people — skills and trust

3.5.1. The EESC supports the Commission’s strategy based on the creation of an ecosystem of excellence and an ecosystem of trust. This approach is the subject of the White Paper adopted in 2019 <sup>(6)</sup>. As education and training hold the keys to nurturing excellence and increasing trust in AI, it falls to education and training systems to meet a wide range of needs, from providing a basic knowledge and general understanding to helping people acquire specialised expertise and high-level skills <sup>(7)</sup>.

3.5.2. The EESC welcomes the Commission’s adoption of the new Digital Education Action Plan for the period 2020-2027. It will help people to gain a better understanding of what AI is and how it works starting from primary school up to university, and to update their skills.

3.5.3. The EESC would like to see the Member States develop AI education that also incorporates the related ethical and environmental issues, and encourages the exchange of best practices in order to promote diversity in access to training, development and use of AI. If AI is to flourish and be used for the benefit of all, a multidisciplinary approach will be needed, with linkages forged.

3.5.4. The EESC considers the social partners to be key players in anticipating change in skills and jobs. Social dialogue is essential in helping to support workers affected by the automation of their tasks.

3.5.5. The EESC stresses the importance of cooperation between governments, educational institutions, the social partners and relevant civil society organisations in designing and rolling out new education and continuous training programmes, aimed primarily at people who are unemployed. Tailored training for MSMEs and SMEs is needed, for both entrepreneurs and employees.

3.5.6. The EESC regrets the fact that the plan fails to provide for a possible joint discussion on the world and future of work in the face of automation. Building workers’ trust in AI applications requires more rigorous social dialogue, which is needed when introducing AI systems that have an impact on workers, particularly in the areas of management and human resources. Given the potential for job losses, increased inequalities and restructuring of the productive sectors, seamless coordination is needed between the Member States, in close collaboration with businesses, regions and cities, the social partners and intermediary bodies, with a view to:

- developing forward-looking, long-term automation capacities on an institutional footing;
- developing innovative and proactive schemes for the transition of occupations and skills;
- exploring complementarity, not only for ‘developing AI’ in occupations but also as regards tracking change in terms of culture and practice and establishing ‘good complementarity’ standards for individual empowerment.

3.5.7. As trust is the cornerstone of a digital society, the EESC particularly welcomes the Commission’s approach in all of the areas that can uphold the general interest and in particular the interests of citizens and consumers, as well as of workers and businesses, including in the social economy, so as to raise the overall level of trust in AI: the protection of fundamental rights, cybersecurity, data protection, intellectual property and the sustainable and efficient use of resources, without overlooking regulatory issues related to innovation. It seems important to pinpoint the possible dangers of the misuse of AI and to propose appropriate remedies. The EESC supports the measures envisaged by the Commission to

<sup>(6)</sup> OJ C 364, 28.10.2020, p. 87.

<sup>(7)</sup> OJ C 14, 15.1.2020, p. 46.

strengthen security in all areas and adapt the regulatory framework to the challenges posed by AI. It points here to organised civil society's pioneering role, for example in assessing the risks inherent in facial recognition.

3.5.8. The EESC fully supports the goal of promoting Europe's vision for sustainable and trustworthy AI worldwide by encouraging the setting of global standards on AI and developing partnerships and joint initiatives with third countries.

### 3.6. Building strategic leadership in high-impact sectors

3.6.1. The EESC welcomes the Commission's realistic approach of focusing its action on sectors where AI leadership is essential: climate and the environment, health, robotics and automation, public services, public security including counter-terrorism and migration policy, smart mobility, agriculture and related sectors.

3.6.2. The EESC considers the digital transition to be a key instrument for decarbonisation and environmental management, while pointing to the need to limit the potential adverse impact of AI-based solutions on the climate, the environment and energy consumption. The use of AI in the management of energy and transport systems, as well as in industrial processes and agriculture, promotes energy efficiency, the circular economy and the sustainable management of natural resources; this contributes to productivity and economic efficiency. AI also provides the means to better understand and get to grips with climate and environmental phenomena.

3.6.3. The EESC calls for the opportunities offered by AI to be harnessed for the purposes of research into the origins of diseases, the development of new drugs, medical equipment and advanced care, and in the areas of investigation, diagnosis and treatment, in the fight against cancer for example. The European health data space, designed to ensure full respect of privacy and personal data, would be a major step in ensuring that AI's potential is fully harnessed. Daily assistance to patients, older people and people with disabilities provided by robots illustrates the benefits of robotic excellence less concerned with technological prowess and more focused on mastering the interface between humans and robots.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain union legislative acts**

(COM(2021) 206 *final* — 2021/106 (COD))

(2021/C 517/09)

Rapporteur: **Catelijne MULLER**

Referral	European Parliament, 7.6.2021 Council, 15.6.2021
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	2.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	225/03/06

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the fact that the Commission proposal for the Artificial Intelligence Act (the AIA) not only addresses the risks associated with AI, but also raises the bar substantially as regards the quality, performance and trustworthiness of AI that the EU is willing to allow. The EESC is particularly pleased that the AIA puts health, safety and fundamental rights at its centre and is global in scope.

1.2. The EESC sees areas for improvement regarding the scope, definition and clarity of the prohibited AI practices, the implications of the categorisation choices made in relation to the 'risk pyramid', the risk-mitigating effect of the requirements for high-risk AI, the enforceability of the AIA and the relation to existing regulation and other recent regulatory proposals.

1.3. The EESC stresses that AI has never operated in a lawless world. Because of its wide scope as well as its primacy as an EU Regulation, the AIA could create tension with existing national and EU laws and related regulatory proposals. The EESC recommends amending recital 41 to duly reflect on and clarify the relations between the AIA and existing and upcoming legislation.

1.4. The EESC recommends clarifying the definition of AI by removing Annex I and slightly amending Article 3 and widening the scope of the AIA so as to include 'legacy AI systems' and AI components of large scale IT systems in the area of freedom, security and justice as listed in Annex IX.

1.5. The EESC recommends clarifying the prohibitions regarding 'subliminal techniques' and 'exploitation of vulnerabilities' so as to reflect the prohibition of harmful manipulation, and also adding 'harm to fundamental rights, democracy and the rule of law' as conditions for these prohibitions.

1.6. The EESC sees no place in the EU for the scoring of the trustworthiness of EU citizens based on their social behaviour or personality characteristics, irrespective of the actor performing the scoring. The EESC recommends broadening the scope of this ban so as to include social scoring by private organisations and semi-public authorities.

1.7. The EESC calls for a ban on use of AI for automated biometric recognition in publicly and privately accessible spaces, except for authentication purposes in specific circumstances, as well as for automated recognition of human behavioural signals in publicly and privately accessible spaces, except for very specific cases, such as some health purposes, where patient emotion recognition can be valuable.

1.8. The 'list-based' approach for high-risk AI runs the risk of normalising and mainstreaming a number of AI systems and uses that are still heavily criticised. The EESC warns that compliance with the requirements set for medium- and high-risk AI does not necessarily mitigate the risks of harm to health, safety and fundamental rights for all high-risk AI. The EESC recommends that the AIA provide for this situation. At the very least, the requirements of (i) human agency, (ii) privacy, (iii) diversity, non-discrimination and fairness, (iv) explainability and (v) environmental and social wellbeing of the Ethics guidelines for trustworthy AI should be added.

1.9. In line with its long advocated 'human-in-command' approach to AI, the EESC strongly recommends that the AIA provide for certain decisions to remain the prerogative of humans, particularly in domains where these decisions have a moral component and legal implications or a societal impact such as in the judiciary, law enforcement, social services, healthcare, housing, financial services, labour relations and education.

1.10. The EESC recommends making third party conformity assessments obligatory for all high-risk AI.

1.11. The EESC recommends including a complaints and redress mechanism for organisations and citizens that have suffered harm from any AI system, practice or use that falls within the scope of the AIA.

## 2. Regulatory proposal on Artificial Intelligence — AI Act

2.1. The EESC welcomes the fact that the Commission proposal for the Artificial Intelligence Act not only addresses the risks associated with AI, but also raises the bar substantially as regards the quality, performance and trustworthiness of AI that the EU is willing to allow.

## 3. Overarching comments — AIA

### *Objective and scope*

3.1. The EESC welcomes both the objective and the scope of the AIA. The EESC particularly welcomes the fact that the Commission puts health, safety and fundamental rights at the centre of the AIA. The EESC also welcomes the external effect of the AIA, ensuring that AI that is developed outside of the EU has to meet the same legal standards if deployed or having an impact within the EU.

### *Definition of AI*

3.2. The definition of AI (Article 3(1) in conjunction with Annex I AIA) has given rise to a discussion among AI scientists to the effect that a number of the examples given in Annex I are not considered AI by AI scientists, and a number of important AI techniques are missing. The EESC sees no added value in Annex I and recommends removing it entirely from the AIA. The EESC also recommends amending the definition in Article 3 (1) as follows:

“Artificial intelligence system” (AI system) means software that can, in an automated manner, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations or decisions, influencing the environment it interacts with.’

### *Health, safety and fundamental rights — the risk pyramid*

3.3. The escalating 'risk pyramid' (from low/medium risk, to high risk, to unacceptable risk) used to categorise a number of general AI practices and domain-specific AI use cases acknowledges that not all AI poses risks and not all risks are equal or require the same mitigating measures.

3.4. The chosen approach presents us with two important questions. First, do the mitigating measures (for high-risk and low/medium-risk AI) really sufficiently mitigate the risks of harm to health, safety and fundamental rights? Second, are we ready to allow AI to largely replace human decision making, even in critical processes such as law enforcement and the judiciary?

3.5. As to the first question, the EESC warns that compliance with the requirements set for medium- and high-risk AI does not necessarily mitigate the risks of harm to health, safety and fundamental rights in all instances. This will be further elaborated on in Section 4.

3.6. As to the second question, what is missing from the AIA is the notion that the promise of AI lies in augmenting human decision making and human intelligence, rather than replacing it. The AIA works on the premise that, once the requirements for medium- and high-risk AI are met, AI can largely replace human decision making.

3.7. The EESC strongly recommends that the AIA provide for certain decisions to remain the prerogative of humans, particularly in domains where these decisions have a moral component and legal implications or a societal impact such as in the judiciary, law enforcement, social services, healthcare, housing, financial services, labour relations and education.

3.8. AI systems do not operate in a lawless world. A number of legally binding rules at European, national and international level already apply or are relevant to AI systems today. Legal sources include, but are not limited to: EU primary law (the Treaties of the European Union and its Charter of Fundamental Rights), EU secondary law (such as the General Data Protection Regulation, the Product Liability Directive, the Regulation on the Free Flow of Non-Personal Data, anti-discrimination Directives, consumer law and Safety and Health at Work Directives), the UN Human Rights treaties and the Council of Europe conventions (such as the European Convention on Human Rights), and numerous EU Member State laws. Besides horizontally applicable rules, various domain-specific rules exist that apply to particular AI applications (such as for instance the Medical Device Regulation in the healthcare sector). The EESC recommends amending recital 41 to duly reflect this.

#### 4. Specific comments and recommendations — AIA

##### *Prohibited AI practices*

4.1. The EESC agrees that the AI practices in Article 5 do indeed have no social benefit and should be prohibited. It finds some wordings unclear, however, which could make some prohibitions difficult to interpret and easy to circumvent.

4.2. Evidence exists that **subliminal techniques** can not only lead to physical or psychological harm (the current conditions for this particular prohibition to kick in), but can, given the environment they are deployed in, lead to other adverse personal, societal or democratic effects, such as altered voting behaviour. Moreover, it is often not the subliminal technique itself, but rather the decision who to target with a subliminal technique that is AI driven.

4.3. In order to capture what the AIA aims to prohibit in Article 5(1)(a), which is manipulating people into harmful behaviour, the EESC recommends amending the paragraph as follows: '(...) an AI system deployed, aimed at or used to materially distort a person's behaviour in a manner that causes or is likely to cause harm to that person's, another person's or group of persons' fundamental rights, including their physical or psychological health and safety, or to democracy and the rule of law'.

4.4. The EESC recommends amending the prohibited practice of **exploitation of vulnerabilities** in Article 5(1)(b) in the same manner, so as to include harm to fundamental rights, including physical or psychological harm.

4.5. The EESC welcomes the prohibition of **'social scoring'** in Article 5(1)(c). The EESC recommends that the prohibition of social scoring also apply to private organisations and semi-public authorities, rather than just to public authorities. There is no place in the EU for scoring the trustworthiness of EU citizens based on their social behaviour or personality characteristics, irrespective of the actor performing the scoring. If there were, the EU would open the door to multiple areas where social scoring would be allowed, such as at the workplace. The conditions under subparagraphs (i) and (ii) should be clarified so as to draw a clear line between what is considered 'social scoring' and what can be considered an acceptable form of evaluation for a certain purpose, i.e. at the point where the information used for the evaluation should no longer be deemed relevant or reasonably related to the goal of the evaluation.

4.6. The AIA aims to ban **real-time remote biometric identification** (with facial recognition, for example) for law enforcement and categorise it as 'high risk' when used for other purposes. This leaves 'post' and 'near' biometrics recognition allowed. It also leaves biometric recognition not aimed at identifying a person, but rather at assessing a person's behaviour from their biometric features (micro expressions, gait, temperature, heart rate, etc.) allowed. The limitation to 'law enforcement' allows biometric identification, as well as all other forms of biometric recognition not aimed at identification of an individual, including all mentioned forms of 'emotion recognition' for all other purposes, by all other actors, in all public and private places, including at the workplace, shops, stadiums, theatres etc. This leaves the door wide open to a world where we are constantly being 'emotionally assessed' for whatever purpose the actor assessing us deems necessary.

4.7. The AIA categorises ‘emotion recognition’ generally as low risk, with the exception of a few user domains where they are categorised as high risk. This type of biometrics recognition is also known as ‘affect recognition’ and sometimes ‘behaviour recognition’. All these types of practices by AI are extremely invasive, lack any sound scientific basis and pose substantial risks of harm to a number of fundamental rights of the EU Charter, such as the right to human dignity, the right to integrity of the person (which includes mental integrity) and the right to a private life.

4.8. Broadly in line with the call of the EDPS and EDPB of 21 June 2021 for a ban on the use of AI for automated recognition of human features in publicly accessible spaces, and some other uses of AI that can lead to unfair discrimination, the EESC calls for:

- a ban on use of AI for automated biometric recognition in publicly and privately accessible spaces (such as recognition of faces, gait, voice and other biometric features), except for authentication purposes in specific circumstances (for example to provide access to security sensitive spaces),
- a ban on use of AI for automated recognition of human behavioural signals in publicly and privately accessible spaces,
- a ban on AI systems using biometrics to categorise individuals into clusters based on ethnicity, gender, political or sexual orientation or other grounds on which discrimination is prohibited under Article 21 of the Charter,
- a ban on the use of AI to infer emotions, behaviour, intent or traits of a natural person, except for very specific cases, such as some health purposes, where patient emotion recognition is important.

#### *High-risk AI*

4.9. In deciding whether an AI practice or use that poses a risk to health, safety or fundamental rights should nevertheless be allowed under strict conditions, the Commission looked at two elements: (i) whether the AI practice or use can have social benefits and (ii) whether the risk of harm to health, safety and fundamental rights this use nevertheless poses can be mitigated by meeting a number of requirements.

4.10. The EESC welcomes the alignment of these requirements with elements of the Ethics guidelines for trustworthy AI (‘EGTAI’). However, five important EGTAI requirements are not specifically dealt with in the requirements for high-risk AI in the AIA, namely: (i) human agency, (ii) privacy (iii) diversity, non-discrimination and fairness, (iv) explainability and (v) environmental and social wellbeing. The EESC feels that this is a missed opportunity, because many of the risks AI poses are those of privacy, bias, exclusion, inexplicability of the outcomes of AI decisions, the undermining of human agency and the environment and all are reflected in our fundamental rights.

4.11. The EESC recommends adding these requirements to those of Chapter 2 of Title III of the AIA, to improve the ability of the AIA to effectively protect our health, safety and fundamental rights from adverse impact of AI, used by public authorities and private organisations alike.

4.12. The EESC welcomes the **‘interwoven system’ between the AIA and Union Harmonisation Legislation**. It recommends extending the scope of the AIA and the requirements for high-risk AI beyond ‘AI safety components’ or the situation where the AI system is itself a product covered by Union harmonisation legislation listed in Annex II. This is because AI can pose risks not only when used as safety components of these products and because the AI system itself is not always a product. When used, for example, as part of a diagnostic or prognostic tool in the medical field or an AI-driven thermostat that regulates a boiler.



4.13. The EESC warns, however, that the chosen 'list-based' approach for high-risk AI in **Annex III** can lead to the **legitimation, normalisation and mainstreaming** of quite a number of AI practices that are still heavily criticised and for which the societal benefits are questionable or lacking.

4.14. Moreover, the risks of harm to health, safety and fundamental rights cannot necessarily always be mitigated by compliance with the 5 requirements for high-risk AI, in particular when it comes to less mentioned fundamental rights that could be impacted by AI, such as the right to human dignity, the presumption of innocence, the right to fair and just working conditions, the freedom of association and assembly, the right to strike, to name a few.

4.15. The EESC strongly recommends adding the management and operation of the **telecom and internet infrastructure** to point 2 of Annex III. The EESC also recommends extending the scope of this point beyond AI safety components.

4.16. AI systems to **determine access to education and evaluate students** pose a number of risks of harm to student health, safety and fundamental rights. Online proctoring tools, for example, to supposedly flag up 'suspicious behaviour' and 'indications of cheating' during online exams by using all kinds of biometrics and behaviour tracking are truly invasive and lack scientific evidence.

4.17. The use of **AI systems for monitoring, tracking and evaluation of workers** causes serious concerns as regards workers' fundamental rights to fair and just working conditions, to information and consultation and to justified dismissal. The addition of these AI systems to the high-risk list is likely to cause conflicts with national labour laws and collective labour agreements for (un)fair dismissal, healthy and safe working conditions and worker information. The EESC calls for a guarantee of the full involvement and informing of workers and the social partners in the decision making process on the use of AI in the workplace, and on its development, procurement and deployment.

4.18. The requirement of **'human oversight'** is particularly relevant in labour relations, because the oversight will be done by a worker or a group of workers. The EESC stresses that these workers should receive training on how to perform this task. Moreover, given the fact that these workers are expected to be allowed to disregard the output of the AI system or even decide not to use it, there should be measures in place to avoid the fear of negative consequences (such as demotion or dismissal) if such a decision is taken.

4.19. The **use of AI systems in relation to access and enjoyment of public services** is broader than the use of AI systems in relation to access and enjoyment of essential private services, where for the latter only credit (worthiness) scoring by AI is considered high risk. The EESC recommends broadening the scope of point 5(b) of Annex III to AI systems intended to evaluate the *eligibility* for essential private services.

4.20. AI used by **law enforcement authorities and in migration, asylum and border control management for making individual (criminal or security) risk assessments** poses a risk of harm to the presumption of innocence, the right of defence and the right to asylum of the EU Charter. AI systems in general merely seek correlations that are based on characteristics found in other 'cases'. Suspicion in these instances is not based on actual suspicion of a crime or misdemeanour by the particular person, but merely on characteristics that that person happens to share with convicted criminals (such as address, income, nationality, debts, employment, behaviour, behaviour of friends and family members and so on).

4.21. **The use of AI in the administration of justice and democratic processes** is particularly sensitive and should be approached with more nuance and scrutiny than is now the case. Merely putting systems to use to assist a judicial authority in researching and interpreting facts and the law *and* in applying the law to a concrete set of facts overlooks the fact that judging is so much more than finding patterns in historical data (which is in essence what current AI systems do). The text also assumes that these types of AI will only assist the judiciary, while leaving fully automated judicial decision making out of scope. The EESC also regrets there is no mention of AI systems or uses in the realm of democratic processes, such as elections.

4.22. The EESC recommends adding a provision that provides for the situation where it is either obvious or became clear during the prior conformity assessment that the 6 requirements will not sufficiently mitigate the risk of harm to health, safety and human rights (for example by amending Article 16(g) AIA).

#### *Governance and enforceability*

4.23. The EESC welcomes the governance structure set up by the AIA. It recommends the AI Board to hold regular **obligatory exchanges of view with wider society**, including the social partners and NGOs.



4.24. The EESC strongly recommends widening the scope of the AIA so as to include **'legacy AI systems'**, i.e. systems that are already in use or are deployed prior to the coming into force of the AIA, in order to avoid deployers fast tracking any prohibited, high- and medium-risk AI to avoid compliance requirements. Moreover, the EESC strongly recommends not to exclude AI that is a component of large scale IT systems in the area of freedom, security and justice as listed in Annex IX from the scope of the AIA.

4.25. The complexity of the requirements and accountability activities, plus the self-assessment, runs the risk of simplifying this process into check lists where a simple 'yes' or 'no' could suffice to meet the requirements. The EESC recommends making **third party assessments obligatory for all high-risk AI**.

4.26. The EESC recommends having appropriate (financial) support measures and simple and accessible tools in place for micro and small organisations, as well as civil society organisations, to be able to understand the purpose and meaning of the AIA, as well as to be able to meet its requirements. These measures should go beyond supporting Digital Innovation Hubs and consist in the facilitating of access to high-level expertise regarding the AIA, its requirements, its obligations and particularly the reasoning behind these.

4.27. The EESC recommends including a **complaints and redress mechanism for organisations and citizens** that have suffered harm from any AI system, practice or use that falls within the scope of the AIA.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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

*(COM(2021) 202 final — 2021/0105 (COD))*

(2021/C 517/10)

Rapporteur: **Martin BÖHME**

Referral	Council of the European Union, 9.6.2021 European Parliament, 7.6.2021
Legal basis	Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	2.9.2021
Date adopted in plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	226/0/7

## 1. Conclusions and recommendations

1.1. The machinery products sector is a key economic sector in the European Union. The capabilities of machinery and the areas in which it is used are expanding rapidly as a result of new technical and engineering possibilities. It is high time that greater account is taken of digital technologies such as artificial intelligence, the Internet of Things and robotics. Consequently, regulatory requirements must also be adapted to health and safety conditions relating to machinery. Against this backdrop, the proposal for a regulation is also highly relevant to the internal market. The EESC has already addressed the issue of the Machinery Directive 2006/42/EC of the European Parliament and of the Council <sup>(1)</sup> (the ‘MD’) in depth in its information report *Revision of the Machinery Directive* <sup>(2)</sup> of 2020.

1.2. The EESC stresses that in any move to set EU-wide standards for machinery, lay down legally binding requirements and ensure the consistent enforcement thereof, EU companies, manufacturers and operators of machinery should not be overlooked. This does not only apply to large companies, but also and in particular to small and medium-sized ones. Mechanical engineering is an international business and EU product regulation needs to be able to promote quality, safety and competitiveness and help businesses develop innovative approaches without being hampered by regulation.

1.3. The EESC welcomes the fact that the proposal for a regulation continues to focus on operators of machinery products and other workers involved, as their health and safety protection remains a key issue. Moreover, changing the original Machinery Directive into a regulation brings with it the advantage of more uniform interpretation across Member States. This will make it even easier to detect and remedy safety deficiencies in the future, which will especially benefit people operating the machinery.

1.4. The EESC presents the following recommendations to the Commission:

1.4.1. The transitional provisions to the new machinery regulation need to be specified in order to provide legal certainty for all stakeholders.

1.4.2. The EESC sees a need to adapt the structure and substance of the annexes to the proposal for a regulation. The nature of the numbering, the allocation of types of machinery and overlaps with adjacent EU regulation still raise questions.

<sup>(1)</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ L 157, 9.6.2006, p. 24).

<sup>(2)</sup> Information report ‘Revision of the Machinery Directive’.

1.4.3. In the EESC's view, it must be clear that machinery must be safe at the time it is placed on the market and throughout its lifetime.

1.4.4. Increasingly sophisticated machinery requires special training for users so that workers are not exposed to unnecessary risks<sup>(3)</sup>. Mechanisms are also needed that allow clear responsibility to be attributed in the event of accidents. Workers' representatives should be enlisted in the procedure for the purchase and installation of new machinery.

1.4.5. The deployment of artificial intelligence requires a specifically defined security framework in which the operation of such systems can take place.

1.4.6. The mandatory involvement of notifying bodies in the production of conformity assessments for machinery must continue to be affordable for undertakings.

1.4.7. The EESC sees the need for continuous monitoring of legislation on machinery products, in coordination with the relevant stakeholders, in order to respond to technological innovations and challenges for producers and the protection of workers' physical and mental health.

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

2.1. In 2018, the machinery sector recorded a turnover of EUR 700 billion, production of EUR 670 billion, and value added of EUR 230 billion. Total EU machinery and equipment exports amounted to EUR 517 billion, of which around 50 % were exported to EU Member States (i.e. intra-EU exports) and the rest were exported to countries outside the EU (extra-EU exports)<sup>(4)</sup>.

2.2. The Commission proposal for a new regulation on machinery products is part of a wider 'Artificial intelligence package'. The specific proposal on machinery is a revision of the Machinery Directive. This revision is a contribution to both the digital transition and the strengthening of the single market. The Machinery Directive is part of legislation on product safety. It aims to ensure a high level of protection for workers, consumers and other exposed persons by focusing on the inherent safety of the machinery. It obliges machinery manufacturers to take safety into account when designing and constructing machinery ('Safety by Design').

2.3. The proposal has six specific objectives:

- (1) limiting new risks related to digital emerging technologies;
- (2) ensuring consistent interpretation of the scope and definitions and improving safety for traditional technologies;
- (3) reassessing machines considered to be high risk and reassessing related conformity procedures;
- (4) reducing paper-based documentation requirements;
- (5) ensuring consistency with other New Legislative Framework (NLF) legislation; and
- (6) reducing possible divergences in interpretation derived from transposition into national law.

2.4. As part of an impact assessment, the Commission has considered various options for dealing with the Machinery Directive, which goes back as far as 2006, i.e. already 15 years, and is based on 1989 regulations. Given the rapidity of technical and engineering development, this is a very long time. Against this background, a revision has been opted for, with the aim of boosting competitiveness by minimising the burden on manufacturers and also increasing safety by means of clearer and/or additional requirements. It is accepted that there will be additional compliance costs.

2.5. The change from a directive to a regulation is intended to avoid divergent transposition in the Member States. In this way, the Commission expects to increase and ensure overall consistency in the interpretation and enforcement of the legislative act.

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<sup>(3)</sup> See also OJ C 240, 16.7.2019, p. 51.

<sup>(4)</sup> Source: [https://ec.europa.eu/growth/sectors/mechanical-engineering/machinery\\_en](https://ec.europa.eu/growth/sectors/mechanical-engineering/machinery_en)

### 3. General comments

3.1. Unlike many other directives, the Machinery Directive in force to date has not yet been adapted to the New Legislative Framework (NLF). In this respect, the EESC welcomes the fact that the rules are now being updated and adapted to the changed context of EU regulation. Clarifications on scope, in particular the delineation from the Low Voltage Directive, the Pressure Equipment Directive and other directives, as well as the specification of definitions such as partly completed machinery, are deemed to be important.

3.2. The EESC appreciates that the revision proposal tackles a subject that is important for many businesses, workers and other relevant groups in the EU. The proposed rules form the central legal framework for any company that designs, constructs or operates machinery. The safety of workers operating machinery depends crucially on consistent enforcement and monitoring of the requirements in the Member States.

3.3. It is in keeping with the principle of equality in the EU that health and safety requirements relating to machinery must be the same in all Member States and apply equally to all manufacturers, distributors and operators in those countries. For the EESC, it is clear that if these requirements are met, products may be freely traded between all the Member States.

3.4. The EESC welcomes the fact that the proposal preserves the central aim of the directive in force to date: to establish basic Europe-wide rules on safety, health and the free movement of goods — relating to machinery. The main objectives remain safety, on the one hand, and removing barriers to trade, on the other, although they now also cover current and future technical and engineering innovation in the machinery sector.

3.5. The EESC stresses the need for transparent, appropriate and comprehensible transitional provisions in the move from the Machinery Directive to the new Machinery Regulation. Article 50 of the proposal needs to be more specific. It is unclear what rules apply to machinery produced or placed on the market during the 30-month transition phase and how this machinery is distinguished from products from before the transition phase. Manufacturers and importers need a suitable lead time. For example, a useful solution would be to stipulate that Member States may not impede the placing on the market of machinery produced in accordance with Directive 2006/42/EC before the date of its repeal until 42 months after the entry into force of the new regulation.

3.6. The current proposal on machinery products further widens the range of very different types of machinery that need to be covered by such a regulation. In the EESC's view, this is logical in order to create a comprehensive and clear set of rules. For manufacturers, exporters and also purchasers of machinery in particular it is important for the integration of artificial intelligence (AI) systems into machinery to be regulated. This global approach to regulation means that businesses only have to carry out one conformity assessment in each case.

3.7. The EESC sees a need to adapt the structure and substance of the annexes to the proposal for a regulation. There is no reason to change the numbering of the related annexes to the proposal for a regulation (Annex IV is now Annex I, etc.). Changes should be restricted to instances where there is a clear need. At the same time, given their potentially high risk, it is right that certain safety components from Annex II, such as ROPS, FOPS and software ensuring safety functions, also be included in the list of high-risk machinery products set out in Annex I. Discrepancies with other existing EU legislation applicable to machinery should also be avoided, such as in the case of the Low Voltage Directive. Conformity assessment procedures should be carried out only once. This would be relevant, for instance, to certain health and safety requirements listed in Annex III of this proposal which are linked to risks (e.g. the Radio Equipment Directive 2014/53/EU of the European Parliament and of the Council<sup>(5)</sup> (RED) or the Pressure Equipment Directive 2014/68/EU of the European Parliament and of the Council<sup>(6)</sup> (PED)). In this case, only the conformity assessment procedures for placing on the market or putting into service provided for in this proposal for a regulation should apply.

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<sup>(5)</sup> Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

<sup>(6)</sup> Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment (OJ L 189, 27.6.2014, p. 164).

3.8. The EESC considers the protection of workers' health and safety to be an essential element. Machinery manufacturers and planners are responsible for the basic safety of machinery. If safety cannot be ensured, machinery must not be put into operation. People who operate machines on a daily basis must not in doing so be exposed to any dangers that are avoidable. Specifically, this means that machinery must be safe at the time it is placed on the market and throughout its lifetime. Compliance with safety rules must be checked regularly. Machinery must be safely operable and all safety and protective devices must be constructed in such a way that they cannot be easily bypassed or switched off. In addition, all residual risks that cannot be eliminated by design must be clearly pointed out to users and operators through markings and technical documentation, in particular operating instructions. The EESC recommends that the Commission include a recommendation in the proposal for a regulation on the need to consult workers' representatives and safety representatives in the workplace. In addition, the responsibilities of natural or legal persons in the event of an accident should be clearly stipulated, especially where the use of artificial intelligence is concerned.

3.9. The EESC draws attention to its 2019 opinion on the *Coordinated Plan on Artificial Intelligence* (7). This pointed out that in order to lessen the risks to which people might be exposed when using machines, workers need to be trained individually in the use of AI and robots so they can work safely with them and turn them off in an emergency (the 'emergency brake' principle). This is especially true where people and machinery are operating in particularly close proximity. The International Organisation for Standardisation (ISO) has adopted a standard on robots addressed to manufacturers, distributors and users. This standard provides guidelines for the design and organisation of work areas in order to diminish risks in the workplace.

3.10. The EESC would prioritise the use of digital operating instructions. At the request of customers, manufacturers may provide operating instructions in paper format. However, we know from industry that in many cases customers are already asking for operating instructions in digital format.

3.11. Everyday use of machinery shows that the diversity of uses and associated risks scarcely makes it possible to apply blanket and supposedly simpler rules, such as simply 'banning' the presence of sharp metallic edges, because these are sometimes an integral part of the function of the machine concerned. For many types of machinery, such as presses or laser cutting systems, the hazards for machine operators are inextricably linked to the intended function of the machine. It is the responsibility of manufacturers to minimise such injury risks by taking appropriate protective measures.

3.12. The EESC considers it appropriate that the proposed regulation now also and in particular includes machinery that is more advanced and therefore less dependent on human operators. The share of these technologies in the overall European market for machinery is expected to grow strongly in the coming years. In particular, there is a need for uniform standards for machines that are capable of independent learning, of becoming progressively more autonomous and thus of carrying out new actions and operating steps. It is virtually self-evident that digital technologies such as artificial intelligence, the Internet of Things and robotics will bring new challenges in terms of product safety. It is precisely the deployment of artificial intelligence that requires a specifically defined security framework in which the operation of such systems can take place.

3.13. The EESC stresses that, in addition to protecting the (physical and mental) health of machinery operators, environmental aspects and the impact on the climate must also have a significant influence on whether a machine is safe. The manufacture and operation of machines and the question of sustainability must be considered in tandem and assessed in terms of human and environmental impacts. A machine that permanently harms the climate can hardly be deemed safe. The proposal in hand addresses the environmental impact. This concerns in particular what happens when machinery products are subsequently modified by physical intervention or digitally, in ways that may not have been foreseen by the manufacturer. This could mean that essential health and safety requirements are no longer met and that the conformity assessments used are no longer valid. When looking broadly at the role of machine manufacture and operation in environmental and climate protection, there needs to be a coherent link with other EU legislation (e.g. on product sustainability).

3.14. The Commission proposal stipulates that, for high-risk machinery subject to assessment, even when harmonised standards are applied, the option should be removed in future for manufacturers to carry out the conformity assessment procedure fully in house. However, many of the machines in question are produced in small series or as individual items, so the involvement of a third party assessor in these cases would not be suitable in practice. The EESC therefore recommends that the current rules be maintained in duly justified individual cases — for example, if the share of artificial intelligence relates only to static software that cannot evolve on its own or make decisions. In addition, the question arises as to whether

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(7) OJ C 240, 16.7.2019, p. 51.

the mandatory involvement of a notifying body in order to carry out a conformity assessment does not entail significant costs, taking a heavy toll not least on small and medium-sized enterprises. This happens in exactly those cases where only a small part of the machine is equipped with artificial intelligence, but this necessitates it being fully tested and notified as a high-risk machine. It is precisely when it comes to individual components, where no appropriate test standard can be applied, that the question of the efficiency of an external notifying body arises.

3.15. The EESC welcomes the fact that the Commission can draw up its own technical specifications in the event of a lack of appropriate harmonised standards. To this end, all relevant stakeholders must be involved in advance.

3.16. With reference to uniform testing and notification procedures, the EESC recommends the introduction of a European certificate for companies to demonstrate the reliability of trustworthy artificial intelligence systems <sup>(8)</sup>.

3.17. The proposal provides that machinery products may only be made available on the market or put into service if they are properly installed, maintained and used for their intended purpose. In addition, the essential health and safety requirements set out in Annex III must be complied with (Article 7). However, partly completed machinery does not need to be put into service and should therefore be exempted from the provisions relating to doing so. A separate provision could be made, for example, for partly completed machinery only to be made available on the market if it complies with the essential health and safety requirements set out in Annex III, for which the manufacturer has declared conformity in the declaration of incorporation.

3.18. With a view to the most coherent implementation of the Machinery Regulation, the EESC believes continuous monitoring is needed for the European Commission and all relevant stakeholders. This requires coordinated consultation processes between DGs GROW, EMPL and CONNECT. Specifically, for example, a board for continuous coordination could be created, made up of the Administrative Cooperation Groups (AdCos) on the machinery sector and the Committee of Senior Labour Inspectors (SLIC) for safety and health at work and funded by the Commission.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(8)</sup> See also OJ C 240, 16.7.2019, p. 51.



**Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal**

(COM(2021) 188 final)

(2021/C 517/11)

Rapporteur: **Stefan BACK**

Referral	European Commission, 31.5.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	8.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	191/1/10

## 1. Conclusions and recommendations

1.1. The EESC welcomes the Sustainable Finance Package and underscores the potential key role of the Commission Delegated Regulation ('the Delegated Regulation')<sup>(1)</sup> in creating a clear, coherent and comprehensive framework to highlight the ambitious development of a greener economy without lock-in effects, with technical criteria that clearly define the green investments that directly contribute to Europe's climate objectives and on which the practices of the business sectors concerned and the financial sector can be aligned.

1.2. The EESC underscores the urgency of efficient measures to get to grips with climate change and to reduce emissions, provided for in the EU Climate Law and in the light of the sixth IPCC report<sup>(2)</sup> (Intergovernmental Panel on Climate Change). For that very reason, it is essential that efficient, easily applicable, innovative and productive tools are used, to bring about rapid and readable results. The assessment of the Delegated Regulation should be carried out in this spirit.

1.3. The EESC recognises the crucial role of the Delegated Regulation in creating transparency through clear criteria regarding sustainable investment, to assist those wishing to invest in such projects and hence both preventing 'greenwashing' and spreading awareness of and attracting investment in sustainable projects. As such, it can create a fair and transparent level playing field for green finance in the EU.

1.4. A clear and precise definition of the technical criteria set out in the Delegated Regulation that meet the ambition of a low-carbon economy for Europe are therefore the fundamental prerequisite for a reasonable, realistic and acceptable commitment without the risk of greenwashing. Given the central role of the Delegated Regulation in the credibility of the taxonomy — which is essential to the success of this essentially voluntary system — obtaining this commitment is a major challenge.

1.5. The EESC is therefore of the opinion that economic activities and projects defined as 'sustainable' in the Delegated Regulation must be attractive to investors in the real economy and assumes that investors will expect a sustainable project to be realistic, achievable, reasonably profitable and predictable for actors on the market. They must, in other words, be attractive without creating a risk of greenwashing.

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<sup>(1)</sup> Commission Delegated Regulation supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives (C(2021) 2800 final).

<sup>(2)</sup> Climate Change 2021 — The Physical Science Basis, 2021.

1.6. In general terms, a high level of ambition with regard to climate change mitigation measures or extensive information requirements with long-term future projections in relation to climate change adaptation may prove a complex and costly challenge, particularly for SMEs in a market economy. This also raised the question of wider recognition of transitional solutions as a green path to ensure a smooth transition. It is however imperative that lock-in effects are prevented.

1.7. The EESC takes note of the concerns of real economy actors regarding the negative effects of the Delegated Regulation on financing possibilities and costs. The Committee therefore underscores the importance of adequate monitoring by surveillance authorities to prevent distortive effects on financial markets, particularly in view of the widening scope of taxonomy criteria to include, for instance, non-financial reporting and the proposed EU Green Bond Standard.

1.8. The EESC also points out the risk of too high costs in implementing the taxonomy criteria as provided in the Delegated Regulation. That is why the EESC stresses the need to develop green insurance for SMEs to reduce this cost risk.

1.9. The Delegated Regulation sets environmental standards that are often more ambitious than those of EU sectoral legislation. Bearing in mind the need for clarity and attractiveness mentioned above, this may lead to a confusing situation, including financing problems for actors that comply with the highest environmental standards under EU sectoral legislation. The EESC agrees that a high ambition is needed but would nevertheless for practical reasons and to avoid confusion recommend applying the highest environmental standards set in level 1 EU legislation to the taxonomy. On top of this, the Delegated Regulation (a level 2 act) seems to contain some provisions that are inconsistent, unclear and not fully assessed. This, taken together with the statements made above, in particular in points 1.5–1.10, leads the EESC to question whether the Delegated Regulation in its present form, in spite of its laudable objective, is fit for purpose. The EESC strongly recommends the Commission to make proposals to heighten the standards of EU environmental legislation.

1.10. The EESC would welcome initiatives to improve the taxonomy system along the lines outlined above to widen its coverage and improve it as a means of supporting the EU's climate policy aims, through efficient implementation of EU environmental legislation, and calls on the Commission to take further initiatives in that direction. The Committee takes note that the important issue of the EU taxonomy of climate and environment harming activities remains open. It should be addressed urgently.

## 2. Background

2.1. On 21 April 2021, the European Commission released a Sustainable Finance Package ('the Package') consisting of:

- the Communication *EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal* <sup>(3)</sup>,
- a Delegated Regulation supplementing two of the six environmental objectives set out in Articles 10 and 11 of Regulation (EU) 2020/852 of the European Parliament and of the Council <sup>(4)</sup> ('the Taxonomy Regulation') with technical screening criteria to determine the conditions under which a specific economic activity qualifies as contributing substantially to climate change mitigation (Article 10) and as contributing substantially to climate change adaptation (Article 11), as well as criteria to determine if an economic activity causes significant harm to environmental objectives (Article 17). The Delegated Regulation was formally adopted on 4 June 2021,
- a proposal for a new Corporate Sustainability Reporting Directive,
- amended delegated acts under the Markets in Financial Instruments Directive (MiFiD II) and the Insurance Distribution Directive (IDD). These introduce sustainability as part of the information to be given to clients prior to investment decisions,

<sup>(3)</sup> COM(2021) 188 final.

<sup>(4)</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

- further amendments to delegated acts regarding fiduciary duties, and to delegated acts on asset management, insurance, reinsurance and investment to include sustainability risks to the value of investments.

### 3. General comments

3.1. According to the Communication, the Package is intended as a means to encourage private investment in sustainable projects, to provide the vast financial resources needed to reach the climate neutrality objective set out in the Green Deal, beyond the resources earmarked to help the European economy recover from the COVID-19 crisis.

3.2. The Communication highlights the importance of the Delegated Regulation in setting out the criteria that define the green economic activities that will make a substantial contribution to the Green Deal objectives.

3.3. The EESC welcomes the Package and underscores the Delegated Regulation's potential key role in creating a clear, coherent and comprehensive framework to enable the ambitious development of a greener economy without lock-in effects, with clear and transparent technical criteria defining the green investments that directly contribute to Europe's climate objectives and on which the practices of the business sectors concerned and the financial sector can be aligned.

3.4. The EESC underscores the urgency of efficient measures to get to grips with climate change and reduce emissions as provided for in the EU Climate Law and in the light of the sixth IPCC report <sup>(5)</sup>. For that very reason, it is essential that efficient, easily applicable, innovative and productive tools are used, to bring about rapid and readable results. The assessment of the Delegated Regulation should be carried out in this spirit.

3.5. A clear and precise definition of the technical criteria set out in the Delegated Regulation that meet the ambition of a low-carbon economy for Europe are therefore the fundamental prerequisite for a reasonable, realistic and acceptable commitment without the risk of greenwashing. Given the central role of the Delegated Regulation in the credibility of the taxonomy — which is essential to the success of this essentially voluntary system — obtaining this commitment is a major challenge.

3.6. The EESC nevertheless welcomes the ambition shown in the Delegated Regulation, to set a uniform EU standard defining activities that qualify as contributing substantially to climate change mitigation or adaptation. Technical criteria should provide a clear framework for green investments to create a level playing field on the financial markets and avoid 'greenwashing' projects. Views diverge as to the scope and usefulness of transitory options. The EESC takes the view that the technical criteria should afford wider possibilities to recognise transitory solutions as a path to enable a smooth transition. It is imperative that lock-in effects are prevented.

3.7. The EESC takes note of the statement in the Communication that the Delegated Regulation is to be seen as a living document that will evolve over time both with respect to scope and level.

3.8. The EESC therefore recognises the important role of the Delegated Regulation in creating transparency with regard to the activities that meet the criteria set and that attract investors wishing to invest in sustainable projects. It thus forms a basis for defining an economic activity as environmentally sustainable, as well as for applying the compulsory provisions on transparency and disclosure set out in the Taxonomy Regulation. It could be significant in terms of spreading awareness of and attracting investment in sustainable projects and preventing greenwashing.

3.9. The Delegated Regulation is described as a transparency tool and it is part of a voluntary system in the sense that market operators are not under an obligation to live up to the standards it sets, nor are investors obliged to invest in economic activities or projects fulfilling those standards.

3.10. Therefore, as already pointed out, economic activities and projects defined as sustainable according to the Delegated Regulation must be clear to be attractive to investors in the real economy. It is also reasonable to assume that investors will invest in realistic, profitable and predictable sustainable green projects. Profitability expectations may vary and will often be lower in situations involving financing through cooperative or locally or regionally owned banks or 5–6 % instead of 11–15 % as generally expected. Greater profitability will generally attract big capital flows, whereas the choice of cooperative or regional banks may typically concern smaller-scale projects.

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<sup>(5)</sup> Climate Change 2021 — The Physical Science Basis, 2021.

3.11. It is key that the criteria set out in the Delegated Regulation for an economic activity or a project to qualify as environmentally sustainable appear achievable at a reasonable cost, profitable and reasonably predictable or, in other words, as commercially attractive. In this context it is however important to bear in mind that in particular SMEs may often be in need of support to manage the green transition. Still, the taxonomy as such should be limited to technical criteria.

3.12. If the taxonomy fails to meet the criteria set out in the two preceding paragraphs, the prospects of the entire project may be questioned. A voluntary system must be attractive to bring about the transformation it seeks.

3.13. Based on the key elements outlined above, a number of the provisions in the Delegated Regulation appear questionable. In general terms, a high level of ambition with regard to climate change mitigation measures or extensive information requirements with long-term future projections in relation to climate change adaptation may appear too difficult to achieve, too complex, costly or not profitable enough in a market economy, except for a small number of very big actors and with little regard for practical effects, in particular regarding SMEs. This would mean losing the broad uptake obviously sought, while still causing financing difficulties for those companies that comply with applicable EU environmental legislation, but not with the Delegated Regulation. That is why the EESC stresses the need to develop green insurance for SMEs to reduce this cost risk. A few examples of this will be given below under 'Specific Comments'.

3.14. Actors in the real economy have expressed concerns that the technical criteria set out in the Delegated Regulation might lead to financing difficulties regarding activities that do not comply with the Regulation. The EESC agrees that there may be such a risk, considering that the scope of the taxonomy is widening to serve as a basis for non-financial reporting under Article 8 of the Taxonomy Regulation, as well as for the proposed EU Green Bond Standard <sup>(6)</sup>.

3.15. The EESC therefore underlines the importance of surveillance authorities monitoring the application of the Delegated Regulation to avoid discriminatory effects on credit possibilities and credit costs with respect to undertakings that do not fulfil the taxonomy criteria. Those actors should still get fair treatment when attracting financial means necessary.

3.16. In this context, the EESC refers to an expert report of the Scientific Council of the German Ministry of Finance indicating that attempting to steer the use of capital flows in the real economy through financial regulation is very difficult, and would require far reaching, detailed and very complete legislation, and that such a taxonomy brings the risk of high complexity and excessive bureaucratic costs <sup>(7)</sup>.

3.17. The only mandatory elements in the Package, as far as this opinion is concerned, are the provisions on transparency set out in Articles 4 to 7 of the Taxonomy Regulation and the amended delegated acts relating to markets in financial instruments, insurance distribution and various fiduciary duties to raise awareness of the possibilities and risks involved in sustainable investments and to ensure that clients and prospective clients are sufficiently informed in this regard.

3.18. The financial market delegated acts appear fit for purpose overall and they are therefore adequate tools for raising awareness of sustainable investments and thus opening the road for channelling much needed resources into such investments.

3.19. The Delegated Regulation sets environmental standards that are often more ambitious than those of EU sectoral legislation. Bearing in mind the need for clarity mentioned in point 3.6, this double standard may lead to a confusing situation, including financing problems for actors that comply with the highest environmental standards under EU sectoral legislation. The EESC agrees that a high level of ambition is needed, but would nevertheless for practical reasons and to avoid confusion recommend applying the highest environmental standards set in level 1 EU legislation also for the purpose of the taxonomy in order that it may efficiently fulfil its obligation to ensure the transparency of financial products and

<sup>(6)</sup> Commission Proposal for a Regulation on EU Green Bonds (COM(2021) 391 final — 2021/0191 (COD)).

<sup>(7)</sup> *Grüne Finanzierung und Grüne Staatsanleihen — Geeignete Instrumente für eine wirksame Umweltpolitik?* [Green Finance and Green Public Loans — Suitable Instruments for Effective Environmental Policy?] — Scientific Advisory Council to the Federal Ministry of Finance — Expert opinion 02/2021.

prevent greenwashing. These reasons, taken together with the statements made in points 3.6 and 3.13–3.16 above, makes the EESC question whether the Delegated Regulation (a level 2 act) in its present form, in spite of its laudable objective, is fit for purpose<sup>(8)</sup>. The EESC strongly recommends the Commission to make proposals to heighten the standards of EU environmental legislation.

3.20. It is well known that green financial products are attractive to the financial markets. The EESC therefore commends the basic intention of the taxonomy to create transparency, prevent greenwashing and draw attention to green financial products but would nevertheless warn against the risk of unsound bubble effects on financial markets.

3.21. The EESC would welcome initiatives to improve the taxonomy system along the lines outlined above to widen its coverage and improve it as a significant means of support for the EU's agreed climate policy aims, through efficient implementation of EU environmental legislation, and calls on the Commission to take further initiatives in that direction.

3.22. The Committee takes note that the important issue of the EU taxonomy of climate and environment harming activities remains open. It should be addressed urgently.

#### 4. Specific comments

##### *The Delegated Regulation*

4.1. The EESC underscores the key role of renewable energy in the sustainability transition and draws attention to the need to ensure suitable transitory solutions, as required, inter alia, to ensure the proper functioning of logistics value chains, while paying attention to the imperative need to avoid lock-in effects.

4.2. It appears from point 6.3 of Annex 1 to the Delegated Regulation that buses, fulfilling the zero-tailpipe emission criterion will only qualify as sustainable if operating in urban and suburban traffic, while other bus operations are only eligible for so-called transitional activities until 31 December 2025 if they correspond to the highest EURO class category (EURO VI). Failing that a zero-tailpipe emission criterion will apply, but it appears from the text that it only qualifies as a transitional activity subject to reassessment at least every three years, according to Article 19 of the Taxonomy Regulation. There seems to be no reference to the standards set in the Clean Vehicles Directive. Given the uncertainty of the situation beyond 31 December 2025, who would then dare invest in a bus company? Classifying the highest environmental requirements in EU legislation — EURO VI — as a transitory activity seems strange and likely to create confusion.

4.2.1. Heavy commercial vehicles — HGVs (category N2 and N3) in freight transport services by road (Section 6.6) qualify as sustainable if they qualify as zero emission vehicles under Article 3(11) of Regulation (EU) 2019/1242 of the European Parliament and of the Council<sup>(9)</sup> with emissions under 1 g CO<sub>2</sub>/km or, for vehicles over 7,5 tonnes 'where technologically and economically not feasible' to achieve zero emissions, they fulfil low emission standards according to Article 3(12) as a transitional activity. For light commercial vehicles, LCVs with a maximum laden weight of up to 3,5 tonnes (N1), zero tailpipe emissions apply. All other freight transport services by road are transitional.

4.2.2. The treatment of HGVs shows a pragmatic approach that should have been more frequent in the Delegated Regulation. The zero-tailpipe requirement for LCVs (N1) in Section 6.6 seems inconsistent with Section 6.5 on transport by motorbikes, cars and LCVs where, for no obvious reason, more lenient provisions apply.

4.2.3. Taken together, the different treatment of road vehicles in different activities seems inconsistent and messy, with no explanation of the very different approach in different contexts.

<sup>(8)</sup> *Sustainable finance — Eine kritische Würdigung der deutschen und europäischen Vorhaben* [Sustainable finance — a critical appraisal of German and European projects] Munich and Upper Bavaria Chamber of Commerce and Industry, Leibnitz — Institute for Economic Research at the University of Munich 2020.

<sup>(9)</sup> Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO<sub>2</sub> emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202).

4.3. A recurrent provision in Section 6 (Transport) of Annex 1 excludes vehicles or vessels dedicated to the transport of fossil fuels; as access to such fuels should not be facilitated. However, according to recital 35, the 'usability' of this requirement may be assessed. It appears dubious to insert a requirement when doubts exist about its usefulness. Further, the requirement is not clear. A vehicle can often transport both fossil and alternative fuels. It is not clear whether the requirement refers to construction or use of the vehicle or vessel, so neither interpretation nor impact are clear.

4.4. Further examples are offered by the provisions on climate benefit analyses in points 1.1, 1.2 and 1.3 of Annex 1, which come on top of for instance, afforestation plans, forest restoration plans and forest management plans and which apply down to small holdings of 13 hectares. Requirements appear fairly complex and the reference made to the availability of online tools provided by the Food and Agricultural Organisation of the United Nations is likely to be of little consolation to small holders and demonstrates the disadvantageous situation for smaller undertakings created by the top-down approach used in the Delegated Regulation.

4.5. Certainly, the preservation of forests, including carbon sinks, is an essential element of EU environmental policy, but administrative obligations must remain proportional to the resources of those targeted. The principles applied by the Forest Stewardship Council are an example of clear and reasonable principles for forest exploitation and management <sup>(10)</sup>.

4.6. With respect to climate adaptation, reference may be made to the provisions in point 1.3 of Annex 2 on forest management and in point 6.3 on urban, suburban and interurban road passenger transport, which provides for an analysis of the climate effects of major investments spanning from 10 to 30 years.

4.7. The statement in the Communication that the taxonomy does not accept activities that improve the current levels of environmental performance, but not at the level of substantial contribution, goes against Article 10(2) of the Taxonomy Regulation. Therefore, as already suggested, more space should be afforded to transitional solutions.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(10)</sup> [www.fsc.org](http://www.fsc.org)



**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 on the EU Strategy on Combatting trafficking in human beings 2021-2025’**

(COM(2021) 171 final)

(2021/C 517/12)

Rapporteur: **Carlos Manuel TRINDADE**

Referral	European Commission, 31.5.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adoption in section	7.9.2021
Adoption at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	215/1/4

## 1. Conclusions and recommendations

1.1. Trafficking in human beings (human trafficking) is first and foremost a serious violation of human rights. It violates fundamental rights such as freedom, dignity and equality, which are enshrined in numerous instruments such as the Universal Declaration of Human Rights, the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union and the Treaty on the Functioning of the European Union.

1.2. The root causes of human trafficking lie in the vulnerability of its victims, caused by poverty, gender inequalities and violence against women and children, conflict and post-conflict situations, lack of social integration, lack of opportunities and employment, lack of access to education, and child labour.

1.3. Traffickers take advantage of such vulnerabilities to develop a criminal, complex and highly lucrative business model, which is still at present low-risk and high-yield.

1.4. The pandemic has exacerbated people’s economic and social vulnerability and hampered access to justice and punishment of crimes. In parallel, a new business model for recruiting and exploiting victims has been developed using the internet.

1.5. The EESC broadly supports the EU Strategy on Combatting trafficking in human beings 2021-2025 (‘the Strategy’) presented by the European Commission (‘the Commission’), without prejudice to the comments, proposals and recommendations set out in this opinion.

1.6. The EESC supports the Commission when it affirms that there is a need to improve the quality of the data collected on this phenomenon in a harmonised way in the Member States<sup>(1)</sup>. In order to fight human trafficking more effectively, thorough, up-to-date knowledge of the phenomenon is required, in particular, of all the groups involved (victims, traffickers, users) and of the way trafficking networks operate, in particular by developing appropriate responses. If we do not tackle the matter in this way, we underestimate the real extent of the trafficking and fail to attach the proper importance to it.

1.7. The EESC notes that measures to combat human trafficking have not been effective enough and that action needs to be stepped up here, with a more comprehensive strategy and new measures adopted<sup>(2)</sup>.

<sup>(1)</sup> COM(2021) 171 final, pp. 9, 12.

<sup>(2)</sup> COM(2021) 171 final, footnotes on p. 4 (20), p. 9 (39) and p. 10 (41).

1.8. The EESC supports the possibility of the Anti-Trafficking Directive being reviewed following an evaluation of how it is being implemented, but while to fight human trafficking it is necessary to improve sanctions, it is not enough.

1.9. It underlines and supports the intention to establish minimum standards at EU level that criminalise the networks involved in trafficking and exploiting human beings, and the use of services arising from the exploitation of trafficking victims. It will be essential to cover the criminalisation of the entire procurement and subcontracting chain involved in the process of trafficking and exploiting human beings.

1.10. The EESC believes that, in order to be more effective, the fight against human trafficking needs to be based on a more comprehensive analysis which takes into account the social aspect of the context that is enabling such trafficking to increase — something that is only occasionally considered in the design of the Strategy.

1.11. The EESC also notes <sup>(3)</sup> that there is a link between the development of trafficking in low-income countries and child trafficking, ‘the majority of [the children being] forced into child labour’, a situation linked to families’ subsistence problems.

1.12. The EESC believes that the immense suffering of victims should lead to a humane approach being adopted to their situation at all stages. The Strategy’s prevailing approach must not simply be repatriation or encouraging voluntary return to the country of origin, underestimating the conditions they would find there, which would make them more vulnerable to traffickers; it should also cover recognition of the right to integrate into the host society.

1.13. The EESC notes that there is no measure at all for recognising and enforcing victims’ rights, nor for providing immediate assistance, support or protection (medical, legal, etc.), especially as regards any form of penalisation of victims by those who exploit them. The EESC proposes that the Commission incorporate this proposal into the Strategy.

1.14. The EESC notes that the Strategy acknowledges the difficulties victims face in rebuilding their lives and that opportunities for their inclusion in the labour market are scarce, but equally notes that no provision is made for changing this state of affairs <sup>(4)</sup>. To remedy this situation, the EESC proposes that victims be granted the right to be integrated into the host society, by means of an appropriate, fast-track integration process.

1.15. EU law only provides for the possibility of victims being granted a residence permit if they cooperate in the investigation into and prosecution of traffickers. The EESC draws attention to the fact that this situation can be extremely detrimental to victims, forcing them to relive the whole experience and trauma they have suffered, without respect for their physical or mental health. The EESC proposes that these situations be considered on a case-by-case basis, depending on the circumstances and psychological profile of each victim, who should, *inter alia*, be given strong psychological support in order to be able to relive and bear witness to the trauma they have suffered.

1.16. The EESC welcomes the Commission’s position advocating the non-punishment of victims for crimes they have been forced to commit, as well as the review — in a spirit of protecting victims — of the 2004 Council Directive as regards residence permits issued to victims of human trafficking.

1.17. The EESC proposes that, in this respect, all victims of the crime of human trafficking be duly compensated by a public fund, taking into account the severity of the suffering inflicted on them. In cases of labour exploitation, they will also be entitled to receive payment due for the work carried out, and the direct beneficiary, *i.e.* the ultimate employer, or the recipient of the service provided, should be held liable when the ‘supply chains’ are set up in such a way as to be an impregnable maze.

1.18. The EESC believes that what is missing from European immigration legislation is consideration of the situation of less-skilled and poorer economic immigrants arriving in Europe in search of better living and working conditions (the situation of more highly-skilled immigrants and those with greater economic resources being already covered). This omission, and the consequent absence of mechanisms allowing legal immigration, has meant that economic migrants are more likely to become involved in human trafficking networks. The EESC recommends that the European institutions put in place European legislation to remedy this situation.

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<sup>(3)</sup> COM(2021) 171 final, Section 6 — International dimension.

<sup>(4)</sup> COM(2021) 171 final, p. 16.

1.19. The EESC believes that incorporating an international dimension<sup>(5)</sup> into the Strategy boosts the effectiveness of the fight against human trafficking. However, it notes that little emphasis has been placed on the need to create decent and adequate economic and social conditions<sup>(6)</sup> for people in countries of origin, which is the main way of hindering or preventing the recruitment of trafficking victims. The EESC suggests building on and incorporating into the Strategy the development cooperation dimension and efforts to achieve the UN Sustainable Development Goals as main ways of creating such positive structural conditions.

1.20. The EESC notes that, in the context of economic activity and the trafficking of human beings for labour exploitation, there is no reference in the Strategy to the unfair competition practised by companies using this workforce in relation to other companies operating in compliance with the legislation. This form of social dumping is incompatible with corporate social responsibility and should also be addressed in the field of social dialogue, as well as in the policing and legal fields.

1.21. The EESC notes that in sectors of economic activity where there is greater informality and a widespread lack of social dialogue and collective bargaining, there is a tendency to make greater use of this workforce. The EESC proposes that, in order to better combat labour exploitation, the Commission include in the Strategy the active involvement of the social partners in the fight against human trafficking, in line with their competences and respecting their independence, and thus the promotion of social dialogue and collective bargaining, as essential instruments to achieve this.

1.22. The EESC welcomes the forthcoming Commission initiative on sustainable corporate governance, which ensures in particular that public procurement encourages transparency and is socially responsible<sup>(7)</sup>. The EESC notes that a number of collective agreements have already been concluded at national level with the aim of preventing abuse and trafficking in the workplace and providing for compensation for victims<sup>(8)</sup>. The EESC recommends that the Strategy incorporate these examples of good practice, which should be promoted and replicated in Member States as a specific way of ensuring such transparency.

1.23. The EESC welcomes the Commission's commitment to adhering to the Employers' Sanctions Directive, which will make it possible to increase the sanctions applicable to them<sup>(9)</sup>.

1.24. The EESC notes that there is no reference in the Strategy to the importance of involving civil society organisations and social partners, in particular trade unions. The role and activities of these organisations over the years — especially in areas relating to trafficking for sexual, labour and child exploitation — in identifying, reporting and addressing these situations and actively supporting victims should be duly recorded and properly valued. The EESC proposes that this involvement be incorporated into the Strategy and that these organisations be properly supported, including financially.

1.25. The EESC also notes that the Strategy makes no mention of the significant support provided by civil society organisations and community solidarity networks and the social partners in protecting, welcoming and integrating victims, or of their need for financial support to carry out these activities. The EESC proposes that the Commission incorporate this dimension into the Strategy.

1.26. The EESC endorses the view that, in this fight, it is necessary to involve, in addition to Europol and Eurojust, the European Labour Authority (ELA), in close cooperation with national authorities, especially labour inspectorates, strengthening its powers and equipping it with material resources, especially digital and physical resources. The EESC therefore suggests that the Commission Strategy propose to the Member States that they respect the ratios set out in International Labour Organization (ILO) Convention No. 81<sup>(10)</sup>.

## 2. Background

2.1. We see it, hear about it and read about it. We cannot ignore the fact that human trafficking causes huge distress for the victims, harms their dignity, deprives them of their liberty and destroys their lives. The EESC and all its members, along with all citizens of the European Union, are deeply aware of the horror of human trafficking and the harmful consequences for its victims, and stand alongside them, supporting all measures to fight and eradicate it.

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<sup>(5)</sup> COM(2021) 171 final, Section 6 — International dimension.

<sup>(6)</sup> COM(2021) 171 final, p. 15.

<sup>(7)</sup> COM(2021) 171 final, p. 7.

<sup>(8)</sup> See the 2021 ILO report – *Access to protection and remedy for victims of human trafficking for the purpose of labour exploitation in Belgium and the Netherlands*.

<sup>(9)</sup> COM(2021) 171 final, p. 7, p. 8.

<sup>(10)</sup> ILO Convention No 81 (on Labour Inspection) provides that there be one labour inspector for every 10 000 workers.

2.2. Studies and reports have expanded knowledge of this phenomenon, helping to improve response strategies, but in spite of this, human trafficking puts thousands of people in danger every year, especially women and children. Thus:

- i. between 2017/2018, a further 14 000 victims were recorded, and the number could be higher because there are difficulties in recording figures on this subject;
- ii. almost half of the victims are EU citizens and the remainder come from outside the EU — from Africa, the Western Balkans and Asia <sup>(11)</sup>;
- iii. the majority of victims are women and girls trafficked for sexual exploitation;
- iv. labour exploitation affects 15 % of victims, but most of the victims are not detected;
- v. the main sectors where there is human trafficking for labour exploitation are: agriculture and forestry; construction; hospitality; cleaning work; domestic work, manufacturing (textile and garments, food manufacturing <sup>(12)</sup>);
- vi. most traffickers are EU citizens;
- vii. this crime generates large profits for traffickers, estimated at EUR 29,4 billion in 2015, of which about EUR 14 billion came from sexual exploitation <sup>(13)</sup>; this does not take into account trafficking for labour exploitation <sup>(14)</sup>;
- viii. the economic costs of human trafficking in 2020 amounted to EUR 2,7 billion;
- ix. traffickers take advantage of social inequalities, as well as people's economic and social vulnerability;
- x. almost a quarter of all victims of human trafficking are children and are trafficked for sexual exploitation <sup>(15)</sup>;
- xi. exploitation of victims of human trafficking takes the following forms: sexual; forced labour; forced criminality; forced begging; and child trafficking <sup>(16)</sup>.

2.3. The **Strategy on Combatting Trafficking in Human Beings 2021-2025** <sup>(17)</sup> is being defined against a background distinguished, on the one hand, by growing awareness that the fight against human trafficking is a requirement for the EU because of its commitment to human dignity and human rights and, on the other hand, by a continuing increase in human trafficking.

2.4. Since 2002, the EU has been cracking down more and more in this domain, and the proposal for a Strategy aims to pursue this approach <sup>(18)</sup>.

2.5. Directive 2011/36/EU of the European Parliament and of the Council <sup>(19)</sup> of 5 April 2011 was a major step forward in the fight against trafficking and rightly became known as the 'Anti-Trafficking Directive'. The phenomenon known as human trafficking has become more frequent and more widespread.

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<sup>(11)</sup> COM(2021) 171 final, p. 1 and p. 17.

<sup>(12)</sup> COM(2021) 171 final, p. 6.

<sup>(13)</sup> COM(2021) 171 final, p. 6.

<sup>(14)</sup> COM(2021) 171 final, p. 6.

<sup>(15)</sup> COM(2021) 171 final, p. 12.

<sup>(16)</sup> COM(2021) 171 final, p. 10.

<sup>(17)</sup> COM(2021) 171 final.

<sup>(18)</sup> This refers to: Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings (OJ L 203, 1.8.2002, p. 1); the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005); the Council of Europe Convention on Action against Trafficking in Human Beings (1.2.2008); and the Stockholm Programme — an open and secure Europe serving and protecting citizens (2010).

<sup>(19)</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

2.6. The directive adopted a broader concept of human trafficking to include new forms of exploitation of victims of trafficking. The EESC would draw particular attention to Article 2 of the directive — Offences concerning trafficking in human beings — which sets out the main lines for combatting human trafficking.

2.7. The EESC points to its significant body of opinions on human trafficking, whose conclusions made a general contribution to fighting this scourge at the time they were drawn up <sup>(20)</sup>.

2.8. It is against this background that the Commission is presenting this proposal for a Strategy, which consists of six sections, in each of which the Commission makes its own commitments (26), and in which it calls on the Member States to take action to implement it in their respective areas (16), in a total of forty-two activities provided for in the Strategy.

### 3. General comments

#### 3.1. *The need for data (knowledge of the realities of the situation)*

3.1.1. The EESC underlines that the Commission does recognise that human trafficking is continuing to grow in the EU, with a rising number of victims and entailing very high human, social and economic costs despite the initiatives taken, owing, in particular, to the operating model of the criminal organisations involved.

3.1.2. The EESC points out that the number of identified and presumed victims reflects the seriousness of the situation, but there is a need to find out more about what is actually happening; there is still difficulty in obtaining data, particularly in the context of the COVID-19 pandemic, which is hampering access to some data in a situation where the public and private sector human resources assigned to this are limited by strict lockdown measures.

#### 3.2. *Combatting human trafficking*

3.2.1. The EESC highlights that the Strategy focuses on criminal and security aspects of fighting human trafficking as a crime, which it places at the heart of its action, addressing the various dimensions.

3.2.2. The EESC notes that the Strategy attaches value to the role of legislation in this context, highlighting the Anti-Trafficking Directive, but recognises that, despite the Commission's monitoring of its implementation, transposition is uneven and, above all, many perpetrators still go unpunished in the EU and the number of convictions of traffickers remains low <sup>(21)</sup>.

#### 3.3. *The social dimension of the fight against human trafficking*

3.3.1. The EESC notes that, as acknowledged in the communication <sup>(22)</sup>: 'Young women and minors from Roma communities are especially vulnerable to exploitation and trafficking due to several socio-economic factors such as multi-dimensional poverty (...)'.  
'

3.3.2. The EESC draws attention to the fact that people who combine multidimensional poverty with other specific characteristics (people with disabilities, LGBTI, etc.) are also particularly vulnerable to exploitation and human trafficking.

3.3.3. The EESC also notes <sup>(23)</sup> that there is a link between the development of trafficking in low-income countries and child trafficking, 'the majority of [the children being] forced into child labour', a situation linked to families' subsistence problems.

3.3.4. The EESC notes and greatly welcomes the fact that the ELA, labour inspectorates in the Member States, the social partners, many civil society organisations and many media and social networks constantly denounce and combat human trafficking, in particular by sharing and disseminating information, denouncing and combatting situations and seeking all kinds of solutions to protect victims and punish traffickers. The EESC proposes to the Commission that these interventions be included and promoted in the Strategy as examples of good practice to be replicated.

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<sup>(20)</sup> *Fight against trafficking in human beings* OJ C 51, 17.2.2011, p.50; *Preventive measures to protect children from sexual abuse* OJ C 24, 28.1.2012, p. 154; *Eradication of trafficking in human beings* OJ C 44, 15.2.2013, p. 115; *European Agenda on Security* OJ C 177, 18.5.2016, p. 51.

<sup>(21)</sup> COM(2021) 171 final, p. 10.

<sup>(22)</sup> COM(2021) 171 final, Section 5 — Protecting, supporting and empowering the victims, especially women and children.

<sup>(23)</sup> COM(2021) 171 final, Section 6 — International dimension.

3.3.5. The EESC points out that many civil society organisations which have taken extremely commendable action in the various dimensions of combatting trafficking and supporting victims (rescuing shipwrecked people, hosting victims, supporting their integration, etc.) have in some cases been criminalised. The EESC rejects this approach and calls on the Commission to address the situation in the Strategy.

#### 3.4. *Victims' rights*

3.4.1. The EESC feels that the situation of victims is not addressed in a consistently humane way throughout the Strategy.

3.4.2. The EESC considers that victims' access to their rights should be a core concern, in keeping with an approach that always focuses on affirming the human dignity of victims and their human rights.

3.4.3. The EESC agrees that the situation of victims who are not EU citizens is even more difficult. The EESC points out there are many situations where victims, whether EU citizens or from third countries, can become accessible to traffickers and exposed to the risk of being trafficked again.

#### 3.5. *Comprehensiveness of the Strategy and its implementation*

3.5.1. The EESC is not unaware of the fact that, as the Commission points out, victims are trafficked to the EU in **mixed migration flows** across all sorts of different routes and criminal organisations<sup>(24)</sup>. The response to this situation must not, however, be limited to tackling networks of smugglers, but should be more wide-ranging.

3.5.2. The EESC underlines that the strategy for tackling human trafficking must not, therefore, be seen in isolation from the new Pact on Immigration and Asylum, nor from the Action Plan on Integration and Inclusion 2021-2027<sup>(25)</sup>. The EESC points out that the European Pillar of Social Rights Action Plan should also be seen as an overarching framework for the EU's social strategy. The EESC recommends to the Commission that the Strategy provide for smooth coordination with other EU social policies, creating synergies and making them more effective.

3.5.3. The EESC supports the development of the Joint Statement of Commitment concluded by 10 European agencies to work together, and proposes that reports be submitted annually on the work carried out.

3.5.4. The EESC welcomes the gender perspective adopted, as well as several proposals for improving efforts to fight trafficking when victims are children.

## 4. **Specific comments**

### 4.1. *Section 2*

4.1.1. The EESC believes that the protection of victims at all stages, in particular women and children, needs to be properly ensured<sup>(26)</sup>. To this end, civil society organisations operating in this domain and the social partners must be involved at all stages of the process.

4.1.2. The EESC welcomes and supports the Commission's position that the Anti-Trafficking Directive must be implemented in all Member States, and its review should be based on a thorough assessment of the limitations identified and on developments in human trafficking, in particular in the recruitment and exploitation of victims via the internet.

4.1.3. The EESC believes that the Strategy's prevailing approach should be that victims, if they so wish, should be able to regain full enjoyment of their human rights, guaranteeing them, first and foremost, access to protection and compensation for the suffering inflicted on them, and in particular, access to work with rights applying in the place where they are located, and for the victims not to be repatriated or in any other way returned to their countries of origin. There should be concern for the integration of victims both in the event that they choose to stay in the country in which they are located and if they freely choose to return to their country of origin. The EESC argues that victims should be given the right to integrate into the host society, through a specific fast-track integration process.

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<sup>(24)</sup> COM(2021) 171 final, Section 6 — International dimension.

<sup>(25)</sup> COM(2021) 171 final, p. 16.

<sup>(26)</sup> COM(2021) 171 final, Section 2.



4.1.4. The EESC welcomes the Commission's commitment to ensuring adequate funding to combat trafficking inside and outside the EU <sup>(27)</sup>.

#### 4.2. Section 3

4.2.1. The EESC welcomes the Commission's proposal calling on Member States to consider criminalising the knowing use of services exploited from trafficked persons <sup>(28)</sup>.

4.2.2. The EESC proposes promoting the social partners' involvement in national and cross-border operations to monitor and combat human trafficking and forced labour, in cooperation with Member States' labour inspectorates and the European Labour Authority. The EESC notes that a number of collective agreements have already been concluded at national level with the aim of preventing abuse and trafficking in the workplace and providing for compensation for victims <sup>(29)</sup>. The EESC recommends that the Strategy incorporate these examples of good practice, which should be promoted and replicated in Member States.

4.2.3. It warns that it is becoming necessary also to analyse the consequences, as regards human trafficking, of the massive proliferation of new forms of work and the implications thereof for new forms of labour exploitation. The Strategy rightly refers to the use of digital networks, but seems to focus more on trafficking for sexual exploitation than labour exploitation, notably through the use of digital platforms. The EESC recommends that the Strategy adopt a wide-ranging vision in this approach.

4.2.4. The EESC supports the Commission's commitment to ensuring that there is no forced labour in the value chains of European companies and that EU companies' supply chains are free from child labour <sup>(30)</sup>.

#### 4.3. Section 4

4.3.1. The EESC endorses the statement that organised crime seeks to penetrate legal economic activity, with the concomitant risks to society itself, it being necessary to combat, in particular, the systematic use of financial investigations in law enforcement investigations, as well as the development and implementation of a solid framework for identifying, seizing and confiscating criminal assets <sup>(31)</sup>.

4.3.2. The EESC agrees that there is a need to strengthen capacities for combatting trafficking through the systematic training of law enforcement and justice practitioners, bearing in mind that training should always take into account the perspective and needs of victims <sup>(32)</sup>. The EESC draws particular attention to the need to increase the human resources of the services dealing with this issue.

4.3.3. The EESC believes that countering the business model for recruiting and exploiting victims via the internet requires compliance with the legal obligations already imposed on platforms, and dialogue with relevant internet and technology companies to reduce the use of online platforms for the recruitment and exploitation of victims <sup>(33)</sup>. The EESC believes that the European Digital Media Observatory <sup>(34)</sup> could be a useful tool for monitoring illegal online recruitment channels for human trafficking.

4.3.4. The EESC deems it essential to ensure that internet service providers and related companies support the fight against human trafficking by identifying and removing material associated with the exploitation and abuse of victims.

4.3.5. The EESC draws particular attention to the fact that the success of the fight to dismantle the criminal model and stop the exploitation of victims of human trafficking depends largely on the active involvement of society at large and the actions in particular of citizens, local authorities, the education system, the health system, the social partners, civil society organisations and the messages disseminated by the media and social networks. There is a responsibility shared by all of society to combat the crime of human trafficking. The EESC proposes that the Strategy consider specific information and

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<sup>(27)</sup> COM(2021) 171 final, p. 5.

<sup>(28)</sup> COM(2021) 171 final, p. 6.

<sup>(29)</sup> See the 2021 ILO report – *Access to protection and remedy for victims of human trafficking for the purpose of labour exploitation in Belgium and the Netherlands*.

<sup>(30)</sup> COM(2021) 171 final, p. 8.

<sup>(31)</sup> COM(2021) 171 final, p. 9.

<sup>(32)</sup> COM(2021) 171 final, p. 10.

<sup>(33)</sup> COM(2021) 171 final, p. 11.

<sup>(34)</sup> See DG CONNECT of the European Commission.

training programmes targeting these institutional and social actors, because the Strategy's effectiveness is directly linked to their respective engagement and efficiency.

#### 4.4. Section 5

4.4.1. The EESC believes that more effective referral systems for victims of human trafficking should be promoted in such a way as to ensure their protection and secure their rights at Member State level, through coordinated responses, with the expert assistance of civil society organisations, social partners and international non-governmental organisations, taking into account, inter alia, the sharing of best practice<sup>(35)</sup>.

4.4.2. The EESC supports the Commission's position advocating the non-punishment of victims for crimes they have been forced to commit, as well as the review — in a spirit of protecting victims — of the 2004 Council Directive as regards residence permits issued to victims of human trafficking.

4.4.3. The EESC endorses the Commission's position on strengthening cooperation on a European referral mechanism.

4.4.4. With regard to children, the EESC draws attention to the need to adopt a lifetime approach, as a traumatising event during childhood will have effects in adolescence and adulthood. The EESC believes that supporting these children's development should be part of the victim support strategy.

#### 4.5. Section 6

4.5.1. The EESC underlines that, in the international arena, the achievement of the UN Sustainable Development Goals is the key pillar for establishing economic, social, human rights and political conditions in countries of origin that enable their citizens to live a dignified life in peace and security. Sustainable development cooperation measures implemented by the EU and the Member States are one of the main instruments for this, which the EESC highlights and supports and proposes be promoted and included in the Strategy.

4.5.2. The EESC supports the Commission's efforts in external action with the various agencies of the United Nations and the Council of Europe to combat human trafficking, but points out that the ILO has very long-standing and fruitful experience in this fight<sup>(36)</sup>. The International Organization for Migration (IOM) also has a great wealth of experience and good practices that should be taken into account. The EESC recommends that the Commission include these agencies in the interinstitutional relations through which it will work to implement the Strategy.

4.5.3. The EESC believes that the existence of mixed migration flows, through which immigrants are introduced in parallel with human trafficking, should not be seen only from the perspective of tackling smuggling networks, and points to this end to the new Pact on Migration<sup>(37)</sup>.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(35)</sup> In this context, the new system adopted in Portugal, the System of National Reclassification for children who are (presumed) victims of human trafficking, constitutes good practice.

<sup>(36)</sup> Convention 29/1930 on Forced Labour, Convention 105/1957 concerning the Abolition of Forced Labour and the ILO Protocol of 2014 to the Convention on Forced Labour and the Abolition of Forced Labour.

<sup>(37)</sup> COM(2021) 171 final, p. 17.

**Opinion of the European Economic and Social Committee on Communication from the Commission to the European Parliament and the Council — The EU strategy on voluntary return and reintegration**

(COM(2021) 120 final)

(2021/C 517/13)

Rapporteur: **José Antonio MORENO DÍAZ**

Referral	European Commission, 31.5.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	7.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	219/1/4

## 1. Conclusions and recommendations

1.1. The strategy on voluntary return and reintegration aims to establish a shared approach to the design, development and implementation of the assisted voluntary return and reintegration programmes (AVRR) run by the Member States, identifying common objectives and fostering coherence between national programmes and between these programmes and the European Union. It also seeks to promote and establish common tools and to improve cooperation between Member States in these areas.

1.2. So far, having a wide array of instruments and approaches with regard to voluntary return and reintegration has translated into a melting-pot of initiatives, programmes and projects, which in many cases lack common reference frameworks. This makes it difficult to evaluate them and to implement them properly. The aim of this strategy is to further harmonise these reference frameworks and to encourage cooperation between European countries on the development of AVRR programmes.

1.3. The EESC welcomes the strategy as a management tool that seeks to improve coordination and Member States' shared objectives in the field of migration governance. The EESC agrees with the Commission's approach of further reviewing and harmonising the instruments, and improving data collection and counselling mechanisms for those affected, in order to, among other things, improve the fragmented approach to the issue, reduce the costs of return and increase the funding allocated to these programmes.

1.4. However, as on previous occasions, the EESC regrets that measures to improve legal entry routes, i.e. those which affect the majority of foreign nationals resident in the European Union, are being developed later than the proposals aimed at resolving irregular migration issues and in a more limited manner. A comprehensive approach to mobility is essential in order to offer alternatives that go beyond border control and return.

1.5. The EESC stresses that the majority of returns do not work properly due to the lack of involvement of the countries of origin, and because of the reluctance of people in irregular situations to participate. Accordingly, while appreciating the Commission's efforts, the EESC cannot help but doubt the effectiveness of some of the proposals put forward, such as the issue of sponsored return.

1.6. The EESC is also concerned about the future role of Frontex, especially given the publication of the European Parliament's report on the violation of rights by this European agency <sup>(1)</sup>. In the EESC's view, it is essential to demand the establishment of flexible and effective accountability mechanisms for Frontex's activities, as well as ensuring that they are carried out with respect for human rights.

1.7. The EESC supports better coordination between all stakeholders as well as the planned improvements to strengthen solidarity between Member States and cooperation with third countries. It also supports efforts to improve counselling and guidance on the issue of returns, and civil society's involvement in returns, especially sustainable reintegration. It also welcomes efforts to improve the availability of resources and the collection of data, as well as the exchange of best practices in these areas.

1.8. The EESC is concerned about the stated objective of increasing swift voluntary returns from the external borders, due to the lack of guarantees that they may entail. In particular, it is concerned that voluntary return may become a euphemism for expulsions or financial compensation paid to the destination countries that receive returnees, without ever taking sufficient consideration of their wishes, or, even more worryingly, their rights. The EESC also warns of the contradiction involved in offering incentives via programmes that are based on the existence of persons in irregular situations, as this may discourage countries of origin from trying to reduce the flow of migrants.

1.9. In this respect, the EESC continues to hold the view that the strategic weakness of the European Union's immigration and asylum policy is its almost exclusive focus on tackling irregular situations, whether at the border or through voluntary and forced returns. To that end, it again calls on the Commission to review its reference framework and effectively work towards an integrated approach to immigration and asylum policy that promotes orderly, legal and safe mobility.

## 2. Background

2.1. Facilitating voluntary return has been a strategic objective of the European Union's migration policy since the Return Directive was adopted in 2018 and as confirmed by the New Pact on Migration and Asylum.

2.2. Voluntary return refers to the mechanism which enables irregular migrants in the EU to return to their countries of origin. It is an instrument that allows a voluntary decision to be made by migrants, facilitates readmission to the country of origin and allows for better reintegration into the host society than forced return procedures. Of the 491 195 irregular third-country nationals who were ordered to return in 2019, 142 320 actually returned to a third country.

2.3. The aim of the strategy is to establish a shared approach to the design, development and implementation of the assisted voluntary return and reintegration programmes (AVRR) run by the Member States, identifying common objectives and fostering coherence between national programmes and between these programmes and the EU. It also seeks to promote and establish common tools and to improve cooperation between Member States.

2.4. The purpose of return and reintegration assistance is to assist irregular migrants to return voluntarily and start an independent life in their country of origin, thereby reducing the risk of further irregular immigration. Return assistance may include, for example, pre-departure counselling, psychosocial support and help making travel arrangements, assistance to meet immediate medical needs and/or financial support to facilitate the return and establish a stable life upon arrival. Reintegration assistance aims to help the person successfully reintegrate into society and may include immediate assistance and counselling upon arrival, support in finding or creating income-generating activities for the returnee, as well as activities with local communities.

2.5. The EU finances a significant number of actions linked to voluntary return and reintegration directly or through Member States' programmes. Between 2014 and 2018, nearly 60 AVRR programmes were financed through the Asylum, Migration and Integration Fund (AMIF), and similar initiatives have also been funded through the European Development

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<sup>(1)</sup> See the *Report on the fact-finding investigation on Frontex concerning alleged fundamental rights violations*, LIBE Committee on Civil Liberties, Justice and Home Affairs, 14 July 2021. [https://www.europarl.europa.eu/cmsdata/238156/14072021%20Final%20Report%20FSWG\\_en.pdf](https://www.europarl.europa.eu/cmsdata/238156/14072021%20Final%20Report%20FSWG_en.pdf)

Fund and instruments such as the Development Cooperation Instrument (DCI) and the Instrument for Pre-Accession Assistance (IPA). On the other hand, many Member States have their own AVRR programmes.

2.6. Having such an array of instruments has translated into a melting-pot of initiatives, programmes and projects, which in many cases lack common reference frameworks. This makes it difficult to evaluate them and to implement them properly. The aim of this strategy is to further harmonise these reference frameworks and to encourage cooperation between European countries on the development of AVRR programmes.

2.7. The strategy put forward by the Commission sets out the following objectives: 1) increasing the acceptance of voluntary returns among migrants and their share in the total number of returns; 2) creating an additional channel for cooperation and solidarity between Member States, contributing to sponsorship for returns; 3) improving the efficiency of individual and community assistance, reducing gaps and duplication and increasing synergies with other donors and third countries, including by offering better protection for vulnerable migrants; 4) setting out sustainable return and reintegration measures, to take account of and meet individual needs; 5) promoting the sustainability of returns and reducing further irregular migration, including through support for the host communities; 6) making reintegration measures more sustainable for individuals and communities and improving their contribution to third countries' development plans, including by building links with other development activities funded at national or EU level; 7) capacity-building for third countries and increasing their involvement in return, readmission and reintegration processes; 8) joining up the aforementioned objectives as part of a rights-based, migrant-centric approach.

2.8. Voluntary return offers returnees real opportunities and takes into account their needs, expectations and prospects upon return. Moreover, in line with the framework for cooperation with third countries, it may also involve the participation of countries of return. Reintegration is key to the efficiency and credibility of return programmes, as it involves developing tools to help migrants overcome the socioeconomic and psychosocial difficulties they face when they return to their community and to make their return more sustainable. Reintegration should be designed with the involvement of national and local authorities, local host communities and civil society to help provide real prospects for the returnee and their local community.

2.9. To support stakeholders with its implementation, the strategy will propose specific practical arrangements for achieving the aforementioned objectives and a toolkit, ranging from IT solutions to close data gaps and facilitate data management to guidance on project management, development planning and capacity-building.

2.10. The strategy has been the result of an open participatory process, involving various key actors, as well as national authorities responsible for AVRR programmes, bodies involved in return projects and service networks, etc.

### **3. Comments on the presentation of the strategy on voluntary return and reintegration**

3.1. The EESC welcomes the European strategy on voluntary return and reintegration as a management tool that seeks to improve coordination and Member States' shared objectives in the field of migration governance.

3.2. The EESC believes that, during a review of an instrument such as voluntary return and reintegration, there is room for improvements such as those pointed out by the Commission in its Communication. The aspects that the EESC considers key to improving the efficiency of these instruments are: improving the fragmented approach to the issue; reducing the costs of return; improving the system for collecting information; improving the counselling system for returnees; improving coordination between stakeholders; supporting the sustainability of voluntary return and reintegration projects; increasing the funding allocated to these programmes. The EESC also deems it essential to improve data collection and the identification of good practices in order to share lessons learned.

3.3. However, as stated on previous occasions (Opinion SOC/649 <sup>(2)</sup>), the EESC regrets that measures to improve legal entry routes, i.e. those which affect the majority of foreign nationals resident in the European Union, are being developed later than the proposals aimed at resolving irregular migration issues and in a more limited manner. The Committee reiterates that a comprehensive approach to mobility is essential in order to offer alternatives that go beyond border control and return.

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<sup>(2)</sup> OJ C 123, 9.4.2021, p. 15.

3.4. The EESC is aware of the difficulties that the majority of EU Member States face in ensuring effective returns, as well as the Commission's willingness to move to a common and effective European system of returns. However, the EESC would like to point out that the majority of returns do not work properly due to the lack of involvement of the countries of origin, and because of the reluctance of persons in irregular situations to participate. A voluntary return in order to avoid forced expulsion cannot be considered as an act of one's own accord.

3.5. The EESC reiterates its doubts concerning the issue of sponsored returns, as the incentives for Member States to participate in this mechanism are unclear, and it continues to be based on voluntary solidarity.

3.6. The EESC recognises the Commission's efforts on the issue of returns, both in terms of follow-up to national programmes and of the financial incentives provided by the EU. In this regard, the European Return and Reintegration Network, which facilitates cooperation between the authorities responsible for migration, should be highlighted. The Commission expects Frontex to take over this network's activities from 2022, which is of great concern to the EESC, given the European Parliamentary working group's report on the violation of rights by this European agency. In the EESC's view, this arrangement makes it necessary to establish flexible and effective accountability mechanisms for Frontex's activities, as well as ensuring that they are carried out with respect for human rights<sup>(?)</sup>. This point must be emphasised, as the protection of human rights is key in all the European Union's actions, including migration policy, and in return and reintegration processes, and the supervision of Frontex's role must be carried out (and rectified if necessary) in real time.

3.7. Return and reintegration programmes involve a significant number of stakeholders, service and training providers, and exchanges of information and resources, in both the countries of departure and entry. This dynamic is based on the presence of people in irregular situations in Europe. It is therefore worrying to think that it could lead to the possible emergence of business activities that survive on the very existence of such persons in irregular situations, which could in turn encourage this immigration route, with the expectation of (voluntary or forced) return.

#### 4. Some additional considerations regarding the strategy's approach

4.1. The EESC continues to hold the view that the strategic weakness of the European Union's immigration and asylum policy is its almost exclusive focus on tackling irregular situations, whether at the border or through voluntary and forced returns. Legal, flexible, safe and efficient entry mechanisms are needed to prevent irregular situations and, moreover, to limit the potential for economic exploitation based on such situations.

4.2. The EESC is concerned about the stated objective of increasing swift voluntary returns from the external borders, due to the lack of guarantees that they may entail. If the voluntary return process is to be understood as a mature decision (by the person concerned) comprising reintegration measures (involving the public administrations of both countries), promoting this border model would be unthinkable. Otherwise, voluntary return may be understood as a euphemism for expulsions or financial compensation paid to the destination countries that receive returnees, without ever taking sufficient consideration of their wishes, or, more worryingly, their rights.

4.3. Effective coordination between all stakeholders. The EESC has nothing but support for the improvements to coordination between public policy stakeholders. However, it is concerned that the network of operators and stakeholders who view voluntary return as a business opportunity is expanding, and that they do not care about the needs of returned persons.

4.4. Improving solidarity and cooperation. Returns and reintegration actions should be carried out in a framework of cooperation and solidarity between Member States. This means enhancing coordination instruments to go beyond economic contributions by also providing support through knowledge, commitments and lessons learned. Moreover, all actions should be based on respect for and cooperation with the third countries where these initiatives will take place, promoting not only institutional participation but also cooperation with and contributions from civil society.

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<sup>(?)</sup> See the recommendations made to this effect in the *Report on the fact-finding investigation on Frontex concerning alleged fundamental rights violations*, LIBE Committee on Civil Liberties, Justice and Home Affairs, 14 July 2021. [https://www.europarl.europa.eu/cmsdata/238156/14072021%20Final%20Report%20FSWG\\_en.pdf](https://www.europarl.europa.eu/cmsdata/238156/14072021%20Final%20Report%20FSWG_en.pdf)



4.5. Support for voluntary return and reintegration of migrants from third countries and between third countries. In the EESC's view, supporting cooperation between third countries is key to migration governance. Focusing this cooperation on instruments that link up existing resources with irregular situations does not seem the most appropriate way to discourage such situations.

4.6. An effective system for counselling and guidance on returns. Improving information provided to migrants throughout the process is key, based on the premise that, even during expulsion procedures, the rights of persons are inalienable and must be guaranteed. It is precisely for this reason and due to the large number of stakeholders involved in a successful voluntary return programme (in the countries of origin and destination, diaspora, etc.) that such programmes cannot be established as 'express' tools, or without linking them clearly to reintegration programmes.

4.7. Guaranteeing the quality of support. Once again, the EESC can only agree on the importance of providing voluntary return assistance comprising a wide range of services, including: counselling, medical and psychological support, financial and legal support and practical support to help with making travel arrangements. It reiterates, therefore, that the AVRR programmes cannot be interpreted as an instrument for mass or generic use. For example, the voluntary return of families requires special consideration for minors, which is different from other types of return. The role of Frontex in the provision and evaluation of some of these services is currently a cause for concern.

4.8. Promoting the sustainability of reintegration support and the involvement of partner countries. This point is key, not only for returnees' futures, but also in relation to the goal of avoiding further irregular immigration. The EESC again warns of the contradiction involved in offering incentives via programmes that require the existence of persons in irregular situations, as this may discourage countries of origin from trying to reduce the flow of migrants. Moreover, depending fully on the will of third countries to ensure the effectiveness of a policy such as that of voluntary return could seriously undermine the credibility and coherence of European migration policy.

4.9. Funding voluntary return and reintegration. It is clear that the EU is a key player in funding various aspects of the AVRR programmes. It is essential that cooperation with third countries on any aspect be based on the third countries respecting international public law, as well as the protection of human rights and the fundamental freedoms. Any area for cooperation with third countries on human rights issues should be welcomed by the European Parliament. Making cooperation on return issues a condition of the European Union's external action and neighbourhood policy, in a counterfactual manner, is actually more of an incentive for irregular situations than a mechanism for reducing them.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to tackle Organised Crime 2021-2025**

(COM(2021) 170 final)

(2021/C 517/14)

Rapporteur: **Rafał Bogusław JANKOWSKI**

Referral	European Commission, 31.5.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	7.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	226/0/4

## 1. Conclusions and recommendations

1.1. The EESC welcomes the European Commission's proposal on the EU Strategy to tackle Organised Crime 2021-2025. This strategy sets out the priorities, actions and targets to be achieved over the next five years. This is all the more important given that this is the first strategy on organised crime since the Treaty of Lisbon came into force, setting out specific medium- and long-term objectives to be carried out in full respect of fundamental rights.

1.2. The EESC notes that the strategy is based mainly on reinforcing existing instruments to support cross-border cooperation, including international cooperation, fighting high-priority crimes, tackling the financing of criminal activities and methods to infiltrate the economy — not least through corruption — and to support actions combatting criminals' use of new technologies.

1.3. The EESC believes that the EU and the Member States should be capable of anticipating the activities of criminal organisations to be one step ahead of them, focusing on monitoring, infiltration of endangered environments, collecting and analysing data as well as on preventive steps. In this context, particular emphasis must be placed on developing modern, comprehensive forms of international cooperation, enhancing the functional capacity of the systems and databases used cooperation with civil society organisations, as well as investing in new technology instruments.

1.4. The EESC welcomes the idea of further developing activities as part of the EU Policy Cycle EMPACT (European Multidisciplinary Platform Against Criminal Threats). The EESC regards as fully justified the announcement of increased funding for this initiative as well as support for development of cooperation with third countries in this regard.

1.5. The EESC is convinced that particular attention should also be paid to:

- the assistance and support provided by Europol and EMCCDA (European Monitoring Centre for Drugs and Drug Addiction) in the risk analysis of drug-related crime;
- development and improvement of the functioning of existing systems, such as: SIS, the Prüm framework, the Passenger Name Record (PNR) and Advance Passenger Information (API);
- the importance of developing and improving cooperation networks and international action to effectively combat organised crime groups, such as: a platform for Joint Investigation Teams (JITs) and so-called High Value Targets (HVT).

1.6. The Committee wishes to underline its support for the allocation of additional resources to assist Member States with advanced cyber-solutions, in order to acquire e-information, safeguard e-evidence and make available specific technical equipment and software for active use in cross-border operations and investigations.

1.7. The EESC recognises that reinforcing asset recovery and anti-money laundering measures as well as promoting financial investigations to eliminate profits generated by organised crime and preventing infiltration into the legal economy and society are key in the fight against organised crime <sup>(1)</sup>.

1.8. The EESC notes that organised crime can have a strong impact on local communities, public and municipal services, the protection of vulnerable groups, the environment for local business activities, especially for SMEs, and in the area of climate neutrality activities. The EESC recommends increasing the role in combatting organised crime in a broad sense, in particular in prevention, for: NGOs, civil society organisations, academia, youth organisations, social control institutions and whistleblowers.

1.9. The EESC encourages the Member States to carry out public campaigns on organised crime, so that citizens receive the necessary information on how organised criminal groups operate and how to avoid them. Cooperation with the European Crime Prevention Network is an excellent addition to this type of activity. Each Member State should make every effort to establish a clear and secure information system, ensuring anonymity, for incidents and phenomena that may be linked to organised crime.

1.10. The EESC wishes to point out that making law enforcement and the judiciary fit for the digital age, including ensuring access to digital leads and evidence, is one of the most important aspects of the fight against organised crime.

1.11. In order to increase civil society's access to information, the EESC proposes setting up a mechanism for a (mid-term and final evaluation) review of the implementation of the EU Strategy to Tackle Organised Crime 2021-2025, on the basis of information provided by the European Commission.

1.12. The EESC notes that to effectively prevent and combat organised crime groups and ensuring the safety and security as one of the highest priority for citizens of the European Union, law enforcement authorities need to have access to the necessary information in full respect of fundamental rights. There should be no concerns with regard to privacy protection and fundamental rights in the processing of data. The processing of personal data is already very strictly regulated and up-to-date and harmonised legislation would allow for more effective examination of issues relating to data protection.

1.13. The EESC welcomes and supports the initiative to develop cooperation with third countries, in particular:

- Start negotiations for agreements on cooperation between Eurojust and third countries;
- Step up negotiations on cooperation between Europol and third countries;
- Reinforce, jointly with the European External Action Service, international cooperation with third countries and international organisations.

## 2. Commission proposal

2.1. The European Commission's proposal for an EU Strategy to Tackle Organised Crime 2021-2025 seeks to comprehensively address the complex and broad issue of organised crime. This strategy sets out the priorities, actions and targets to be achieved over the next five years. This is all the more important given that this is the first strategy on organised crime since the Treaty of Lisbon came into force, setting out specific medium- and long-term objectives to be carried out in full respect of fundamental rights.

2.2. The European Commission points out that organised crime is a key threat to people's security across the EU. There is an increasing number of organised criminal groups operating across the EU, generating huge profits and using them to expand their own activities, as well as to infiltrate the legal economy.

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<sup>(1)</sup> OJ C 429, 11.12.2020, p. 6.

2.3. The priorities set by the European Commission point to the need to strengthen action at EU level to support Member States in the fight against organised crime by:

- boosting law enforcement and judicial cooperation;
- disrupting organised crime structures and tackling high priority crimes;
- eliminating profits generated by organised crime and preventing infiltration into the legal economy and society;
- making law enforcement and the judiciary fit for the digital age.

2.4. All initiatives that identify and step up operational, non-operational and training-related cooperation are important, just as those (different, various) initiatives that point to the fact that, given the current context and the various threats posed by organised and serious crime, the only option and way forward is to cooperate, work together, exchange good practices with international partners, improve the functioning of existing systems and to invest in the development of new technologies.

### 3. General and specific comments

3.1. Serious and organised international crime is one of the biggest global threats to the development of modern societies. Organised criminal groups are highly mobile and, in most cases, operate internationally, so it is not possible for countries to combat them effectively by working alone. The cross-border nature of organised crime implies the need for close cooperation between services, institutions and their foreign counterparts within the European Union and international agencies. Therefore, the EESC considers the Commission's strategy as timely and very important.

3.2. Today's threats translate into the need to form not only new areas of cooperation, bringing together the competences of the different actors working in the areas of security and with a view to strengthening mechanisms to tackle and combat crime, but also to make use of other instruments and technologies. The EESC considers that close cooperation between EU institutions and Member States in this field is therefore needed, as is coordination and the possibility of using Europol's operational support.

3.3. The EESC considers it essential to further develop the action plan to combat organised criminal groups, high-category targets that pose the greatest threat, using operational task forces (OTF), international projects and regional initiatives. Both the so-called High Value Targets and operational task forces should be seen as examples of practical and real support for EU Member States.

3.4. Criminal activity that can be currently observed in cyberspace uses only advanced technology to carry out traditional crimes of illicit trafficking in firearms and ammunition, substances used to produce explosives, narcotics and new synthetic drugs. The biggest obstacle to the effective detection of this type of crime is undoubtedly the use of anonymising tools for criminal activities. Encrypted communication through the different applications and online messaging devices used by perpetrators of crimes is a serious problem in the detection process.

3.5. Lack of access by law enforcement authorities to the encrypted communications used by organised criminal groups should be seen as one of the biggest shortcomings, as lack of access to information effectively prevents action from being taken in good time. Therefore, the EESC believes that the new Europol decryption tool launched by the European Commission, which will help address these challenges, should be considered highly practical and necessary. All the same, further work is needed in this area given the rapid development of new technologies.

3.6. Another aspect of the fight against cybercrime is the Darknet, i.e. the area of the internet network accessed using the Tor network, effectively ensuring the anonymity of criminals using the dark market — underground commercial services where criminal activities are carried out involving the trafficking of arms, drugs, stolen credit card data, malware, with offers of contract killers. Payment for transactions is made through virtual currencies, which, as an instrument for the anonymous transfer of funds obtained from criminal activities in cyberspace (e.g. Bitcoin), can also be used to launder criminal money. Law enforcement authorities do not have the appropriate legal tools to require service providers to make encryption keys available to access communication content, provide free transmission of data for the purposes of ongoing proceedings or to register user data and IP incidents concerning phone calls and SMS messages.

3.7. The EESC urges the EU institutions to improve the legal framework in order to support and strengthen the capacity of specialised institutions in the Member States to fight effectively against these threats. The announcement to develop, through its Joint Research Centre, a monitoring tool to gather intelligence on illegal activities in the Darknet, should be viewed as extremely ambitious. At the same time, the development of such a tool can be seen as a landmark in the fight against organised crime in cyberspace.

3.8. Law enforcement practice and experience would suggest there is an increased risk of cryptocurrencies being used for criminal activities, including money laundering and fraud — particularly by means of ICT networks — in settlements relating to ransomware-inspired extortion. An equally important and predictable threat is the possibility of criminals using cryptocurrencies to eliminate the risk of law enforcement authorities seizing illicitly acquired assets. The EESC recommends further steps in developing regulation for monitoring and control of financial transactions using these types of instruments.

3.9. The EESC believes that the technical domain should be very much welcomed as another area of support for Member States. The availability of advanced infrastructure will make actions more effective and will significantly reduce the financial burden on individual institutions (increasing the effectiveness of funds spent at national level). Indeed, the challenge for Member States is updating the equipment and software of tools that can effectively combat cybercrime, something which, given the fast-changing market and its development, places a significant financial burden on individual institutions. Therefore, the EESC recommends that the Commission and Member States better evaluate institutions' needs and allocate sufficient resources, in order to allow them to act affectively against these threats.

3.10. The EESC supports and considers very important the European Commission's plan to propose legislation to improve the protection of children against sexual abuse, including by requiring online service operators to detect known child sexual abuse material and through the reporting of such material to public authorities<sup>(2)</sup>.

3.11. The EU's anti-counterfeiting toolbox setting out the principles for joint action, cooperation and data exchange between law enforcement authorities, rights holders and intermediaries is gaining new importance, particularly in the context of the counterfeiting of medical and sanitary products during the COVID-19 pandemic. Indeed, organised crime has been involved in the production and supply of counterfeit protective equipment, test kits and medicinal products. As the EESC considers cooperation and data exchange to be a key element, it therefore supports the further development of this tool.

3.12. The EESC, as the voice of European civil society, considers that activities in the area of environmental protection and cultural goods require appropriate support, including capacity building for experts and structural cooperation.

3.13. The EESC considers it important for Member States to use of the possibilities offered by the Anti-Money Laundering Operational Network, an informal international network of law enforcement anti-money laundering units, and the Camden Asset Recovery Inter-agency Network (CARIN), an informal network of law enforcement and judicial practitioners specialised in the field of asset tracing, freezing, seizure and confiscation.

3.14. The EESC supports the Commission's proposal for development of a cybercrime training system, and recommends particularly the creation of a certification/accreditation system for digital investigation experts, as a very practical dimension in the fight against cybercrime.

3.15. Serious and organised crime is one of the biggest global threats to the development of modern societies. Tackling organised crime has never been as challenging as it is today. Criminals' methods are becoming increasingly sophisticated, specialised, concealed and disguised as various other activities. In light of this, the EESC supports that all initiatives to

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<sup>(2)</sup> OJ C 374, 16.9.2021, p. 58.

identify and step up operational, non-operational and training-related cooperation are important, as are initiatives pointing to the fact that, given the current geopolitical context and the various threats posed by organised and serious crime, the only option and way ahead is to cooperate, work together and exchange good practices on the international stage.

3.16. Tackling the financing of criminal activities, and asset recovery and confiscation, are crucial to uncovering criminal activities, with disrupting criminal structures, breaking the code of silence and stopping new criminal activities also being essential. This also prevents the infiltration of the legal economy and society. However, despite the development of the legal framework in this area and the expansion of tactics employed by law enforcement authorities, only 1 % of criminal assets are confiscated. The EESC considers that the challenges posed by tackling drug trafficking in the Darknet are primarily a fast-changing market (very short lifespan of markets) and a complex system for identifying cryptocurrency payments. The lack of wide knowledge among law enforcement officers in the area of cybercrime, including internet/Darknet drug crime, is a weakness that can be eliminated if the Commission's proposals are implemented.

3.17. The EESC propose that measures to prevent crime by raising public awareness should be considered. This could include public campaigns raising citizens' awareness of new threats and areas of organised crime and their modus operandi, as societies and citizens often do not recognise the activities of organised criminal groups as criminal activities.

The creation of a system whereby EU citizens can easily inform law enforcement authorities (anonymisation of reports) if they detect possible signs of criminal activity could have a significant impact both on the sense of security and the effectiveness of the fight against organised crime.

3.18. Law enforcement authorities and police services around the world are most likely to respond only after a crime has been committed and in most cases are unable to take counter-measures before a crime has occurred. The EESC considers the ideal approach would be to react and prevent criminal activity, but everyone should be aware that staying one step ahead of criminal groups is extremely difficult. Criminals use new technologies with ease, they are not restricted by budgets, laws or political correctness, and prioritise profit over people's lives. Criminals adapt extremely quickly to new conditions, create new ways of working and enter areas where they have not been active before. The COVID-19 pandemic could be an example here.

3.19. Each year, within the framework of EMPACT, operational action plans are prepared that respond to the latest trends in crime at European and global levels. Importantly, the action plan reflects the concerns of the countries of the European Union and of cooperating third countries such as Iceland, Norway and Switzerland. Their work makes it possible not only to identify problems at an early stage, but also to develop an appropriate working methodology. There is also need to financially support operational activity to tackle organised crime.

3.20. The EESC would like to stress the importance of the new instruments to tackle organised crime, such as: a) SIS, the Prüm framework, the Passenger Name Record (PNR) and Advance Passenger Information (API); b) platform for Joint Investigation Teams (JITs) to improve communication and exchange information and — in the same context — the strengthening of Eurojust's cooperation with third countries; and c) so-called High Value Targets (HVT), using operational task forces, international projects and regional initiatives — to develop networks of cooperation and international action to effectively combat organised crime groups.

3.21. The differences in legislation or practice between Member States are often cited as a reason for weak international cooperation or the lack thereof. The initiative to create an EU Police Cooperation Code should therefore be all the more welcome. An external study already launched by the European Commission to evaluate the 2008 Council Framework Decision on the fight against organised crime will undoubtedly be helpful in this respect.

3.22. An important role in promoting the local dimension, combined with an administrative approach to tackling organised crime, is played by the method whereby local authorities, in cooperation with law enforcement and civil society, use administrative tools to prevent organised crime from infiltrating legitimate businesses and administrative infrastructure.

3.23. The problem of tackling organised crime, comprehensively discussed in the European Commission's strategy for 2021-2025, is a constantly changing criminal phenomenon, entering in various forms into all areas of our life and the political and social sphere. It uses the latest advances in the digital era and continues to traditionally prey on poverty, the



lowest instincts, making desperate people dependent on them, forcing them through terror into criminal activities. The EESC realises that this requires joint actions by the EU and Member States and an understanding of the need to stay ahead of criminal organisations, identifying new trends in criminal groups which operate independently of political and administrative boundaries.

3.24. The EESC has recently dealt with the fight against terrorism related to combatting organised crime in its opinions and information report. The EESC will continue to monitor, on behalf of civil society, the next steps taken against organised crime groups, noting with satisfaction the Commission's suggestions to the Council and the European Parliament to engage in this common endeavour the European External Action Service, Eurojust and Europol in negotiations with third countries in this regard <sup>(3)</sup>.

3.25. The EESC underlines that civil society organisations, independent monitoring institutions and whistleblowers should be consulted and involved, with full protection, in the mechanism to combat organised crime, in order to effectively protect citizens, the European economy and local communities and to safeguard the rule of law and fundamental rights.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(3)</sup> SOC/673 *Strengthening of Europol's mandate* (OJ C 341, 24.8.2021, p. 66), SOC/675 *Evaluation of the directive on combating terrorism*, SOC/676 *A counter-terrorism agenda for the EU*, (OJ C 341, 24.8.2021, p. 71).

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

(COM(2021) 282 final — 2021/0137 (NLE))

(2021/C 517/15)

Rapporteur: **Marina Elvira CALDERONE**

Referral	Council of the European Union, 11.6.2021
Legal basis	Article 148(2) of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	7.9.2021
Adopted at plenary	23.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	185/1/16

## 1. Conclusions and recommendations

1.1. The EESC welcomes the proposal for a Council Decision on guidelines for the employment policies of the Member States. The guidelines are a useful benchmark for steering the employment policies towards supporting the gradual hoped-for exit from the crisis situation caused by the pandemic and for directing the various forms of economic support towards a favourable outcome in terms of employment. Moreover, these guidelines provide a valuable reference for resilience and recovery measures to lay the foundation for the creation of quality jobs in an environmentally and socially sustainable economy. Coordinating effective employment policies is a key way to improve the level of cohesion between Member States and reduce social and economic disparities.

1.2. The employment guidelines must take into account the impact of the COVID-19 pandemic on the labour market, the European Pillar of Social Rights Action Plan and the outcome of the Porto Social Summit, which set ambitious social targets for employment, combating poverty and access to skills. The employment impact of aid instruments such as SURE and NextGenerationEU, based on EU bond issuance as a way of mutualising the debt generated to support labour policies, inter alia, will also need to be monitored. The national recovery and resilience plans will also ensure the availability of resources for Member States' labour policies, but will be subject to specific conditions on the objectives, areas of intervention and how the money is spent, with a special focus on active labour policies.

1.3. European policies need to be coordinated with the objectives of the employment guidelines, strengthening the labour market, supporting firms' productivity and competitiveness, as well as the social market economy of the European Union and strengthening structural measures for the transition from temporary job protection measures to quality job creation. In these processes, full use must be made of social dialogue, collective bargaining and the participation of the social partners and civil society representatives in decision-making.

1.4. With regard to Guideline 5, 'Boosting the demand for labour', the EESC considers it necessary that the process of recovery in demand be accompanied by measures aimed at increasing demand itself, promoting access to the labour market, the economic and social sustainability of businesses, the professionalisation of workers and the upgrading of working conditions. This can be achieved by fully exploiting the opportunities to transform production systems, adopting digital technologies and tools for environmental sustainability and promoting lifelong learning. Economic policy measures must be closely coordinated with policies to boost demand for labour.

1.5. With regard to Guideline 6, which aims to increase labour supply and improve access to employment, skills and competences, the EESC notes that it is crucial that each Member State is able to plan effective coordination between the investment measures for training and the labour market provided for by the national recovery and resilience plans (NRRPs) and the Structural Funds. The current crisis has shone further light on the need to recognise and ensure the right to lifelong learning and effective access to quality education and training and skills upgrading, and to reduce the current disparity in the use of further training, both among production categories and between Member States; the target on access to training

set in the social pillar action plan will measure the capacity of Member States to equip themselves with new tools that reduce inequality of access and respond to labour market needs regarding the new skills needed.

1.6. As regards Guideline 7, 'Enhancing the functioning of labour markets and the effectiveness of social dialogue', the EESC advocates establishing a European digital platform for matching of labour supply and demand. It would set a shared standard among Member States and employment services, so as to promote active policies and European mobility, including by strengthening public and private employment services. The adoption of strong measures for safety and risk prevention must be the basis for the promotion in each Member State of a more widespread culture of prevention, as a fundamental component for the dissemination and sharing of a 'work culture' that enhances the potential of each person, promotes wellbeing and eliminates all situations of danger and risk in the workplace. Social dialogue and collective bargaining are an important pillar of the sustainability and resilience of European economies, but in some Member States there is still a need for a regulatory and institutional framework at national level that facilitates and supports industrial relations systems.

1.7. In tandem with strengthening employment policies aimed at employed work, the EESC considers it important to boost the capacity of Member States to promote self-employment and professional work, especially among young people.

1.8. Guideline 8 aims at 'promoting equal opportunities for all, fostering social inclusion and fighting poverty'. The EESC agrees with this approach, as it is essential to frame an employment policy strategy that ensures equal opportunities in the labour market and in employment relationships. The relationship between welfare, the labour market, the functioning of the economy and the fight against inequality and poverty constitutes a fundamental orientation and guideline for employment policies capable of establishing a connection between economic growth and social development. The EESC also reiterates the importance of designing effective inclusion policies, to be considered as a crucial investment in that same growth and upgrading of economic and production systems. It is also crucial to introduce measures to avert the risk of 'new poverty' among low-income workers, in conjunction with other coherent anti-poverty strategies.

## 2. Background

### 2.1. Introduction

2.1.1. The employment guidelines were adopted in 2019; in 2020 they were aligned to incorporate elements related to the COVID-19 crisis, the green and digital transition and the Sustainable Development Goals. The EESC has already presented an analysis and assessment of this matter in opinion SOC/646 <sup>(1)</sup>, which we reiterate. This opinion, however, sets out further comments in view of the impact of the pandemic crisis on the living and working conditions of European citizens and on the need to re-jig the priorities of the Member States and the European institutions.

2.1.2. Under the Commission proposal, the employment guidelines — appended to Council Decision (EU) 2020/1512 <sup>(2)</sup> — are to be maintained for 2021 and are to be taken into account by the Member States in designing their employment policies and national reform programmes. The priority now appears to be to ensure that measures supporting resilience and economic and productive recovery have a positive social impact.

2.2. The guidelines are:

- Guideline 5: Boosting the demand for labour;
- Guideline 6: Enhancing labour supply and improving access to employment, skills and competences;
- Guideline 7: Enhancing the functioning of labour markets and the effectiveness of social dialogue;
- Guideline 8: Promoting equal opportunities for all, fostering social inclusion and fighting poverty.

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<sup>(1)</sup> OJ C 232, 14.7.2020, p. 18.

<sup>(2)</sup> Council Decision (EU) 2020/1512 of 13 October 2020 on guidelines for the employment policies of the Member States (OJ L 344, 19.10.2020, p. 22).

2.3. The proposal stresses that the EU and its Member States should:

2.3.1. combat social exclusion and discrimination and promote social justice and protection, as well as gender equality, solidarity between generations and the protection of the rights of the child. At the Social Summit in Porto, Member States committed to implement the ambitious social targets for the development of national policies and new European instruments to support the green and digital transition and towards economic and social convergence that enhances the competitiveness of the EU social market economy;

2.3.2. ensure that economic and employment policies are coordinated to achieve climate neutrality in the EU, support Europe's transition to a sustainable digital and green economy, update skills, and improve competitiveness, while ensuring decent working conditions, stimulating innovation, promoting social justice and equal opportunities, as well as addressing regional inequalities and disparities. Sharing policies and implementing effective and consistent employment strategies is a key element in moving from emergency management to a recovery phase that promotes environmentally and socially sustainable development and creates new jobs and better employment conditions;

2.3.3. work together to address structural factors such as climate change and environmental challenges, globalisation, digitalisation, artificial intelligence, teleworking, the platform economy and demographic change, adapting existing systems where necessary;

2.3.4. adopt the necessary measures and policies to strengthen the sustainable growth of the economy, quality employment and productivity, while enhancing social and territorial cohesion, fostering upward convergence and the resilience of economies and promoting Member States' fiscal responsibility;

2.3.5. ensure that labour market reforms, including national wage-setting mechanisms, respect national practices of social dialogue and collective bargaining, with the aim of ensuring fair wages and decent living and working conditions;

2.3.6. ensure that the economic, social and employment impact of the COVID-19 crisis is mitigated with effective policies and instruments.

2.4. The Member States and the EU are to work towards developing a coordinated strategy for employment and particularly for promoting a skilled and trained workforce adapted to the ongoing changes (as well as labour markets that are future-oriented and responsive to economic change). The Member States are to regard promoting employment as a matter of common concern and are to coordinate their action in this respect within the Council. Article 148 TFEU provides that the Council is to adopt employment guidelines, which define the scope and direction of coordination of Member States' policies and serve as a basis for country-specific recommendations under the European Semester.

2.5. It is important to stress that the presence of risk factors, as made evident by the impact of the COVID-19 pandemic on economic and social systems, requires support instruments, including financial ones, that enable Member States to share common initiatives to counter the impact of crises on the working and living conditions of European citizens.

2.6. The EESC believes that the decisions taken by the Commission over the last few months, which have led to the adoption of national recovery and resilience plans, are to be welcomed and go in the direction of supporting a fair and sustainable development model. Similarly, it is important to prevent — when emerging from the crisis triggered by the pandemic — an increased risk of social exclusion and an acceleration in the territorial imbalance that has worsened in recent years, including between European regions, as noted in 2013 by the European Commission's Regional Competitiveness Index, which measures the competitiveness of regions.

2.7. Building an inclusive economic and development model requires policies and investments aimed at strengthening infrastructure for productivity, digitalisation and logistics, to be backed up by measures aimed at boosting territorial cohesion, promoting human capital and training the workforce, while also bolstering the tools that support the labour market and the system of social and personal services. A Europe that includes excessive differences and inequalities in access to opportunities is weaker, and the EESC believes that cohesion must continue to be the pillar of reference also for policies aimed at growth.

2.8. The crisis resulting from the pandemic has exacerbated certain structural problems in the European labour market. It has also highlighted issues that require a comprehensive policy to address both the situation of the most vulnerable groups and the problematic issues in particular sectors of the labour market. The transition that Member States are facing requires strongly supported and closely coordinated policies, actions and measures, as well as constant support through social dialogue.

2.9. All workers should have access to social protection, also in telework and in the new forms of work, including platform work, strengthening welfare systems. The inclusion of the most vulnerable groups and the full promotion of the female participation of the labour market must be encouraged, in order to avoid all forms of discrimination and to eliminate the gender pay gap.

### 3. General comments

3.1. With reference to previous opinions on the employment guidelines, the EESC stresses the following:

3.1.1. Combating discrimination ties in with efforts to improve the quality of work, and this requires strategies to be coordinated among Member States to link productivity and competitiveness to systems that promote human capital and ensure the best working conditions for workers.

3.1.2. Crisis situations tend to increase social risk factors and in particular inequality, and for this reason, investment and support for economic recovery must be linked to a robust system of investment in social and labour infrastructure, capable of improving social protection standards in the Member States through appropriate policies and measures.

3.1.3. The process of upgrading Europe's economic and social systems must include strong, joint action to prevent social dumping between Member States based on a reduction in protection, guarantees and safety for workers, while promoting fair innovation-orientated competition based on the development of the workforce and the sustainability of production and services. Active labour market policies are necessary such as temporary hiring incentives for vulnerable groups, upskilling and reskilling opportunities and entrepreneurial support, including for the social economy.

3.1.4. When it comes to innovation, the impetus from the younger generations, who must be guaranteed access to quality and stable jobs, is crucial; the mobility of workers between Member States must also be promoted. The EESC agrees with the content of the Porto Declaration, which states that 'young people are an indispensable source of dynamism, talent and creativity for Europe'. To this end, self-employment, intellectual and professional work is an important element to be supported, together with new business activities and innovative start-ups.

3.1.5. The need to ensure the social quality of growth calls for renewed focus on non-productive work, in particular personal and local services and forms of cooperative organisation of economic and social activities, in a context where social ties are seen as a key element for development and growth.

3.1.6. In this context, it seems essential that the guidelines focus on implementing the European Pillar of Social Rights, which is the benchmark for ensuring that the measures to overcome the economic and social crisis, have an appropriate, positive impact on society against a background of increased risk of exclusion caused by the health emergency<sup>(3)</sup>. The three new targets set in the action plan on the employment rate, access to training and skills matching and combating poverty, starting with child poverty, require the Member States to establish policies and instruments, as part of the European Semester process, which set out the milestones for achieving these targets. In addition, the Committee has already stressed the need to establish new social indicators to measure the progress made by the Member States.

3.1.7. The active and structured involvement of the social partners and civil society organisations is essential for implementing the national recovery and resilience plans (NRRPs) and achieving the objectives of the action plan. The Committee reiterates the need to establish formal consultation procedures that facilitate real exchanges with national governments and institutions and remove existing obstacles to the effective consultation and participation of civil society; furthermore, tools need to be developed to strengthen collective bargaining and to foster contractual coverage.

3.1.8. It is quite clear that training systems and lifelong learning are the link between social, economic and employment policies, and that this centrality and cross-cutting nature of skills is also crucial for the effectiveness of active policies and should be a basic tenet of the guidelines.

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<sup>(3)</sup> OJ C 374, 16.9.2021, p. 38

3.1.9. Developing the quality of training systems should be identified as a priority objective, not only when promoting cross-cutting skills related to digital and environmental sustainability, but also in terms of enhancing soft skills and the ability to cooperate among workers.

3.1.10. The emergency situation has led the activation of specific forms of support aimed at crisis management and mitigating the risk of unemployment, including the SURE programme. In the light of Guideline 5 and during the recovery process, it would seem important that the Commission maintain the financing and support instruments for combating the crisis, together with instruments and policies for reintegrating the unemployed into the labour market.

3.1.11. These interventions should allow for financial support for measures such as short-time working schemes, income compensation mechanisms and other measures to prevent unemployment, until the current crisis situation resulting from COVID-19 has been overcome.

3.1.12. From this perspective, it is crucial in 2021 to continue the policies launched since 2020, through the use of solidarity instruments, aimed at relieving situations with the greatest employment difficulties, supported by active labour market policies.

3.1.13. It is therefore vital to facilitate access to credit, support innovative and productive investments, and, in general, to create the territorial, fiscal and infrastructural conditions conducive to innovation and the promotion of economic initiatives, particularly for SMEs, social economy enterprises, self-employment and professional employment, which have an impact on employment.

#### 4. Specific comments

4.1. The EESC reiterates the views it expressed in opinion SOC/646, but wishes to highlight certain points in view of the impact of the pandemic, which has shone a light on certain problem areas, as well as priorities for action. The EESC considers it essential, given the imbalances that have been growing for more than a decade and have been exacerbated by the crisis resulting from the consequences of COVID-19, to intervene with effective policies to align economic growth with social development, through measures to support competitiveness and build on the quality of labour systems and employment policies. To this end, investments linked to the NRRPs must be implemented in the Member States and checked against the objectives of the guidelines for 2021, with a particular focus on enhancing labour demand and supply and promoting conditions for equal opportunities, the functioning of the labour market and inclusion. It is important to work towards close, consistent coordination between the policies adopted to deal with the emergency, the forms of support launched through the SURE fund, the measures and investments promoted for recovery through the Recovery Plan and the measures defined and financed through the 2021–2027 programming of the Structural Funds.

4.2. The economic recovery hoped for in 2021, made possible in particular by investment projects linked to the NRRPs, can lead to a widespread recovery in employment if accompanied by targeted measures by the Member States in the social and labour field that respond to the challenges of the changes taking place.

4.3. Against this backdrop, it is important to reiterate the objectives of the European Pillar of Social Rights and the Agenda for Sustainable Development. These are decisions that must push the Commission and the Member States in the direction of choices that cannot be postponed, which the pandemic has made even more evident and necessary in terms of the development model to be promoted. In particular, the objectives set in the Agenda for economic, environmental and social sustainability and the centrality of human wellbeing point to a path of extreme importance and inspire some fundamental choices that feature in both the Recovery Plan and the main guidelines of the European Structural Funds.

4.4. The EESC shares the view of the need to boost the demand for labour — Guideline 5 — and ensure adequate and fair minimum wages for all workers in Europe, according to national law and practices and extending social protection and access to welfare systems to all workers, including in the new forms of work. In order to move from crisis management to recovery, the focus should be on sustainable welfare measures and effective recruitment incentives, in particular for SMEs. In this regard, re-skilling measures should also be encouraged, including during periods of short-time working due to the pandemic. Social dialogue should be promoted and the social partners should be involved, through a sound industrial relations process, respecting their autonomy. Reducing the tax burden on labour must not result in a reduction in social coverage that would have a negative impact on welfare systems and their sustainability; the EESC believes that the fight against tax evasion and avoidance should be stepped up.



4.5. With regard to Guideline 6, which aims to increase labour supply and improve access to employment, skills and competences, the EESC notes that it is crucial that each Member State is able to plan effective coordination between the investment measures for training and the labour market provided for by the NRRPs and the Structural Funds. In particular, coordination is needed between the ESF+ and the social protection and employment safeguard measures provided for by the SURE programme and other instruments up to 31 December 2022, in order to facilitate the establishment of effective national employment activation systems enabling workers to integrate, retrain and relocate. Effective hiring incentives and re-skilling measures should be considered to support job creation during the recovery.

4.6. The pandemic, with the widespread adoption of remote working, has made it even clearer that rules and instruments need to be established to make the relationship between the organisation of work, corporate wellbeing and the use of digital technologies a virtuous one. The EESC reiterates the importance to make use of the full potential offered by teleworking as a tool for improving working conditions and work-life balance, while safeguarding against it becoming a possible source of discrimination and hardship <sup>(4)</sup>.

4.7. The current crisis has shone further light on the need to recognise and ensure the right to lifelong learning and effective access to quality education and training and skills upgrading, and to reduce the current disparity in the use of further training, both among production categories and between Member States; the target on access to training set in the social pillar action plan will measure the capacity of Member States to equip themselves with new tools that reduce inequality of access and respond to labour market needs regarding the new skills needed.

4.8. As regards Guideline 7, which aims to enhance the functioning of labour markets and the effectiveness of social dialogue, the EESC notes that the objectives of supporting workers' mobility and employability could be achieved by setting up a European digital platform for matching labour supply and demand. It would set a shared standard among Member States and employment services, so as to promote active policies and European mobility.

4.9. Social dialogue and collective bargaining are an important pillar of the sustainability and resilience of European economies, but in some Member States there is still a need for a regulatory and institutional framework <sup>(5)</sup> at national level that facilitates and supports industrial relations systems; the implementation of the NRRPs will be a litmus test of the real willingness of the Member States to involve civil society in national development decisions and actions.

4.10. With regard to Guideline 8, on promoting equal opportunities for all, fostering social inclusion and fighting poverty, the EESC reiterates the importance at this stage of designing effective inclusion policies, to be considered as a crucial investment in the enhancement of economic and production systems. The EESC also affirms the role of labour integration as a tool for inclusion and combating poverty, avoiding the use of purely welfare measures and promoting inclusion through employability and job placement. However, it is crucial here to introduce measures to avert the risk of 'new poverty' among low-income workers, in conjunction with coherent anti-poverty policies.

4.11. Finally, common standards for gender policies, integration for people with disabilities and vulnerable people and the establishment of social promotion systems to promote active ageing and the transfer of skills from one generation to the next are key components of the equal opportunities strategy.

4.12. The pandemic has made it clear how crucial it is to invest in ensuring health and safety in the workplace and how urgent it is to strengthen labour inspectorates in the Member States to ensure checks to protect workers. Several European countries have signed protocols with the social partners to curb the spread of the virus in the workplace, demonstrating responsibility and responsiveness to emergency situations.

Brussels, 23 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(4)</sup> OJ C 220, 9.6.2021, p. 13 and OJ C 220, 9.6.2021, p. 1

<sup>(5)</sup> OJ C 10, 11.1.2021, p. 14

**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 on Strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021 to 2030’**

(COM(2021) 236 final)

(2021/C 517/16)

Rapporteur: **Anastasis YIAPANIS**

Referral	European Commission, 31.5.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted in section	9.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote	
(for/against/abstentions)	233/2/6

## 1. Conclusions and recommendations

1.1. The EESC supports the efforts and initiatives launched by the European Commission to help the sector grow and become more sustainable. Despite this, the EU aquaculture sector is not fulfilling its true growth potential. The EESC expresses concerns about the fact that 65 % of the aquatic products consumed in Europe come from imports<sup>(1)</sup>.

1.2. Consumer choices have evolved towards a more nutritional lifestyle, with fish and aquaculture products topping the list. This represents an opportunity for significant growth in the sector, but also a responsibility to ensure future EU food security. Securing safe, healthy and sustainable food in the EU should be one of the top priorities.

1.3. A coordinated effort from the European Commission and the Member States is needed to enhance the production capacity and profitability of the sector. Immediate simplification of administrative procedures must be complemented by high environmental standards, in order to preserve ecosystems and biodiversity, and improve quality of water. The EESC welcomes the Commission’s proposal to set up aquaculture licensing one-stop-shops in all Member States.

1.4. The EESC considers that the right balance needs to be found between preserving the Earth’s biodiversity and meeting the necessary food requirements, taking into consideration social impact, healthy living and environmental protection. Marine and inland waters should be preserved and protected, while promoting sustainable aquaculture activities that would ensure the necessary food for the EU population.

1.5. Space availability represents an important hurdle for the sector’s development. The EESC considers that aquaculture facilities need to be further developed, especially within coastal and rural areas across the Union, in places where other economic activities are not suitable. The EESC calls on the Member States to put in place coordinated spatial planning projects, including sea basin level planning, restoring of abandoned aquaculture facilities and big data analytics systems.

1.6. The EESC believes that the involvement of the social partners and relevant civil society organisations in the future development strategy of the sector will create value added for the Union. They can provide both high-level expertise and excellent communication opportunities.

<sup>(1)</sup> [https://www.eumofa.eu/documents/20178/415635/EN\\_The+EU+fish+market\\_2020.pdf](https://www.eumofa.eu/documents/20178/415635/EN_The+EU+fish+market_2020.pdf)

1.7. The EESC considers that the relationship between the stakeholders along the value chains must be an ethical one. SMEs and start-ups should be fully supported to grow, provide high-quality jobs and create new sustainable economic models, while the public-private partnerships should benefit from financing instruments that cover long-term commitments.

1.8. Educational and vocational training programmes can help meet the sector's needs for a high-skilled labour force. In this regard, calls for proposals for the aquaculture sector can be financed using the European Social Fund.

1.9. Labelling requirements have a very important role in informing consumers about the quality of aquaculture products. European citizens should be provided with trustworthy information, especially on products that come from countries with little or no legislative framework. Traceability requirements should be processed backwards, down to the hatcheries, for all products in the internal market. The final goal should be a 100 % level playing field in the Single Market.

1.10. Communication on the efforts and progress that the sector is making to ensure environmental and climate performance is paramount to ensure social acceptance and familiarise consumers with the efforts being made. Waste management systems are immediately needed for a sector that has a high potential to reduce its environmental footprint. The sector also has considerable potential to embrace circularity and renewable aquatic resources, while striving to reduce energy consumption and carbon emissions.

1.11. Rapid and large-scale public and private investment is needed, especially in research and development activities. The Commission should promote all the relevant available EU funds and partnership opportunities through the social partners and civil society organisations networks, with the final aim of reaching all the producers, especially SMEs.

1.12. The EESC appreciates and supports the proposal to create an EU Aquaculture Assistance Mechanism with a dedicated online platform, and considers that an Aquaculture Growth Strategy that would boost the sector's potential is urgently needed at European level.

## 2. Background

2.1. According to the Food and Agriculture Organization of the United Nations (FAO) 'the world population could increase by more than two billion people from today's levels, reaching 9,15 billion by 2050. Incomes will grow even faster. To meet increased demand, FAO projects that global agricultural production in 2050 will be 60 percent higher than in 2005' <sup>(2)</sup>. The aquaculture sector has the potential to grow and meet a large part of this demand and release some of the pressure that has been put on the agriculture sector.

2.2. Aquaculture production is vastly dominated by countries from Asia with a roughly 89 % share over the last two decades <sup>(3)</sup>. In the EU, aquaculture production varies from traditional tanks and lagoons to the use of cages and tanks in the open sea or recirculating systems. The sector directly employs over 74 000 people in more than 12 000 companies <sup>(4)</sup>.

2.3. The EU is the second largest trader of fishery and aquaculture products in the world, after China. As a net importer, the EU had a trade balance deficit of EUR 21 billion in 2019. The EU production of aquaculture represents only 1,15 % of the total global production according to the most recent figures <sup>(5)</sup>. A Eurobarometer study from 2017 <sup>(6)</sup> showed that the vast majority of EU citizens consume seafood at least once a month, with older consumers doing so more often.

2.4. The European Commission Communication on Strategic Guidelines for a more sustainable and competitive EU aquaculture <sup>(7)</sup> is a very comprehensive analysis of the current situation in the aquaculture sector and presents many valid courses of action for how the sector can become more sustainable and competitive. The EU is clearly committed to further delivering on the European Green Deal and Farm to Fork Strategy objectives.

<sup>(2)</sup> [http://www.fao.org/fileadmin/user\\_upload/esag/docs/AT2050\\_revision\\_summary.pdf](http://www.fao.org/fileadmin/user_upload/esag/docs/AT2050_revision_summary.pdf)

<sup>(3)</sup> Expert Working Group on Economic Report of EU aquaculture sector.

<sup>(4)</sup> [https://stecf.jrc.ec.europa.eu/reports/economic/-/asset\\_publisher/d71e/document/id/2871698](https://stecf.jrc.ec.europa.eu/reports/economic/-/asset_publisher/d71e/document/id/2871698)

<sup>(5)</sup> [https://www.eumofa.eu/documents/20178/415635/EN\\_The+EU+fish+market\\_2020.pdf](https://www.eumofa.eu/documents/20178/415635/EN_The+EU+fish+market_2020.pdf)

<sup>(6)</sup> Special Eurobarometer 450: EU consumer habits regarding fishery and aquaculture products.

<sup>(7)</sup> Strategic Guidelines for the sustainable development of EU aquaculture.

### 3. General comments

3.1. Fish and other aquatic products have high nutritional value and are highly recommended for maintaining good health. Consumers have increased their demand for, and expectation of, high-quality sustainable products that provide a healthy diet. The excellent quality of EU aquatic food still represents a major competitive advantage. However, the sector is not fulfilling its true growth potential and is shrinking in terms of its percentage of global production, compared to other parts of the world.

3.2. The EESC considers that the EU aquaculture sector should provide many more products to meet demand in the internal market. It is still unbelievable that 65 % of the aquatic products consumed in Europe come from imports. As it stands now, the European Union is jeopardising its future food security. The EESC has already stressed that *'the external trade imbalance in aquatic products is unacceptable, both from an economic point of view, given the trade deficit that this entails, and from a social point of view, given the missed opportunities for employment'* <sup>(8)</sup>. The EESC is very disappointed that 5 years later, the situation is the same and the expected results have not been reached.

3.3. Continental aquaculture has outstanding growth potential. Pond-farming is certainly the most environmentally friendly form of freshwater aquaculture, but its productivity is low. The EU has, however, enough practical experience to manage pond and intensive farming in a fully environmentally and climate friendly way, while embracing circular economy principles. It is necessary to ensure the full integration of climate-conform technologies into the green investment taxonomy with a view to securing seamless financing. Finally, the development of food processing both vertically and horizontally, including new species, is valuable for improving added value, consumer acceptance, employment and food and waste recirculation.

3.4. The increased demand for food in the coming years must be met through sustainable projects that provide both high-quality aliments and protect the environment. The EU is the frontrunner in the implementation of the SDGs and the EESC considers that this is the right path forward. The aquaculture sector is extremely important for reaching the UN Sustainable Development Goals, especially SDG 2 — End hunger, achieve food security and improved nutrition and promote sustainable agriculture, SDG 12 — Ensure sustainable consumption and production and SDG 15 — Protect, restore and promote sustainable use of terrestrial ecosystems.

3.5. The EESC considers that there is a large potential for the sector to embrace circularity and renewable aquatic resources, while striving to reduce energy consumption and carbon emissions. Communication on the efforts and progress that the sector is making to improve environmental and climate performance is paramount to ensure social acceptance for the further growth of the sector and consumer demand.

3.6. Citizens' expectations have evolved into wanting a more nutritional diet, with fish and aquaculture products being among the most requested ones <sup>(9)</sup>. On the other hand, the environmental footprint and the high costs associated with food production are considerable. It is very clear that 'business as usual' cannot be perceived as sustainable, and new economic models should be developed.

3.7. According to the same report, *'there is only one way to obtain significantly more food and biomass from the ocean: to harvest seafood that, on average, is from a lower trophic level than today. Mariculture appears closest to such a realisation'*. This would actually imply a new business model focussed on harvesting species that are not exploited at all today, or just to a limited extent.

3.8. Molluscs and algae have an important role to play, as they are at the bottom of the food chain and directly extract their nutrients from the water. While algae are cultured and eaten on a large scale in many Asian countries, in the EU they may be considered a new product and only a few are cultured successfully. Although they are not rich in calories, algae are rich in fibres that offer diverse health benefits. The EESC welcomes the European Commission's intention to prepare a specific initiative to support the consumption of algae.

3.9. The EESC considers that the competitiveness of the sector can be greatly improved while creating high-quality jobs within the coastal and rural areas across the Union, places where developing other economic activities is rather difficult. It believes that developing future social standards, ensuring decent working conditions and eliminating unacceptable practices are extremely important for the capacity to create jobs, but also for the supply chains. In ensuring food security, there must be a balance among the three aspects of sustainable development: environmental, social and economic.

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<sup>(8)</sup> EESC opinion on Removing obstacles to sustainable aquaculture in Europe (OJ C 34, 2.2.2017, p. 73).

<sup>(9)</sup> Science Advice for Policy by European Academies — Food from the Oceans.

#### 4. Specific comments

4.1. As aquaculture is managed through a shared competence between the European Commission and the Member States, a coordinated effort is needed to improve the sustainability and the profitability of the sector. This includes simplification of administrative procedures and full cooperation between the Commission and the national and regional public administrations. Reducing the unnecessary, longstanding administrative burden within the sector must also be complemented by high environmental standards, in order to preserve ecosystems and biodiversity, and improve quality of water.

4.2. The EESC has already pointed out that *'the main cause of slow administrative procedures applicable to the practice of aquaculture, and the unavailability of locations, is the complex implementation of EU environmental legislation, mainly the Water Framework Directive, the Marine Strategy Framework Directive and the rules on the Natura 2000 network by the public administrations of Member States and their regions. This situation leads to requirements for aquaculture undertakings that are excessively costly economically and, paradoxically, do not ensure greater environmental protection'* <sup>(10)</sup>.

4.3. The EESC welcomes the Commission's proposal to set up aquaculture licensing one-stop-shops in all Member States. This would significantly shorten the existing, incredibly lengthy, approval process.

4.4. Providing adequate financing, both private and public, for sustainable aquaculture initiatives is extremely important. The EESC considers that the Commission should promote all the relevant available EU funds through the social partners and civil society organisations networks, with the final aim of reaching all the producers, especially SMEs. Start-ups should be fully supported to grow and provide high-quality jobs and new public-private partnerships should be supported with financing instruments that cover long-term commitments. The EESC also considers that the relationship between the producers, retailers and other stakeholders in all processing, handling and distribution phases must be an ethical one in order to ensure market access for small producers and eliminate unfair practices.

4.5. Rapid and large-scale investment in R & D is needed for a sector that wants to grow and has the ability to provide both healthy and sustainable food. The EU has to provide an Aquaculture Growth Strategy that would boost the sector's potential. Raising awareness among producers about the available EU funding opportunities is extremely important in a sector dominated by SMEs.

4.6. The EESC considers that the internal market has the capacity to absorb at least three times the current production capacity. Ensuring safe, healthy and sustainable food in the EU should be one of the top priorities. Furthermore, the new approach on sustainable aquaculture should take into consideration the impact of Brexit, since the European aquaculture sector has been affected considerably by the UK's exit from the EU.

4.7. The EESC calls on the European Commission to ensure that imported products respect the same requirements and standards as those imposed on local producers. The EESC has already asked that *'public authorities should also demand the same safety guarantees of imports as are required of European products, with full "sea-to-table" traceability'* <sup>(11)</sup>. Traceability needs to be processed backwards, down to the hatcheries, for all the products entering the Single Market. It is vital to ensure a level playing field for European producers and quality and safe products for consumers.

4.8. Labelling requirements have a very important role in informing European consumers about the quality of sustainable aquaculture products. EU legislation provides the legal framework to ensure a level playing field, but it is not always or fully respected. Quality control and labelling activities have to be stepped up in order to protect both consumers and legitimate businesses, and provide trustworthy information, especially on products that come from countries with little or no legislative framework.

4.9. The EESC considers that a 100 % level playing field in the internal market should be the ultimate goal of the Commission and the Member States. This can only be achieved by ensuring full compliance with the EU standards for all the products that are sold in the internal market, whether produced locally or imported. The EESC calls for fully traceable products that respect environmental and quality standards. The EESC considers that traceability of aquaculture products and transparency at the supply chain level are very important, especially for the species which are in danger.

<sup>(10)</sup> EESC opinion on Removing obstacles to sustainable aquaculture in Europe (OJ C 34, 2.2.2017, p. 73).

<sup>(11)</sup> EESC opinion on Strategic Guidelines for the sustainable development of EU aquaculture (OJ C 67, 6.3.2014, p. 150).



4.10. SMEs are disproportionately affected by red tape and the high administrative costs involved in setting up and running an aquaculture business. Since the sector is dominated by SMEs and small family companies, the EESC is calling for one-stop-shop information centres to be set up in all Member States. They should be fully digitalised and provide real-time and up-to-date information to producers, investors and consumers. Furthermore, the EESC considers that more producer organisations should be set up, as they are extremely important for the competitiveness of the sector, especially SMEs. The EESC considers that a dedicated platform that supports business continuation and take-overs is also needed.

4.11. The EESC calls for a specific incentives framework that would support the sector and steer it towards sustainability. The EESC recommends the immediate development of an incentives system based on sustainability, under SDG 14. Tax incentives for sustainable aquaculture production are another alternative to be followed up on.

4.12. Availability of space represents another challenge for the aquaculture sector, as it is often competing with other industries such as shipping yards, renewables, recreational activities, extraction, etc. The Member States should put in place coordinated spatial planning projects, including sea basin level planning, restoring of abandoned aquaculture facilities and big data analytics systems.

4.13. Data collection and assessment can play an important role in the development of the sector and the EESC calls for action in this regard as soon as possible. The results will depend on making the necessary funding available and the direct involvement of both public authorities and private entities. Furthermore, ensuring transfer of best practices from Local Action Groups (LAG) to Fisheries Local Action Groups (FLAGs) and increasing the funds for FLAGs will improve the capacity of the small producers.

4.14. Educational and vocational training programmes can help meet the needs of the aquaculture sector, while raising awareness among the young generation of work opportunities and careers in the sector. The EESC also calls for lifelong training courses on sustainable aquaculture practices. In this regard, calls for proposals can be financed using the European Social Fund and be made specifically for the aquaculture industry.

4.15. Waste management systems are immediately needed for a sector that has a high potential to reduce its environmental footprint, along with quality control and health and food safety standards. This would be particularly important for the future sustainability of the sector.

4.16. Actions taken to support the aquaculture sector in the next 5 years are paramount for the future of the sector and will play a key role in determining the degree of dependence on imports. The EESC believes that the involvement of the social partners and civil society organisations in the design and implementation processes is extremely important and will create value added for the Union, by boosting the sustainable productivity and the competitiveness of the sector.

4.17. The EESC considers that marine and inland waters should be preserved and protected, while promoting sustainable aquaculture activities that would ensure the necessary food for the EU population. The right balance between preserving the Earth's biodiversity and meeting the necessary food requirements needs to be found, taking into consideration social impacts, healthy living and environmental protection. Water, nutrients, the location of the farm and energy are among the most important aspects that determine the ecological sustainability of aquaculture farms.

4.18. Finally, the EESC appreciates all the efforts and the initiatives launched by the European Commission to help the sector grow and become more sustainable. The proposal to create an EU Aquaculture Assistance Mechanism with a dedicated online platform is extremely important for producers. Sharing of best practices between Member States also needs to be enhanced.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New approach for a sustainable blue economy in the EU — Transforming the EU's Blue Economy for a Sustainable Future**

(COM(2021) 240 final)

(2021/C 517/17)

Rapporteur: **Simo TIAINEN**

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Outcome of vote (for/against/abstentions)	229/0/11

## 1. Conclusions and recommendations

1.1. The blue economy plays a considerable role and has ever-increasing potential in the EU and global economy, job creation and people's welfare. The EESC believes it to be extremely important to seize these opportunities to the maximum extent, while at the same time minimising the adverse impact on the climate, biodiversity and the environment. Good water quality and healthy aquatic ecosystems are a prerequisite for a flourishing sustainable blue economy.

1.2. Besides environmental challenges, those active in the blue economy face challenges such as unfair global competition and rapid technological development. Many activities, especially tourism, have been hit hard by the COVID-19 pandemic. Smooth and successful recovery is thus crucial for the blue economy.

1.3. The blue economy covers a wide range of sectors and operations, both traditional and emerging ones. The increasing diversity of blue economy activities has posed challenges in terms of their compatibility with each other, and competition for marine space and resources. The EESC emphasises the important role of maritime spatial planning both in enabling the co-existence of various activities and in preparing for climate adaptation.

1.4. The EESC calls on the EU to actively support the development and introduction of digital and green technologies and solutions for marine activities, with the aim of generating economic, social and environmental benefits. The EESC also points out the importance of oceanographic research, accompanied by research into the socioeconomic and environmental impacts of blue economy activities.

1.5. The EESC urges the EU to provide a favourable and predictable innovation and investment environment, with streamlined administrative procedures and certainty in regulatory and financial conditions. The Committee welcomes the substantial EU funding available for supporting the sustainable blue economy and points out the need to make financing easily accessible for operators at national and local levels.

1.6. The EESC emphasises the need to consider the EU blue economy and its potential in a global context, including external and trade relations. The Committee calls on the EU to provide EU enterprises with a level playing field vis-à-vis their international competitors and to enhance global implementation of international conventions and agreements regarding economic cooperation, working conditions and the environment.

1.7. The EESC underlines the central role of the social partners in anticipating the changes in work, supporting the development of skills and enhancing the employability of workers in the blue economy. Moreover, social dialogue at sectoral, national and workplace levels is key in ensuring proper working conditions.

1.8. Due to its horizontal nature, the blue economy must be considered in a comprehensive and consistent way in policymaking. This requires seamless cooperation between policymakers at all levels: between the EU and Member States, between Member States in various regions, and between different policy fields such as industry, fisheries, trade, transport, energy, employment and the environment.

1.9. The EESC highlights the need for blue economy policies to rely on sound scientific knowledge and a solid data basis and to fully take account of the needs and views of blue economy actors and stakeholders. The Committee calls for close involvement of employers, workers and other civil society parties in shaping, implementing and monitoring EU and national blue economy policies.

1.10. While it is relevant and necessary to consider the blue economy in a holistic and horizontal way, it is also important to look at different sectors and activities from the point of view of their specific opportunities and challenges, which makes it possible to provide a bottom-up contribution to blue economy policies.

1.11. Moreover, the EESC stresses the need for education and for measures to raise awareness of the significance of the blue economy in providing opportunities for healthy diets, mobility and recreation, on top of jobs and prosperity, and the importance of protecting the marine environment, for example against plastic litter.

## 2. General comments

2.1. The EESC welcomes the European Commission's Communication on a new approach for a sustainable blue economy in the EU and endorses its objectives of supporting the transition to a climate-neutral, resource-efficient and competitive economy, in line with the European Green Deal.

2.2. The EESC endorses and advocates an integrated approach to the blue economy with respect to the various dimensions of sustainable development and highlights that the blue economy contributes to most of the United Nations Sustainable Development Goals (SDGs), particularly those related to oceans, seas and marine resources, climate action, reducing poverty and hunger, promoting health and well-being, responsible consumption and production, decent work and economic growth<sup>(1)</sup>.

2.3. The blue economy plays a considerable role and has ever-increasing potential in enhancing the EU and global economy, quality employment and people's welfare in various locations, with specific benefits for rural and coastal areas. The EESC believes it to be extremely important that these opportunities are seized to the maximum extent.

2.4. At the same time, the EESC considers it crucial to minimise water and air pollution, waste generation and the harmful impact on climate and biodiversity. This is vital not only for environmental reasons but also because good environmental quality and healthy ecosystems are vital to ensure proper conditions and resources for the blue economy itself. Managing environmental aspects must therefore be seen as an integral part of any economic activity.

2.5. The blue economy covers a wide range of operations that are essential to people's everyday lives, and the businesses involved range from big international companies to local SMEs. Food and energy production, mining, maritime industries, transport and tourism are the main existing marine-related sectors, while there are also emerging sectors such as the production of new kinds of blue bioeconomy products. Circular economy and water protection activities are also intrinsically linked with the blue economy.

2.6. As the definition of the blue economy relates to oceans, seas and coasts, it primarily concerns countries located by the sea. However, through cross-border supply chains and common markets, and a shared climate and environment, the blue economy is a matter of interest to the whole of the EU and all Member States — from the Mediterranean to the Baltic Sea and the Arctic Ocean and from the Black Sea to the Atlantic Ocean and the North Sea.

2.7. The EESC also points out that the concept of the blue economy should not be restricted to oceans and seas only, as there are corresponding economic activities based on freshwater resources, and as inland watercourses ultimately flow into seas and oceans. This highlights the importance of regional cooperation in controlling water pollution.

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<sup>(1)</sup> <https://www.un.org/sustainabledevelopment/oceans/>

## 2.8. *Challenges and opportunities*

2.8.1. The increasing diversity of blue economy activities generates challenges in terms of their compatibility with each other and competition for marine space and resources. The EESC therefore emphasises the role of maritime spatial planning, including integrative management and assessment of cumulative impacts, and calls on Member States to seek and allocate proper spaces for various activities, with the aim of enabling them to develop and co-exist with a minimum adverse impact on other actors and on the marine environment.

2.8.2. While oceans and seas play a significant role as carbon sinks, marine ecosystems and coastal areas are vulnerable to climate change and its impacts, including water warming, sea-level rise, and extreme weather events. The blue economy therefore needs to be well prepared for climate adaptation, and the EESC urges the Member States to consider climate adaptation as an essential part of maritime spatial planning, preferring measures that also help sustain biodiversity. Moreover, increasing drought and freshwater scarcity call for new solutions to ensure food security.

2.8.3. The EESC points out that those active in the blue economy also face many other challenges such as unfair global competition and rapid technological development. On top of that, many activities have been hit hard by the COVID-19 pandemic and need to cope with its impact. This is especially true of tourism and related services. Smooth and successful recovery — in line with the green and digital transitions — is thus crucial for the blue economy.

2.8.4. By and large, the blue economy provides many opportunities with respect to the digital and green transitions. Grasping these opportunities will require intensive efforts in research and innovation. This is essential for both the development of traditional activities and the creation of new ones, thus also helping attract young people and diversify the spectrum of the blue economy.

2.8.5. The EESC calls on the EU to actively support the development and introduction of digital solutions for marine-related activities, including their use in sea-mapping and in monitoring, exploring, modelling and forecasting the state of the marine environment and resources. Innovation is also needed to improve energy and material efficiency and help decrease greenhouse gas emissions, air and water pollution, and the amount of waste. Special attention should be paid to supporting small enterprises in the green and digital transition. The EESC also urges to share good practices and to scale up social innovations created by blue economy actors and stakeholders, including with a view to strengthening the interconnectivity, resilience, transparency and fairness of value chains.

2.8.6. The development of a sustainable blue economy requires proper understanding of marine-related physical, chemical and biological phenomena and changes in them. The EESC points out the importance of oceanographic research, accompanied by research into the socioeconomic and environmental impacts of blue economy activities, following the approach of open science and making use of citizen science projects.

2.8.7. In exploiting the job creation potential of the blue economy, it is essential to enhance high-quality jobs that promote people's welfare. It also requires the development of advanced training and transferable skills, mutual recognition of qualifications, cross-sectoral mobility, and adaptability to labour market changes. The EESC calls on Member States and education providers — in cooperation with the representatives of blue economy operators and social partners — to take these needs into account in the development of education and training programmes, including upskilling and reskilling, and to do so by using the European Social Fund Plus amongst other resources.

2.8.8. The EESC also stresses the vital role of the social partners in anticipating the changes in work, supporting the development of skills and enhancing the employability of workers in the blue economy. Moreover, social dialogue at sectoral, national and workplace levels, including collective bargaining, is essential not only for ensuring certain minimum standards but also when improving working conditions in all sectors of the blue economy.

## 2.9. *Investment, financing and international framework*

2.9.1. To realise the potential of the sustainable blue economy, the EESC urges the EU to provide a favourable and predictable innovation, investment and operation environment, including streamlined administrative procedures and certainty in regulatory and financial conditions. By setting a long-term vision and a comprehensive framework, the Commission's Communication is a valuable tool for ensuring predictability.

2.9.2. The EESC welcomes the substantial EU funding available for supporting the sustainable blue economy, including specific marine-related funding and general instruments such as Horizon Europe, the Structural and Investment Funds, and the Recovery and Resilience Facility. The EESC points out the need to make EU funding easily accessible for operators at national and local levels.

2.9.3. It is also important to leverage private funding for the development of the blue economy, which calls for projects that are attractive to private investors and financiers, guided by sustainable finance principles and standards. Moreover, the EESC calls for enhanced partnership projects between the public sector, enterprises and people at the grassroots level.

2.9.4. The EESC emphasises the need to consider the EU blue economy and its potential in a global context, as most of the blue economy activities have an international linkage via trade and supply chains or through shared marine areas. International cooperation and common rules are therefore necessary, to ensure a level playing field and to avoid conflicts with respect to marine resources. The EESC encourages the EU to enhance global implementation of international conventions and agreements in fields such as trade, transport, working conditions, climate and the environment, on top of the United Nations Convention on the Law of the Sea.

2.9.5. The EESC urges the EU to ensure that conditions for the blue economy in the EU are competitive compared to those of other international players such as China. This is necessary for the EU enterprises to be able to export sustainable blue economy products, technologies and solutions to international markets and to compete successfully with imports from outside the EU.

2.9.6. The EESC also draws attention to the opportunities provided by cooperation with developing countries and encourages the EU to enhance the blue economy as one element of the partnership with Africa.

#### 2.10. *Consistent and inclusive policymaking*

2.10.1. Due to its horizontal nature, the blue economy must be considered in a comprehensive and consistent way in policymaking. This requires seamless cooperation between policymakers at all levels, both vertically and horizontally: between the EU and national decision-makers, between Member States, and between various policy fields such as industry, fisheries, trade, transport, energy, employment and the environment.

2.10.2. Regional cooperation between Member States and with countries outside the EU is particularly important <sup>(2)</sup>, considering that marine areas as well as many inland watercourses are of a cross-border nature. Cooperation is also crucial to ensure the security of marine-related activities and to protect human rights and the environment against a wide variety of internal and external threats, from geopolitical risks to piracy, environmental offences and cybercrime.

2.10.3. The EESC highlights the need for blue economy policies and measures to rely on facts derived from sound scientific knowledge and a solid data basis. Furthermore, considering the vital role of civil society players in creating a sustainable blue economy in practice, the Committee calls for close involvement of employers' and employees' organisations as well as environmental and other concerned organisations in shaping, implementing and monitoring EU and national policies.

2.10.4. The EESC calls on the Commission to continue the work towards a more specific action roadmap, to be based on the feedback and contributions by various blue economy actors and stakeholders and making use of the dialogue to take place in the Blue Forum for users of the sea.

2.10.5. The EESC also stresses the need for education and measures to raise awareness of the significance of the blue economy in providing opportunities for healthy diets, mobility and recreation, on top of jobs and prosperity, and the importance of protecting the marine environment, for example against plastic litter.

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<sup>(2)</sup> EESC opinion on the *Initiative for the sustainable development of the Blue Economy in the Western Mediterranean* (OJ C 129, 11.4.2018, p. 82).

### 3. Specific comments

3.1. While it is relevant and necessary to consider the blue economy in a holistic and horizontal way, it is also important to look at different sectors and activities from the point of view of their specific opportunities and challenges. This makes it possible to provide a bottom-up contribution and combine it with the top-down approach of the Communication.

#### 3.2. *Transport and ports*

3.2.1. Maritime transport is crucial for freight logistics and passenger transport both within and outside the EU. The EESC calls on the EU to enhance conditions to further international competitiveness, digitalisation and the greening of shipping and to work on eliminating practices that lead to unfair competition, such as improper practices in the context of sailing under a foreign flag. In addition to individual technology developments, system-level digital solutions help improve the economic and environmental performance of transport, e.g. through better matching of supply and demand. The benefits of short-sea shipping should also be fully utilised in reducing the environmental impacts of transport. Moreover, the EESC draws attention to the opportunities provided by new global transport routes such as the Northeast Passage in the Arctic region.

3.2.2. The EESC emphasises the key role of ports as blue economy hubs, including in the green and digital transitions. While the traditional role of ports as enablers of maritime transport and fish landing sites remains, the role of ports is expanding to include new activities such as facilitating renewable energy and circular economy. This requires investment in infrastructure and a new kind of management overall. New roles may also make smaller ports more important for the region in question.

#### 3.3. *Fisheries, aquaculture and new bioproducts*

3.3.1. The EESC highlights the important role of fishing, aquaculture and related industries in ensuring low-carbon and healthy diets for Europeans. Considering the high quantity of fish and seafood being imported into the EU, there is a clear motive to reduce the EU's dependence on food imports and provide competitive conditions for European fishing, aquaculture and related industries to respond to food security and sovereignty. Considering the old age of the EU fishing fleet, funding under the European Maritime, Fisheries and Aquaculture Fund should be allocated to modernise the fleets and thus improve their environmental performance, working conditions and attractiveness. The EESC acknowledges and encourages continued efforts by fisheries to keep fish stocks at sustainable levels and protect marine ecosystems. The EESC also encourages the sharing of concrete practices such as the contribution of trawlers to collecting plastic litter.

3.3.2. Regarding aquaculture, the EESC refers to another opinion, the focus of which is the new strategic guidelines for EU aquaculture <sup>(3)</sup>. The EESC also endorses the development of new bioproducts such as pharmaceuticals, food and food additives, animal feeds, cosmetics, and new materials based on algae and other marine organisms. These bioproducts complement the spectrum of the blue bioeconomy, addressed by the EESC in its previous opinion <sup>(4)</sup>, which covered freshwaters as well.

#### 3.4. *Tourism and related services*

3.4.1. Maritime and coastal tourism, with several related activities such as transport, hotel and restaurant services, is vital for many regions of the EU. Regarding measures to address the problems caused by the pandemic, the EESC refers to its opinion on tourism and transport <sup>(5)</sup>. After recovery from the pandemic, tourism should regain its important role in contributing to local economies and quality employment, often based on SMEs, in a way that ensures its overall sustainability. The EESC points out that sustainable tourism is an essential way of providing people not only with recreation but also with knowledge and experience of the diversity of EU cultures and environments.

#### 3.5. *Shipbuilding and maritime technology*

3.5.1. Shipbuilding is a traditional maritime industry serving freight and passenger transport, but many new elements and approaches are currently being introduced in line with the digital and green transitions. For example, advanced automation of vessels contributes to improving the energy efficiency and safety of transport, and the development and

<sup>(3)</sup> EESC opinion NAT/816: *Strategic Guidelines for the sustainable development of EU aquaculture* (See page 103 of this Official Journal).

<sup>(4)</sup> EESC opinion on the *Blue bioeconomy* (OJ C 47, 11.2.2020, p. 58).

<sup>(5)</sup> EESC opinion on *Tourism and transport in 2020 and beyond* (OJ C 429, 11.12.2020, p. 219).

adoption of clean propulsion techniques and renewable fuels are key in minimising atmospheric emissions. Repair, maintenance and shipbreaking technology and practices that enhance the circular economy are also essential in this development. The EESC therefore calls on the EU to provide favourable conditions for the development of and investment in marine technology, including equipment and software, and labour.

### 3.6. Energy

3.6.1. While traditionally focussed on exploitation of fossil fuels, marine-related energy operations are now geared towards renewable energies, mainly wind and ocean energy. Introduction of renewable energies is key in making progress towards climate neutrality, and marine-related renewable energy can contribute significantly to the future energy mix and reduction of carbon emissions. At the same time, solutions need to be found to address competing interests between various uses of marine areas. The Committee has expressed its views on offshore renewable energy in the recent opinion on the offshore renewable energy strategy <sup>(6)</sup>.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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<sup>(6)</sup> EESC opinion on Offshore Renewable Energy Strategy (OJ C 286, 16.7.2021, p. 152).



**Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an Action Plan for the development of EU organic production**

(COM(2021) 141 *final*)

(2021/C 517/18)

Rapporteur: **Andreas THURNER**

Referral	European Commission, 21.4.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	9.9.2021
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	185/3/4

## 1. Conclusions and recommendations

The European Economic and Social Committee (EESC):

1.1. recognises the role of organic farming in achieving the objectives of the European Green Deal and welcomes this communication from the European Commission on an action plan for the development of organic production. The EESC sees this a solid basis for developing the organic sector in a sustainable manner;

1.2. considers the European Green Deal target of making 25 % of agricultural land in the EU organic by 2030 to be very ambitious;

1.3. supports in particular the Commission's market-oriented approach to further increasing consumer demand and confidence in organic products. A balance between demand and supply is crucial for the sector's successful development;

1.4. recommends establishing a kind of 'twinning mechanism' to step up exchanges of experience between Member States, since they are starting out from different positions. Exchanges between farmers should also be encouraged. The EESC would be happy to take part in any activities to raise awareness of organic production (for example as part of an annual EU organic day);

1.5. calls on the Member States, with the involvement of the relevant stakeholders, to draw up national/regional organic action plans and make use of the opportunities available under the common agricultural policy (CAP) to support organic farming. Particular attention should be paid to the challenging period during the conversion to organic farming;

1.6. considers the proposed measures for improving market transparency and the data available in the organic sector to be important. In this context, the EESC would suggest that DG AGRI's annual Agricultural Outlook conference should also appropriately reflect developments in the organic sector;

1.7. emphasises that consumers are increasingly setting store by regional food. The EESC believes that shorter and local organic production and marketing chains that also take account of seasonality could be a promising way of generating more added value along the food chain. The EESC also sees potential for additional employment opportunities in rural areas;

1.8. points out that organic products usually cost more than conventional products. This is an obstacle for certain low-income social groups. The EESC therefore suggests that appropriate accompanying measures be put in place to ensure that organic products are also accessible to socially vulnerable groups;

1.9. believes, in particular, that the public sector (local, city, regional and federal authorities) should make greater use of regional organic food products in public procurement (e.g. in canteens). In doing so, they should also take account of seasonality;

1.10. stresses the need for sufficient financial resources for research and innovation to support the organic sector.

## 2. Background

2.1. As part of the European Green Deal, the European Commission has set an ambitious target with the Farm to Fork Strategy and the Biodiversity Strategy for organic production in the EU: at least 25 % of agricultural land is to be farmed organically by 2030. On 25 March 2021, the European Commission published an Organic Action Plan<sup>(1)</sup> to support Member States in the implementation of the target.

2.2. According to the European Commission, the new Organic Action Plan builds upon the achievements of the 2014-2020 action plan and takes into account the outcome of a public consultation on organics held between September and November 2020<sup>(2)</sup>. It is divided into three interlinked priority areas:

— Axis 1: stimulate demand and ensure consumer trust

— Axis 2: stimulate conversion and reinforce the entire value chain

— Axis 3: improve the contribution of organic farming to environmental sustainability.

2.3. The three priorities are underpinned by 23 actions and various funding sources are to be brought into play. Financial support for organics will continue to be offered through rural development commitments (pillar 2), with an additional stream of funding to be made available through eco-schemes (pillar 1). In addition, an ambitious budget in the EU promotion policy will be dedicated to boosting the consumption of organic products.

2.4. Farm advisory services will be strengthened to promote relevant knowledge exchange on organic farming. To support the ambitions of the action plan, the European Commission intends to dedicate at least 30 % of the budget for research and innovation actions in the field of agriculture, forestry and rural areas to topics specific to or relevant for the organic sector, such as increased crop yields, genetic diversity and alternatives to contentious products.

2.5. In more detail under the three different axes the proposed actions aim to:

*Axis 1: stimulate demand and ensure consumer trust*

(a) promoting organic farming and the EU logo;

(b) promoting organic canteens and increasing the use of green public procurement;

(c) reinforcing organic school schemes;

(d) preventing food fraud and strengthening consumer trust;

(e) improving traceability;

(f) facilitating the contribution of private sector.

<sup>(1)</sup> [https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organic-action-plan\\_en](https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/organic-action-plan_en)

<sup>(2)</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12555-Organic-farming-action-plan-for-the-development-of-EU-organic-production\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12555-Organic-farming-action-plan-for-the-development-of-EU-organic-production_en)

*Axis 2: stimulate conversion and reinforce the entire value chain*

- (a) encouraging conversion, investments and exchanges of best practices;
- (b) developing sector analysis to increase market transparency;
- (c) supporting the organisation of the food chain;
- (d) reinforcing local and small-value processing and fostering short trade circuit;
- (e) improving animal nutrition in accordance with organic rules;
- (f) reinforcing organic aquaculture.

*Axis 3: improve the contribution of organic farming to environmental sustainability*

- (a) reducing the environmental footprint and mitigating the contribution to climate change;
- (b) enhancing genetic diversity and increasing yields;
- (c) developing alternatives to contentious inputs and other plant protection products;
- (d) enhancing animal welfare;
- (e) making more efficient use of resources.

2.6. For the implementation, the European Commission recommends that the Member States draw up appropriate national organic action plans with clear objectives and taking into account regional circumstances, and incorporate these accordingly in the national CAP strategic plan.

2.7. This opinion has to be read in the context of previous EESC opinions related to sustainable food production and consumption (among others on the compatibility of EU trade policy with the European Green Deal <sup>(3)</sup>, on the Farm to Fork sustainable food strategy <sup>(4)</sup>, on short food supply chains and agroecology <sup>(5)</sup>, and on healthy and sustainable diets <sup>(6)</sup>);

### 3. General comments

3.1. The EESC considers the European Green Deal target of making 25 % of agricultural land in the EU organic by 2030 to be very ambitious. At present, the figure is around 8,5 %. In other words, the area organically farmed is to be roughly tripled by 2030. By way of comparison: between 2009 and 2019, the area organically farmed rose from around 8,3 to around 13,8 million hectares (+ 70 %), with a progressive trend. The 25 % target entails expanding the organically farmed area to around 40 million hectares, well above the current trend.

3.2. The EESC welcomes the Commission's market-oriented approach to further increasing consumer demand and confidence in organic products. A balance between demand and supply is crucial for the organic sector's successful development.

3.3. The expansion of organic production must also be demand-oriented. Care should be taken to anticipate an increase in supply with a corresponding development of the demand side. If organic food production is driven more than demand, this inevitably leads to negative competition on the market and, consequently, to a fall in producer prices.

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<sup>(3)</sup> EESC opinion on *Compatibility of EU trade policy with the European Green Deal* (OJ C 429, 11.12.2020, p. 66).

<sup>(4)</sup> EESC opinion on *A From Farm to Fork Strategy for a fair, health and environmentally-friendly food system* (OJ C 429, 11.12.2020, p. 268).

<sup>(5)</sup> EESC opinion on *Promoting short and alternative food supply chains in the EU: the role of agroecology* (OJ C 353, 18.10.2019, p. 65).

<sup>(6)</sup> EESC opinion on *Promoting healthy and sustainable diets in the EU* (OJ C 190, 5.6.2019, p. 9).

3.4. Organic farming usually means higher per unit production costs (due to extra costs and lower yield) compared with conventional farming. These additional costs also have to be covered by corresponding market revenues if the development of the organic sector is to be sustainable. However, as professionalisation along the whole organic food chain progresses, the price/performance ratio should develop positively.

3.5. Member States are starting out from very diverse positions. On the one hand, there are those where organic farming and its marketing are already well established. On the other, there are those where the percentage of organically farmed areas is only in the low single figures. Due account must be taken of these different regional starting points in the planning of the measures. The EESC recommends establishing a kind of 'twinning mechanism' to step up exchanges of experience between Member States. Member States with a well-established organic sector have often adopted a 'push-pull' approach and taken both measures to promote production and measures to increase demand for organic products. The food retail sector also plays an essential role in the further development of the organic sector.

3.6. The wide variety of structures and significant regional differences in Europe repeatedly lead to complex situations and issues in the implementation of the provisions of the EU Organic Regulation. To successfully develop the sector, a balance needs to be found that meets the need for consistent application of the rules across the EU, fulfils consumers' expectations and provides the necessary flexibility to take appropriate account of local differences and circumstances, where possible under the Regulation.

3.7. The European Commission's Organic Action Plan here under discussion, which focuses on three priority areas (promoting consumption, increasing production and further strengthening sustainability), provides a solid basis for the sustainable development of the organic sector. Implementation in the Member States should be accompanied by a continuous monitoring and evaluation process.

3.8. The Member States, with the involvement of the relevant stakeholders, should draw up national/regional organic action plans and make use of the opportunities available under the CAP (including when drafting the national CAP strategic plans) to support organic farming.

#### 4. Specific comments

4.1. High consumer confidence is a prerequisite for the success of organic farming. Consumers must be able to rely on compliance with applicable production standards throughout the food chain, from production to processing and consumption. The measures provided for so as to prevent fraud and improve traceability are therefore especially important. In particular, it is a good idea to also make use of the opportunities offered by digitalisation.

4.2. The planned measures to improve market transparency and the data available in the organic sector will help economic operators to draw the right conclusions in this process. So far, statistics at European level have in the main not distinguished between conventional and organic product segments. The inclusion of organic production in the analyses carried out by DG AGRI's market observatories is a step forward. In this connection, the Committee would suggest that DG AGRI's annual AGRI Outlook conference should also appropriately reflect developments in the organic sector.

4.3. The planned strengthening of farm advisory services and measures to promote the exchange of knowledge on organic farming are important flanking measures. Exchanges between scientists, advisory services, the education sector, farmers and society should be stepped up. Regional and international exchange programmes can be very beneficial, especially for young farmers.

4.4. Consumers should also be informed about the benefits and challenges of organic products through appropriate awareness-raising measures (ideally beginning in school). The EU's school fruit, vegetables and milk scheme <sup>(7)</sup> provides a good point of reference in this regard.

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(7) [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/market-measures/school-fruit-vegetables-and-milk-scheme\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/market-measures/school-fruit-vegetables-and-milk-scheme_en)

4.5. In order to raise awareness of organic production, the European Commission plans, among other things, to introduce an annual EU Organic Day and to organise prizes for excellence in all sectors of the organic food chain. The EESC would be happy to be a partner on this.

4.6. Consumers are increasingly setting store by regional food. The COVID-19 pandemic has made people even more sensitive to food quality. Shorter and local organic production and marketing chains, in combination, could therefore be a promising way of generating more added value. With regard to sustainability, where possible, organic production, regionality and seasonality should be considered together. A further strengthening of the EU organic logo should be possible in step with the strengthening of established national/regional organic labels. The information provided on the origin of food (raw materials) should be as specific as possible; it should go beyond labelling of 'EU/non-EU agriculture', and where possible should indicate the country or region.

4.7. There could be great potential for organic products in tourism and gastronomy. This requires transparency and credible certification schemes.

4.8. Organic farming is often accompanied by an increase in the workforce due to the greater variety of production processes and thus also has the potential to provide additional employment opportunities in rural areas. On the other hand, the higher labour costs can hamper the development of the organic sector.

4.9. Organic products usually cost more than conventional products, though the price difference is tending to narrow (in part due to rising productivity in organic farming and in part because environmental requirements in other forms of agriculture are increasing as the CAP evolves). This is an obstacle for certain low-income social groups, such as pensioners, younger people and families from lower-income social classes. The EESC therefore suggests that appropriate measures be put in place to ensure that organic products are also accessible to these social groups.

4.9.1. Consumer watchdogs point out, for example, that percentage margins in retail are in some cases significantly higher for organic products than for non-organic products, which may affect the pricing of organic products in relation to conventional food products. Trading margins should be reasonable.

4.9.2. In some Member States, the — at times significant — price gap with conventional products is a major obstacle to the growth of the consumer market for organic products. Organic food prices also include higher standards for public goods, such as biodiversity on farmland or animal welfare. Against this backdrop, the inclusion of externalities (true-cost pricing) in all products could be a way to support the organic farming sector.

4.9.3. The EESC believes, in particular, that the public sector (local, city, regional and federal authorities) should also set a good example here and make greater use of seasonal and regional organic food products in public procurement (e.g. in canteens). Many European cities <sup>(8)</sup> (including Copenhagen, Vienna and Nuremberg) have already implemented very successful ideas in this regard.

4.9.4. Shorter food chains, as well as direct marketing opportunities, offer opportunities to set prices that are reasonable for both producers and consumers.

4.10. An increasing share of organic land will bring new challenges. Monitoring arrangements should be established to track the trends in pest pressure and plant diseases as climate change advances. Sufficient funding for applied research is needed to cultivate varieties suitable for organic farming, and develop effective phytosanitary measures and innovative solutions. The EESC stresses that free access to varieties and seeds must be ensured.

4.11. In animal nutrition, there have been difficulties for a number of years now in obtaining sufficient organic protein feed and essential amino acids (vitamin B). The promised stepping-up of research into alternatives in this area is urgently needed and warmly welcomed.

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<sup>(8)</sup> <https://www.organic-cities.eu/>

4.12. For farmers, the conversion period represents a particular challenge because, during this time, their expenses are already higher (e.g. for control costs, organic inputs), but they cannot yet market their products as organic goods. The Member States should provide for appropriate support measures in this regard. The possibility of establishing a market for 'conversion-period products' (between organic and conventional) should also be assessed.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2020/2222 of the European Parliament and of the Council with regard to the cross-border infrastructure linking the Union and the United Kingdom through the Channel Fixed Link**

(COM(2021) 402 *final* — 2021/0228(COD))

(2021/C 517/19)

Referral	Council of the European Union, 15.7.2021 European Parliament, 13.9.2021
Legal basis	Articles 91(1) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	239/1/5

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 563rd plenary session of 22 and 23 September 2021 (meeting of 22 September), by 239 votes to 1 with 5 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Proposal for a Council Decision on the position to be taken on behalf of the European Union within the Regional Steering Committee of the Transport Community as regards the adoption of the budget of the Transport Community for 2022**

(COM(2021) 479 *final* — 2021/0272 (NLE))

(2021/C 517/20)

Referral	Council of the European Union, 25.8.2021
Legal basis	Article 218(9) of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	238/0/7

Since the Committee unreservedly endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 563rd plenary session of 22 and 23 September 2021 (meeting of 22 September), by 238 votes and 7 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area (recast)**

(COM(2021) 434 *final* — 2021/0248 (COD))

(2021/C 517/21)

Referral	European Parliament, 13.9.2021 Council, 3.9.2021
Legal basis	Articles 43(2) and article 304 of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	235/1/2

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 563rd plenary session of 22 and 23 September 2021 (meeting of 22 September), by 235 votes to 1 with 2 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 22 September 2021.

*The President*  
*of the European Economic and Social Committee*  
Christa SCHWENG

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**Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013, as regards restrictions to the access to Union waters**

(COM(2021) 356 *final* — 2021/0176 (COD))

(2021/C 517/22)

Referral	European Parliament, 8.7.2021 Council, 16.7.2021
Legal basis	Articles 43(2) and article 304 of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted at plenary	22.9.2021
Plenary session No	563
Outcome of vote (for/against/abstentions)	232/0/5

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 563rd plenary session of 22 and 23 September 2021 (meeting of 22 September), by 232 votes with 5 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 22 September 2021.

*The President*  
of the European Economic and Social Committee  
Christa SCHWENG

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