

Official Journal of the European Union

C 140



English edition

Information and Notices

Volume 66
21 April 2023

Contents

I *Resolutions, recommendations and opinions*

OPINIONS

European Economic and Social Committee

575th plenary session of the European Economic and Social Committee, 14.12.2022-15.12.2022

2023/C 140/01	Opinion of the European Economic and Social Committee on 'Sustainable recycling, use of secondary raw materials and just transition in the European ferrous and nonferrous metal industry' (own-initiative opinion)	1
2023/C 140/02	Opinion of the European Economic and Social Committee on 'Addressing structural shortages and strengthening strategic autonomy in the semiconductor ecosystem' (own-initiative opinion)	8
2023/C 140/03	Opinion of the European Economic and Social Committee on 'COVID-19: The role of civil society in the reconstruction and resilience of the Euro-Mediterranean region' (own-initiative opinion)	14
2023/C 140/04	Opinion of the European Economic and Social Committee on 'The EU Strategic Compass' (own-initiative opinion)	20

III *Preparatory acts*

European Economic and Social Committee

575th plenary session of the European Economic and Social Committee, 14.12.2022-15.12.2022

2023/C 140/05	Opinion of the European Economic and Social Committee on 'Proposal for a Directive of the European Parliament and of the Council on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive)' (COM(2022) 496 final — 2022/0303 (COD))	28
2023/C 140/06	Opinion of the European Economic and Social Committee on 'Proposal for a directive of the European Parliament and of the Council on liability for defective products' (COM(2022) 495 final — 2022/0302 (COD))	34

EN

2023/C 140/07	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 European care strategy’ (COM(2022) 440 final)	39
2023/C 140/08	Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on nature restoration’ (COM(2022) 304 final — 2022/0195 (COD))	46
2023/C 140/09	Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the labelling of organic pet food’ (COM/(2022) 659 final — 2022/0390(COD))	55
2023/C 140/10	Opinion of the European Economic and Social Committee on ‘Recommendation for a Council recommendation on the economic policy of the euro area’ (COM(2022) 782 final)	58
2023/C 140/11	Opinion of the European Economic and Social Committee on ‘Setting the course for a sustainable blue planet — Joint Communication on the EU’s International Ocean Governance agenda’ (JOIN(2022) 28 final)	61
2023/C 140/12	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 — The power of trade partnerships: together for green and just economic growth’ (COM(2022) 409 final)	69
2023/C 140/13	Opinion of the European Economic and Social Committee on ‘Prohibiting products made with forced labour in the Union market’ (COM(2022) 453 final)	75
2023/C 140/14	Opinion of the European Economic and Social Committee on ‘Proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) 2017/745 and (EU) No 2017/746 as regards the transitional provisions for certain medical devices and <i>in vitro</i> diagnostic medical devices’ (COM(2023) 10 final — 2023/0005 (COD))	84
2023/C 140/15	Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on fees and charges payable to the European Medicines Agency, amending Regulation (EU) 2017/745 of the European Parliament and of the Council and repealing Council Regulation (EC) No 297/95 and Regulation (EU) No 658/2014 of the European Parliament and of the Council’ (COM(2022) 721 final — 2022/0417 (COD))	85

Corrigenda

2023/C 140/16	Corrigendum to Opinion of the European Economic and Social Committee on ‘Proposal for a directive of the European Parliament and of the Council on asset recovery and confiscation’ (COM(2022) 245 — final) (OJ C 100, 16.3.2023)	86
2023/C 140/17	Corrigendum to Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115’ (COM(2022) 305 final — 2022/0196 (COD)) (OJ C 100, 16.3.2023)	87

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

575TH PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,
14.12.2022-15.12.2022

Opinion of the European Economic and Social Committee on ‘Sustainable recycling, use of secondary raw materials and just transition in the European ferrous and nonferrous metal industry’

(own-initiative opinion)

(2023/C 140/01)

Rapporteur: **Anastasis YIAPANIS**

Co-rapporteur: **Michal PINTÉR**

Plenary Assembly decision	20.1.2022
Legal basis	Rule 52(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Consultative Commission on Industrial Change
Adopted in section	9.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	183/0/2

1. Conclusions and recommendations

1.1. The EESC notes that the lack of high-quality secondary raw materials and non-competitive prices prevents the greater uptake of secondary raw materials, and calls for appropriate policies and funding opportunities to build brand new recycling facilities and to upgrade existing ones in terms of their technology. The Committee believes that tax facilities and fiscal incentives should be introduced along the recycling value chain and for new circular business models, with a special emphasis on the important role that SMEs and start-ups have in the transition pathway.

1.2. The EESC calls for additional policies that support and finance R & D in the process of replacing critical raw materials, reducing resource consumption, improving product efficiency and enhancing EU monitoring, risk management and governance in the field of CRMs.

1.3. The Committee welcomes the launch of the Global Alliance on Circular Economy and Resource Efficiency⁽¹⁾ (GACERE) in February 2021 and believes that membership of this organisation should be extended.

1.4. The EESC considers that targeted policies and public investments should be further developed in all Member States in order to foster sustainable development and the just transition.

1.5. The EESC emphasises that there is an increased need for workers specialised in the recycling, design and manufacture of extended-life products, waste management and advanced sorting. The social partners and industrial civil society organisations have an extremely important role to play in implementing and monitoring the Just Transition Mechanism (JTM) and the Committee calls for more intense dialogue and closer cooperation between European and national public authorities and industrial stakeholders.

1.6. The EESC believes that the relevant criteria in the WasteFD to achieve the ambitious targets of the European Green Deal and Circular Economy Action Plan should be determined and subsequently harmonised within the EU.

1.7. Waste exports should only be allowed when environmental and social standards are fully complied with in the destination country, with reliable and effective audit procedures that include the social partners and relevant NGOs. The Committee calls for strict monitoring of classification issues and the introduction of appropriate and effective safeguard procedures to suspend exports in the event that the required conditions are not met. Furthermore, the EESC calls on the Parliament and Council to apply the same strict criteria regarding environmental commitments on exported waste to both OECD and non-OECD countries.

1.8. The Committee notes the problem of illegal exports of scrap from Europe and the suspicious re-exports of goods manufactured outside the EU and calls for more stringent border controls.

1.9. The EESC considers that speedier procedures for internally shipped waste will lead to better circularity of ferrous and non-ferrous materials, making them more competitive and reducing their greenhouse gas (GHG) emissions.

1.10. As product recyclability design is key to increasing the circularity and availability of high-quality secondary raw materials, the EESC calls for the use of recyclable raw materials and by-products to be recognised under the Ecodesign for Sustainable Products Regulation (ESPR). Extending the lifetime of products will become increasingly important for the competitiveness of European industry.

1.11. The EESC believes that the introduction of minimum environmental sustainability and social requirements in the Construction Products Regulation (CPR), combined with labelling and market incentives, would create a level playing field for sustainable products.

1.12. The participation of industry experts and other relevant stakeholders is essential to ensure that circularity principles are in place at all levels of product design and the Committee believes that R & D investments and public-private partnerships must be strengthened and provided with financial support.

1.13. The EESC believes that Green Public Procurement has a vital role in accelerating circular economy patterns and promoting sustainability, and is convinced that the harmonised EU standardisation of construction products would provide a coherent framework and reduce fragmentation across Member States.

1.14. The EESC welcomes the Commission's intention to promote a number of legislative proposals on improving the repairability and recyclability of products, extending the life cycle of products, introducing energy labelling and providing available repair services for consumers.

1.15. The Committee believes that the recyclability of packaging materials should be considered in extended producer responsibility schemes using eco-modulated fees.

⁽¹⁾ Global Alliance on Circular Economy and Resource Efficiency.

2. Introductory Comments

2.1. In its Communication on *Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery*⁽²⁾, the European Commission has emphasised that energy-intensive industries are indispensable for Europe's economy and must be supported in order to create new markets for climate-neutral and circular products, such as steel. It has also stated that the EU transition to climate neutrality could transform the current reliance on fossil fuels into one on raw materials sourced from abroad.

2.2. The COVID-19 pandemic has clearly shown the fragility of European supply chains and the dependence on foreign countries for strategic raw materials. Shortages still persist and the EU seems unable to make the value chains more resilient and better prepared for possible future shocks in the twin transition.

2.3. According to the International Energy Agency, the demand for mineral inputs will increase six-fold by 2050. Since primary raw materials are limited and often unavailable in the EU, focus must be transferred to improving the recycling capacities and capabilities and creating a real market for secondary raw materials.

2.4. While striving to achieve the targets set in the European Green Deal (EGD), the EU, Member States and industrial stakeholders have to ensure that the competitiveness of the industry, its value chains, employees and society as a whole are not under threat. Therefore, the European recycling chain from waste to new end products has to be updated and focused on efficient and sustainable recycling, including by promoting the industrial symbiosis methodology.

3. Circularity, reuse and recycling, availability of secondary raw materials

3.1. The EU is pushing to transform the economy into a more sustainable and circular one, with the potential to create an additional 700 000 jobs⁽³⁾. Although the results are reaching their limit for some materials like iron, zinc or platinum, for rare earths like gallium or iridium, the contribution from critical raw materials is rather marginal. It is estimated that every tonne of recycled steel prevents 1,5 tonnes of CO₂ emissions from going into the atmosphere. The EESC notes that it is the lack of high-quality secondary raw materials, general lack of availability, and non-competitive prices that prevent higher uptake of secondary raw materials.

3.2. Russia's invasion of Ukraine has added pressure on the supply of raw materials for the EU industry and supporting recycling will not be enough to meet future raw material demands. The EESC therefore calls for additional urgent measures to support and finance R & D in replacing critical raw materials, reducing resource consumption, improving product efficiency etc. The EESC welcomes the comprehensive approach in the European Critical Raw Materials Act proposal from the EC and believes that it is necessary to improve the EU's monitoring, risk management and governance in the field of CRMs. Furthermore, the Committee believes that the EU's external actions on CRMs should be enhanced through targeted strategic partnerships with third countries, bilateral/regional trade agreements and negotiations, sectoral agreements, development cooperation and multilateral initiatives.

3.3. The EU, as the frontrunner in the fight against climate change, should be able to deal with the waste produced in its territory rather than export it. However, the exports of ferrous metal waste (iron and steel scrap) have increased by 113 % in 2021 compared to 2015 levels, reaching 19,5 million tonnes and accounting for more than half (59 %) of all waste exports from the EU. The EESC notes the problem of illegal exports of scrap from Europe and the suspicious re-imports of goods manufactured outside the EU.

3.4. In the context of rising prices for energy and raw materials, the EESC emphasises that, compared to the extraction process of raw materials, recycling entails significant reduction of energy and GHG emissions. The Committee would like to see the adoption of policies for building new recycling facilities and for technologically upgrading the existing ones, including through the national recovery and resilience plans. The EESC believes that tax and fiscal incentives should be introduced for new circular business models across the value chains, while special emphasis should be placed on the important role that SMEs and start-ups have in the transition pathway.

⁽²⁾ EUR-Lex, EC Communication COM/2021/350 final on Updating the 2020 New Industrial Strategy.

⁽³⁾ EUR-lex: A new Circular Economy Action Plan For a cleaner and more competitive Europe.

3.5. The Committee salutes the launching of the Global Alliance on Circular Economy and Resource Efficiency in February 2021 as an alliance of governments that will work together to improve circularity and ensure a just transition. The EESC believes that membership of the institution should be extended, as increased global efforts are needed to ensure sustainable management of natural resources.

4. Just transition

4.1. While transforming our economies into green and digital ones, there are also specific socioeconomic difficulties for some regions and sectors, as well as employment and skills challenges for the metal industry. EU companies and workers need enhanced support to cope with the requirements of new business models and be better prepared for future challenges and opportunities. Additionally, the circular transition must prevent any distortion to working conditions. The Committee believes that targeted policies and public investments should be further developed in all Member States to foster sustainable development and the just transition.

4.2. The EESC has supported the adoption of the JTM, as part of the EGD investment plan, and considers it a vital tool to ensure that no one is left behind in the transition to a climate-neutral economy. The adoption of the Just Transition Fund (the first pillar of the JTM) marks a significant step forward.

4.3. The EESC believes that the social partners and civil society and industrial organisations have an extremely important role to play in implementing and monitoring the JTM, and in raising awareness among public authorities on the special needs of citizens and businesses. The Committee would like to see more intensified dialogue and cooperation between European and national public authorities, industrial stakeholders and relevant industrial NGOs.

4.4. Social partners at all levels have a very important role in negotiating just transition strategies within works councils or other relevant social dialogue bodies. They are best placed to map out the creation and disappearance of jobs and analyse and anticipate the future needs for training and up-skilling of the labour force. Presently, the most stringent needs are for workers specialised in recycling, design and manufacturing of extended-life products, waste management and advanced sorting.

5. Waste, Waste Framework Directive (WasteFD) and Waste Shipment Regulation (WSR)

5.1. Waste has an important value in terms of the recovery of secondary raw materials, contributing to the EU circular economy and the EGD and reducing the dependence on imported primary raw materials and saving natural resources, while cutting down the energy consumption needed to mine and process primary raw materials in Europe and decreasing CO₂ emissions in the ferrous and non-ferrous industries.

5.2. The forthcoming revision of the EU Waste Framework Directive with the aim of increasing the protection of the environment and public health from the effects of waste management, reducing the volume of waste, increasing reuse and improving separate collection to encourage preparation for re-use and high-quality recycling is important for private households and industry alike.

5.3. The EESC believes that the relevant criteria in the WasteFD to reach the ambitious targets of the EGD and Circular Economy Action Plan should be determined and subsequently harmonised within the EU. The Committee believes that coherence with other legislation, in particular the ESPR and EU Member State legislation, is required to avoid ambiguities, duplications and overlaps.

5.4. Increased volumes of internally shipped waste and speedier procedures will lead to increased domestic recycling of ferrous and non-ferrous materials, making them more competitive and helping them reduce their GHG emissions. Furthermore, the EC has estimated that between 9 000 and 23 000 new jobs will be created in the recycling and reuse sectors.

5.5. The EESC has already concluded that ‘exports of high-quality recyclable waste are detrimental to EU sustainability and undermine its global competitiveness by providing valuable resources to external competitors’ ⁽⁴⁾. In order to take full advantage of increased volumes of internal waste, the Committee calls for funding opportunities for R & D in discovering cutting-edge technologies for reuse and recycling and for developing state-of-the-art waste treatment and recycling facilities.

5.6. Waste exports from the EU should only be allowed when environmental and social standards are equivalent to those in the EU and are fully respected in the destination country. Scrap leakage has to be prevented by making controls at the EU borders more stringent, while exported waste should be subject to stricter transparency rules and related information on its management and respect of standards should be made publicly available. The EESC welcomes the Commission proposal for third-party audits on external waste facilities and at country level and has already called for ‘the social partners and relevant NGOs to be part of the audit procedures’ ⁽⁵⁾.

5.7. The Committee believes that particularly strict control of the classification issues should be in place in case exporters of waste attempt to reclassify their current waste export as end-of-waste export. Such a risk could completely undermine the entire reform proposed by the Commission for the export of waste.

5.8. *Ex-ante* monitoring or effective *ex-post* check-up of local waste processing conditions and regulations should be prioritised and performed. The EESC calls for the introduction of appropriate and effective safeguard procedures to suspend exports in case required conditions are not met.

5.9. The EESC calls for a shortened transition period of the application of the revised WSR of two years. The proposed 30-day time limit for the competent transit authorities to raise valid objections for a planned shipment for recovery should be reduced to 10 days to ensure operability and avoid unnecessary delays. Furthermore, the EESC demands a clear restriction on these authorities to prevent them from objecting to the same shipment more than once.

5.10. To ensure environmental integrity, the EESC calls on the Parliament and Council to apply the same strict criteria regarding environmental commitments on exported waste to both OECD and non-OECD countries.

5.11. Shortcomings in existing enforcement procedures in the WSR have led to increased shipments of illicit waste by organised criminal groups, estimated at 30 % of all waste shipments in Europe ⁽⁶⁾. The EESC supports the enforcement of the inspection and investigation procedures and calls for full cooperation between Member States and the EU, in line with the new EU Strategy to tackle Organised Crime 2021-2025 ⁽⁷⁾.

5.12. Industrial stakeholders and NGOs play an important role in tackling illegal waste shipments. Non-confidential data should be made available to all interested parties, as increased transparency will help reduce illegal waste shipments.

6. Ecodesign

6.1. The EESC believes that strengthening legislation on ecodesign for sustainable products is needed to achieve the EU’s ambitious objectives set in the EGD and Circular Economy Action Plan. The ESPR represents an opportunity for EU producers to differentiate their products from those that perform less well by using a common assessment method. Participation of industry experts and other relevant stakeholders of the value chain is essential to ensure that circularity applies at all levels of product design in order to include waste prevention and minimum recycled content requirements.

⁽⁴⁾ Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 (COM(2021) 709 final — 2021/0367 (COD)) (OJ C 275, 18.7.2022, p. 95).

⁽⁵⁾ Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 (COM(2021) 709 final — 2021/0367 (COD)) (OJ C 275, 18.7.2022, p. 95).

⁽⁶⁾ Questions and Answers on new EU rules on waste shipments.

⁽⁷⁾ EU Strategy to tackle Organised Crime 2021-2025.

6.2. The EESC calls for the social aspects to be included in the definition of sustainability, and not just environmental requirements, as is the case now. The social aspects should comply with international labour standards, such as respect for social dialogue and collective bargaining.

6.3. The use of secondary raw materials and by-products should be recognised under the ESPR, as they can contribute significantly to reaching the EU climate change policy targets. Equally, the design for recyclability of products, and their constituent materials, is key to increasing circularity and availability of high quality secondary raw materials.

6.4. The digital product passport is an important tool to provide relevant information on the sustainability of products to customers and in protecting intellectual property rights of producers, preventing misuse of data and avoiding greenwashing. A robust, reliable and comprehensive database is essential to provide such information on both the traditional and online market.

6.5. Furthermore, extending the lifetime of products will become increasingly important for the competitiveness of European industry, especially since the EU is often dependent on third countries. The EESC believes that R & D investments and public-private partnerships must be strengthened and provided with financial support.

7. Construction Products Regulation (CPR)

7.1. In conjunction with the ESPR proposal, the revision of the CPR provides an opportunity to align products' sustainability with the same level of ambition across different market sectors in construction. Whilst the CPR proposal recognised the importance of using recycled materials, the use of by-products can equally help reduce reliance on primary natural resources and therefore needs to be considered in product performance criteria.

7.2. The EESC believes that the introduction of minimum environmental sustainability and social requirements, combined with labelling and market incentives, would create a level playing field for sustainable products and ensure that they are properly recognised.

7.3. Green Public Procurement (GPP) criteria should utilise performance thresholds established under the CPR. The EESC believes that GPP has a vital role in accelerating circular economy patterns, promoting sustainability and creating an EU market for sustainable products. The EESC is convinced that a harmonised EU standardisation of construction products will provide a coherent framework across Member States, while improving transparency in terms of durability, reparability, safety, etc.

7.4. The EESC stresses that the assessment methods currently used in the construction sector are not fully harmonised and can lead to different results across the EU and thus a lack of comparability. A pre-requisite is to improve the consistency and comparability of environmental performance assessments of construction products. The Committee considers the developments on the Environmental Footprint methodology⁽⁸⁾ to be positive, which can help achieve these goals.

7.5. The EESC salutes the EC's intention to promote a number of legislative proposals on improving the reparability of products, extending the life cycle of products, introducing energy labelling and providing available repair services for consumers.

8. Packaging and Packaging Waste Directive

8.1. It is important to ensure that all packaging material put on the market is either recyclable or reusable. The design for recyclability of packaging should take into consideration not only the recycling rate, but also the ability of materials to be recycled without loss of intrinsic properties and the extent of primary material substitution. This will help ensure high quality recycling at end-of-life. Recyclability of packaging materials should be considered in extended producer responsibility schemes using eco-modulated fees.

⁽⁸⁾ Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 471, 30.12.2021, p. 1).

8.2. Whilst recycled content has a role to play in stimulating demand for recyclates, in the case of steel packaging, there is already a well-functioning market for secondary materials, with the recycling rate for steel packaging already exceeding 84 %. Therefore, an obligation to increase the recycled content may actually increase GHG emissions if scrap has to be transported over large distances and diverted from other source streams.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

Opinion of the European Economic and Social Committee on ‘Addressing structural shortages and strengthening strategic autonomy in the semiconductor ecosystem’

(own-initiative opinion)

(2023/C 140/02)

Rapporteur: **Anastasis YIAPANIS**

Co-rapporteur: **Guido NELISSEN**

Plenary Assembly decision	20.1.2022
Legal basis	Rule 52(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in section	9.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	179/0/4

1. Conclusions and recommendations

1.1. The EESC calls for increased transparency and more strategic monitoring and management across chip supply chains, better forecasting of chip availability, and closer partnerships, in coordination with public authorities at European level.

1.2. The Committee considers that the European semiconductor strategy should promote all stages of the semiconductor value chain, with a special focus on the design and manufacturing of chips and back-end production. The implementation of the Chips Act must be carefully assessed and monitored through clear indicators (KPIs) established together with industrial stakeholders and the European Semiconductor Board (ESB).

1.3. The EESC is particularly worried about the EU's current dependency on back-end manufacturing, especially where China is concerned. International cooperation between governments, semiconductor clusters and R & D institutions is vital to address the current shortages, ensure a level playing field and address the needs of society at large.

1.4. The Committee appreciates the EUR 43 billion announced in the EU Chips Act and the future creation of the Chips Fund, and demands that full use be made of the European Recovery and Resilience Plans.

1.5. However, the Committee notes that the European Commission has put too little emphasis on the importance of raw materials, the circularity of the production processes and the existing dependency on third countries, and calls for increased attention on guaranteeing access to the key raw materials used in the production of semiconductors.

1.6. The EESC calls for a careful review of the existing free trade agreements and international partnerships, with a clear view to achieving open strategic autonomy and increasing Europe's resilience.

1.7. Investment should be targeted in areas where European dependency on foreign technology providers is very high. Public support (while avoiding over-subsidisation) at EU and Member State level for investments in breakthrough technologies, virtual design platforms, state-of-the-art chip design capabilities and ‘first-of-a-kind’ facilities (with a focus on leading-edge chips) is needed to reduce risk and improve return-on-investment periods.

1.8. The Committee would like to see an economically efficient but balanced distribution of the EU funds between MS and regions, and also between large companies, start-ups and SMEs. The EESC also calls for a solid action plan for attracting foreign investment from leading international semiconductor companies.

1.9. The Committee considers that any skills policy should take into account the impact of accelerating innovation on the pace of job creation and job destruction, while involving the social partners from the semiconductor ecosystem, academia and the relevant research centres. Substantial efforts are required to up- and re-skill the workforce, and lifelong learning and VET programmes must help the EU labour market to acquire essential specific skills, especially for workers from the STEM area (science, technology, engineering, and mathematics).

1.10. The EESC highlights the fact that many of the innovations developed by the EU's research and technology organisations (RTOs) are taken up in other parts of the world, and considers that the end-user sectors must be brought closer to the European semiconductor research base.

1.11. The Committee calls for increased support for clusters in digital technologies and better exploitation of the innovation potential of hi-tech SMEs. Furthermore, the EESC calls for consistent legislation with regard to tax incentives that stimulate R & D investments, with a specific focus on R & D in chip design.

1.12. The Committee calls for further innovation and protection against cyber-attacks and better preparedness for further innovative cybersecurity threats.

2. Challenges for the EU semiconductor strategy

2.1. The digital revolution and the continuous quest for breakthrough technologies have generated a significant increase in the demand for semiconductors. The COVID-19 pandemic and the post-pandemic recovery period are characterised by widespread supply chain shortages which, together with increased energy prices and supply bottlenecks in crucial raw materials, are hampering economic recovery and dragging down industrial output in the EU.

2.2. The European micro-electronics industry (455 000 direct jobs) enjoys global leadership in dedicated processors for embedded systems, sensors, radio frequency chips, power electronics, silicon wafers, chemicals, and advanced chip-making equipment. The EU also has a strong research base due to its research centres and ambitious R & D initiatives.

2.3. The demand for semiconductors in the automotive industry is forecast to grow by 300 % by 2030, while the industrial electronic sector's needs for chips are expected to double by 2030, fuelled by some major trends such as the high-end production technologies of Industry 4.0. The communications sector represents 15 % of EU chip demand, with critical chip components for communication equipment for 5G mainly being designed and produced outside the EU. The healthcare, energy, aerospace, defence, and gaming industries, etc. are all evolving technologically and are experiencing increased demand for both mature and advanced chips for their production processes and products. Chips are also vital for the development of emerging industrial AI and IoT applications, a market that is growing by 50 % every year. Building a chips strategy on these existing and emerging strong end-markets will generate a virtuous circle: making key manufacturing industries in the EU more competitive, while reinforcing semiconductor capabilities within the Union.

2.4. On the other hand, the EU industry is less well represented in a number of important end-markets for semiconductors, such as cloud and data storage, personal computing, wireless communications (smartphones) and consumer devices (gaming). Furthermore, with only 50 semiconductor fabrication plants (fabs) on EU soil, the manufacturing base is rather low, and the EU cannot produce chips with feature sizes below 22nm and has a weak position in design and design automation tools. As a result, the EU had a trade deficit in semiconductors of EUR 19,5 billion in 2021 (EUR 51 billion of imports compared with EUR 31,5 billion of exports) ⁽¹⁾.

⁽¹⁾ European Commission SWD — A Chips Act for Europe.

2.5. As demand for and use of chips will only surge in future, the EESC calls for ambitious programmes to reduce the sector's greenhouse gas emissions throughout energy efficiency, renewable energy and breakthrough technologies.

3. Competitiveness and strategic autonomy

3.1. The many risks affecting the semiconductor sector (structural shortages, supply chain risks, monopolistic power in key parts of the value chain, geopolitical risks) and their impact on a wide range of industries have raised awareness about the need to strengthen Europe's technological sovereignty in this field.

3.2. Disruptions in the supply of semiconductors are having very negative effects on Europe's economy and society. The complexity of the semiconductor supply chain makes it difficult to identify and assess risks related to disruptions and to take the appropriate mitigating measures. The EESC is of the opinion that the chip value chain can be strengthened by increasing transparency and visibility, ensuring more strategic supply chain monitoring and management, better forecasting of chip availability, and forging closer partnerships across all levels of the supply chain, in coordination with public authorities at European level.

3.3. To address long-term supply concerns and to compete globally in designing and producing increasingly complex state-of-the-art semiconductor components, the EESC considers that the European semiconductor strategy should promote all stages of the semiconductor value chain, including semiconductor research, design, manufacturing of chips, assembly, testing and packaging.

3.4. The EESC considers in particular that the EU must invest in areas where European dependency on foreign technology providers is very high, such as design and electronic design automation, manufacturing capabilities and advanced packaging.

3.5. As semiconductors have clearly become a strategic technological area and the EU lacks manufacturing capabilities for both trailing edge and leading edge chips, the EU needs to support investments in chip production, as this is essential to strengthen manufacturing resilience in key sectors. Indeed, the already high demand for mature chips (12-40 nm technology) by Europe's industrial sectors is still increasing. At the same time, the demand for leading edge chips (below 10nm nodes) is forecast to grow much faster because of the shift towards edge and quantum computing, the IoT, automated driving and artificial intelligence. These technologies are driving radical change in many industrial sectors: engineering, automotive, electronic, health, defence and renewables. These industries certainly have the potential to create a European market to support the European production of leading-edge nodes in the longer term.

3.6. However, in order to prioritise investments, the Committee considers that, first of all, investments should be targeted towards state-of-the-art chip design capabilities, bearing in mind that Europe lacks chip design capabilities for advanced logic semiconductors.

3.7. Special attention must also be paid to back-end manufacturing (including assembly, testing and packaging), which is more labour-intensive, and which could be strategically concentrated in South-Eastern Europe, where labour costs are more competitive. The EESC is worried about the various risks that the EU is exposed to due to its current dependency on back-end manufacturing, especially where China is concerned.

3.8. Guaranteeing access to the key raw materials utilised in the production of semiconductors, such as high-purity chemicals (germanium, boron, indium), special gases (neon, helium, argon), substitutes for silicon (e.g. silicon carbide for better power management) is paramount. Demand for these materials will only grow as the demand for chips rises due to their increasing complexity.

3.9. The Committee notes that the European Commission has put too little emphasis on the importance of raw materials, the circularity of the production processes and the existing dependency on third countries. The EESC has stated that *'the Commission, Member States and industry should therefore jointly discuss how to diversify sources of supply and, in particular, how to improve the recycling of critical raw materials as part of an industrialised circular economy in microelectronics'* ⁽²⁾.

3.10. The Committee believes that the implementation of the Chips Act must be carefully assessed and monitored and calls for clear KPIs to assess the progress. The indicators must be established together with industrial stakeholders and the ESB.

4. EU stakeholder involvement, international cooperation and strategic partnerships

4.1. The Committee believes that the European Alliance on Processors and Semiconductor Technologies, launched by the Commission in July 2021, has a very important role to play in identifying the existing gaps in the production process and technological uptake in the EU. Strengthening the EU's resilience and ensuring the security of supply chains should be thoroughly discussed within the Alliance, involving the social partners from the semiconductor ecosystem, academia and the relevant research centres.

4.2. The EESC considers that international cooperation between governments, semiconductor clusters and R & D institutions is vital to address the current shortages and ensure mutual trust in order to achieve a level playing field. Furthermore, reinforcing Europe's semiconductor ecosystem will lead to mutual dependencies across the global value chains, which in turn will create leverage on international negotiations and enhance the general resilience of the entire sector. Nevertheless, the EESC has already expressed a clear position that *'a subsidy race must be avoided and funds have to be spent efficiently without creating overcapacities and market distortions'* ⁽³⁾.

4.3. The EESC calls for a careful review of the existing free trade agreements and international industrial partnerships, with a clear view to achieving open strategic autonomy and increasing Europe's resilience, in an ever more complicated geopolitical context. Discussions should be intensified within the ESB, which should increase membership by inviting industrial stakeholders and the EU representative social partners, as well as the most important research centres.

4.4. Debates in the European fora must also focus on implementing the proposed expediting of permit processes for new facilities, which could be a major incentive for the negotiation of substantial foreign investments ⁽⁴⁾, which would create immediate demand. More importantly, cutting the administrative burden and implementing regulatory facilities in all MS will reduce fragmentation and ensure predictability for future investments.

5. Financing

5.1. The EESC appreciates the EUR 43 billion announced in the EU Chips Act and the future creation of the Chips Fund, but calls for detailed clarification on how these public and private funds will be raised and allocated. Furthermore, the Committee highlights that full use should be made of the European Recovery and Resilience Plans, which aim to dedicate 20 % of their budget to the digital transformation of the MS.

5.2. The EESC considers that public support at EU and MS level for investments in breakthrough technologies, virtual design platforms and "first-of-a-kind" facilities (with a focus on leading-edge chips) is needed in order to reduce risks and improve returns on investment periods for the facilities that have to be built from scratch.

⁽²⁾ Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)' (COM(2022) 46 final — 2022/0032 (COD)) (OJ C 365, 23.9.2022, p. 34).

⁽³⁾ 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 Chips Act for Europe"' (COM(2022) 45 final) (OJ C 365, 23.9.2022, p. 23).

⁽⁴⁾ Such as the ongoing negotiations with Intel from USA, Samsung from South Korea and TSMC from Taiwan.

5.3. Since the proposed ESB will comprise representatives of the MS, the EESC is worried that it will be the Member States who will fight each other for a larger share of the funds. Therefore, the Committee would like to see an economically efficient but balanced distribution of the EU funds between MS and regions, and also between large companies, start-ups and SMEs, so that no one is left behind. Furthermore, regarding the Chips Joint Undertaking, the EESC has already stated that specific criteria should be designed and that “social policy criteria, such as the attitude of the undertaking concerned to social dialogue and collective bargaining, and priority cooperation with suppliers established in the EU — but also the number of additional sustainable jobs created by the investment, as well as the quality of working conditions — should all play a role here”⁽⁵⁾.

5.4. The proposed Chips Fund will increase the availability of loans and venture capital financing and facilitate the further growth of small innovative semiconductor companies. However, a fully-fledged European venture capital market is needed to help these companies cross the “Valley of Death” that leads from demonstration to market introduction. The EESC calls for practical guidance, especially for start-ups and SMEs, on how these funds can be accessed.

5.5. Lastly, the Committee would like to see a solid action plan for also attracting foreign investment, especially from international semiconductor leading companies, in order to attract both capital and know-how to EU soil.

6. Skills

6.1. Digital skills have become a key intangible asset of the digital industrial revolution and the availability of a skilled workforce has become an important element for investment decisions, while the lack of skills is seriously slowing down the deployment of digital capabilities. Digital education and awareness-raising among society on the societal impact of digital applications (both benefits and risks related to concentration of power or respect for personal life) are crucial tools for consumers and civil society to contribute responsibly to future developments in the chip ecosystem and for attracting the younger generation. The EESC also calls for specific attention to be paid to the need to protect the health of workers in chip manufacturing who are exposed to hazardous substances.

6.2. Currently, the number of open positions for engineers, design specialists and technicians is growing at an alarming rate. The EESC welcomes the recently created Skills Partnership for the Digital Ecosystem. As part of the European Skills Agenda, it should help achieve the targets of the Digital Decade programme (equipping 80 % of people with basic digital skills, reducing gender imbalances and having 20 million ICT specialists by 2030), those of the EU Skills Agenda and those of the European Pillar of Social Rights (60 % of adults attending training courses).

6.3. Any skills policy should take into account the impact of accelerating innovation on the pace of job creation and job destruction, including the transformation of the labour market caused by technological developments in AI. Low- and medium-skilled jobs are at particular risk of disappearing (being replaced by digital tools and automation), while the demand for advanced digital skills will only grow. The EESC considers that tackling these challenges will require substantial efforts for up- and re-skilling of the workforce, especially for workers affected by technological skills obsolescence. Furthermore, lifelong learning and VET programmes must help the EU labour market to specialise by acquiring essential specific skills. Therefore, it will be of key importance to provide students with access to state-of-the-art design and manufacturing equipment and real-life training experience.

6.4. The Committee also considers that the EU needs a coherent legislative framework to attract a foreign labour force specialised in semiconductors. The EESC appreciates the Commission Communication on attracting skills and talent to the EU⁽⁶⁾ and considers that this must be complemented by up- and re-skilling programmes, including for workers from the STEM area.

⁽⁵⁾ Opinion of the European Economic and Social Committee on “Proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe’s semiconductor ecosystem (Chips Act)” (COM(2022) 46 final — 2022/0032 (COD)) (OJ C 365, 23.9.2022, p. 34).

⁽⁶⁾ COM(2022) 657 final — Communication from the Commission on attracting skills and talent in the EU.

6.5. On the other hand, the EESC is worried that the lack of skills throughout the world will result in a war for talent, resulting in an internal (within the EU) or international brain drain. The EESC therefore looks forward to the upcoming Communication on “Brain drain — mitigating challenges associated with population decline”.

7. R & D&I

7.1. The EESC highlights that, unfortunately, many of the innovations developed by the EU's RTOs are taken up in other parts of the world and have not led to a stronger EU manufacturing base. Therefore, the EESC considers that EU RTOs must draw together the entire industrial base and the existing semiconductor know-how, upgrade and build semiconductor pilot lines and explore and exploit opportunities for the future in key areas such as edge computing, artificial intelligence and cybersecurity. In this respect, bringing the end-user sectors much closer to the European research base will be key.

7.2. The Committee calls for long-term innovation roadmaps to support the digital transition, as they allow for a pro-active approach to driving R & D investments in longer-term strategic targets and to addressing the gaps in the semiconductor ecosystem. Furthermore, the Committee calls for the innovation potential of hi-tech SMEs to be better exploited; these companies are often highly specialised, agile and active in high-value niche markets.

7.3. The EESC points out that better protection for companies' valuable intellectual property integrated in chips has to be ensured and welcomes the clear rules announced in the Chips Act. The future activity of the ESB must include timely consultations with industry stakeholders on the effective protection of EU intellectual property rights.

7.4. The Committee believes that special investment should be directed towards R & D in chip design, as this provides the lion's share of value added and can also strengthen the business case for more advanced manufacturing capacity. In this context, the strongly developing bioeconomy, with vast future applications, should be also taken into account. The Commission should analyse the opportunities to adopt consistent legislation with regard to tax incentives that stimulate R & D investments, especially regarding future consortia that comprise large companies, SMEs, start-ups and spinoffs from research institutions.

7.5. Cybersecurity has become a major topic for many industrial sectors such as automotive, engineering, communications, healthcare, aerospace and defence. The EESC calls for further innovation and protection against cyber-attacks and the need to be prepared for further innovative cybersecurity threats. The Committee supports the proposal for a EU Cyber Resilience Act which will introduce new cybersecurity requirements and create a better understanding of cyber threats among producers and consumers. The EESC also calls for further reinforcement of the role of the European Union Agency for Cybersecurity.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

Opinion of the European Economic and Social Committee on ‘COVID-19: The role of civil society in the reconstruction and resilience of the Euro-Mediterranean region’

(own-initiative opinion)

(2023/C 140/03)

Rapporteur: **Angelo PAGLIARA**

Plenary Assembly decision	25.3.2021
Legal basis	Rule 52(2) of the Rules of Procedure Own-initiative opinion
Section responsible	External Relations...
Adopted in section	20.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	183/0/5

1. Introduction

1.1. The pandemic crisis has hit the Euro-Mediterranean region hard, exacerbating existing problems and creating new challenges to add to previous ones. The socioeconomic consequences of this are likely to increase inequalities, especially in countries with weak economic and productive systems.

1.2. The EESC’s Euromed Follow-up Committee has decided to focus on the role of civil society in reconstruction and resilience in the Euro-Mediterranean region.

1.3. Civil society organisations from the Euro-Mediterranean region and the economic and social councils of various countries have been involved in drafting the report. A particular and close collaboration has been pursued with Morocco’s Economic, Social and Environmental Council, which co-hosted the 2021 Euromed Summit.

1.4. This information report therefore has an important added value thanks to the involvement of civil society on both sides of the Mediterranean.

1.5. This report complements previous information reports on Education and vocational training in the Euro-Mediterranean region, Digitalisation and SMEs in the Mediterranean region and Sustainable Development in the Mediterranean region ⁽¹⁾.

2. Conclusions

2.1. Civil society worldwide responded immediately to the pandemic, working on the front line and providing assistance and help to the population. In the Euro-Mediterranean area, too, the role of civil society has been crucial in mitigating the adverse effects of COVID-19.

2.2. Civil society organisations in the Euro-Mediterranean region have backed up government action by providing essential services and healthcare; they have distributed personal protective equipment and helped to disseminate vital information, especially in remote areas. Their work has also been of paramount importance in cushioning the impact of the pandemic on the most vulnerable sections of society, such as women, young people, immigrants and those with disabilities.

⁽¹⁾ This information report also complements recent EESC opinions on this subject, in particular: Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility’ (COM(2020) 408 final — 2020/0104 (COD)) — ‘Proposal for a Regulation of the European Parliament and of the Council establishing a Technical Support Instrument’ (COM(2020) 409 final — 2020/0103 (COD)) (OJ C 364, 28.10.2020, p. 132); ECO/515 Coronavirus Response Investment Initiative Regulation (not yet published in the Official Journal; Opinion of the European Economic and Social Committee on ‘A post-COVID-19 emergency: the design of a New Multilateral Matrix’ (own-initiative opinion) (OJ C 364, 28.10.2020, p. 53).

2.3. Civil society's active involvement has buttressed solidarity in the Euro-Mediterranean region; many civil society organisations in the Southern Neighbourhood have played a part in setting up civic solidarity groups, experimenting with innovative methodologies and stepping up their online information and coordination work.

2.4. The EESC firmly believes that a fair and equitable economic and social recovery is only possible through the involvement of the social partners and civil society organisations, the private sector and, in particular, SMEs. The recovery of the Mediterranean area and the development of sustainable and resilient socioeconomic models must be guided by principles such as respect for the rule of law, the protection of democratic values and social and human rights, the implementation of ILO core conventions, and a shared commitment to attaining the sustainable development and climate neutrality goals.

2.5. The EESC welcomes the adoption of the new Agenda for the Mediterranean and underscores the need for all measures in support of the recovery to serve the dual aims of development and improving the quality of life of the region's people.

2.6. A number of social, political, environmental, geopolitical and immigration challenges are currently concentrated in the Mediterranean that are key challenges not just for Europe but for the world as a whole. The EESC believes that the area's growing multidimensional challenges can only be grappled with through renewed and effective multilateralism supported by the European Union.

2.7. The impact of climate change is also affecting the Mediterranean area in the form of desertification, water scarcity and rising temperatures. The current crisis has cast into relief the need to strengthen common resilience and open up new cooperation initiatives on the environment and digitalisation. The EESC considers it useful, not least given the increasing civil society awareness and through greater stakeholder participation, to extend and reinforce initiatives such as WestMED so that they help achieve the climate and environment goals through blue economy models targeting job creation and the protection of the ecosystem and diversity.

2.8. 10 years on from the Arab Spring, the European Union has renewed its cooperation strategy with its Mediterranean neighbourhood. In this connection, the EESC sees the new Agenda for the Mediterranean as a key instrument for the social and economic recovery of the region following the COVID-19 crisis. The renewed partnership commitment must be tightly bound not only to economic and social challenges, but also to environmental, demographic and immigration ones, while fully respecting the Union's progress and founding values. The situation of health systems has proven fragile in many parts of the region, and the pandemic crisis is an important test that could also impinge on political stability.

2.9. The Mediterranean area's recovery and reconstruction programmes should put particular weight on the swift recovery of the tourism sector and especially of small- and medium-sized enterprises that employ more than half of the employees in the EU. A lingering impact of the crisis, including structural unemployment — especially of the young and women — would have serious social consequences.

2.10. The development of the human capital of the workforce is particularly important for the sustainable development of the EU's Mediterranean partners. Especially in the tourism sector, staff training should be promoted. Moreover, the EESC notes that the problem of the 'brain drain' from the southern partner countries to the highly developed industrialised countries is a major obstacle, particularly to the digital transformation of their economies. The Member States of the European Union should therefore facilitate short- and medium-term work permits in the EU for both self-employed workers and employees, especially in the IT sector. Furthermore, the Commission should support the implementation of digital projects in partner countries so that IT technicians in particular find good employment opportunities in their home countries.

2.11. The EU will make use of existing cooperation instruments and programmes to strengthen its dialogue with the Southern Neighbourhood. The European Economic and Social Committee recommends the broadest possible involvement of civil society organisations, through inclusive social and civil dialogue at all levels that takes into account the specific characteristics and roles of the various players involved and that emphasises their contribution to the design and implementation of the policies and measures needed to manage the impact of the current changes and crises, starting with the effects of climate change.

2.12. It is estimated that many countries in the Southern Neighbourhood will experience a fall in GDP per capita and have major challenges in confronting the growing social, economic and poverty risks. Economic and financial reconstruction plans are therefore needed, with measures in them that can also address the problems accounting for growing social insecurity.

2.13. The economic recovery of many countries in the Mediterranean neighbourhood very much hinges on the effectiveness of a proper vaccination campaign, and the EESC accordingly recommends the strengthening of COVAX, and the maximum logistical and supply support from the European institutions, also through bilateral agreements. The EESC stresses that it is particularly important to support partner countries south of the Mediterranean in establishing self-determined production facilities for vaccines and medical products in their countries. In this context, it reiterates its call for the release of patents on vaccines and medical products to combat pandemics to be seriously discussed.

2.14. The EESC believes that the active involvement of civil society in the post-COVID-19 recovery will be instrumental in reaching goals such as improving people's quality of life and developing a new model of sustainable development. It therefore calls on the European institutions, using the partnership with the Southern Neighbourhood, to further strengthen all instruments for involving civil society organisations.

2.15. Civil society organisations have been at the vanguard of supporting the health and social response to the pandemic and their hands-on involvement has helped palliate the social and health fallout on the population. However, as the EESC has already pointed out, their ability to respond to society's needs is shaped by the reality that resources are often limited and can fluctuate. The EESC is convinced of the need to strengthen support mechanisms for civil society organisations, partly so as to better protect the most vulnerable groups afflicted particularly badly by the pandemic, such as young people, women, migrants and people with disabilities.

2.16. The EESC calls for further action by the European institutions in support of peace, democracies and respect for human rights in conflict areas in the Mediterranean neighbourhood. The conditions experienced by the populations in conflict areas have further deteriorated because of the pandemic and vigorous efforts are required to ensure a complete peace plan.

2.17. In view of the certainly difficult recovery from the pandemic crisis, the ongoing trade negotiations between the EU and Morocco and Tunisia, as well as the upcoming negotiations with Jordan, are becoming more important. The EU should take greater account of existing asymmetries and adequately accommodate its southern trading partners. The EESC calls for better involvement of civil society organisations and social partners in the negotiation processes and for a formal anchoring in the Treaties to enable them to make positive contributions to the trade relations between the partner countries, in particular, to ensure the implementation of the mandatory sustainability chapters of the upcoming trade agreements.

2.18. In addition, the EESC suggests that the CSOs and social partners be given responsibility not only for the sustainability chapters but also for the entire scope of trade and investment agreements as part of their formally structured involvement.

2.19. The EESC reiterates its view that the EU should target part of its Aid for Trade funds to support CSO participation and capacity building in sustainable trade and investment efforts.

2.20. The EESC has already called in the past for digital skills to be bolstered on both sides of the Mediterranean. Following the adoption of the new strategy for the Mediterranean and with a view to post-pandemic reconstruction, the EESC points to the need to boost investment in digital infrastructure and support the digital transformation of SMEs as drivers of employment and social development, including through the involvement of the social partners, acknowledging the potential of collective bargaining and social dialogue at the various levels.

3. General comments

3.1. The pandemic crisis has made the Mediterranean neighbourhood's difficulties worse: 25 years after the Barcelona Declaration and 10 years after the Arab Spring, the Mediterranean's challenges remain colossal. The European Union and its partners in the Mediterranean region have recently decided to relaunch and strengthen cooperation through the ambitious new Agenda for the Mediterranean.

3.2. This is grounded in the conviction that only by working together and in a spirit of partnership can the strategic challenges of the future be successfully addressed in the interests of both sides. The Agenda includes a bespoke economic investment plan to support the Mediterranean Neighbourhood's socioeconomic recovery in the period 2021-2027. The shared goal, as announced by High Representative Josep Borrell, is to build a peaceful, secure, more democratic, environmentally friendly, prosperous and inclusive Southern Neighbourhood.

3.3. *Bridging the Sea* ⁽²⁾, a recent study published by the Med Dialogue for Rights and Equality, found that almost 63 % of civil society organisations operating in the Southern Neighbourhood dealt with issues such as the consolidation of democracy and rights, while more than 53 % dealt with, among other things, grappling with socioeconomic inequalities. Their awareness of and attention to ecological and environmental issues is increasingly important. These figures confirm that a solid foundation exists and that support to civil society needs to be ramped up to better address the challenges of the future.

3.4. Civil society in the Southern Neighbourhood has increased its presence over the last two decades. Its active approach has enabled mitigation of the social and health consequences for the population, but at the same time brought to prominence the need for action to reinforce the capacity and skills of civil society to function better.

3.5. The Mediterranean area, like the rest of the world, has undergone a severe economic and social shock as a result of the COVID-19 pandemic. The social and health consequences have been aggravated by the lack of adequate public health infrastructure, especially in the most fragile countries. The pandemic crisis has compounded the crises that already existed in a number of countries, the result of a series of factors such as already precarious economic and social trajectories, high unemployment and the consequences of conflicts in certain areas, such as Libya and Syria.

3.6. Governments in the Mediterranean region reacted immediately, albeit in very different ways, to contain the spread of the pandemic by putting support measures in place for workers and businesses, including in collaboration with the social partners and civil society organisations, although they were often insufficiently involved and in some cases not at all. To contain the effects of the pandemic, almost all countries in the Mediterranean area imposed lockdowns, like in Morocco, Egypt, Jordan and Lebanon, curfews and travel restrictions.

3.7. In the wake of the pandemic crisis, many governments in the area have put in place expansionary policies to address the economic crisis and support particular sectors by stimulating production and introducing tax and economic benefits and measures to attract investment.

3.8. The pandemic has engendered adverse economic consequences across the Mediterranean region, not just because of factors such as reduced internal and external demand and falling consumption, but also because of the worsening financial and public debt situation. Since the outbreak of the pandemic crisis, the region's governments have allocated additional resources to the health and economic systems to support certain sectors. The public deficits of almost all the countries in the Mediterranean region will increase considerably as a result.

3.9. The transport sector has been hard hit by the restrictive measures that have prevented or reduced international travel, making tourism one of the sectors worst affected by the pandemic. The OECD has estimated a contraction in the sector of between 45 and 70 %, and a drop in international tourism of between 60 and 80 % ⁽³⁾. Tourism is one of the prime economic sectors for the Mediterranean countries and, according to the United Nations Conference on Trade and Development (Unctad), Egypt and Morocco will be among the countries most impacted worldwide ⁽⁴⁾.

3.10. Micro and small- and medium-sized enterprises and the self-employed are one of the important components of the economy of the countries on the southern shore. They have seen a significant reduction in their turnover and most of them have been forced to reduce the number of employees. In this regard, structural measures will be needed to help SMEs emerge from the crisis and to grow and innovate by addressing the dual challenge of digitalisation and decarbonisation.

⁽²⁾ <https://meddialogue.eu/wp-content/uploads/2021/02/Publication-Bridging-the-sea.pdf>.

⁽³⁾ https://read.oecd-ilibrary.org/view/?ref=124_124984-7uf8nm95se&title=Covid-19_Tourism_Policy_Responses&_ga=2.143901749.1647750476.1622806508-1692148678.1622806341.

⁽⁴⁾ https://unctad.org/system/files/official-document/ditcinf2020d3_en.pdf.

3.11. Although the pandemic crisis in the Mediterranean region has affected all social groups, the worst hit have particularly been: young people, due to the worsening of the labour market and the lockdown measures for schools and universities; women employed, in some areas such as the Southern Neighbourhood, primarily in the informal economy, agriculture and in a tourism sector severely affected by lockdown measures; vulnerable groups such as informal workers and refugees, who are often not beneficiaries of social protection measures, and people with disabilities, due to the often poor services.

3.12. In some parts of the Southern Neighbourhood, factors such as water scarcity and poor access to sanitation have exacerbated the impact of the pandemic, especially in the most socially isolated strata, conflict areas and refugee camps.

4. Challenges and opportunities

4.1. As highlighted by the secretary general of the Union for the Mediterranean⁽⁵⁾, the current health crisis is jeopardising the area's socioeconomic progress of recent years. Nevertheless, the crisis is an opportunity to strengthen integration and make economies more resilient.

4.2. The role of civil society in the Euro-Mediterranean region is of paramount importance in building a fairer and more inclusive society after the pandemic; similarly, as highlighted at the Porto Social⁽⁶⁾ Summit, the active involvement of the social partners and civil society organisations is crucial in making sure no-one is left behind and for the effective implementation of the European Pillar of Social Rights.

4.3. COVID-19 and related measures put civil society sustainability at risk. Governments and many donors have suspended grants and have frozen funding, redirecting funds to COVID-19 relief efforts. The result is threatening CSOs' already fragile sustainability, the possibility to continue serving communities, and the jobs of many civil society workers, although there are big expectations of CSOs. The EESC stresses that organisational sustainability grants and core support funding is crucial for CSOs to adapt to rapidly changing situations and to continue operations during crises.

4.4. The EESC has highlighted the fact that the Mediterranean is one of the parts of the world most vulnerable to the impacts of climate change. COVID-19 has adversely affected the social situation and development, making the adoption of sustainable development and green economy strategies a matter of urgency.

4.5. The adoption of recovery plans in the Mediterranean area constitutes a potential opportunity to ensure the region's economic, social and environmental development. It is essential to link development opportunities with adherence to principles such as solidarity, combating inequalities and safeguarding and respecting the rule of law. Active civil society involvement is essential if all the goals are to be attained.

4.6. Future post-COVID-19 reconstruction plans, alongside economic growth, should occupy an important place in the Southern Neighbourhood in measures to contain environmental problems associated with climate change, water scarcity, desertification and pollution. Environmental conservation and protection measures could have a positive impact in the Mediterranean region by diversifying the economy and creating quality jobs. In this context, the EESC draws attention to the very high potential for renewable energies (especially solar and wind energy) in the southern partner countries and calls on the EU and its member countries to push for more sustainable common investments in this field.

4.7. The EESC has already highlighted the need to promote a just transition in the Mediterranean area, partly to bring benefits in terms of health, education and gender. In order to ensure a recovery effectively geared to the principles of the transition and digitalisation, it will be crucial to promote awareness-raising and the development of particular entrepreneurial mindsets and digital skills. The EESC supports the call of its southern partner countries for a stronger commitment of the EU and its Member States in the field of research and development cooperation in the Mediterranean.

⁽⁵⁾ UfM Foreign Affairs Ministers set priority areas for stronger cooperation and integration in the Euro-Mediterranean region — Union for the Mediterranean — UfM (ufmsecretariat.org).

⁽⁶⁾ <https://www.2021portugal.eu/en/porto-social-summit/porto-social-commitment/>.

4.8. The recovery of the Southern Neighbourhood, in a situation characterised by a large share of employment in the informal economy, is also closely linked to the development of an effective model of vocational training and education. The EESC reiterates the need to strengthen professional skills, especially those of young people and women, so that they can be used in national and transnational settings, as part of a circular brain approach. CSOs also have an important role in strengthening skills through non-formal education, organising workshops and training and through promoting the social economy. The Committee also stresses the need, as already highlighted by the UfM Regional dialogue with social partners, inter alia, to involve the social partners, with a view to tackling the mismatch between supply and demand on the labour market.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

Opinion of the European Economic and Social Committee on ‘The EU Strategic Compass’**(own-initiative opinion)**

(2023/C 140/04)

Rapporteur: **Christian MOOS**Co-rapporteur: **Peter CLEVER**

Plenary Assembly decision	14.7.2022
Legal basis	Rule 52(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Section for External Relations
Adopted in section	20.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	163/1/5

1. Summary and recommendations

1.1. The Strategic Compass marks an important step forward. It is a catalogue of very important concrete projects and measures that enhance European security. The European Economic and Social Committee (EESC) believes that it must be expanded to form a comprehensive strategy for European foreign and security policy and that civil society must be involved in this process.

1.2. The EESC stresses that security goes far beyond defence and that a comprehensive EU security strategy should focus on civilian and preventive aspects as well, in order to back up and complement the concrete defence measures.

1.3. The EESC stresses the preventive importance of social justice, economic prospects and environmental sustainability. Social peace and economic stability are important prerequisites for non-violence. Limiting global warming and managing its consequences are key to maintaining social order and peace in the world.

1.4. The Strategic Compass does not sufficiently take into account the role European civil society can and must play in order to attain greater resilience against hybrid attacks and the systematic undermining of cohesion and solidarity within and between the EU Member States by inimical powers.

1.5. Civilian and preventive security policy go hand in hand with military defence capabilities. The latter must be regarded as an indispensable condition for safety and, in view of its deterrent effect, also as preventive.

1.6. The EESC takes the view that the Strategic Compass paints an overly positive picture of European security and defence policy.

1.7. NATO is not merely a strategic partner for the EU, but its key security provider. Europeans must contribute greater added value to NATO through measures that strengthen their own ability to act strategically. So far, the EU and NATO have not fully exploited the potential of their cooperation. Strengthening the European pillar of security and defence means strengthening NATO.

1.8. Ultimately, the EU must take more responsibility and create a European Defence Union as the European pillar of NATO, ensuring that it fully respects and is compatible with the neutrality of some of its Member States.

1.9. The EU should develop a better understanding of the crucial importance of the transatlantic partnership for NATO — and thus for European security.

1.10. Too many EU members have for a long time neglected their defence commitments and capabilities, which has led to their armed forces becoming drastically under-equipped, unprepared and lacking in interoperability.

1.11. The EU Member States need to better coordinate national capability development and defence planning, and undertake much more joint procurement. Greater effectiveness of European defence capabilities must be achieved through much better coordination of national industrial policies.

1.12. Europe's capacity to act must be strengthened by introducing majority voting on foreign and security policy.

1.13. As an important additional element of the Strategic Compass, the role that European civil society can play in terms of solidarity, cooperation and resilience must be identified.

1.14. The EESC suggests public forums for strategic debates at European and national level.

2. General comments

2.1. This own-initiative opinion examines the impact of the Strategic Compass and seeks to carry out a policy assessment of its European objectives and opportunities from a civil society perspective. The EESC welcomes the European Union's initiatives to strengthen European security and defence.

2.2. Civil society is not a bystander in security issues and its voice must be heard. In the event of conflict, civilian institutions are hit hard and civilians suffer the devastating consequences of war.

2.3. From a civil society perspective, the Strategic Compass has adopted a narrow perspective of security, with a particular focus on defence. The EESC stresses that security goes far beyond defence and that an EU security strategy should focus more on civilian and preventive aspects than the Strategic Compass currently does.

2.4. The European Union (EU) is the antithesis of violence and war. The EU must make better use of its political, material and cultural resources to contribute to the peaceful resolution of conflicts and to prevent military escalation, as this is where the EU's potential for important added value — and its impact in the world to date — may lie. It must advocate more effectively for a return to multilateral arms control agreements, the observance of the Treaty on the Non-Proliferation of Nuclear Weapons, and the commitment to nuclear disarmament.

2.5. A rules-based multilateral order is essential for defending universal human rights. Together with all like-minded partners worldwide, the EU must do everything in its might to strengthen and, where necessary, restore and renew the rules-based multilateral order. Raw power politics and the 'right of the strongest' are incompatible with democracy and the rule of law. Security without freedom would be meaningless. At the same time, security is also an important precondition for freedom.

2.6. Civilian and preventive security policy does not conflict with military defence capabilities. On the contrary, the latter must be regarded as an essential prerequisite for safety and, in view of its deterrent effect, also as preventive.

2.7. Political and financial investment in security and defence require a solid and serious assessment of the (a) systemic and (b) material strengths and weaknesses of the European Union and its capacity to (i) provide for its own security; (ii) project stability to its neighbourhood; (iii) secure global trade routes and access to critical goods and materials; and, last but by no means least, (iv) through its Member States, be a reliable and clearly committed partner in the alliances that are essential not only for European security.

2.8. Security and freedom cannot be achieved through military capabilities alone. It requires a holistic social, economic and environmental approach, and better intelligence and foresight. Preventive policy and conflict resolution through diplomatic and civilian means must be a priority, and the use of military power must remain the last resort. However, this also involves having credible military capabilities and an undoubted willingness to make use of them if unavoidable. The EU needs to safeguard its interests more robustly.

2.9. Keeping a just peace is the ultimate goal of the global security system, and multilateralism is the best instrument to achieve that goal. However, it is under increasing strain, and the EESC echoes the Global Peace Report 2022 recommendations in calling for action to strengthen the global architecture of peace⁽¹⁾.

2.10. The implementation of measures to strengthen defence capabilities and increase security requires more interinstitutional consistency, no operating in silos and above all a strong commitment from the Member States.

2.11. The Russian invasion of Ukraine and the return of war to Europe and of harsh power politics call for effective deterrence capabilities. Although the EU was never designed to pursue great power politics, it must now adapt to the increasing systemic competition between the great powers, with Russia and China challenging the international system and safety. Russia is openly violating the UN Charter, and China is violating universal human rights, as clearly visible in Xinjiang and Hong Kong.

2.12. The US, Canada and other democracies in the world are important partners when it comes to implementing what all United Nations Member States have formally and voluntarily committed to: universal human rights — rights that permit of no derogation whatsoever in any place.

2.13. The EU should develop a better understanding of the crucial importance of the transatlantic partnership, i.e. EU-US relations, for NATO and thus for European security. Although the US has increasingly shifted its focus of interest to the Asian and Pacific region in recent years, Russia's aggression shows that the global order must continue to be secured and defended, including, if necessary, in Europe.

2.14. NATO is not only a strategic partner of the EU; Europe's military defence is ensured by NATO, and the European Pillar of Defence should be developed in full complementarity. Russia's attack on Ukraine and the international security order confirms this in every respect. More European defence cooperation can strengthen NATO and improve Europe's capacity to act in order to contribute more effectively to its own security and regional stability.

2.15. Although the EU as a polity and NATO as an alliance are not at all identical, the overlap between both — not only in terms of values and goals — is growing significantly. Once Finland and Sweden become NATO members, 23 countries will be members of both organisations. Europeans can and must contribute greater added value to the alliance through measures that strengthen their own ability to act strategically. Ultimately, the EU must take more responsibility for its security and create a European Defence Union as the European pillar of NATO, fully respecting the neutrality of some of its Member States.

2.16. Too many Member States have neglected their defence capabilities for too many years. Sometimes inadequate — but above all ineffective— defence spending has led to the armed forces in many EU Member States becoming drastically under-equipped, unprepared and lacking in interoperability. Where these EU Member States are also members of NATO, they are therefore neglecting their obligations to the alliance.

2.17. Europe's defence capability depends not only on the size of the budget allocated to it, but above all on this budget being used efficiently. Currently the different weapons systems in the EU create duplication, high costs and inefficiencies. The EU Member States need to better coordinate national capability development and defence planning, and undertake

⁽¹⁾ *Common Security — For our shared future*, Stockholm, 2022.

much more joint procurement. Consistent procurement policies at EU and national level should be adopted in order to reach the economies of scale needed to reduce costs and to be able to generate sufficient activity to ensure the existence of nascent start-ups⁽²⁾. Current practices on the European defence market reflect the high cost of non-Europe.

2.18. Despite the Permanent Structured Cooperation (PESCO), the Coordinated Annual Review on Defence (CARD), and the European Defence Fund (EDF), the EU has made too little progress in developing effective joint structures that would enable it to provide for its own security. Of relevance here is the Versailles Declaration of March 2022, based on the decision of the Heads of State and Government of December 2021, which states that the European Union will 'take more responsibility for its own security and, in the field of defence, pursue a strategic course of action and increase its capacity to act autonomously'.

2.19. The EU's capacity to act in foreign and security policy would be strengthened by moving away from unanimous decisions (the capacity of each single Member State to block all others) in the Council in the field of foreign policy. As an intermediate solution, a temporary test phase of qualified majority voting or super-qualified majorities (i.e. higher thresholds for the qualified majority) could be considered. However, it is not the institutional framework that primarily prevents the Member States from acting coherently together. Rather, the Member States circumvent the existing institutional framework, do not exploit its potential, and do not allow themselves to be integrated into it.

2.20. Europe as a security provider may need a new narrative and tangible measures, backed by civil society and civic engagement, in order to strengthen European identity and solidarity without falling into the trap of replacing nationalism with a European jingoism. Public participation should be open, transparent and inclusive.

3. Positive elements of the Strategic Compass

3.1. The Strategic Compass's objective of achieving more security through capacity building ('act'), better preparedness ('secure'), targeted investment ('invest') and more cooperation ('partner'), as well as of strengthening partnerships and alliances, has been chosen well.

3.2. The Strategic Compass promises European resolve to uphold the principles of the UN Charter and to restore peace and defend freedom in Europe.

3.3. In terms of security, the Strategic Compass describes China as a 'systemic rival', which its massive violations of universal human rights, its continued threat towards Taiwan, and its support for the Russian aggressor have demonstrated it to be. The Strategic Compass highlights that China and Russia are challenging the international order. They are expanding their nuclear arsenals and developing new arms systems.

3.4. The Strategic Compass highlights the dangerous erosion of the arms control architecture and the negative impact of this 'normative void' on the security of the EU.

3.5. The EU has legitimate interests in all regions of the world. The Strategic Compass does not systematically cover all of these but it rightly states that, as seen specifically in the Western Balkans, European inactivity invites other powers in to fill the space.

3.6. The Strategic Compass claims that the EU needs to act with a far greater sense of urgency and determination and that the Member States must be able to rely on mutual assistance. The importance of Article 42(7) TEU is therefore stressed. The EU should clarify the consistency between this primary legal basis and the duty to provide assistance under Article 5 of the NATO Treaty.

⁽²⁾ *Roadmap on security and defence technologies* (COM(2022) 61 final), paragraph 4.9.

3.7. Increased readiness and interoperability have been identified as priorities and the Strategic Compass states that these need to be in line with NATO. The Strategic Compass positions the EU as an enabler of better European defence by announcing that it will close critical capability gaps, strengthen the resilience of European societies, and project stability into the European neighbourhood. A first step is to establish the Rapid Deployment Capacity, consisting of 5 000 troops, due to be fully operational by 2025. The EESC points out that it is high time to deliver, since the EU had already set more ambitious targets in this regard more than two decades ago, which have not yet been met.

3.8. Though the Strategic Compass does not refer to the introduction of qualified majority voting in foreign policy, it calls for constructive abstentions in order to allow willing Member States to move forward. In this context, greater use could be made of Article 44 TEU in order to allow cooperation between willing Member States with appropriate capabilities in the area of Common Security and Defence Policy (CSDP) by means of a delegation by the Council.

3.9. The Strategic Compass aims to combine civilian and military missions and operations in the framework of CSDP in a constructive way. It stresses the importance of civilian CSDP missions in the context of non-military responses. The Strategic Compass seeks greater cooperation between the CSDP and the EU's justice and home affairs stakeholders.

3.10. The EESC welcomes the fact that the Strategic Compass takes an action-oriented approach; it lists specific proposals and steps, as well as target dates and milestones in order to measure progress, which the Council of the EU and the European Council are to review regularly.

3.11. The Strategic Compass also underlines important measures to better introduce the concept of 'gender, peace and security' and climate efficiency to CSDP missions and operations. Notably, by 2023 the EU will strengthen its network of universal human rights and gender advisors in its CSDP missions and operations, and the implementation of the EU's climate change and defence roadmap will lead the military sector towards climate neutrality.

4. Critical comments on the Compass

4.1. The Strategic Compass is a very ambitious document that sets out more than 80 concrete actions to be taken by 2025. Strong political will by the Member States is needed in this regard, otherwise, the document risks reflecting more an EU that lacks competence in foreign policy and defence matters.

4.2. The Strategic Compass is characterised by a narrow concept of security: security is about more than defence. More prevention and foresight are crucial in order to avoid military conflicts. The Strategic Compass is focused on defining a catalogue of concrete projects and actions. This is welcomed by the EESC. However, it does not refer to specific geographical areas and does not sufficiently define where the EU wishes to project stability and security in line with its values and objectives, including outside its territory, for example in its immediate neighbourhood. It must be widened to form a comprehensive strategy including the involvement of civil society.

4.3. The Strategic Compass paints a rather positive picture of the coherence in the EU's security and defence policy and its potential capabilities e.g. when it states that its strength in preventing and addressing external conflicts and crises lies in its ability to use both military and civilian means. The Compass does not give specific examples of where this would be successful. However, an unrealistic analysis cannot provide a solid basis for a security strategy. The EU's self-assessment as a consistent leader in multilateral solutions and its self-praise explicitly expressed in the Strategic Compass e.g. for shouldering its global security responsibilities, lack the capacity for an honest inventory.

4.4. The EU may have invested a lot of political and financial resources in multilateralism; however, at least until Russia's onslaught, the EU Member States had only been pursuing coordinated European foreign policy goals when it suited their own national interests directly. There are various examples illustrating this fundamental lack of strategic foresight, including, to name but a few: the Western Balkans enlargement process; Europeans' reactions to the Libyan war; energy, raw materials and other supply dependencies; European representation in the United Nations; and the varying degrees of investment in national military capacities in terms of GDP ratios.

4.5. The Strategic Compass recognises NATO as important for European security, but this is not enough. The Strategic Compass speaks of a strategic partnership with NATO, of complementarity, and of decision-making autonomy. However, only a few Member States remain neutral, i.e. outside NATO, and the alliance is more than just a strategic partner for Europe. NATO is, and will be for the unforeseeable future, Europe's sole valid security guarantor. However, the EU can help Europeans better organise their contribution to European security by pooling their defence capabilities and abandoning uncoordinated national policies in favour of a joint European approach. Despite many good approaches in the Strategic Compass, neither organisation, whether the EU or NATO, has yet exhausted its full potential for cooperation.

4.6. The concept of European strategic autonomy must be clearly defined when applied to matters of security and defence, as is the case in the Strategic Compass. Strategic autonomy is not about the EU going alone, but becoming a better partner, capable to act when necessary, also when support may not be available. It must not mean maintaining equidistance from the world powers, as already stressed by the EESC in its recent opinion on transatlantic relations. The USA is and remains Europe's most important ally and partner. The EU should nonetheless follow a path of reducing strategic dependencies, including in the security and defence sectors, as stated in the EESC's opinion on the *Roadmap on security and defence technologies* ⁽³⁾.

4.7. One-sided European dependencies must be reduced, and not only in the field of defence. This is of crucial importance for European security. However, the EESC believes that interdependencies, especially between like-minded partners, are not only beneficial but a *sine qua non* for a rules-based multilateral order.

4.8. Concerning the future military capabilities of the EU, the 'Rapid Reaction Force', as announced in the Strategic Compass, tally with concepts of quickly deployable smaller forces in the framework of internationally coordinated missions. However, these efforts cannot be seen independently of a valid European contribution to its own security in the context of NATO. European efforts need to support the efficiency of the European pillar of NATO. At the moment, it is unclear how the Member States of both the EU and NATO can provide enough resources for both the NATO Response Force and the EU Rapid Reaction Force in the event these resources were to be activated simultaneously. In addition, some of the measures presented with regard to rapidly deployable troops fall short of decisions already taken decades ago (Helsinki 1999).

4.9. The Strategic Compass does not take into account the role civil society in Europe can and must play in order to attain more resilience against the systematic undermining of cohesion and solidarity within and between the EU Member States by inimical powers.

4.10. An upgrading of the European Union as a democratic and rule-of-law-based security provider necessitates not only strong(er) European institutions and more foresight by the Member States, but also vast cross-border societal alliances, which is inconceivable without a strong and vivid pan-European organised civil society and fully engaged European social partners.

4.11. Hostile attacks include not only military operations, but also disinformation, cyberattacks, economic blackmail, etc. The Strategic Compass mentions the development of a Hybrid Toolbox for coordinated response to hybrid threats and the Foreign Information, Manipulation, and Interference Toolbox, as well as the strengthening of the Cyber Diplomacy Toolbox. However, the Strategic Compass needs to elaborate more on this crucial aspect. The EU is in urgent need of a cross-institutional approach to fending off such attacks and interference, which must involve representative civil society, in order to lay the foundations for effective solidarity, cooperation, and resilience among European citizens, especially at the local level, where the impact of such attacks is felt most directly.

4.12. Europe's security is not only threatened by military attacks in the traditional sense. Cyberattacks and acts of sabotage against private companies, public institutions and critical infrastructure should also be seen as hybrid belligerent attacks that can cause devastating damage. The Strategic Compass falls short on this aspect, especially when it comes to effective protection and response measures.

⁽³⁾ Opinion of the European Economic and Social Committee on the roadmap on security and defence technologies (COM(2022) 61 final) (OJ C 443, 22.11.2022, p. 112).

5. Recalibrating the compass

5.1. The EESC fully agrees that the EU must reckon with increasingly aggressive revisionist powers that violate the UN Charter. A rules-based multilateral order can be restored if liberal democracies adhere to their principles, underpin them with diplomatic, civilian and military capabilities, and avoid giving in to the temptations, pressure and threats of authoritarian powers.

5.2. European politics must serve the goal of preventing armed conflict while also taking into account the fact that the world is much less peaceful than it seemed after the end of the Cold War. Therefore, European society needs a political consensus on effectively building up its defences against any potential aggressor, above all its civil protection capacities. More public debate and active involvement of civil society actors are key.

5.3. The transatlantic partnership requires much more political investment. While it goes beyond NATO, it is a supporting pillar of the alliance. Europeans must put more effort into maintaining and deepening EU-US relations. A stable partnership with the US, both in terms of trade relations and in terms of security, is of the utmost importance.

5.4. A nuclear-weapon-free world is a European goal. Until this has been achieved, the American nuclear security guarantee for Europe, NATO's nuclear deterrence and the French dissuasion force remain indispensable for European security.

5.5. The European partners must urgently focus on more efficiency in their military spending. This can be achieved through, among other things, much more interoperability of their national conventional military systems. The Member States must overcome current difficulties and misunderstandings about their purchase of urgently required short-term defence capabilities and find a common approach to strengthening their defence systems in a medium- to long-term perspective through joint procurement and joint collaborative projects. Joint European projects should not shut out close allies and partners, but their access to the European defence market must be strictly based on reciprocity.

5.6. The GDP ratio for defence expenditure is important in as much as it was agreed between the Western allies — *pacta sunt servanda!* In terms of effective capabilities, it is more important to define these thoroughly and to achieve them in good time. Whether this requires exactly 2 or possibly more percent of GDP is of secondary importance. What matters is that a potential aggressor estimates the costs of an attack as being too high. The EU must build on its tools and institutions, such as PESCO, CARD, the EDF and the European Peace Facility, in order to make its Member States defence spending more effective.

5.7. Defence procurement and the fabric of the European defence industries are of crucial importance for European security. They do not obey the rules of the market alone. However, European security must not be impaired by costly and ineffective compromises. Joint projects should be defined by the capability of competitive and innovative industries to deliver and not by national quotas in cooperative projects.

5.8. The Compass does cover many important aspects of security, but it does not speak enough about intelligence. The EU should update the Compass by including a clear analysis of European intelligence capabilities and concrete proposals for how to improve them.

5.9. National defence forces need streamlining, i.e. effective joint command structures that ultimately create the basis for joint European forces. The European Union Military Staff and the European Defence Agency must be brought to life.

6. Civil society contributions to Europe's security and defence

6.1. The Strategic Compass marks an important step forward. It should be expanded to include a European foreign policy strategy, characterised by a broader concept of security that also aligns with the UN Sustainable Development Goals and actively involves civil society.

6.2. More intelligence, prevention and foresight are crucial in order to avoid military conflicts. Many EU Member States must invest more in their defence capabilities and most of them have begun to do so. This must be a long-term engagement, and needs the support of civil society. The European pillar of NATO must ensure military deterrence but the EU must increase its capability, including through its own military means, to make concrete preventive contributions to regional peace and stability.

6.3. The EU should support the Member States, as the Compass suggests, in improving their cooperation in order to reduce ineffective fragmentation and costly duplication of their defence capabilities; however, as long as it does not have genuine competence for defence, the EU should continue to invest its limited resources primarily in civilian policies and mechanisms in order to enable conflict prevention. This is where civil society can make a real difference through its social and economic networks and its strong potential for public and cultural diplomacy.

6.4. A free and vibrant civil society can be an automatic stabiliser in times of crisis affecting European security. It has proved to do so for instance with regard to the Russian aggression, with millions of EU citizens in many Member States hosting and helping Ukrainian refugees, with an exceptional willingness to help especially in the EU Member States neighbouring Ukraine. A comprehensive approach to security must also involve European emergency preparedness and continued support for civil society organisations.

6.5. The EESC stresses the importance of social justice, economic prospects and environmental sustainability for security. Social peace is an important prerequisite for non-violence. Limiting global warming and managing its consequences are key to maintaining social order and peace in the world.

6.6. The EESC suggests having public forums for strategic debates so that civil society can contribute to developing a Europe that protects and strengthens its resilience against inimical attacks that undermine morale and political stability inside and between the Member States. 'In the struggle for advantage among world powers, it is not military or economic might that makes the crucial difference but the fundamental qualities of a society' ⁽⁴⁾.

6.7. The EESC, its Section for External Relations (REX) and, with a view to the defence industry, the Consultative Commission on Industrial Change (CCMI) ⁽⁵⁾ can play a key role in the dialogue between the political level and society on security in Europe and the world. The EESC will continue to call for regular updates to the Strategic Compass and thoroughly assess new related initiatives such as the Defence Package.

6.8. The Russian aggression and the systemic rivalry with China underline that the EU has no time to lose in adapting to geopolitical realities. In liberal democracies this can only be achieved in close cooperation with and with the political support of civil society.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽⁴⁾ Mazarr, M. J.: *What Makes a Power Great. The Real Drivers of Rise and Fall*, *Foreign Affairs*, July/August 2022, p. 52.

⁽⁵⁾ <https://www.eesc.europa.eu/en/sections-other-bodies/sections-commission/consultative-commission-industrial-change-ccmi>

III

(Preparatory acts)

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

575TH PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,
14.12.2022-15.12.2022**Opinion of the European Economic and Social Committee on ‘Proposal for a Directive of the European Parliament and of the Council on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive)’****(COM(2022) 496 final — 2022/0303 (COD))**

(2023/C 140/05)

Rapporteur-general: **Wautier ROBYNS DE SCHNEIDAUER**

Referral	European Parliament, 6.10.2022 Council of the European Union, 14.10.2022
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Bureau decision	20.9.2023
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	154/1/0

1. Conclusions and recommendations

1.1. The EESC has been developing its views on artificial intelligence (AI) since its pioneering work in 2017, insisting that it is necessary that human supervision of AI applications also include liabilities and establish trust in such technology. It called for clear rules including, in the case of wrongful (or presumably wrongful) use, the liability of physical persons or legal entities, as expressed in its opinion of 2019 ⁽¹⁾.

1.2. The EESC welcomes and supports the Commission’s proposal to improve the rights of victims who have suffered any damage — as admissible under national law — due to such wrongful use of AI by providing specific rights on top of existing national tort-based or strict liability law, the provisions of the Product Liability Directive and criminal law.

⁽¹⁾ 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 — Building trust in human-centric artificial intelligence’ (COM(2019) 168 final) (OJ C 47, 11.2.2020, p. 64).

1.3. The EESC recognises that a minimal harmonisation serves this objective best, but is wary of the risk of divergent interpretations by stakeholders involved in the development and supply chain and by judges. It therefore insists upon clear legal definitions and the need to further enhance the required expertise of those who will have to apply this new legislation across the EU with appropriate digital capacity. The Commission's ultimate goal should be to pursue and develop a liability scheme that is as uniform as possible in its application across the EU.

1.4. The EESC recognises the interaction between prevention and security rules, on the one hand, and redress opportunities on the other, on top of public authorities' supervisory role, so as to ensure compliance with EU and national standards on the responsible development of AI. It calls for setting up a network of alternative dispute resolution bodies to make it easier for victims to exercise their rights and to collect more evidence on the outcomes of the directive.

1.5. The EESC appreciates the balance the directive strikes between victims' rights and the interests of AI developers. This makes it possible to reap the benefits of the digital transition and may set a standard for third countries considering following this path.

1.6. The EESC calls upon the Commission to closely monitor the development of financial guarantees or insurance covering AI liability, with due regard to their availability and extent as the new framework should provide legal certainty for operators and insurers alike. Evidence of incidents is key to assessing whether there is any need for measures in this regard: documenting and reporting those incidents is therefore crucial.

1.7. The EESC calls on the Commission to include the rights granted to victims of damage caused by AI in its communication strategy, in order to increase confidence in the digital transition.

1.8. Considering the speed of technological developments, the EESC supports the intention to review this legislation as soon as evidence justifies. It is of the opinion that 5 years after this directive enters into force would be an excessive delay and recommends having this review 3 years after this moment. The EESC is willing to take stock in this review and to assess the experience of EU civil society organisations, more specifically with respect to the feedback from end-users with regard to the burden of proof and to potentially divergent definitions of eligible damage under national laws.

1.9. As the use of AI can lead to sensitive policy choices that should not be left solely to the parties involved in the AI supply chain, the EESC also asks to be involved and consulted in setting ethical standards.

2. Summary of the proposal

2.1. The proposal for a directive on non-contractual liability in relation to artificial intelligence ('AI Liability Directive') builds upon the Commission's 2020 White Paper on AI, its simultaneous report on safety and liability in the field of AI, and the 2021 AI Act proposal which focuses on prevention and safety. It is linked with the review of the 1985 Product Liability Directive ('revised Product Liability Directive'), which was presented on the same date as the AI Liability Directive examined in this opinion. Both proposals allow plaintiffs to make claims against certain parties, with some differences in the scope of both instruments.

2.2. The purpose of the AI Liability Directive is to lay down uniform rules regarding some aspects of non-contractual liability for damage caused using AI systems. By doing so, it aims to improve the functioning of the single market and establishes broader protection for victims (be it individuals or businesses), and fosters trust in AI through harmonised rules. This covers, for example, breaches of privacy, data loss or damages caused by safety issues. The new rules will, for instance, make it easier to obtain compensation if someone has been discriminated against in a recruitment process involving AI technology even though several (legal) hurdles remain. In order to remove remaining legal uncertainty, the EESC recommends providing a legal definition of a decision as made by machines making use of AI.

2.3. With this directive, the Commission for the first time is proposing a targeted harmonisation of national liability rules for AI, making it easier for victims of AI-related damage to get compensation. In line with the objectives of the AI White Paper and with the Commission's 2021 AI Act proposal — setting out principles of rule of law through a framework for reliability and trust in AI — the new rules will ensure that victims benefit from fair protection when harmed by AI products or services, as if harm were caused under any other circumstances.

2.4. While taking care not to jeopardise or jettison technological progress in Europe, the directive introduces a harmonised legal framework that addresses the complexity of AI systems from lab to market and simplifies the legal process for victims of harm caused by AI systems through two main legal innovations that meet existing needs:

- first, when a relevant failure to comply with (a duty of care following) EU or national regulations has been established and a causal link to the (output of the) AI system seems reasonably likely, a rebuttable ‘presumption of causality’ will address the difficulties experienced by victims in having to explain in detail how harm was caused by a specific fault or omission, which can be particularly hard when trying to understand complex AI systems. Specific provisions apply for providers of high-risk AI systems (see point 4.1), persons acting on the latter’s behalf and users. The proposal reduces the severity of the presumption when the AI system is used by a non-professional user who did not interfere with the operation of the AI system,
- second, while in product liability it is easier to identify whom to sue, the AI environment is more complex. Under the proposed directive, victims will have more tools to seek legal redress, through a right of access to evidence from companies and suppliers, in cases in which high-risk AI is involved and when it is necessary to obtain such evidence, and in a proportionate measure. Victims will be able to obtain an order from the court giving access to the information needed to determine what caused the harm they suffered and which physical or legal defendant they can address for this damage. When evidence is easily accessible, the presumption is no longer applicable, which provides a serious incentive to make such information available.

Through these two measures, the proposed directive helps victims to achieve redress, individually or collectively (if applicable), without abolishing the concept of causality.

3. Guaranteeing human-centric technological evolution

3.1. The EESC is aware of the benefits and potential risks AI encompasses. Its use should not be limited to just improving productivity by substituting human tasks and reducing costs. This development calls for attention to risks regarding its impact on health as a result of modified working conditions, rights, such as privacy, and for reconsidering the balance between machine and man in the workplace, as human control is to be privileged, with due regard to the possible persistence of human prejudice and bias in machine functioning. Responsibility for initial design and ultimate liability for its possible failures should remain with human actors, as acknowledged by the High-Level Expert Group on Artificial Intelligence in their ethics guidelines. Many other evolutions are less well documented today, such as the environmental impact of nanotechnologies. The EESC believes that both AI operators and other stakeholders, for instance risk management consultants and insurers as well as public authorities and workers’ representatives, should monitor potential impact through risk analysis, auditing and safety engineering through tests in an environment similar to the real world. As expressed in its previous opinion ⁽²⁾, the EESC would welcome certification procedures ensuring safety and alignment with human interests.

3.2. The EESC is conscious of the exposure of AI applications to failures and to malicious cyber acts and refers to its recent opinions on the Digital Operational Resilience Act (DORA) ⁽³⁾ and on the Cybersecurity and Resilience of Critical Entities Directive ⁽⁴⁾ proposals. Those risks and threats evidently justify the existing prevention and monitoring prescriptions as well as future developments as new vulnerabilities may emerge.

⁽²⁾ 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 — Building trust in human-centric artificial intelligence’ (COM(2019) 168 final) (OJ C 47, 11.2.2020, p. 64).

⁽³⁾ Opinion of the European Economic and Social Committee on: Proposal for a Regulation of the European Parliament and of the Council on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 (COM(2020) 595 final — 2020/0266 (COD)) — Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 (COM(2020) 596 final — 2020/0268 (COD)) (OJ C 155, 30.4.2021, p. 38).

⁽⁴⁾ Opinion of the European Economic and Social Committee on ‘Proposal for a Directive of the European Parliament and of the Council on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148 and Proposal for a Directive of the European Parliament and of the Council on the resilience of critical entities’ (COM(2020) 823 final — 2020/0359 (COD)) — COM(2020) 829 final — 2020/0365 (COD)) (OJ C 286, 16.7.2021, p. 170).

3.3. The EESC supports the intention to keep pace with fast-moving future developments and to review the effects of the directive as evidence justifies, leading to an update subject to necessity and proportionality. It considers the 5-year target set in the proposal to be too distant and suggests acting earlier, at most 3 years after the directive enters into force. It insists on the involvement of civil society in this evaluation, as the EESC reflects the views of citizens, consumers, workers and businesses great and small in its unique way, paying due attention to fundamental human rights, including workers' rights, as well as economic opportunities and obstacles.

4. Safeguarding fundamental EU values

4.1. The EESC supports the approach the Commission took in the AI Act, which distinguishes prohibited uses of AI like 'social scoring' of citizens by intrusive governments, high-risk applications by businesses including recruitment and merit rating scoring as well as critical infrastructures and technical devices used in healthcare, and a large number of less risky activities. The EESC calls for an unambiguous definition of high-risk activities. The EESC repeats its call to add potential harm to the environment as one of the factors to be included in the high-risk category. The EESC observes that compensation should be awarded to victims regardless of the classification of risky and less risky AI applications.

4.2. As stated in its 2020 opinion on the White Paper on AI, the EESC insists on its commitment to safeguarding fundamental rights and human stewardship at the final decision stage as cornerstones of responsible development of AI in the European Union. Choices and decisions made by machines may lack the human understanding of unintended consequences especially when these choices and decisions affect vulnerable people like children or elderly people.

4.3. The EESC stresses the importance of the trust of the public in AI developments with regard to protection of privacy, fair treatment and redress when appropriate. The proposed directive aims to ensure at least equal compensation for damages caused or caused in part by the use of AI systems as compared to damage suffered in situations where AI systems are not involved. It is important that the Commission, the Member States and users of AI systems join efforts in conveying this message to a wide audience.

5. Facilitating compensation for victims of damages caused by AI

5.1. The AI Liability Directive provides for increased protection of citizens, workers and economic actors against damages as recognised in the national legal environment of those victims, extending this protection beyond just physical injury and material losses as provided for in the Product Liability Directive proposal. This extension allows for the compensation of purely economic damages caused, for instance, in cases of unfair discrimination, denial of access to care or education, erroneous profiling by the police or through data loss. The EESC insists on the need to provide a clear understanding of eligible damage, in order to avoid unwanted diverging interpretations under national case law, and to provide training to this end to practitioners including national judges using appropriate means. The EESC points out the possibility for national courts to ask the ECJ for prejudicial rulings on points where interpretations may deviate.

5.2. The EESC finds that access to redress and compensation is not equal for citizens, consumers, workers or businesses across the European Union. The goodwill towards plaintiffs, the rules of procedures and costs associated with a claim through the judiciary system and the degree to which plaintiffs are covered against legal expenses in civil liability cases significantly differ across Member States and social classes. Therefore, and as already expressed as a principle in the more general opinion on the AI Regulation ⁽⁵⁾, the EESC advocates setting up easily accessible, free and mandatory alternative dispute resolution schemes in matters involving civil liability in AI applications at national level with an EU-wide coordination such as exists in the sphere of financial services (FIN-NET), for instance, and to do so in cooperation with relevant representative bodies of civil society. Such services would contribute to the assessment of the effects of the directive by keeping track of out-of-court settlements brought to their attention.

⁽⁵⁾ 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)) (OJ C 517, 22.12.2021, p. 61).

5.3. The EESC welcomes the efforts made to provide victims with increased means to claim fair compensation when they suffer damages caused by AI applications, which otherwise may be unavailable or complicated and expensive, due to the opacity and complexity of AI applications. Many citizens and consumers are suspicious about 'robots' and algorithms. The EESC recommends action to foster citizens' confidence, particularly through tutorials on widely used social media, as a part of the Commission's communication strategy.

5.4. Victims of damage caused by AI systems will be able to invoke the presumption of operators who fail to comply with EU or national requirements. The fact that operators will have to log their compliance with such rules serves as a defence against careless behaviour

6. Integrating new legal principles in the single market

6.1. The AI Liability Directive comes at a time when liability for AI failures is on the legislative agenda of several Member States. The EESC understands the approach of the proposal in safeguarding, at this stage, national legal principles and supports the use of a directive in order both to avoid excessive inconsistencies in liability principles across the EU, and allowing Member States to fine-tune the protection they deem necessary and proportionate in the general interest. It draws the attention of policymakers to the downside of fragmented legal environments, which impede the realisation of a true digital single market, maintain differences between European citizens and businesses and could hinder European technological innovation. It believes that the risk of misinterpretation of the general interest principle should not be underestimated, as procedures to challenge this are cumbersome and their authority does not extend beyond the issue at stake in each procedure before the Court of Justice.

6.2. The EESC understands the extent to which national legal regimes applicable to civil liability claims still differ among Member States and has over the years paid great attention to efforts to overcome those differences, for instance through an alternative regime to the national standards ('28th regime'). With this in mind, it understands the choice of legal instrument proposed at this stage by the Commission, but points to the risk that several concepts might give rise to different interpretations under different national legal systems. The EESC insists the Commission should pursue a liability scheme as uniform in its application across the EU as possible as an ultimate goal.

6.3. The EESC stresses the right of the defendant party, notably including (small) retailers, to make a legal claim vis-à-vis its provider or to relevant stakeholders upstream in the supply chain, and the duty of the latter to bear responsibility for the consequences of their negligent or presumably wrongful behaviour. Those suppliers should, in such cases, be legally bound to provide indemnification to such defendants.

7. Supporting the competitiveness of European AI developments

7.1. The EESC considers legal certainty to be an economic incentive for European research and development by scientific centres, public authorities and undertakings and contributes to pioneering innovations in a global environment. The proposed AI Liability Directive provides timely guidance needed to give innovators more of the required confidence about legal risks, especially when working across borders, as different jurisdictions have their own liability regimes. This will be of significant value to start-ups and SMEs which do not have the same access to legal advice as larger enterprises. The new framework may also help developers launch new AI applications with a better understanding of legal implications, contributing to the EU strategy on digital and green transitions.

7.2. The proposed AI Liability Directive does not include compulsory insurance for AI applications at this stage. Considering that AI applications are still in full development, especially intricate systems, it would be hard to establish rating methods for lack of past experience which would reasonably be reliable enough to be representative of future damages and claims, especially with regard to the fact that occurrence of damages and claims could be interconnected and cause replication of failures and therefore escalation of the severity of incidents and accumulation of losses, while capacity is currently limited with (re)insurance enterprises. The EESC therefore understands the Commission's choice not to engage further in the issue of whether, for which activities and to what extent mandatory insurance or other financial guarantees should be introduced at this stage, but invites the Commission to closely monitor the availability and extent of insurance. A monitoring scheme providing insight into incidents involving AI systems is needed to assess whether additional measures are needed such as strict liability or mandatory insurance.

7.3. The EESC observes that several risks are subject to compulsory insurance or other financial guarantees under national or EU law. This is more specifically the case with the use of motor vehicles, where development of autonomous vehicles is under way. In such cases, where compulsory insurance extends not only to the behaviour of the driver or passengers but also to equipment malfunction, more specifically in autopilot mode, compensation is in most cases ⁽⁶⁾ guaranteed to victims under current legislation and contracts. Insurance companies can, when applicable, claim reimbursement for their expenses from manufacturers. This should reduce costs to motorists and shift the economic centre of gravity of the relevant lines of insurance from a business-to-consumer market to a business-to-business model. The EESC therefore believes that no significant further legislative action is needed in areas where compulsory insurance already exists or is to be introduced at EU level. Still, the EESC will closely monitor the ethical choices presiding over issues such as collision avoidance and accident management scenarios.

7.4. The EESC considers the compliance and risk management constraints embedded in the AI Liability Directive as well as the presumption which puts the onus of rebuttal on providers, persons acting on the latter's behalf and users of AI systems to be proportionate measures targeted at the right levels of risk of damage caused by AI applications.

7.5. With regard to access to evidence, the EESC approves of the measures taken to protect trade secrets, which are an important aspect of the competitiveness of European innovators, as well as confidential information when invoked in a legitimate way and with due respect for established rights such as the legally recognised privileges of whistle-blowers that exist in the workplace, for example.

7.6. The EESC believes that the adoption of a moderate presumption rather than strict liability eases developments for AI technology in the European Union and could confirm the EU's role as a global standard-setter, since other countries may well align their legislations with this regime. This aspect should also be part of the future review, together with the clarification of concepts which might be necessary as a result of this first experience.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽⁶⁾ The person at the wheel is entitled to file a claim under product liability law.

Opinion of the European Economic and Social Committee on ‘Proposal for a directive of the European Parliament and of the Council on liability for defective products’

(COM(2022) 495 final — 2022/0302 (COD))

(2023/C 140/06)

Rapporteur-general: **Emilie PROUZET**

Referral	European Parliament, 17.10.2022 Council, 28.10.2022
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Bureau decision	20.9.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	156/0/2

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) recognises the relevance of the civil liability regime set out in the Commission’s proposal, which offers Europeans the means to obtain compensation for damage suffered as a result of a product defect. This regime is all the more relevant given the increasing frequency with which consequences of emerging risks are dealt with through the courts.

1.2. By definition, a no-fault liability regime aims to restore the balance between the rights of manufacturers and those of potential victims. The EESC calls on the co-legislators and national authorities to maintain the balance achieved in this proposal when adopting and transposing it.

1.3. The EESC therefore supports the need to ensure legal certainty for all: for the complainant by providing access to a simplified legal framework for obtaining compensation, and for the manufacturer, who can continue to innovate, all the while being aware of their liabilities and budgeting for their risks.

1.4. The EESC recognises that the revision of the Directive in question addresses numerous consumer demands, such as the identification of those liable, access to information and compensation, and extended coverage to cover digital and psychological damage.

1.5. The EESC acknowledges the need to adapt the regime to digital challenges and supports the measures put forward in the proposal to address them. The Committee therefore supports the European Commission’s decision to include artificial intelligence (AI) through a no-fault liability regime in this proposal and through a fault-based liability regime in the proposal for a parallel directive. It also stresses the need to remain technologically neutral in managing product liability.

1.6. The EESC calls for the proposal to be aligned with the *acquis communautaire* regarding the definitions and hierarchy of liability, and also simplified, in line with the laws currently being adopted.

1.7. The EESC also calls for greater consistency in the wording of identical obligations, which have been described in different ways in different legal texts. The EESC recommends that measures be simplified rather than duplicated, in particular by referring to or extending existing obligations.

2. Background

2.1. The proposal for a revision of the Product Liability Directive (PLD) and that on AI liability rules aim to update the EU no-fault regime, which dates back to 1985. The aim of both proposals is to adapt this framework to the digital and sustainable transitions. The new rules therefore aim to provide producers with the legal certainty necessary to innovate, and to provide complainants with coverage for new emerging damage and defects, as well as the assurance that the liable party in Europe will be found and thus compensation obtained before a court.

2.2. In practice, the Directive requires Member States to establish specific rules on civil liability. In this context, all **natural persons** can obtain compensation in the event of material loss linked to damage resulting from a product defect. *A priori*, the vast majority of claims under the PLD relate to bodily injuries and, in some cases, serious property damage. Very minor claims are usually handled through an amicable settlement. The provisions in the PLD are therefore applied through an amicable agreement, an alternative dispute resolution (ADR) or online dispute resolution (ODR) procedure, or a legal proceeding⁽¹⁾. To better assess the matters dealt with, the EESC calls on the Commission to obtain more information and statistics on cases handled through ADR or ODR.

2.3. Defective product liability claims are among the fastest-growing types of claims in the EU. Looking at court judgments based on this type of procedure, as well as on recent debates on **emerging risks**, the following are a list of the products and damage targeted today: asbestos, vaccines, pesticides, bisphenol A and opioids⁽²⁾, as well as electromagnetic waves for those who are electro-sensitive, and even the fear of developing cancer due to exposure to a hazardous substance⁽³⁾. The proliferation of emerging risks over the past few years makes such a regime indispensable. Aware of the future challenges to which this regime could be applied, the EESC calls on all stakeholders in this legislation to take this context into account.

2.4. Another major concern is that the new text needs to be able to maintain a legal framework that provides **legal certainty** for all actors (claimants and defendants). It must be ensured that the foundations of our *acquis communautaire* are not called into question (definition, civil law, etc.).

2.5. We must also ensure that the process strikes a **balance** between our European goals to support industrial and technological **innovation**, and consumer **protection** and fair compensation for damage caused. As reiterated by the Commission⁽⁴⁾, the proposed framework should not hinder the implementation of the recently adopted EU industrial strategy. At the same time, the EU must also provide consumers and Europeans in general the highest level of protection.

2.6. Finally, the aim of the Directive under review is to harmonise the Member States' legislation. This harmonisation is all the more important given that the incidents covered by this liability regime usually do not end at the borders. It is therefore a necessity that legislation be **harmonised to the highest degree**, and for this to happen, it must involve clear and well-defined measures.

3. General comments on the need to ensure consistency between the proposal and the *acquis communautaire*

3.1. **A very broad scope to be implemented consistently at national level.** The draft directive benefits all natural persons who have suffered damage as a result of a product defect and who wish to obtain compensation from the product's manufacturer. It is therefore not a case of consumer or end user, from B to B or from B to C. However, some Member States have used the initial version of the Directive in disputes between employees and employers, and between professionals, which fall within the remit of other regimes. The EESC draws the authorities' attention to the implementation and proper transposition of this regime.

⁽¹⁾ See the estimates made in the European Commission's impact assessment.

⁽²⁾ This substance is the subject of multiple debates, in particular in Sweden. It should be noted that in France, in the 10 years preceding the COVID-19 pandemic, opioid consumption increased by more than 150%.

⁽³⁾ France recognises damages for anxiety on the basis of an individual's concern about developing a disease in the future. Spain and Italy seem to want to follow suit. This concept was officially recognised in 2019 for exposure to asbestos and extended to all hazardous substances and products shortly after. As a result, asbestos was banned in 1997. More than 20 years later, our companies are still at a significant risk of being held liable for compensation.

⁽⁴⁾ In January 2020 the European Commission, in a hearing it organised on the review of the PLD, reiterated the utmost importance of this topic for strengthening the EU's industrial capacity for technological sovereignty and providing a competitive advantage for producers to innovate and compete with China and the US.

3.2. **Some definitions need to be clarified to make the system coherent.** In Article 4, the definitions of ‘component’, ‘manufacturer’ and ‘product’ must be linked, as they are all mentioned under Article 7 defining operator liability. In Article 4(10), the definition of ‘putting into service’ should refer to the first use by the end user, as in the Blue Guide and other harmonisation legislation. The date of first use is important, as it determines the limitation periods. Finally, in Article 6, the concept of use of the product needs to be aligned with EU legislation. The incorrect use of a product cannot be used to assess and prove its defectiveness. Such use cannot be used to assess the conformity and safety of products covered by EU harmonisation legislation, for example in the case of toys. As stated in the Blue Guide, EU harmonisation legislation applies when products made available or put into service on the market are used for their intended purpose. In any event, the manufacturer cannot be held liable for damage resulting from product misuse.

3.3. **The hierarchy of liability among economic operators must be proportionate to their role in the chain.** The EESC welcomes the fact that the proposal includes the different actors liable for compliance and safety, as defined in Regulation (EU) 2019/1020 ⁽⁵⁾ and the proposal for a regulation on digital services ⁽⁶⁾. The proposal thus aligns liability for product conformity and safety with the liability regime for defective products. However, Article 7(2) does not respect the hierarchy of roles and of liability established in the European framework for harmonised products ⁽⁷⁾. For the sake of consistency, this article should be revised to clearly mention the default hierarchy of operators, not their joint liability.

4. Assessment of measures responding to the demands of potential victims

4.1. Numerous measures now ensure that the liable operator is found in order to obtain compensation. Firstly, the manufacturer of the product and the manufacturer of the product’s defective component can be found jointly liable. The EESC appreciates that this double liability is part of the European Consumer Organisation’s recommendations ⁽⁸⁾. Secondly, the hierarchy of liability among economic operators who are involved in the defective product’s supply chain applies. If the first person liable is absent, the next person down the supply chain bears their liability. Where there is no manufacturer in the EU, the importer or the authorised representative/agent may be held liable. Similarly, the liability of the distributor and marketplace depends on their ability to provide information on their suppliers and traders.

4.2. The EESC recognises that these two measures make it easier to determine who is liable in the European market and thus also easier to provide access to compensation.

4.3. Additionally, the distributor’s obligations are in line with those set out in the revised General Product Safety Directive ⁽⁹⁾ and the revised legislation on harmonised products (traceability rules).

4.4. The same applies for marketplaces. The DSA establishes the obligation to ‘know one’s traders’, which includes having the contact details of the manufacturer and the person liable in the EU. Additionally, Article 5(3) of the same Directive — the original proposal on the DSA — also lays down conditions whereby platforms lose their exemption from liability for failure to provide information about the seller. The Omnibus Directive lays down a similar obligation. If the information required under the Consumer Protection Directive (EU) 2019/2161 ⁽¹⁰⁾ is not provided, the platform assumes the liability for consumer protection that would normally lie with the seller. Although these obligations are comparable, they are not worded the same way in this proposal. The EESC therefore calls for greater consistency in the wording of identical obligations.

⁽⁵⁾ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

⁽⁶⁾ COM(2020) 825 final — 2020/0361 (COD).

⁽⁷⁾ i) a manufacturer established in the Union; ii) an importer (by definition established in the Union), where the manufacturer is not established in the Union; iii) an authorised representative (by definition established in the Union) who has a written mandate from the manufacturer designating the authorised representative to perform the tasks set out in Article 4(3) on behalf of the manufacturer; or iv) a fulfilment service provider established in the Union where there is no manufacturer, importer or authorised representative established in the Union.

⁽⁸⁾ European Consumer Organisation — www.beuc.eu

⁽⁹⁾ Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

⁽¹⁰⁾ Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules (OJ L 328, 18.12.2019, p. 7).

4.5. **Compensation is now possible under this regime for losses resulting from defective digital services.** First and foremost, by proposing a parallel project on AI liability, the European Commission is addressing this matter specifically. At the same time, its proposal addresses the lack of a 'digital component' for users through numerous measures:

- applications and other software 'embedded in or interconnected with' a product will be covered by the definitions of 'component' (Article 4(3)), 'related service' (Article 4(4)) and 'manufacturer' (Article 4(11));
- additionally, material losses caused by the loss or corruption of data are recognised as damage giving rights to compensation;
- finally, manufacturers of related services will not be exempt from liability on the grounds that the defect did not exist when the product was placed on the market.

4.6. The EESC supports measures aimed at regulating digital technologies in this proposal. However, it calls for the co-legislators to take into account parallel legislation recently adopted or under negotiation, in particular the GDPR⁽¹⁾, the proposal for an AI liability directive, the AI Act, the Data Act, the General Product Safety Regulation, the NIS 2 Directive⁽²⁾ and the Cyber Resilience Act. Coherence should be ensured and the duplication of legal measures avoided.

4.7. The proposal addresses difficulties in obtaining and understanding technical information in multiple ways. The legal framework in question applies when a product has caused material damage to a person or their possessions/property. These products are often scientifically or technologically complex. In 1985, the European Commission addressed the complexity of the products concerned by introducing no-fault liability into civil law. In this context, the complainant must prove the product's defect, the damage and the causal link between the two in order to obtain fair compensation for the damage caused. The fault of the producer does not need to be proven. In the preamble, the European Union acknowledged that no-fault liability was necessary in order to face the increasing use of technology in our era. This departure from civil law was already a major simplification for the complainant. However, during the current legislative revision process, consumer organisations have advocated going further by reversing the burden of proof or banning the scientific knowledge exemption. The Commission did not keep the latter two measures, but instead introduced new proposals to address consumer demands.

4.8. The proposal therefore includes new measures on the disclosure of evidence and the presumption of defect or causation. Regarding the first point, it is first and foremost a question of establishing this right at European level. Today, most Member States have similar rules. The second point is a codification of case law, which is considered to be favourable to the complainant and which is addressed in point 5.

4.9. **The Commission proposal also addresses situations where damage occurs years or decades after the product has been bought or placed on the market.** It addresses this in two different ways. For digital technology (service-related), there is no exemption related to the probability that the defect did not exist at the time the product was placed on the market or put into service. Furthermore, it seems rather complex to argue an exemption related to the state of the art. Finally, for dangerous substances that cause latent bodily injuries, the limitation period is extended to 15 years.

5. Assessment of measures responding to business demands

5.1. **The notion of substantial modification is essential in this regime and should be defined and clarified.** If a product is substantially modified, the person that made the modification will be liable and the limitation period will be extended. The EESC therefore calls for this notion to be clarified on the basis of the Blue Guide⁽³⁾.

⁽¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽²⁾ Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (OJ L 333, 27.12.2022, p. 80).

⁽³⁾ A product which has been subject to important changes or a major overhaul after it has been put into service must be considered as a new product if: i) its original performance, purpose or type has changed, without this being foreseen in the initial risk assessment; ii) the nature of the hazard has changed or the level of risk has increased, compared to the relevant EU harmonisation legislation; iii) the product is made available (or put into service if the applicable legislation also includes putting into service within its scope). This has to be assessed on a case-by-case basis and, in particular, in view of the objective of the legislation and the type of products covered by the legislation in question.

5.2. **Assessment of cases where one of the three elements (defect/damage/causal link) does not need to be proven.** Article 9 states that ‘Member States shall ensure that a claimant is required to prove the defectiveness of the product, the damage suffered and the causal link between the defectiveness and the damage’. It is therefore necessary to prove the tangible damage linked to material or immaterial damage to the person or to their personal property, or to the loss/corruption of data *and* the defect of the product or one of its components (item/service) *and* the link between the two, except in two cases. It should be noted that the burden of proof is established as part of a legal procedure that has already been initiated. The complaint has thus already been considered to be sufficiently admissible and the damage sufficiently significant for the individual to seek legal action, which is, *a priori*, financially costly for the complainant.

5.2.1. Firstly, Article 9(3) on the burden of proof specifies that the causal link between the defectiveness of the product and the damage shall be presumed where it has been established that the product is defective and the damage caused is of a kind typically consistent with the defect in question. In this case, once the defect has been proven, only the material loss associated with the damage must be established. Proof of a causal link is permitted by presumptions. This provision is also like a recognition of the potential for defects. In this context, a manufacturer who has identified a defect in a product will have to recall or withdraw all products from the same batch from the market. Such management would lead to significant waste.

5.2.2. Secondly, Article 9(4) specifies the cases where the proof of defectiveness and causal link is based on probabilities. This could happen where the court decides that the claimant is experiencing undue difficulty due to the technological or scientific complexity of the evidence. Consequently, the complainant must prove not only that the product contributed to the damage, but also the probability of a defect or of a link between the defect and the damage. In this case, neither the defect nor the causal link need to be scientifically proven.

5.2.3. In order to assess this provision, reference must be made to the case law underpinning it. Thus, in the Sanofi Pasteur case ⁽¹⁴⁾, the courts considered that in the absence of any scientific consensus, the proof of a vaccine defect and of a causal link between the defect and the illness could be provided by solid, precise and consistent evidence. The procedure is largely simplified for the complainant, who ultimately needs to provide a set of factual and non-scientific elements. The EESC acknowledges that, in certain complex cases, the notion of ‘probability of defect’ needs to be assessed by a judge without leading to an automatic presumption of causality.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽¹⁴⁾ Judgment of the Court of Justice of 21 June 2017, *N. W and Others v Sanofi Pasteur MSD SNC and Others*, C-621/15, ECLI:EU:C:2017:484.

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 European care strategy’

(COM(2022) 440 final)

(2023/C 140/07)

Rapporteur: **Kinga JOÓ**

Co-rapporteur: **Zoe TZOTZE-LANARA**

Referral	European Commission, 27.10.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	11.1.2023
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	169/0/4

1. Conclusions and recommendations

1.1. The EESC welcomes the European Care Strategy proposals for EU-level and national actions to strengthen the care infrastructure in Europe based on a whole-society approach and commends its call through the Council Proposals for greater quality services throughout the lifecycle.

1.2. The EESC renews its proposal to launch a **European Care Guarantee**, in order to ensure life-long access to affordable quality healthcare and care services for everyone living in the EU. This instrument would contribute with successful implementation to address care deficits and promote decent working conditions for carers, including informal carers.

1.3. The EESC underlines the importance of **supporting families in their fundamental role**. This includes investing beyond social policies and **in communities**. Properly supported families with all their differences act as a safety net, and are essential elements for a sustainable care system based on solidarity. Stressing the importance of prioritising the affordability and continuity of care services in response to shocks is crucial.

1.4. The EESC plays a key role in **raising awareness by collecting and disseminating key elements of good practices** among the social partners and civil society organisations regarding tools and infrastructure, as well as sharing new forms of care services. It calls for the allocation of specific budgets to map the needs of care receivers and providers and at-home carers.

1.5. **Gender equality should remain central** to the implementation of the Strategy, including through actions to challenge the harmful gender stereotypes corroding the formal and informal care sectors. The EESC reiterates that efforts should be made to incentivise more men to join the care workforce and ensure better distribution of care within households.

1.6. The EESC highlights the need for a life cycle approach **promoting healthy and active ageing**, while preventing and providing protection against ageism and other forms of discrimination, elder abuse, mistreatment, and stereotyping. The EESC calls for the development of a European Strategy for Older Persons.

1.7. The EESC calls for **all resources to be mobilised** to meet the growing and diverse care demand: **adequate funding** must be allocated to care infrastructure and people carers in order to enhance growth and employment. The **whole range of care suppliers** must be mobilised, under strong quality assurance frameworks. Member States must encourage quality job creation and ensure that jobs in social care are attractive, adequately paid and valued and offer good career prospects.

1.8. The EESC encourages better **data provision** on children's participation in early childhood education and care to ensure comparability and the availability of more comprehensive information for designing and implementing reforms.

1.9. The EESC requests that the EU institutions set up a gender-balanced **High-Level Expert Group on Long-Term Care** to formalise cooperation, bringing together all actors and their organisations to co-create the care service of tomorrow⁽¹⁾. Care receivers' and care providers', as well as their organisations' **meaningful participation** throughout the policy cycle is also recommended.

1.10. The EESC stresses that **mobility of care professionals** and **labour migration from non-EU countries** need to be considered, coupled with tools for matching demand and supply as well as recognition of qualifications and notes that the Strategy does not take enough into consideration the many **undocumented workers** already providing care in Europe.

1.11. The EESC calls for a **mid-term review of the Recommendations** based on the monitoring of the Barcelona targets and the general objectives of long-term care reforms, following the EU funding cycle.

2. Objectives and scope of the opinion

2.1. The EESC welcomes the European Care Strategy (the Strategy) proposals for EU-level and national actions to strengthen the care infrastructure in Europe, supporting both care receivers (from birth to old age) and care providers (formal and informal), and commends the Communication's analytical approach in identifying weaknesses, bottlenecks and problem areas that affect the provision of integrated quality care.

2.2. This Strategy is in line with the 2021 European Commission Action Plan for the implementation of the European Pillar of Social Rights, and provides useful guidance to Member States on accessible, adequate and quality care to meet the increasing and diverse care demands, together with ambitious targets on early childhood education and care (ECEC) and sound governance tools for the monitoring of long-term care (LTC) actions. It builds on existing EU frameworks⁽²⁾ giving it a cross-cutting nature to address care deficits and advancing the rights of carers and care receivers.

(1) Opinion of the European Economic and Social Committee on the Co-creation of services of general interest as a contribution to a more participative democracy in the EU (own-initiative opinion (OJ C 486, 21.12.2022, p. 76).

(2) European Strategy for the Rights of Persons with Disabilities 2021-2030, the Child Guarantee, the European Strategy for the Rights of the Child, the Work Life Balance Directive, the Gender Equality Strategy and other relevant initiatives under the European Pillar of Social Rights.

2.3. Numerous studies and opinions are available to guide implementation, offering insights and data on several aspects of care, including gender ⁽³⁾, ⁽⁴⁾, the cost of informal care ⁽⁵⁾, ⁽⁶⁾, long-term care systems in Europe ⁽⁷⁾, workforce and employment conditions ⁽⁸⁾, ⁽⁹⁾.

2.4. The European Parliament underlined the importance of accessibility and availability of public care and that everyone should have the right to a genuine choice of services that are suitable for them and their families (family care, community-based care, patient-centred care, personalised care or other forms of care ⁽¹⁰⁾).

3. General Comments

3.1. The EESC welcomes the recognition by the Strategy that care is a **responsibility for society as a whole** and not just families, and both proposals for Council Recommendations that call for **greater quality services throughout the lifecycle**. It supports a societal paradigm shift on the way care is valued and provided in the EU, bridging the different cultural aspects and national differences.

3.2. The Strategy intends to shift the European care debate towards a **sustainable and human rights-based care model** that fosters gender equality in formal and informal care and guarantees human dignity, independent living, and inclusion in the community. The **resilience and adequacy of care systems** across the EU were tested during the COVID-19 pandemic, which magnified structural problems such as underfunding and understaffing.

3.3. An effective Strategy requires a transformative and ambitious approach, which places care receivers and care providers' fundamental rights and needs at its heart, including through their **full and meaningful participation in consultations and decisions**.

3.4. The EESC stresses that **prevention, habilitation and rehabilitation measures** should be an integral part of the implementation of the Strategy. Actions should focus increasingly on early intervention, healthy and active ageing, preventative measures and support for autonomy that can minimise the need to turn to long-term care, and increase inclusion in society and active citizenship, notably through the creation of a comprehensive European Strategy for Older Persons.

3.5. Recalling the experience of austerity under the recent financial and economic crises, the EESC emphasises the need to **prioritise the affordability and continuity of care services** in response to the current shocks linked to the war in Ukraine, the energy and the current cost of living crises.

3.6. The mainstreaming of **gender equality** throughout the Strategy is welcome. The care sector, formal and informal, is dominated by women. In the EU, 29 % of women say that the main reason for not being active in the labour market or working part-time is because of caring duties, compared to only 6 % of men ⁽¹¹⁾. This unbalanced distribution of care responsibilities is estimated to cost EUR 242 billion per year ⁽¹²⁾. The recommendations are useful guidelines for Member States to tackle gender stereotypes, gender pay, pension and care gaps.

⁽³⁾ Gender inequalities in care and pay in the EU: <https://eige.europa.eu/publications/gender-inequalities-care-and-pay-eu>

⁽⁴⁾ Gender Equality Index: <https://eige.europa.eu/gender-equality-index/2022>

⁽⁵⁾ What if care work were recognised as a driver of sustainable growth?: <https://epthinktank.eu/2022/09/07/what-if-care-work-were-recognised-as-a-driver-of-sustainable-growth/>

⁽⁶⁾ Study on exploring the incidence and costs of informal long-term care: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8423&furtherPubs=no>

⁽⁷⁾ 2021 Long-term care in the EU: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8396>

⁽⁸⁾ Long-term care workforce: Employment and working conditions: <https://www.eurofound.europa.eu/publications/customised-report/2020/long-term-care-workforce-employment-and-working-conditions>

⁽⁹⁾ Opinion of the European Economic and Social Committee on Health Workforce and Care Strategy for the future of Europe (own-initiative opinion) (OJ C 486, 21.12.2022, p. 37).

⁽¹⁰⁾ European Parliament Resolution of 22.6.2022 Report towards a European action on care.

⁽¹¹⁾ EIGE, idem.

⁽¹²⁾ EP Research, idem.

3.7. The EESC stresses the importance of **family and informal care as an element of sustainable care systems and calls for swift mapping of the needs and realities of this type of care**. It is necessary to recognise them as partners in ensuring continuity in care and to provide comprehensive support to them, such as training opportunities with **skills validation schemes**, and ensuring their participation in the labour market and in social life through a mix of resources, services and time arrangement (linked to the Work-Life Balance Directive) while also securing access to social rights, respite care and mental health services ⁽¹³⁾.

3.8. The EESC welcomes the focus placed on better protection of **care workers' rights**. It calls on Member States to address gaps in the enforcement of EU labour law, to ratify ILO Convention 189 that provides standards for decent working conditions of domestic workers, and takes steps to regulate the situation of **live-in carers** ⁽¹⁴⁾, including migrant and mobile workers. However, it notes that the Strategy does not take enough into consideration the many undocumented workers already providing care in Europe, and should focus on all care workers living in EU — regardless of their migration and residence status.

3.9. The EESC commends the commitment to **improving working conditions** within the care sector by providing up and reskilling, and skills validation, increasing wages, promoting social and labour rights, paying attention to physical and psychosocial health risks and addressing workplace risks of violence and harassment. It calls on Member States to ratify ILO Convention 190 concerning violence and harassment in the world of work. Social partners and governments need to work together to end precarious forms of care work and build strong regulatory, financial and collective bargaining frameworks. The shortages of qualified personnel in almost all Member States endanger health and care standards, especially against the background of demographic change, workers' mobility and ageing.

4. Specific Comments

4.1. The EESC reiterates the urgency of elaborating a **dedicated European Care Guarantee** ⁽¹⁵⁾, as an essential element for the successful implementation of the Strategy based on a mix of policy, practice and funding tools to ensure that the Strategy actions are fully embedded in national legal, policy, funding and service frameworks. Standard setting is crucial for ensuring improvement in the sector, as is monitoring them ⁽¹⁶⁾.

4.2. The European Care Strategy should be supplemented with a structured European **implementation plan** and **funding schemes**. Public investment in care is insufficient in many Member States. EU structural and investment funds (ESF+, ERDF), as well as the Recovery and Resilience Facility (RRF) and the Technical Support Instrument (TSI) must be mobilised to support Member States in specific care-related domains (from policy design to service implementation and impact monitoring) notably through socially responsible public procurements.

4.3. **Evaluation of progress and impact** on care receivers and care providers will be fundamental. Specific technical guidelines for building monitoring and evaluation frameworks could support national ministries with specific guidance on the development of sustainable care service models, impact measurement and indicators. The European Commission monitoring should include reports on both policy and funding and a call for a **mid-term review** of the Recommendations. The **European Semester** has to better target its country-specific recommendations to help Member States prioritise adequate funding for care as a productive, sustainable investment rather than an economic burden.

⁽¹³⁾ European Charter for Family Carers: <https://coface-eu.org/european-charter-for-family-carers/>

⁽¹⁴⁾ Opinion of the European Economic and Social Committee on 'The rights of live-in care workers' (own-initiative opinion) (OJ C 487, 28.12.2016, p. 7).

⁽¹⁵⁾ Opinion of the European Economic and Social Committee on Health Workforce and Care Strategy for the future of Europe (own-initiative opinion) (OJ C 486, 21.12.2022, p. 37).

⁽¹⁶⁾ OECD. 2019. Improving healthcare quality in Europe — Characteristics, effectiveness and implementation of different strategies.

4.4. Following the adoption of both Council Recommendations, measures and guidelines should be swiftly **embedded in national policy and legal frameworks**. The EESC stresses the importance of the LTC National coordinators to ensure coherence and to mainstream care in other fields, ministries and governance levels, going beyond social and health policies (housing, transport, energy, economy etc.).

4.5. Undesired risk selection, commercialisation and the pursuit of revenue and profit over care and health can exacerbate inequalities in access to care. Proportionate control measures are needed to prevent unhealthy practices and to secure strong guarantees of high-quality services and proper use of funds. LTC and ECEC at Member State level need **strong social protection systems and quality public services based on solidarity, social investment and social economy actors** — e.g. mutual societies — to provide various kinds of financing and cost-sharing systems for community and home-based care by **adequately trained carers** ⁽¹⁷⁾. To fund the provisions, alternatives to social contributions should be envisaged ⁽¹⁸⁾. Incorporating voluntary support from not profit organisations that benefit both care and health systems are to be considered, but not as a cost cutting measure.

4.6. As regards national competences and subsidiarity, the European Commission should ensure that **high-quality care services** developed by Member States are **inclusive**. The Strategy needs to ensure that every person in need of care has full and equal access to the services, notably through strong and binding quality frameworks. Special attention should be paid to groups that are typically excluded such as Roma persons, migrants etc. and the effect of intersecting and structural discriminations. This also means that care infrastructure be made accessible in remote areas and low-density population areas.

4.7. **Investing in digital infrastructure** can facilitate effective care planning and provision, to store, exchange and communicate information between different health and social care providers, enabling the effective monitoring of quality and equal access. Multiple opportunities, such as assistive technologies, prevention measures, robotics, telehealth and more, if fully inclusive and accessible, can support the outreach, continuity, coordination and high-quality of care services.

4.8. The proposed LTC Recommendation notes that systems must also **cater for the support needs of persons with disabilities**, while clearly referencing the UN Convention on the Rights of Persons with Disabilities. The Commission should ensure that EU funds mobilised under the Strategy respect the objective of deinstitutionalisation and support inclusion through the development of community-based services with a well-trained workforce ⁽¹⁹⁾. The EESC reiterates the need to support children and parents with disabilities ⁽²⁰⁾ and welcomes this focus in the ECEC recommendation.

5. Implementation of the ECEC Recommendation

5.1. **The EESC supports the revision of the Barcelona targets** to improve availability of accessible, affordable, inclusive and quality childcare. The Member States that have reached or surpassed the targets should concentrate more on providing quality standards and developing diverse forms of ECEC according to the different age groups. Targets on increasing the availability of ECEC must go hand in hand with **quality assurance frameworks and decent working conditions**. Member States should work on **indicators to monitor access** to care models according to national preferences and differences, while fulfilling the objectives, quality and other standards of the revised targets.

⁽¹⁷⁾ Opinion of the European Economic and Social Committee on 'The impact of social investment on employment and public budgets' (own-initiative opinion) (OJ C 226, 16.7.2014, p. 21).

⁽¹⁸⁾ Event report: European Care systems: Solidarity and sustainability — friends or foes? <https://www.aim-mutual.org/mediaroom/event-report-european-care-systems-solidarity-and-sustainability-friends-or-foes/>

⁽¹⁹⁾ European Expert Group on the transition from institutional to community-based care, EU Guidance on independent living and inclusion in the community and EU funds. Checklist to promote independent living and deinstitutionalisation.

⁽²⁰⁾ Opinion of the European Economic and Social Committee on The role of family members caring for people with disabilities and older persons: the explosion of the phenomenon during the pandemic (own-initiative opinion) (OJ C 75, 28.2.2023, p. 75).

5.2. The EESC welcomes the call to ensure that all children have a **legal entitlement** to access quality services, and the interplay of the Strategy with **the European Child Guarantee**, taking forward its **multigenerational approach**, which is crucial for work-life balance and family well-being. Free access to ECEC for families in need has to be supplemented by a set of measures that include free meals, free hygiene products (e.g. diapers) and assistance with physical and mental development (fine motor skills, speech and language therapy, etc.).

5.3. The EESC welcomes references to **EU equality frameworks and to children in vulnerable situations**, to create inclusive systems respectful of all family forms. Actions to be put in place should include outreach, training for staff on the rights of service users and on inclusions and bias. The EESC particularly welcomes the proposals for the provision of adequate child/staff ratios, continuous professional training of staff, and the inclusion of time requirements in the indicators, which is especially relevant for children with disabilities who often can only access ECEC partially.

5.4. **Good practice ECEC models** need to be at the heart of measures to implement the Council recommendation, supported by sub-national policies and funding frameworks, with the allocation of specific budgets to map the needs of care receivers and providers, and by testing new forms of care services. Children's rights should remain central. Children need a healthy, nurturing environment in their early years, whether through family or professional care; therefore **different care models** (day centres, work-place nurseries, childminders, maternal assistants, playgroups, out-of-school care) must be available to choose from, taking into account the developmental needs of children of different ages.

6. Implementation of the LTC Recommendation

6.1. The EESC calls for **strong Implementation Plans** covering the full spectrum of Long-Term Care. The European Commission should formalise cooperation by setting up a **High-Level Expert group on LTC**, bringing together social partners, civil society organisations, national coordinators, beneficiaries of LTC, in particular older persons and persons with disabilities and other relevant experts and practitioners. To inform the work of the group, an online **public platform** could be created to gather data and research and foster sharing of good practices.

6.2. The EESC has adopted several **opinions on LTC provision** in the EU ⁽²¹⁾, stressing the need to invest in high-quality, sustainable and accessible care for all. The EESC emphasises the need to **maximise complementarity and synergy between all care and health providers in both the public and private sectors** (profit and non-profit) to achieve coverage for everyone, considering good practices in the Member States.

6.3. The EESC welcomes the acknowledgement in the LTC proposal of the importance of **social economy actors as service providers**. The EESC encourages the Commission to further explore ways to create structured lines of communication between social economy actors and European institutions in the LTC policy space.

6.4. The EESC notes the importance of the various initiatives under the **Green and Digital transition** to use the full potential of technologies to create, rethink and renovate the housing stock in a more inclusive, sustainable way.

⁽²¹⁾ 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 an initiative to support work-life balance for working parents and carers' [COM(2017) 252 final] — 'Proposal for a Directive of the European Parliament and of the Council on work-life balance for parents and carers and repealing Council Directive 2010/18/EU' [COM(2017) 253 final — 2017/0085 (COD)] (OJ C 129, 11.4.2018, p. 44); Opinion of the European Economic and Social Committee on 'The rights of live-in care workers' (own-initiative opinion) (OJ C 487, 28.12.2016, p. 7); Opinion of the European Economic and Social Committee on 'Guaranteeing universal access to long-term care and the financial sustainability of long-term care systems for older people' (OJ C 204, 9.8.2008, p. 103); Brochure on Economic, technological and social changes in advanced health services for the elderly; Opinion of the European Economic and Social Committee on 'Economic, technological and social changes in advanced health services for the elderly' (own-initiative opinion) (OJ C 240, 16.7.2019, p. 10); Opinion of the European Economic and Social Committee on 'Towards a new care model for older people: learning from COVID-19' (own-initiative opinion) (OJ C 194, 12.5.2022, p. 19).

6.5. **Good practice LTC models** can include more structured and efficient home support, as well as new housing alternatives, such as sheltered, supervised or community-based housing, cohabitation units or other alternatives, according to the needs and preferences of the care receivers, and based on legally approved quality frameworks. **Other types of care models** should also be considered in order to cover the full spectrum of care in an integrated approach such as mental health support, family centres, parental support groups and short-term housing support in a way that eases the transition from one model to another with variation in the intensity or nature of the services required, without disrupting the continuity of care.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on nature restoration’

(COM(2022) 304 final — 2022/0195 (COD))

(2023/C 140/08)

Rapporteur: **Arnold PUECH d’ALISSAC**

Referral	Council of the European Union, 11.7.2022 European Parliament, 14.7.2022
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	10.1.2023
Adopted at plenary	25.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	201/4/11

1. Conclusions and recommendations

1.1. The EESC agrees with the Commission and the European Parliament that the approach and measures taken so far in favour of biodiversity are not effective and welcomes the overall objective of the proposed Regulation to stepping up efforts in nature restoration in order to halt the loss of biodiversity and put Europe’s biodiversity on the path to recovery. Member States will thus be subject to legally binding obligations. The EESC notes that the approach adopted is in line with the decisions of the COP 15 in Montreal.

1.2. However, the EESC has a number of comments and concerns about the formulation of the objectives and the methodology defined by the Commission. The most serious shortcoming is that the economic impact of the necessary measures on — mostly private — land users is, for all intents and purposes, not taken into account. The EESC has already stated in its opinion on the EU Biodiversity Strategy for 2030 that ‘farmers and forest owners cannot be expected to bear the cost of protecting biodiversity. Rather, providing this “public good and value” should become a useful source of income for them. It considers that “the new economic recovery plan could include specific focus on this issue with investment in staff and resources to protect the content of the strategy”⁽¹⁾. This recommendation has not been followed by either the Commission or the Member States. In previous opinions, the EESC has criticised, among other things, the disastrous underfunding of Natura 2000 measures. The Committee is convinced that the Commission’s new chosen approach will fail if sufficient funding is not made available. This is essential in order to offset the financial losses (and also to reward biodiversity services) that land users will incur when they extend their land use in order to provide for more “biodiversity”. The EESC therefore calls for the creation of a European fund dedicated to biodiversity and the exploration of new ways for the various EU policies (CAP, energy, housing, transport...) to help achieve the binding objectives of the regulation.

1.3. With regard to the financial aspects, the EESC calls for a prior assessment of the exact surface area of agricultural land, forests and waterways covered by the proposals in the regulation. Additionally, the EESC draws the Commission’s attention to the need to set aside funds to compensate in particular farmers and forest owners who risk losing their production areas completely.

⁽¹⁾ 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 — EU Biodiversity Strategy for 2030 — Bringing nature back into our lives” (COM(2020) 380 final) (OJ C 429, 11.12.2020, p. 259).

1.4. While nature restoration is necessary in protected areas due to deteriorating conditions, not all restored areas can nor must become protected areas. Even though the EESC considers it “essential” that “some parts of the protected areas should be subject to strict protection (with non-intervention management)”⁽²⁾, it is even more important to ensure uses that maintain biodiversity across the board. Most areas must aim to restore their ecosystems without excluding specific and adapted economic activities. In fact, extensive agriculture and forestry have contributed to the high level of biodiversity that today needs to be protected. These extensive forms of agriculture and forestry, which are more and more abandoned nowadays because of their low economic viability, should therefore be additionally supported⁽³⁾. Rehabilitation is therefore perhaps a more suitable scientific term also used in policies coined to ensure a balance between living and producing. The EESC therefore recommends dropping the term “restoration” in favour of “rehabilitation”⁽⁴⁾, especially as nature is not static and cannot be “restored” to its original state like a broken house or car. Numerous studies have shown that rewilding measures, for peatlands for example, in many cases have significant costs, without really being able to deliver actual full restoration of the “original state”. We need to think about what we are aiming to achieve: the aim of the regulation should not be to restore the natural state of the environment, but to restore the ecosystem services of the environment and thus to support a sustainable, multifunctional use of these areas. With humans having modified the natural environment over the years, it is scientifically impossible to achieve a “restoration of nature”. Progressive climate change can also be a factor in why the conditions of some ecosystems from the past can no longer be fully achieved. Conversely, ensuring the sustainability of environments by promoting the viability of ecosystem services is a realistic objective. The EESC would like to see an appropriate policy framework; this is where the Commission’s document is disappointing.

1.5. Fixed timetables and rigid thresholds do not work perfectly well with the unpredictable ways of nature. Imposing strict deadlines on Member States is only appropriate in terms of the administrative and planning conditions to be put in place. However, a flexible approach is needed to take into account the precise needs, conditions, opportunities, production and income status, and starting point of each natural area. The proposed regulation is unclear about the prioritisation and allocation of restoration measures that should be made by the Member States and thus, imposes a risk to achieving high quality results cost-effectively. Decision-making at the level of Member States is clearly a justified principle since it also secures the fulfilment of the rights of landowners and reflects the principles of subsidiarity and proportionality.

1.6. The Commission’s document is disappointing as regards the overall impact assessment, which should focus especially on economic, social and food issues, and the EESC therefore calls for an additional impact assessment.

1.7. The EESC recommends that adjacent areas that are initially unproductive but which are also of value for biodiversity be included in the 10 % target. The EESC stresses that the text sets particularly ambitious targets for farmers, and points out that it is important to take into account all natural habitats. However, it is important to involve the whole of society in improving our ecosystems. In this respect, the EESC recalls the principle of proportionality of measures (fair distribution of burdens and costs, but also of benefits) between the various stakeholders.

1.8. The EESC supports the objective, as it is relevant to a strategic ambition for the future of the EU, and recommends strengthening the targets by encouraging, in particular through extensive agricultural activities, the restoration of all aquatic environments, including the rewetting of peatlands, while securing the social and economic sustainability of agriculture and forestry.

1.9. The EESC is aware that Europe needs a completely new water policy. The policy of draining water from landscapes as quickly as possible, practised for centuries, has had many negative consequences for biodiversity, but in the meantime — partly as a result of climate change — the negative impact on forestry and agriculture (dryness/fires) and on local people (floods) has also become apparent. The EESC therefore stresses that water must return to nature or be retained there, while not forgetting that human action remains beneficial in many situations, in particular through the maintenance of watercourses.

(2) 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 — EU Biodiversity Strategy for 2030 — Bringing nature back into our lives” (COM(2020) 380 final) (OJ C 429, 11.12.2020, p. 259).

(3) EESC information report on the Benefits of extensive livestock farming and organic fertilizers in the context of the European Green Deal (EGD).

(4) Rehabilitation means focusing on restoring certain ecological functions.

1.10. The EESC recommends limiting land take that harms natural areas. It also encourages the creation of green spaces in cities and the unsealing of cities to be able to mitigate the effects of climate change by 2030.

1.11. The EESC supports establishing a safeguard mechanism under the common fisheries policy for marine restoration targets. It also encourages establishing EU financial support to stimulate the search for innovative solutions and improved knowledge of ecosystems.

1.12. The EESC stresses that the economic and social perspective must be fully acknowledged in the context of nature restoration. Recognising and ensuring economic and social sustainability is a prerequisite for the acceptability of the proposed legislation and for its successful implementation since the outcomes will largely depend on the motivation, support and future involvement of landowners and other actors on the ground. It is of the utmost importance to respect the rights of landowners through open communication, active involvement and full monetary compensation of all possible economic losses. In this regard, the EESC highlights the potential of approaches based on voluntary action and economic incentives.

1.13. The EESC recommends that EU support be put in place for the emergence and development of forestry activities carried out both before the trees are planted and after they are cut down, so that agroforestry is a viable economic concern.

1.14. The EESC warns about the risk of negative repercussions on generational renewal in the agricultural sector, and reiterates its recommendation ⁽⁵⁾ that villages and rural areas be made more attractive by securing the possibilities for the continuation of economically viable livelihoods based on the sustainable use of natural resources.

2. Introduction

2.1. Against a general backdrop of scientists warning how climate change will affect our societies, the European Commission has promised to do its part by developing a strategy to support biodiversity with ambitious targets to be met by all Member States by 2030 and 2050. On 22 June 2022, the Commission adopted a draft regulation on nature restoration. While nature conservation and restoration in the EU had previously fallen mainly under the Habitats and Birds Directives and the Aichi Targets, the Commission has opted for a new binding framework to ensure that restoration measures are actually implemented by the Member States.

2.2. The European Environment Agency has confirmed that currently, 81 % of protected habitats in the EU are in poor condition. Only 9 % have seen any improvement. Additionally, 84 % of peatlands — essential for capturing and storing carbon and for filtering water — have a poor conservation status. Over the last decade, 71 % of freshwater fish and 60 % of amphibians have suffered population decline. However, more than half the world's GDP depends on nature and the services it provides, and more than 75 % of global food crops depend on animal pollination ⁽⁶⁾.

2.3. Furthermore, EU legislation is being proposed during the United Nations Decade for Ecosystem Restoration, which is led by UNEP and the United Nations' Food and Agriculture Organization. This is a major global movement aiming to accelerate restoration projects and to ensure that the world is on the path towards a sustainable future. Restoring degraded ecosystems is key to achieving the Sustainable Development Goals, particularly those related to climate change, eradicating poverty and food security.

2.4. Originally built around a biodiversity strategy for 2030 with voluntary targets, the Commission's approach was quickly bolstered by proposals for texts which are binding upon the Member States. Like the international community, the Commission has been forced to react quickly to the findings on biodiversity decline and to the consequences also highlighted in recent IPCC publications. Thus, in the midst of international negotiations on the Convention on Biological Diversity, the Commission has chosen to play a leading role in order to put Europe on the path to restoring all its ecosystems by 2050.

⁽⁵⁾ EESC information report on the Evaluation of the impact of the CAP on generational renewal and EESC information report on the Evaluation on the CAP's impact on territorial development of rural areas.

⁽⁶⁾ IP/22/3746.

2.5. The proposal accordingly aims to impose legally binding targets on the Member States. The overall goal is to contribute to the continuous, long-term and sustained recovery of biodiverse and resilient nature across the Union's land and sea areas through the restoration of ecosystems. This will require Member States to lose no time in rolling out effective and area-based restoration measures; these measures must cover at least 20 % of the Union's land and sea areas by 2030, and all ecosystems in need of restoration by 2050.

2.6. These provisions reflect and are linked to the targets set out in the Habitats and Birds Directives, the Water Framework Directive, the Marine Strategy Framework Directive, the Invasive Alien Species Regulation, the CAP, the EU Pollinators Initiative and the New EU Forest Strategy for 2030.

2.7. Intended to be integrated into the Member States' national policies, this text is innovative in that it addresses both climate and biodiversity challenges. Politicians were informed years ago about global warming, but scientists have only recently highlighted the direct link between climate change and the serious impact on biodiversity. The Commission has broken new ground by calling for a holistic approach to these issues which breaks down the silo-based approach to policies taken to date.

3. Analysis of the draft regulation

3.1. The draft raises a number of profound questions and concerns, both in terms of the targets to be achieved within a limited time frame, and in terms of definitions and indicators. For example, some measures are based on concepts arising from the rights of nature; in order to ensure that this aspect is understandable, the draft regulation should refer to this. In addition, the extent to which the subsidiarity of the Member States is preserved should be made clearer for certain content. In particular with regard to Article 10, which contains indicators for the restoration of forest ecosystems, it should be noted that the responsibility for forestry mostly lies with the Member States⁽⁷⁾.

3.2. Drawing up an opinion on a draft regulation aiming to restore the Member States' ecosystems without accurate information on the challenges and efforts facing those Member States is no easy task. The draft text refers to the drafting and implementation of 'national restoration plans' to be established on the basis of the latest national scientific analyses.

3.3. The terms chosen in the draft regulation are paramount, as they harmonise terminology and inform the Member States about the reasoning underpinning the targets to be achieved. While definitions such as 'good condition', 'favourable reference area' and 'sufficient quality and quantity of a species' habitat' should draw on commonly agreed scientific phrasing, their actual implementation has limitations. There are policy considerations behind these scientific definitions. How does one select a 'favourable reference area'? Who determines the 'sufficient quality and quantity of a species' habitat'? The absence of a previous baseline makes it difficult to set targets or to draw up an informed opinion on this proposal. The EESC stresses that, when undertaking the quantification under Article 11 of the draft Regulation, it is appropriate to pay attention both to past biodiversity loss over a certain period (the Commission arbitrarily proposes the last 70 years) and to likely future changes in environmental conditions. The risk that national disparities in the implementation of the proposed measures end up resulting in a distortion of competition among EU farmers has to be avoided. Moreover, the proposal provides for continuous ecosystem improvement, the success of which is to be assessed every three years after 2030. But what about the ecosystems that may take more or less time to get back to where they should be? It is questionable whether significant improvements can be measured within these short reporting periods. Will the Member States then be held accountable when nature simply needs more time?

3.4. The EESC believes that areas located within the existing protected area network, especially Natura 2000 sites, need to be prioritised for restoration to unlock the full potential of those areas. This best supports the target of achieving a good condition of the habitats listed in Annex I of the Habitats Directive. Targeting restoration measures to protected areas not only secures the long-lasting benefits of restoration measures, but also helps to avoid possible conflicting interests related to land use. Thus, the EESC is of the opinion that the very broad and strict non-deterioration requirement regarding habitats also situated outside the protected area network is unbalanced and disproportionate.

⁽⁷⁾ Opinion of the European Economic and Social Committee on 'Climate Justice' (own-initiative opinion) (OJ C 81, 2.3.2018, p. 22) and Opinion of the European Economic and Social Committee on 'Reflection Paper "Towards a Sustainable Europe by 2030"' (COM(2019) 22 final) (OJ C 14, 15.1.2020, p. 95).

3.5. The mechanism for holding Member States accountable for implementing restoration measures and reaching the targets contains very few details about monitoring delivery. This lack of precision is cause for concern as regards whether the measures are distributed fairly across the Member States, different sectors and different groups of people. While the decision to opt for a regulation has real advantages in terms of harmonising efforts between Member States and keeping a level playing field, it does not leave enough room for the Member States to make decisions on restoration based on their national needs and circumstances. Although a monitoring and reporting mechanism must accompany the targets, any additional administrative burden must be minimised. The existing national and EU mechanisms for continuous assessment and reporting on progress should be utilised as much as possible.

4. Challenges for EU agriculture and forestry

4.1. Overall agricultural ecosystem restoration

The EESC notes that most of the restoration targets relate to private farmland. Successful implementation of the targets is therefore dependent on farmers being fully engaged. Additional regulatory constraints in management, that may be needed to increase biodiversity on agricultural land, may nevertheless be an additional burden for already heavily regulated agricultural activities. The EESC stresses ⁽⁸⁾ that farmers and forest owners cannot be expected to bear the costs of protecting biodiversity. Rather, providing this 'public good and value' should become a useful source of income for them. The success of the restoration targets will inevitably require strong and lasting support for the men and women working to feed Europe. It is here that the Commission proposal is disappointing, because it overlooks this key economic issue in the same way that the Commission's previous biodiversity strategies and action programmes did. So the regulation is likely destined to fail.

4.2. Rewetting drained peatlands as provided for in Article 9 of the regulation

This target will have a significant economic impact on professional activities, and it concerns especially certain regions of some Member States. For those regions, the proposed target might be too ambitious from the viewpoint of balancing different objectives. The EESC points out that continuing the productive use of restored and rewetted peatlands in alternative ways requires economic viability. Furthermore, with regard to the time frame for achieving it, a 2012 study carried out by researchers on more than 620 sites where ecological restoration efforts were undertaken in wetlands found that even after a century, these operations only recovered an average of between 65 % and 70 % of native biodiversity and various hydrological and ecological functions (water filtration, carbon storage) compared to an appropriate, non-degraded reference ecosystem. This raises questions about both the Commission's time line for restoration and the ecological target. However, while peatlands account for only 3 % of the Earth's surface, they capture one third of the carbon dioxide stored in the soil. They are therefore a highly strategic sector for the fight against climate change.

4.3. Restoring natural river connectivity as provided for in Article 7

Our deteriorating climate and water management problems are creating an increasingly degraded environment. As well as being important and valuable for nature, water is crucial for sustainability and thus for security. Sometimes excess water needs to be drained, and other times action must be taken to retain it and to assist natural cycles. The EESC agrees that in order to restore the natural connection of rivers and the natural functions of the associated floodplains, barriers preventing the longitudinal and lateral connection of surface waters can be transformed, subject to strict technical supervision. However, the EESC flags up the risk of flooding that could be triggered when hydraulic infrastructure is removed. Restoring biodiversity requires water, so strategic interventions can be an opportunity to manage water and direct it to where it is needed. Care must be taken to keep water in the landscapes and prevent it from flowing away too quickly. For Europe, the summer of 2022 was a striking example of the real and present risk of drought. The EESC recommends that a dialogue be organised on this subject, with the involvement of civil society organisations. The EESC also recommends urging Member States to implement green infrastructure projects that can help to combine improving flood protection, preserving sensitive aquatic areas that are important for biodiversity at European level, and economic and tourism development. Accordingly, the EESC would point to rivers such as the Danube or the Elbe, where flooding has caused major damage ⁽⁹⁾.

⁽⁸⁾ 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 — EU Biodiversity Strategy for 2030 — Bringing nature back into our lives' (COM(2020) 380 final) (OJ C 429, 11.12.2020, p. 259).

⁽⁹⁾ 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 Green Infrastructure (GI) — Enhancing Europe's Natural Capital' (COM(2013) 249 final) (OJ C 67, 6.3.2014, p. 153).

4.4. Reversing pollinator decline

The EESC fully supports this measure which is key for food security. However, the Committee notes that the draft regulation fails to provide any measures concerning available food resources for pollinators. The long-term survival of these species cannot be achieved unless there are sufficient numbers of nectar- and pollen-rich plants to feed pollinators in the long term. Nesting places and a non-toxic environment are also essential.

4.5. Agricultural objectives referred to in Article 9 of the regulation

The EESC expresses concern regarding the target whereby 10 % of EU utilised agricultural area must comprise highly diverse landscape features. It is particularly problematic that, according to Annex IV, these areas may not be used for productive agriculture (including grazing and fodder production). It should not be forgotten that in many areas it is the cultivation (in particular, for example, grazing on alpine pastures, hay meadows or litter meadows) that makes a great biological diversity possible in the first place. To exclude management in these areas from the outset is therefore excessive; this condition should be deleted. Furthermore, early 2022 showed us all too clearly just how important food sovereignty is for coping with the many perils ahead, and while dedicating 10 % of the agricultural land in use to this purpose would improve the biodiversity which is so crucial for agricultural productivity, it would also lead to significant yield losses. The 10 % target should therefore not focus solely on agricultural land: it should encompass the areas around it. For example, roadsides and rural verges are very important for biodiversity. These areas could accommodate flower strips that would benefit pollinators and crop auxiliaries. Additionally, these landscape features would only be fully effective if they were to be organised in a network. Studies have shown the value of installing several flower strips in a network, rather than one large patch of flowers. The EESC also points out that equal attention should be paid to all natural environments so that all species living in different environments can benefit. For example, hedges and borders are basically irrelevant to lapwings and skylarks. Preservation policy must therefore apply to the entire area or use of the land, beyond agricultural and forestry areas, taking into account the different needs of our societies.

4.6. Forestry ecosystems as provided for in Article 10 of the regulation

Restoring degraded forest areas in Europe is instrumental in adapting our societies to climate change and enabling economic activities to contribute to the biodiversity targets. Internationally, the general objectives of the draft regulation are in line with a global approach on a global scale. The EESC commends the Commission's political will to encourage the Member States to restore their forest environments⁽¹⁰⁾. However, it stresses that, due to the heterogeneous conditions in forests across Europe, restoration measures may be adapted to local conditions as long as competition among European forest owners is not distorted. The EESC also points out the importance of integrating this restoration into the landscape of the regions concerned and of taking into account the climate disasters that Europe is now experiencing (such as small and very large-scale fires). Land use in any landscape is interconnected and must therefore meet both environmental and socioeconomic requirements. For example, reforestation at the expense of agricultural land can result in economic losses for local communities and may not be sustainable, whereas including native trees⁽¹¹⁾ in an agroforestry approach could be more appropriate and generate local support. It is therefore important to steer Member States towards approaches that strike a balance between preserving natural resources and economic development. The forestry objective cannot be achieved without lasting support for the emergence and development of activities carried out both before the trees are planted and after they are cut down, so that agroforestry is a viable economic concern.

5. Challenges for the EU's urban areas

5.1. Reintroducing nature in cities is a key objective that the EESC supports. Greening European cities is quite clearly important both for the well-being of Europeans and for the sustainability of European biodiversity. The scorching temperatures that Europe experienced in July 2022 are a reminder of the essential role that trees play in reducing temperatures in cities. Trees reduce the surface temperature by up to 12 °C.

5.2. What is more, European cities now cover large areas, hindering the movement of species and damaging their habitat. It is imperative to direct Member States towards measures limiting the take of natural areas. These measures should not be based on programmes proposing land swaps.

⁽¹⁰⁾ Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council establishing a Social Climate Fund' (COM(2021) 568 final — 2021/0206 (COD)) (OJ C 152, 6.4.2022, p. 158).

⁽¹¹⁾ A tree that lives in an area populated by its own species, without human aid.

5.3. Lastly, biodiversity restoration should be strengthened in cities by fostering green infrastructure as an integral part of habitat development. Parks, footpaths and even green roofs and walls improve the urban climate without being prohibitively expensive. The EESC therefore reiterates the recommendations set out in opinion NAT/607 ⁽¹²⁾.

6. Challenges for the EU's seas and oceans

6.1. Marine restoration is essential for preserving biodiversity, given the number of marine species and ecosystems and the strategic importance of marine environments with a view to climate change. The EESC supports the proposed targets for restoring the seas and oceans, given that it has been proven that human activities have destroyed the balance of marine ecosystems. In addition to protecting species and restoring habitats, responsible fishing and pollution reduction measures should also be adopted. The EESC is in favour of establishing a safeguard mechanism under the common fisheries policy to manage the negative impacts on marine environments. In order to reach the targets for these environments, the Member States must agree to manage fisheries resources together. However, in view of just how important action on the seas and oceans is, the Commission should be able to intervene in order to ensure that the protection and restoration targets are met.

6.2. The EESC would also highlight the crucial role of marine environments in the fight against climate change. Preserving marine carbon capture capacity is pivotal for our future. The EU must therefore provide financial support for innovation and research in order to encourage the search for innovative solutions and improve our understanding of these ecosystems. For example, studies have proven the importance of small coastal beds, which are essential habitats for many species of fish which grow to adulthood there before striking out for the areas where they will live later on. However, these areas are often degraded by coastal infrastructure (ports, dykes, etc.), and so new solutions must be found. Experiments are being conducted to secure artificial reefs and sea grass beds to the seabed in the Toulon and Vieux Port de La Seyne-sur-Mer harbours. This activity aims to revitalise the ecological functions of the coastal environment.

7. The financial challenges of nature restoration

7.1. The EESC highlights the remarkable political will shown by the Commission with this ambitious and innovative regulation. However, it points out that political will will be hamstrung unless it has financial resources commensurate with the commitments. In this regard, the Commission's work on identifying the potential costs of ecosystem restoration offers an initial picture of the commitment that Member States will need to make, but also raises questions. This work indicates a cost/benefit ratio of 1 to 8 for biodiversity preservation, but does not shed any light on the economic, social and cultural impact of achieving the targets. What will be the economic and social impact of the restoration measures put in place on land? The EESC calls for a prior assessment of the exact surface area of agricultural land, forests and waterways that will be covered by the proposals set out in the regulation. The EESC also reiterates the comments made in opinion NAT/786 ⁽¹³⁾ calling for financing commensurate with the issues at stake. For example, the Natura 2000 Network, which offers a unique opportunity in Europe to improve the quality of notable natural environments, provides only 20 % of the funds pledged and needed. The EESC places particular emphasis on the financial commitments announced by the Commission. It reiterates the importance of matching funds to expectations, without which additional regulations will not deliver any results.

7.2. The EESC warns of the dangers inherent in falling short on generational renewal in the agricultural sector. Setting targets that are irreconcilable with the reality of farm life will lead to major financial difficulties in this sector, which is already struggling to recruit professionals. The Commission must pay particular attention to the financial impact on these farms in order to ensure long-term viability, while at the same time supporting the development of climate-sensitive practices.

Brussels, 25 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽¹²⁾ 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 Green Infrastructure (GI) — Enhancing Europe's Natural Capital' (COM(2013) 249 final) (OJ C 67, 6.3.2014, p. 153).

⁽¹³⁾ 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 — EU Biodiversity Strategy for 2030 — Bringing nature back into our lives' (COM(2020) 380 final) (OJ C 429, 11.12.2020, p. 259).

ANNEX

The following amendments, which received at least a quarter of the votes cast, was rejected during the discussion:

Point 3.4

Amendment 11**Amend as follows:**

Section opinion	Amendment
<p>The EESC believes that areas located within the existing protected area network, especially Natura 2000 sites, need to be prioritised for restoration to unlock the full potential of those areas. This best supports the target of achieving a good condition of the habitats listed in Annex I of the Habitats Directive. Targeting restoration measures to protected areas not only secures the long-lasting benefits of restoration measures, but also helps to avoid possible conflicting interests related to land use. Thus, the EESC is of the opinion that the very broad and strict non-deterioration requirement regarding habitats also situated outside the protected area network is unbalanced and disproportionate.</p>	<p>The EESC believes that areas located within the existing protected area network, especially Natura 2000 sites, need to be prioritised for restoration to unlock the full potential of those areas. This best supports the target of achieving a good condition of the habitats listed in Annex I of the Habitats Directive. Paying particular attention to Natura 2000 sites adopted back in 1992, and can also help to avoid possible conflicting interests related to land use.</p>

Result of the vote:

For 91
 Against 108
 Abstentions 18

Point 4.2

Amendment 12**Amend as follows:**

Section opinion	Amendment
<p>Rewetting drained peatlands as provided for in Article 9 of the regulation</p> <p>This target will have a significant economic impact on professional activities, and it concerns especially certain regions of some Member States. For those regions, the proposed target might be too ambitious from the viewpoint of balancing different objectives. The EESC points out that continuing the productive use of restored and rewetted peatlands in alternative ways requires economic viability. Furthermore, with regard to the time frame for achieving it, a 2012 study carried out by researchers on more than 620 sites where ecological restoration efforts were undertaken in wetlands found that even after a century, these operations only recovered an average of between 65 % and 70 % of native biodiversity and various hydrological and ecological functions (water filtration, carbon storage) compared to an appropriate, non-degraded reference ecosystem. This raises questions about both the Commission's time line for restoration and the ecological target. However, while peatlands account for only 3 % of the Earth's surface, they capture one third of the carbon dioxide stored in the soil. They are therefore a highly strategic sector for the fight against climate change.</p>	<p>Rewetting drained peatlands as provided for in Article 9 of the regulation</p> <p>This target will have a significant economic impact on professional activities, and it concerns especially certain regions of some Member States. For those regions, the proposed target might have a particular impact from the viewpoint of balancing different objectives. The EESC recognises the particular importance of peatlands for biodiversity and the climate, and regards the Commission's objectives (restoration measures on 70 % of drained peatlands by 2050, of which half shall be rewetted³¹) as a compromise between economic and environmental interests. Furthermore, with regard to the time frame for achieving it, a 2012 study carried out by researchers on more than 620 sites where ecological restoration efforts were undertaken in wetlands found that even after a century, these operations only recovered an average of between 65 % and 70 % of native biodiversity and various hydrological and ecological functions (water filtration, carbon storage) compared to an appropriate, non-degraded reference ecosystem. This raises questions about both the Commission's time line for restoration and the ecological target. However, while peatlands account for only 3 % of the Earth's surface, they capture one third of the carbon dioxide stored in the soil. They are therefore a highly strategic sector for the fight against climate change.</p>

Result of the vote:

For 99
 Against 104
 Abstentions 18

Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and of the Council on the labelling of organic pet food'

(COM/(2022) 659 final — 2022/0390(COD))

(2023/C 140/09)

Rapporteur: **Arnaud SCHWARTZ**

Referral	Council of the European Union, 8.12.2022
Legal basis	Article 43(2) of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	10.1.2023
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	187/0/4

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) welcomes the proposal for a Regulation on the labelling of organic pet food and calls for its swift adoption in order to ensure continuity with current requirements, before the entry into force of the new Regulation on organic production and labelling of organic products ⁽¹⁾.

1.2. The EESC believes that the pet food sector has a role to play in contributing to the European Green Deal objectives, and that these new labelling measures will help to develop and promote the sector, both by selling products to consumers mindful of the organic content of what they buy, and through the opportunity to bring added value to organic by-products. The sector will thus be able to contribute, albeit moderately, to achieving the 25 % target of EU agricultural land under organic farming by 2030, as included in the Farm to Fork and Biodiversity Strategies, and in the Action Plan for the development of EU organic production.

1.3. The EESC encourages the Commission and European institutions to communicate on this new Regulation and its objectives, in order to further strengthen consumer demand and confidence in organic products.

1.4. Given that pet food is intended for sale to consumers, the EESC recommends involving and consulting the industry in legislative work on the sustainability of food products, such as the labelling of sustainable food products, the environmental performance of products and sustainable packaging ⁽²⁾.

2. Background

2.1. The entry into force on 1 January 2022 of the new EU Regulation on organic production and labelling of organic products ⁽³⁾ introduced strict requirements for the labelling of organic food, feed and pet food. Previously, pet food, in particular cat and dog food, could be labelled as organic in accordance with national rules or private standards even if not all the agricultural ingredients were organic. Since 1 January 2022, this type of labelling is no longer possible.

⁽¹⁾ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

⁽²⁾ Opinion of the European Economic and Social Committee on Towards a sustainable food labelling framework to empower consumers to make sustainable food choices (own-initiative opinion) (OJ C 75, 28.2.2023, p. 97).

⁽³⁾ Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

2.2. On 28 November 2022, the European Commission therefore issued a proposal for a Regulation on the labelling of organic pet food ⁽⁴⁾, with the aim of establishing specific labelling rules for pet food. The aim is to allow pet food, especially cat and dog food, to bear the organic production logo of the European Union, if they meet the strict criteria laid down by the European legislator.

2.3. The labelling rules proposed for organic pet food mirror the labelling rules applicable to food: in order to be labelled organic and bear the organic production logo of the European Union, at least 95 % in terms of weight of the agricultural ingredients will have to be organic (when less than 95 % of the agricultural ingredients are organic, the reference to organic may only be used in the list of ingredients in relation to organic ingredients with an indication of the total percentage of organic ingredients in proportion to the total quantity of agricultural ingredients).

3. General comments

3.1. The EESC reiterates its support for the Action Plan for the development of EU organic production ⁽⁵⁾, recognising the role played by organic farming in achieving the European Green Deal objectives and, in particular, measures to further strengthen consumer demand and confidence in organic products.

3.2. In this context, the EESC acknowledges the need to adopt this proposal for a Regulation as soon as possible, in order to authorise the use of the EU organic production logo for pet food that is not composed of 100 % (but at least 95 %, in weight) organic ingredients, which is the reality for some products. However, the EESC calls for the this type of regulatory act to be implemented in the future at the same time as the entry into force of the basic act, in order to avoid legal loopholes that would adversely affect both producers and consumers/buyers.

3.3. The EESC supports the proposed labelling rules for organic pet food, given the high level of organic products required (95 % in weight) and the similarity with the rules applied to organic food, which encourage a uniform use of the EU logo and easier understanding for consumers for whom these two types of products are intended.

3.4. The EESC points out that, despite its small proportion of organic products, the pet food sector is growing rapidly (3,1 % annual growth, with 46 % of European households owning at least one pet ⁽⁶⁾). According to the sector itself, the trend towards 'humanising' pets sees many pet owners looking for food that reflects their own taste, leading to the purchase of premium range products, including organic ones ⁽⁷⁾. The EESC therefore welcomes these new labelling measures, which could boost this organic pet food market, both by selling products to consumers mindful of the organic content of what they buy, and through the opportunity to bring added value to organic by-products.

3.5. The EESC therefore believes that these new labelling measures could contribute, albeit moderately, to achieving the 25 % target of EU agricultural land under organic farming by 2030, as included in the European Green Deal's Farm to Fork and Biodiversity Strategies, and in the Action Plan for the development of EU organic production.

3.6. The EESC welcomes the application of measures requiring mandatory information on the origin of the food with regard to the raw materials used in the composition of the pet food, bearing the labels 'EU Agriculture', 'Non-EU Agriculture' and 'EU/non-EU Agriculture', or even 'Agriculture + name of country' or 'Agriculture + name of country and region.'

⁽⁴⁾ Proposal for a Regulation on the labelling of organic pet food (COM/2022/659 final).

⁽⁵⁾ 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) (OJ C 517, 22.12.2021, p. 114).

⁽⁶⁾ Source: FEDIAF (European Pet Food Industry Federation) — <https://europeanpetfood.org/about/statistics/>

⁽⁷⁾ Source: FEDIAF (European Petfood Industry Federation) — <https://europeanpetfood.org/pet-food-facts/pet-food-trends/>

3.7. The EESC encourages the Commission and European institutions to communicate on this new Regulation and its objectives, in order to further strengthen consumer demand and confidence in organic products.

3.8. Lastly, the EESC believes that these labelling measures should enable, or even broaden, dialogue with pet food producers so as to ensure the sector's commitment to the principles of sustainable food systems and to foster their contribution to the European Green Deal objectives.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

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

(COM(2022) 782 final)

(2023/C 140/10)

Rapporteur: **Petru Sorin DANDEA**

Referral	European Commission, 19.12.2022
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	21.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	169/0/3

1. Conclusions and recommendations

1.1. The EESC supports the Commission's recommendations and puts forward a number of additional proposals.

1.2. The EESC reiterates the conclusions of its previous opinion ⁽¹⁾, approved by a large majority at its October 2022 plenary session.

1.3. The EESC recommends that the two bands of consumption be set in such a way that all households facing major problems in paying their energy bills are protected. The EESC believes that the two-tier policy should cover both people below the poverty line and those belonging to the lower middle class who, due to low incomes, will not be able to pay their energy bills at market prices.

1.4. The EESC supports the Commission's proposal that Member States make use of the State Aid Temporary Crisis Framework and recommends that Member States use all possible means to help businesses in general and small and medium-sized enterprises in particular.

1.5. The EESC recommends that monetary policy be used prudently, since, as long as inflation is being driven by exogenous factors, monetary policy in this complex context can have a cyclical effect.

1.6. The EESC supports the Commission's proposal for euro area countries to coordinate their fiscal policy with the monetary policy of the European Central Bank. This is important for the success of monetary policy in curbing inflation.

1.7. The EESC believes that the completion of the Capital Markets Union and the Banking Union will be important steps in deepening economic and monetary union and recommends that Member States make efforts to speed up the process.

1.8. The EESC recommends that Member States swiftly implement the Minimum Wage Directive at national level. This could improve the level of the minimum wage and create a safety net for low-wage earners, preserving the purchasing power of wages at this time of high inflation.

⁽¹⁾ Opinion of the European Economic and Social Committee — Additional considerations on Recommendation for a Council recommendation on the economic policy of the euro area (COM(2021) 742 final) (own-initiative opinion) (OJ C 75, 28.2.2023, p. 43).

1.9. The Commission recommends that Member States use the opportunity of social dialogue to involve the social partners in the design and implementation of the policies needed to mitigate the effects of the crisis. The EESC firmly backs this Commission proposal.

2. Background

2.1. The resumption of economic growth in the euro area and in the wider European Union in 2021 was suddenly interrupted by Russia's war against Ukraine. The euro area's significant dependence on fossil fuel imports from Russia, in the context of EU sanctions, created uncertainty, with major effects on supply chains. These were the factors that sparked the energy crisis and, subsequently, the high inflation currently being faced by the euro area and wider EU.

2.2. Although inflation fell slightly in November, to 10 %, from 10,6 % in October, the arrival of the cold weather, fuel supply problems and the ensuing energy crisis may see inflation rise again in the coming period.

2.3. The European Central Bank has used monetary policy to seek to bring inflation back to sustainable parameters (a target of 2 % over the medium term), but its efforts may prove insufficient in view of the exogenous factors that led to the crisis, as well as the difficulty involved in dovetailing monetary policy with fragmented fiscal policy across the Member States.

2.4. This multifaceted crisis has come on top of the climate crisis that the EU is facing. There has also been a significant slowdown in convergence, and even fragmentation and divergence, across some sectors, as well as across the economies of the euro area Member States.

2.5. The energy crisis has led to a loss of competitiveness for many sectors and companies operating in the single market.

2.6. The Recovery and Resilience Facility, as well as cohesion policy, have contributed significantly to helping euro area Member States to maintain the level of investment needed to achieve the Green Deal objectives, but further efforts are needed to speed up the transition towards net-zero emissions and significantly reduced energy dependency.

2.7. Against this particularly difficult and complex backdrop, on 22 November, the European Commission presented its proposal for a Council Recommendation⁽²⁾ on the economic policy of the euro area for 2023.

3. General and specific comments

3.1. The EESC endorses the Commission's recommendations, but also considers the following proposals to be necessary:

3.2. The EESC reiterates the conclusions of opinion ECO/590⁽³⁾, adopted by a large majority at its October 2022 plenary session.

3.3. In the context of the energy crisis, the winter of 2022-2023 is set to create major problems for households and businesses in the EU. The European Commission is proposing a two-tier policy for protecting the most vulnerable. This means that up to a certain level of energy consumption, vulnerable consumers will pay a price that is lower than the market price. The two-tier policy proposed by the Commission to protect vulnerable households during the energy crisis should be deployed by the Member States in an inclusive manner. The EESC recommends that the two bands of consumption be set in such a way that all households facing major problems in paying their energy bills are protected.

The EESC believes that the two-tier policy should cover both people below the poverty line and those belonging to the lower middle class who, due to low incomes, will not be able to pay their energy bills at market prices.

⁽²⁾ Recommendation for a Council Recommendation on the economic policy of the euro area (COM(2022) 782 final).

⁽³⁾ Opinion of the European Economic and Social Committee — Additional considerations on Recommendation for a Council recommendation on the economic policy of the euro area (COM(2021) 742 final) (own-initiative opinion) (OJ C 75, 28.2.2023, p. 43).

3.4. When it comes to businesses, the Commission considers that Member States should provide support to prevent the shutdown of activities, including through the use of the State Aid Temporary Crisis Framework. The EESC supports the Commission's proposal and recommends that Member States use all possible means to help businesses in general and small and medium-sized enterprises in particular.

3.5. The inflation generated by natural gas prices and the energy crisis reached its highest level in October 2022 since the introduction of the euro, i.e. 10,6 %. The European Central Bank has taken action in a timely manner, using monetary policy to contain the rise in inflation and pave the way for a return to below 2 % (the medium-term target). The EESC recommends that monetary policy be used prudently, since as long as inflation is being driven by exogenous factors, monetary policy in this complex context can have a cyclical effect.

3.6. Wages in the euro area increased slightly in 2022, but well below the level of inflation. The EESC agrees with the European Commission when it recommends that Member States, in accordance with their national practices and models of collective bargaining, take action to preserve the purchasing power of wage earners, especially in the case of vulnerable low-income workers. The EESC recommends that Member States swiftly implement the Minimum Wage Directive at national level. This could improve the level of the minimum wage and create a safety net for low-wage earners, preserving the purchasing power of wages.

3.7. The EESC supports the Commission's proposal for euro area countries to coordinate their fiscal policy with the monetary policy of the European Central Bank. This is important for the success of monetary policy in curbing inflation. The Committee believes that the Member States and the Commission should step up their efforts to implement the proposed 'Pillar 1' under the OECD Inclusive Framework. This could generate significant revenues for Member States which, after the efforts made during the COVID-19 pandemic, face high levels of public debt and, consequently, less room for fiscal policy manoeuvre in times of crisis.

3.8. The EESC supports the Commission's proposal to continue efforts to complete the Capital Markets Union and the Banking Union. The EESC believes that the completion of these two political projects will be important steps in deepening economic and monetary union.

3.9. At this time of multiple crises, Member States must take action to reduce the fallout for households and businesses. The Commission recommends that Member States use the opportunity of social dialogue to involve the social partners in the design and implementation of the policies needed to mitigate the effects of the crisis. The EESC firmly backs this Commission proposal.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

Opinion of the European Economic and Social Committee on ‘Setting the course for a sustainable blue planet — Joint Communication on the EU’s International Ocean Governance agenda’

(JOIN(2022) 28 final)

(2023/C 140/11)

Rapporteur: **Stefano PALMIERI**

Referral	European Commission, 25.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	15.6.2022
Section responsible	External Relations section
Adopted in section	20.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	184/0/1

1. Conclusions and recommendations

1.1. Ocean governance should not be considered merely a ‘marine affair’. The marine environment constitutes a complex system in terms of sectors, legislation, stakeholders at different scales (local, regional, global) and dimensions. It is interwoven with land activities, policies and actions, requiring knowledge-based support for decisions with a trans-disciplinary integrated approach and science diplomacy. The EESC welcomes the proposed constitution of an Intergovernmental Panel for Ocean Sustainability.

1.2. The EESC welcomes the designation of Marine Protected Areas, supports the achievement of carbon neutrality and sustainable ship demolition.

1.3. Decisions and interventions need coherence between different policies and agreements, with a transparent evaluation of feasibility vs impacts. The EESC supports the EU’s role as a legislative actor and in strengthening networks and partnerships at global level, addressing the role of research and innovation.

1.4. The EESC calls for financial deterrents to the use of flags of convenience (e.g. establishing a dedicated fund constituted by sureties for ship demolition) and proposes extending the Carbon Adjustment Mechanism to cover the wide range of pollutants that impact the marine ecosystem.

1.5. The EESC welcomes the ‘zero tolerance’ approach to illegal, unreported and unregulated (IUU) fishing and bycatch, and encourages the EU to support honest operators in achieving the sustainable conservation and management of fisheries. The EESC calls on the Commission to support sustainable low-impact small-scale and industrial fishing, ‘zero-impact’ aquaculture and algaculture to guarantee regions’ environmental, social and economic sustainability.

1.6. Deep-sea mining still needs robust scientific results to evaluate the long-term impacts on the environment. The EESC welcomes the Commission’s adoption of the precautionary approach and calls for a moratorium on the authorisation of mining licences by the International Seabed Authority (ISA). The EESC calls for the establishment of international independent scientific panels to provide knowledge-based support for decisions and interventions.

1.7. The impacts of unexploded ordnance, emerging pollutants and natural disasters can transform the use of maritime space and the consequent economic/geo-political scenarios. The EESC welcomes the Commission’s efforts to address these challenges.

1.8. Safety and security at sea are fundamental. A generational renewal of skills and technologies is needed, accompanied by decent living and working conditions. The EESC also calls on the Member States to ratify Convention No 188/2007 ⁽¹⁾ of the International Labour Organization and ensure its effective transposition into national law in EU Member States ⁽²⁾. The EESC welcomes Council Directive (EU) 2017/159 ⁽³⁾ and calls for the procedure's scope to be broadened to improve living and working conditions and to protect the health and safety of workers in the sea fishing sector.

1.9. The EESC reiterates the importance that the outermost regions ⁽⁴⁾ — due to their geographical characteristics — must assume a key role in the framework of ocean governance as defined in the COM(2022) 198 final ⁽⁵⁾ but totally absent in the JOIN(2022) 28 final.

1.10. For a new and strengthened international governance of the Oceans, promoted by the EU, the EESC calls for the effective and transparent involvement — at every stage of this process, from consultation and the co-design of plans to implementation and final evaluation — of different stakeholders in the development of knowledge-based support for policy, as well as in communication and outreach. New forms of organisational structure could be adopted to address the complexity of the challenges.

1.11. The EESC calls for wide dissemination of knowledge of the law of the sea among all EU citizens. An international law is needed to regulate different areas of competence (coastal boundaries, economic zones, protection of marine resources, the definition of 'safe harbour', etc.), especially to clarify international obligations regarding rescue and assistance at sea, codifying the concepts of danger and search and rescue methods ⁽⁶⁾. The EESC calls for proper enforcement of this rule, affirming the fundamental principle that human beings in danger at sea must be saved and taken to a safe port without any doubts and without conditions.

1.12. Given the geopolitical and environmental importance of the Arctic, the EESC welcomes the EU's commitment to fully implementing the **Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean**, the efforts for designating MPAs in the Arctic and the ban on drilling for hydrocarbons ⁽⁷⁾.

1.13. The EESC notes a lack of ambition in the planned investments aimed at tackling the challenges in ocean governance and therefore calls for an adequate Ocean Fund to be established to support maritime challenges.

2. General comments on the reference framework

2.1. One of the main challenges for marine and maritime issues is **coherence** between actions at different levels (global, national, regional and local) and between sectors. Many competing claims can jeopardise interventions and drastically reduce impact.

⁽¹⁾ ILO Work in Fishing Convention no 188/2007.

⁽²⁾ Currently 167 States have not ratified Convention 188, of which 19 are EU Member States, including significant coastal countries such as Cyprus, Finland, Germany, Greece, Ireland, Italy, Latvia, Malta, Spain and Sweden.

⁽³⁾ Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche) (OJ L 25, 31.1.2017, p. 12).

⁽⁴⁾ The outermost regions (ORs) are islands, archipelagos and one land territory (French Guiana). Nine of these regions are located in the western Atlantic Ocean, the Caribbean basin, the Amazon forest and the Indian Ocean: French Guiana, Guadeloupe, Martinique, Saint-Martin, Réunion and Mayotte (France), the Azores and Madeira (Portugal) and the Canary Islands (Spain).

⁽⁵⁾ COM(2022) 198 final, Putting people first, securing sustainable and inclusive growth, unlocking the potential of the EU's outermost regions.

⁽⁶⁾ International Convention on maritime search and rescue, 29 April 1979, Hamburg; United Nations Convention on the Law of the Sea, 10 December 1982, Montego Bay; International Convention for the Safety of Life at Sea, 25 May 1980.

⁽⁷⁾ Joint COM/EEAS Communication JOIN(2021) 27 final, on 'A stronger EU engagement for a peaceful, sustainable and prosperous Arctic'.

2.2. Ocean governance requires knowledge-based support for decisions. The impact of humans on the marine environment is **not limited to activities at sea** (mining, fishing, transport), but also encompasses actions on land that result in pollution on a wider scale (waste, pesticides, antibiotics, phosphates, plastics, explosives, etc.). It is therefore crucial to embed oceans not only in SDG 14 but also in those goals that address industrial production and collective behaviours. A healthy and productive marine ecosystem requires a more integrated approach, including aspects that are not limited to marine and maritime issues.

2.3. In recent years, when complexity has emerged in many contexts, **new modes of governance** have been developed, primarily driven by market and network science. Complex systems are difficult to control and their dynamics cannot easily be predicted in the long-term. Oceans constitute a complex system where the huge discrepancy in rules between coastal and offshore areas, disputes at national government level and private sector suggest that it could be necessary to adopt a renewed **science diplomacy** to tackle the challenges. The EESC recognises the need to develop fit-for-purpose management tools and policy interfaces as initiatives to integrate the different and interconnected dimensions.

2.4. The EESC supports the EU's role as a legislative actor and in strengthening networks and partnerships at global level, addressing the **role of research and innovation**, providing solutions and guidelines, and promoting specific initiatives.

3. An evaluation of the Commission Communication

We will focus on the four areas of the proposal: 1) *Strengthening the international ocean governance framework*; 2) *Towards ocean sustainability by 2030*; 3) *Ensuring security and safety at sea*; 4) *Building up ocean knowledge*.

3.1. Strengthening the international ocean governance framework

3.1.1. The EESC welcomes the commitment of the Commission to support the highest international standards in relation to transparency, good governance and stakeholder inclusiveness in international organisations, such as the International Seabed Authority (ISA) and the World Trade Organization (WTO).

3.1.2. The EESC reaffirms the role of the EU in the legislative field, also through science diplomacy and the strengthening of networks and partnerships at global level. In particular, the Committee emphasises the need to implement a system to monitor and adopt appropriate interventions. The designation of **Marine Protected Areas** (MPAs) and 'other effective area-based conservation measures' (OECMs), with a target of 30 % by 2030, is welcomed, wherever their relevance in the functioning of the ocean system is recognised and the adoption of interventions is based on the analysis of the efficiency and effectiveness of each specific area, taking into account costs, responsibilities, timescales and monitoring.

3.1.3. The EESC notes that, despite some technological progress in recent years, the long-term impacts of **deep-sea mining** are reported to still be visible, and the ecosystem still in the course of recovery, for areas excavated many decades ago⁽⁸⁾. The EESC welcomes the adoption of a precautionary approach and calls for a moratorium on the authorisation of mining licenses by the ISA. The EESC calls on the ISA to establish an international independent scientific panel to transpose knowledge-based analysis into well-defined policy decisions. The EESC also suggests promoting investments in Research and Development for alternative solutions to materials excavated from the seabed.

3.1.4. **Small-scale coastal fishing and aquaculture** are vital factors in the survival of many coastal communities and in the conservation of their cultural heritage. The fishing sector in general and in particular traditional and small-scale fishing paid the highest price of the economic crisis, which is why today the sector needs a specific strategy to recover a solid position in the market⁽⁹⁾. The EESC calls for appropriate interventions to reinforce these activities, diversify the income sources of local communities (e.g. coastal tourism and recreational aquatic activities), support the reorientation of careers, aid depressed local regions and environmental sustainability⁽¹⁰⁾.

⁽⁸⁾ See <https://www.jpi-oceans.eu/en/ecological-aspects-deep-sea-mining>

⁽⁹⁾ Opinion of the European Economic and Social Committee on 'Social dimension of fisheries' (exploratory opinion) (OJ C 14, 15.1.2020, p. 67).

⁽¹⁰⁾ https://oceans-and-fisheries.ec.europa.eu/publications/communication-commission-towards-strong-and-sustainable-eu-algae-sector_en

3.1.5. The EESC welcomes the **'zero tolerance' approach to illegal, unreported and unregulated fishing**, and encourages the EU to support honest operators towards a sustainable conservation and management of fisheries. The Committee reaffirms the EU's role in fisheries dialogues with non-EU countries to promote the compliance with international obligations. In this context, the EESC recognises the **Sustainable Fisheries Partnership Agreements (SFPAs)** as a relevant contribution for a solid framework with a number of non-EU partner countries.

3.1.6. The Arctic is facing drastic changes that may result in the putting at risk the environment and the geopolitical equilibrium. The EESC welcomes the EU's commitment to fully implementing the **Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean**, the efforts to designate MPAs in the Arctic and the ban on drilling for hydrocarbons ⁽¹¹⁾.

3.1.7. The EESC recognises the difficulties in implementing actions in the **Areas Beyond National Jurisdiction**, emphasising the need to guarantee coherence between different partnerships and agreements, and supporting the EU's efforts in the ongoing negotiations for a High Seas Treaty.

3.2. Towards ocean sustainability by 2030

3.2.1. The EESC salutes the commitments and efforts in achieving **carbon neutrality** by 2050. The EU has a relevant role in the International Maritime Organisation (IMO) in a global legislative and operational process meant to decarbonise the maritime and fishing sector.

3.2.2. The EESC recognises that fighting marine pollution is a challenge. The interconnection of different sources, including land-based sources, along with the diversity of stakeholders and legislative boundaries make the framework more complex. The Committee underlines the need to address the **diversity of pollutants** and promote effective interventions. The EESC underlines the need for coherence and involvement of aspects beyond ocean governance (e.g. those addressed in the Zero Pollution, Biodiversity Strategy and From Farm to Fork strategy ⁽¹²⁾) that impact strongly on marine pollution ⁽¹³⁾.

3.2.3. **Unexploded ordnance (UXO)** includes both conventional explosive and chemical weapons dumped at sea. Undeniable threats resulting from UXO at sea have been low-ranked in the past. The problem calls for an urgent strategy, since the demand for marine space by economic sectors is increasing and most munitions are facing corrosion, leakage of toxic, carcinogenic, mutagenic and teratogenic products. Detection, monitoring and mitigation interventions are needed with joint European knowledge and technological support ⁽¹⁴⁾.

3.2.4. The EESC welcomes the Commission's efforts to reduce the environmental impacts of dumped munitions, and notes that the risks are not limited to UXO from WWI and WWII but also concern other conflicts (e.g. in the Balkans and Ukraine), and are not limited to the possible toxicity of leaked substances but also to accidental or auto-detonation.

3.2.5. The EESC recognises the environmental impacts of **fishing gears** on the ecosystem, and notes that the costs of many proposed solutions are not sustainable, or their effects are negligible at global level. The EESC calls for the introduction of new technologies/materials to mitigate the challenge, accompanied by compensation measures and customised campaigns to make fishermen aware of the opportunities ⁽¹⁵⁾.

⁽¹¹⁾ Joint Communication JOIN(2021) 27 final 'A stronger EU engagement for a peaceful, sustainable and prosperous Arctic'.

⁽¹²⁾ Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11); Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).

⁽¹³⁾ OECD Guidelines for Multinational enterprises 2011; UN guiding principles on business and human rights 2011.

⁽¹⁴⁾ See: <https://www.jpi-oceans.eu/en/munition-sea>

⁽¹⁵⁾ See: the FAO voluntary guidelines on the marking of fishing gear and the work done by the Regional Fisheries Management Organizations and Regional Seas Conventions.

3.2.6. **The over-exploitation of fish stocks** and bycatch fishing are recognised as real issues at global level. The fishing sector widely impacts on many species, there are therefore valid concerns that this could endanger the sustainability of some species putting at risk the equilibrium of the whole marine ecosystem. On the other hand, local fishermen's activities constitute a significant aspect of territorial cultures and sustainable economy providing healthy food to citizens in a sustainable process from the environmental, social and economic points of view. Anthropogenic pressure on fish stocks can be reduced by promoting **zero-impact aquaculture** (including algaculture).

3.2.6.1. On the basis of these aspects the EESC calls for

- a) more strict controls and sanctions in relation to IUU fishing;
- b) monitoring and regulating the fishing sector in a way that eliminates the over-exploitation of fish stocks and bycatch and promote the effective sustainability of this sector;
- c) promotion and support for zero-impact aquaculture and algaculture, including the aspects of feeding and energy consumption;
- d) provision of economic compensation for workers during the transitional phases towards a transformation of technologies and production systems.

3.2.7. Maritime transport represents over 90 % of the world's traded cargo, constituting the backbone of the global economy. Ocean-going ships can impact as a significant source of pollution also at the end of their life. Ship owners in high-income countries often disguise the true identity of ships by registering them in tax havens, also to avoid environmental rules. In this context, international and regional efforts have failed to fight these behaviours.⁽¹⁶⁾ Flag-of-convenience nations are still used as last flag including by EU countries to escape rules and save money. The EESC suggests considering **ship demolition** as a significant source of marine pollution, and calls on the EU: a) to take action to ensure stronger binding regulation, b) monitor activity to prevent any workaround for evading environmental protection, c) introduce a financial deterrent to the use of flags of convenience, e.g. establishing a dedicated fund constituted by sureties — throughout the life of the vessel — to guarantee respect for EU standards in environmental and safety protection, also beyond EU Jurisdiction.

3.3. *Ensuring security and safety at sea*

3.3.1. The EESC commends the EU for strengthening its role as a maritime security provider within and beyond its borders. The EESC invites the EU to identify potential **Maritime Areas of Interest (MAIs)** in view of recent geo-political developments and to focus on emerging priorities.

3.3.2. The EESC welcomes the EU's efforts to promote and implement any intervention for increasing **safety at sea**. The Committee invites the EU to widen the range of sectors involved in activities at sea that can put the environment and human health at risk, including tourism, ship demolition and construction, energy and aquaculture. The EESC also calls for emphasis on the **modernisation of technologies** (e.g. green propulsion), **workspaces and labour conditions** in the diversity of logistics that frame marine and maritime activities (e.g. shipyards, ports, boats etc.).

3.3.3. The EESC recommends ensuring regulatory consistency between measures relating to the conservation of marine ecosystems and the rules governing safety and working conditions at sea, through impact assessments concerning: **i) employment, ii) wages, iii) technologies, iv) decent living and working conditions, and v) the training of workers**. It also calls for better coordination between the various services of public administrations at all levels, for the purposes of integrated management of the marine space⁽¹⁷⁾.

⁽¹⁶⁾ See: Wan et al. Marine Policy, 2021.

⁽¹⁷⁾ Opinion of the European Economic and Social Committee on 'Social dimension of fisheries' (exploratory opinion) (OJ C 14, 15.1.2020, p. 67).

3.3.4. The EESC calls on the Member States to **ratify Convention No 188 of the International Labour Organisation**, making available the means necessary for its correct transposition into national legislation and its application. The EESC welcomes Council Directive (EU) 2017/159⁽¹⁸⁾ and calls for work to start on broadening its scope also to cover the cumulative effects of the long-term impacts on human health. Furthermore, the EESC points out the need for truly ambitious EU legislation on corporate sustainability and forced labour⁽¹⁹⁾.

3.3.5. The EESC considers it essential to develop general principles and practical guidelines for fair services relating to work in these sectors, including: a) sufficient and adequate guidance for fishing vessel owners and (cross-border) labour market services; b) standard contracts for (cross-border) services relating to the labour market; c) sufficient and adequate guidance for fishermen seeking employment on board (foreign) fishing vessels; and d) mechanisms for lodging complaints⁽²⁰⁾.

3.3.6. An element linked to knowledge of the sea and oceans and safety at sea is that of the necessary wide dissemination of knowledge of the law of the sea and its real enforcement. An international law is needed to regulate different areas of competence (coastal boundaries, economic zones, protection of marine resources, definition of 'safe harbour', etc.), especially for clarifying international obligations regarding rescue and assistance at sea codifying the concepts of danger and search and rescue methods.

3.3.7. **Natural disasters** (floods, tsunamis, extreme events) can impact on the marine environment resulting in indirect risks to human activities and health. The EESC underlines the need to address natural disasters as possible sources of risks for the environment and for activities at sea in general.

3.4. *Building up ocean knowledge*

3.4.1. The EESC recognises the complexity of the ocean system in terms of interconnected environmental variables, and diversity of stakeholders, legislation, cultures and local capacities. The EESC calls for an effective and transparent involvement of different disciplines and expertise (data, complexity and network sciences, psychology, sociology, economy) in the development of **knowledge-based support for policy** (as proposed for the Intergovernmental Panel for Ocean Sustainability — IPOS).

3.4.2. Knowledge and practices demonstrate **new modes of governance** for tackling the challenges of complexity with self-organising structures, where decentralised organisation has been successfully developed. The EESC calls for the extension of good practices and models to all sectors of the blue economy, including those that can provide new jobs and growth (e.g. tourism, diving etc.) and the public sector. The allocation of funds for a sustainable blue economy should ensure social and economic benefits for current and future generations, restore and preserve the diversity, productivity, resilience and intrinsic value of marine ecosystems and promote clean technologies, renewable energy sources and recycling⁽²¹⁾.

3.4.3. **Civil society and local stakeholders** should be involved at every stage of the process, from consultation and co-design of plans to the implementation and final evaluation. Ocean literacy is fundamental to engender a societal transformation toward the integrated sustainability of the system. Organisational structures and processes should prioritise

⁽¹⁸⁾ Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche) (OJ L 25, 31.1.2017, p. 12).

⁽¹⁹⁾ Opinion of the European Economic and Social Committee on 'Social dimension of fisheries' (exploratory opinion) (OJ C 14, 15.1.2020, p. 67); Proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022) 71 final); Proposal for a regulation on prohibiting products made with forced labour on the Union market (COM(2022) 453 final).

⁽²⁰⁾ Opinion of the European Economic and Social Committee on 'Social dimension of fisheries' (exploratory opinion) (OJ C 14, 15.1.2020, p. 67).

⁽²¹⁾ Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and the Council on the European Maritime and Fisheries Fund and repealing Regulation (EU) No 508/2014 of the European Parliament and the Council' (COM(2018) 390 final — 2018/0210 (COD)) (OJ C 110, 22.3.2019, p. 104).

the social dimension and scientific support towards integrated sustainability, enhancing and funding measures to promote and support social dialogue, increase security, improve working conditions, create quality jobs, develop workers' **skills and ensure 'generational renewal'** ⁽²²⁾.

3.4.4. The EESC commends the EU practice of sharing marine data and ocean observations. It recognises the **relevance of marine services** and their impact on the economy, as well as the costs of marine infrastructures that require huge investments from national funds. The Committee notes that modelling the complexity of the marine ecosystem is still struggling to provide understanding of the ecosystem and its coupling with human activities. The EESC invites the EU to promote open access and reuse of data, also funding innovative approaches to reduce the costs of observations and providing an effective **assessment of Good Environmental Status** ⁽²³⁾.

3.4.5. The EESC underlines the need to adopt a scientific methodology in approaching science diplomacy and negotiations. The Committee calls for the introduction of training courses for end-users and managers, also at local level, to achieve effective sustainability and the feasibility of actions.

4. Critical issues

4.1. The concept of governance is associated with a wide variety of different phenomena, from decision-making processes to policy instruments. The vastness of the notion of governance may have contributed to its abundant popularity, and most likely its abuse. The oceans do not know political boundaries, and are also closely entangled with land use. Challenges cannot be resolved by individual countries and require a transnational approach, following a feasible and effective sharing of efforts and responsibilities, adopting co-designed systems, joint action plans and interventions that link local efforts into comprehensive regional frameworks. A single mode of governance cannot be adopted to provide organisational structures for different dimensions. In this context, the EESC notes that knowledge-based support for decision-making, science diplomacy and coherent legislation across countries and sectors are crucial to tackle the complexity of marine challenges.

4.2. The continuous demand for marine space by the economy is increasing the complexity of the ocean system in terms of interconnected environmental variables. The diversity of stakeholders, legislation, cultures and local capacities is entangled in the design and implementation of interventions that can be sustainable in the environmental, economic and social dimensions. The EESC calls for the transparent adoption of scientific methodology in the involvement of different disciplines (data, complexity and network sciences, psychology, sociology, economy, etc.) when developing knowledge-based support for ocean governance.

4.3. An issue of crucial importance for the future of many sectors involved in activities at sea is 'generational renewal'. Some aspects that seem far from governance indirectly contribute to the success of effective management of activities at sea. Many initiatives aiming at facilitating the modernisation of technologies, professional training and the improvement of working conditions are useful, but they also need accompanying measures and an acceptable return on invested capital ⁽²⁴⁾.

4.4. Sustainable activities continue to be the main objective of a fruitful ocean governance, and all sectors should be enabled to achieve this. The EESC calls for funding for the measures aimed at improving safety and working conditions, e.g. in the fields of training, advisory services, promotion of human capital, social dialogue, health and safety. The EESC urges the co-legislators to prioritise the social dimension in the adoption of organisational structures and processes (i.e. governance) by strengthening and funding measures to promote and support social dialogue, safety, working conditions, and skills.

⁽²²⁾ Opinion of the European Economic and Social Committee on 'Proposal for a Regulation of the European Parliament and the Council on the European Maritime and Fisheries Fund and repealing Regulation (EU) No 508/2014 of the European Parliament and the Council' (COM(2018) 390 final — 2018/0210 (COD)) (OJ C 110, 22.3.2019, p. 104).

⁽²³⁾ <https://jpi-oceans.eu/en/science-good-environmental-status>

⁽²⁴⁾ Opinion of the European Economic and Social Committee on 'Social dimension of fisheries' (exploratory opinion) (OJ C 14, 15.1.2020, p. 67).

4.5. The EESC notes a lack of ambition in the planned investments aimed at tackling the challenges in ocean governance. The fight against sources of pollution, mitigation interventions, and management of activities at sea in all sectors need appropriate financial efforts, structural action and civil society engagement. The EESC welcomes the efforts aiming to reduce GHG emissions and to incentivise best-performers and innovation⁽²⁵⁾. This can both support the ambition to decarbonise the maritime transport sector and to establish an Ocean Fund to support maritime challenges. The EESC also calls for the Carbon Adjustment Mechanism to be expanded to cover the environmental and social aspects.

4.6. The outermost regions for their geographical characteristics can play a fundamental role to capitalize all the opportunities in the area of oceans, seas and marine resources and which must be prioritised, as they have great potential to boost economies, create high-quality jobs and ensure people's well-being⁽²⁶⁾. For all these reasons the EESC believes that the specific role that ORs can play in the implementation of Ocean Governance should be enhanced, particularly in: a) the 'Restore our Ocean and Waters by 2030' mission; b) in the collection and monitoring of fishing data; c) in the fight against illegal and indiscriminate fishing and in supporting sustainable fishing; d) and in the exchange of knowledge on maritime spatial planning⁽²⁷⁾.

4.7. Ocean literacy has contributed to communicating the marine challenges, and can contribute to promoting solutions. Plastics have received considerable attention in the media and from politicians, but are just one of the several challenges for seas and oceans. The links between marine challenges and both land use and consumer behaviour are often neglected. The EESC calls for more comprehensive and transparent communication on the oceans, also linking legislation and interventions both at sea and on land. This will hopefully pave the way for the transformation of industrial production, and the creation of new technologies and jobs that are more focused on environmental sustainability.

4.8. The recent war in Ukraine has changed the political scenario and attracted attention to unexpected emergencies (energy supply, inflation). Unexpected challenges (such as the security of the Nord Stream pipelines and dumped munitions in the Black Sea, as well as the geopolitical strategic importance of the Arctic) require additional efforts to adopt appropriate joint interventions. Despite the fact that war has also impacted on the number of migrants on the Western Balkan route, the pressure remains high at crossings on the Mediterranean routes, putting strain on the reception capacities of some EU countries and exposing people to the risk of incidents. The EESC calls on the EU to strengthen efforts to fund initiatives to support safety at sea, in a scenario that is expected to exacerbate due to climate and economic pressures.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽²⁵⁾ Opinion of the European Economic and Social Committee on 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757' (COM(2021) 551 final — 2021/0211 (COD)) 'Proposal for a Decision of the European Parliament and of the Council amending Decision (EU) 2015/1814 as regards the amount of allowances to be placed in the market stability reserve for the Union greenhouse gas emission trading scheme until 2030' (COM(2021) 571 final — 2021/0202 (COD)) (OJ C 152, 6.4.2022, p. 175); Opinion of the European Committee of the Regions — Making ETS and CBAM work for EU cities and regions (OJ C 301, 5.8.2022, p. 116); European Parliament Revision of the EU Emissions Trading System, adopted on 22.6.2022.

⁽²⁶⁾ Opinion of the European Economic and Social Committee on 'The benefits of the outermost regions for the EU' (exploratory opinion) (OJ C 194, 12.5.2022, p. 44).

⁽²⁷⁾ COM(2022) 198 final.

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 — The power of trade partnerships: together for green and just economic growth’

(COM(2022) 409 final)

(2023/C 140/12)

Rapporteur: **Tanja BUZEK**

Referral	European Commission, 26.7.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	13.7.2022
Section responsible	Section for External Relations
Adopted in section	20.12.2022
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	158/3/4

1. Conclusions and recommendations

1.1. **The European Economic and Social Committee (EESC) welcomes the Communication as an important step heading in the right direction.** An open rule-based trade system is ever more important, while leveraging the potential of trade to advance sustainable development.

1.2. **The EESC sees it as essential for trade policy to gather the necessary political legitimacy, support and backing** to get negotiated trade agreements over the finish line. A healthy recovering economy requires engagement with trade partners globally and sustainability is part of the package.

1.3. **The EESC supports the comprehensive review setting a new benchmark on Trade and Sustainable Development (TSD)** and appreciates that the Commission followed a number of its recommendations in the action points, in particular on reinforcing the role of civil society and the Domestic Advisory Groups (DAGs).

1.4. **The EESC sees further opportunities to strengthen the DAGs**, at the level both of the agreement as well as of its implementation. However, it regrets that no action is being taken to involve civil society more thoroughly during the negotiation process.

1.5. **The EESC emphasises the need for clearer and more detailed TSD provisions** to better define roadmaps and help both trade partners to better understand what is expected of them. It regrets that Just Transition is not made an overarching concept.

1.6. **The EESC welcomes the new policy orientation**, ranging from a more results-oriented approach, through increased transparency and a reinforced role for civil society, to targeted support, while also increasing the level of commitment by including the possibility of trade sanctions as a last resort.

1.7. **The EESC considers these elements as ‘part of the package’ in all agreements**, which needs to be implemented through a targeted and country-specific approach with tailored objectives. It expects the Commission to implement them within the different trade systems and across the different trade agreements, including existing agreements as much as possible.

1.8. **The EESC welcomes the aim of mainstreaming sustainability across future trade agreements** and highlights both environmental and social sustainability considerations in public procurement. It recognises that it is crucial to streamline the approach with other autonomous instruments for a coherent and mutually reinforcing effect.

1.9. **The EESC calls on the Commission to intensify the multilateral outreach** and coordinate the advancement and implementation of the TSD strategy with partners where possible.

2. Background

2.1. The EU has been including TSD provisions in its trade agreements starting with the EU-Cariforum Economic Partnership Agreement and the EU-Korea Free Trade Agreement (FTA). All 'new generation' trade agreements since then have included — and have gradually expanded the scope of — dedicated TSD chapters.

2.2. These agreements greatly benefit from a civil society monitoring mechanism. DAGs in the EU and the partner countries, bringing together expertise from environmental, labour, and business organisations, advise the parties on the implementation of the TSD chapters; from the UK agreement onwards their scope has been extended to the whole agreement. The EESC, providing the secretariat for all EU DAGs, has increased its support both in organisational and political ways, including initiating and hosting an annual All DAGs meeting. The European Commission also acknowledged the EESC's role in its 2022 Annual Implementation and Enforcement Report.

2.3. In June 2022, following an open public consultation, the Commission set out its new TSD strategy in 'The power of trade partnerships: together for green and just economic growth'. This review prioritises a more proactive cooperation with partners, a targeted and country-specific approach to TSD, the mainstreaming of sustainability beyond the TSD chapters, increased monitoring of the implementation of TSD commitments, a strengthening of the role of civil society and enhancing the enforcement of TSD chapters by including the possibility of trade sanctions. While reconfirming the same binding commitments in all its TSD chapters, the Commission advocates better tailoring of the implementation of its TSD objectives to the challenges, needs and capacities of each of them.

2.4. The European Parliament (EP) and the Council both expressed their support for the new approach and specified their expectations ⁽¹⁾. The EP resolution explicitly has regard to the EESC's opinion 'Next Generation TSD — Reviewing the 15-point action plan' ⁽²⁾.

3. Setting a new TSD benchmark

3.1. An integrated approach towards trade and sustainability is the new standard, already visible throughout a number of international trade agreements — including beyond the EU's own trade network. The EESC is in favour of a balanced and transparent trade policy that supports fair competition between international trade operators, ensuring that the same rules and environmental, social and labour standards apply to all and that the trade framework is mutually beneficial.

3.2. The EESC has long called for sustainability to be one of the drivers for trade policy, given the crucial role trade must play in achieving the UN Sustainable Development Goals (SDGs). It welcomes the comprehensive review approach taken by the Commission, accompanying it with a public consultation, providing a comparative analysis of TSD provisions and good practices in selected third countries' FTAs, and engaging throughout the process in bilateral and wider civil society meetings. This thorough exercise underlines the commitment to getting it right this time.

⁽¹⁾ European Parliament resolution of 6 October 2022 on the outcome of the Commission's review of the 15-point action plan on trade and sustainable development (2022/2692(RSP)) and Council Conclusions on the Trade and Sustainability Review, 17 October 2022.

⁽²⁾ Opinion of the European Economic and Social Committee 'Next Generation Trade and Sustainable Development — Reviewing the 15-point action plan' (own-initiative opinion) (OJ C 105, 4.3.2022, p. 40).

3.3. The EESC supports the Commission's ambition to mainstream sustainability across future trade agreements and to seek broader commitments from partner countries on TSD chapters. This needs to go hand in hand with the support of trade partners in reaching TSD goals through technical assistance, capacity building, incentives, financial assistance, and development of policy instruments at large.

3.4. The Communication highlights six policy priorities and key action points. The EESC considers all the introduced elements as 'part of the package' in all agreements, to be used skilfully and implemented through a targeted and country-specific approach with tailored objectives as a guiding principle.

3.5. The EESC appreciates that the Commission followed a number of its recommendations, in particular on the possibility of trade sanctions as a last resort, on detailed and time-bound roadmaps tied with civil society monitoring, and on collective horizontal monitoring across EU services, institutional and international players. Most of all, the EESC welcomes the reinforcement of the role of civil society and in particular the DAGs, which is taken up in several action points.

3.6. The EESC expects the new TSD benchmark to be reflected in all future EU trade agreements, including those under negotiation. It should also form the basis for the modernisation of all FTAs in force, in particular first-generation agreements without TSD chapters, triggering review clauses as soon as possible. These new principles should also be taken on board as much as possible in concluded but not yet fully ratified FTAs. Where time does not allow the reopening of concluded FTAs, provisions to enable the Trade Committee to adopt decisions to amend the TSD chapter could be included as was done in the TSD chapter with New Zealand.

3.7. The EESC expects this to be in particular the case for the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the early TSD review that both parties agreed to in the Joint Interpretative Instrument. The EESC, and both the EU and Canadian DAGs, have long urged the parties to fulfil this commitment towards more effective enforceability of the TSD chapters, aside from any wider modernisation of the agreement after some time. The EESC welcomes that the new approach has already been incorporated in the case of New Zealand, including the intention to reflect the addition of a safe and healthy working environment among the International Labour Organisation's (ILO) fundamental principles and rights at work. The EESC also positively notes the recent EU proposals made in the case of the ongoing negotiations with India.

3.8. The EESC welcomes the intended goal to streamline sustainability, in particular sustainability considerations in public procurement. The latter should focus on both environmental and social elements. It welcomes the prioritisation of market access for environmental goods and services as well as raw materials and energy goods that are essential for the functioning of a carbon-neutral economy. It regrets, however, the limited attention paid to the wider dimension of environmentally sustainable trade and the labour and human rights impact. Equally, it regrets that Just Transition is not made an overarching concept, given the anchor in the Paris Agreement itself on the imperatives of a just transition of the workforce and the creation of decent work and quality jobs. The recent joint conclusions of the EU-Korea Civil Society Forum ⁽³⁾ acknowledged the Maritime Just Transition Taskforce of the social partners in the International Maritime industry as a best practice.

3.9. EU trade agreements are increasingly complemented by autonomous EU measures in the field of environmental, economic and social sustainability, the latest being the Carbon Border Adjustment Mechanism (CBAM) and the proposals on due diligence, deforestation and ban of products made by forced labour. The EESC welcomes this alignment of internal and trade policy to deliver real change on the ground and agrees with the need for the EU to be ambitious when designing additional autonomous instruments to support sustainability. It underlines the importance of considering all instruments together for a coherent trade policy approach in the interest of business, workers and civil society. However, these autonomous measures should not lower the ambition to conclude, implement and enforce TSD chapters, but there should be a mutually reinforcing effect.

⁽³⁾ Joint Conclusions of the Korea DAG and the EU DAG, September 2022.

3.10. The EU also includes sustainability provisions in the unilateral preferences through its General System of Preferences (GSP). The EESC welcomes the recent proposal of the Commission for a new EU Regulation and encourages the co-legislators to mainstream the TSD Communication into the new regulation. The EESC considers that the GSP system has to be more transparent and would benefit from publicly available roadmaps based on a gap analysis. Furthermore, the involvement of civil society should be increased and the Annex should be updated with the addition of occupational safety and health (OSH) among the ILO fundamental conventions.

3.11. For the first time, sustainability was written into the World Trade Organisation (WTO) rulebooks at the 12th Ministerial Conference, with disciplines on harmful fisheries subsidies worldwide that focus on environmental sustainability. The EESC has long urged the promotion of closer cooperation between the WTO and the ILO to promote decent work and labour standards through trade instruments. The EESC recommends further promoting the new TSD strategy within the WTO, and building alliances for deepened cooperation along its objectives. As a first step in that direction and beyond bilateral engagements, the EU should convene a plurilateral conference on trade and sustainable development with FTA partners and like-minded countries to exchange implementation and enforcement experiences with TSD provisions across trade agreements and jointly reflect on new generation provisions.

4. From plan to action: Rolling out the new TSD approach and filling the gaps

Towards a results-oriented and priority-based engagement with partner countries

4.1. The EESC welcomes the tailored approach to the TSD chapters, including an early gap analysis to identify country-specific priorities and implementation roadmaps. This exercise should include cooperation with the relevant bodies including EU institutions, international organisations such as the ILO and UN, but equally civil society and the DAGs.

4.2. Such tailored roadmaps have already been established, such as the EU-Bangladesh Sustainability Compact, and included in the EU-Vietnam Partnership and Cooperation Agreement; both featured the early involvement of the ILO and demonstrated the unique benefit of an institutional player working with both trade parties and providing intelligence on the ground. In the case of Vietnam, it led to a welcome spill-over effect of the DAGs calling for an equal roadmap for the implementation of the environmental commitments.

4.3. The EESC reiterates the importance of reinforcing roadmaps as leverage for pre-implementation efforts and of them being specific, concrete, public, time-bound and mutually agreed upon with the trading partner, in order to serve as a tool for increased monitoring, implementation, and possible enforcement of the TSD commitments.

4.4. The EESC expects that increased public disclosure, including of roadmaps and their implementation, will be foundational for a constructive and broader involvement for civil society.

Stronger focus on implementation and enforcement

4.5. The EESC considers the strengthening of the implementation and enforcement of TSD chapters as a welcome step forward, which meets the expectation of businesses and other trading partners of a level playing field as well as the aspiration of business, trade unions, civil society and consumers alike to increase sustainability through trade.

4.6. However, both will only be as functional as the precision of those TSD chapters. While roadmaps can assist, it is equally important to strengthen the clarity of the obligations at the level of the agreement. The term 'continued and sustained efforts' has already proven too vague in the first TSD-related infringement case with Korea. Clarifying and detailing commitments also benefits the parties in terms of understanding what is expected of them and assists them throughout the implementation process.

4.7. In the context of the ongoing reform of the Union Custom Code (UCC), the EESC generally notes that trade rules are predominantly executed by national customs authorities, where lack of uniform implementation, resources and capacity building risk competitive distortions and undermine effective enforcement.

4.8. The EESC welcomes the creation of the Chief Trade Enforcement Officer (CTEO) function and the redesigned Single Entry Point (SEP) as important steps to reinforce the implementation of TSD commitments and organise complaints. Hence, it welcomes the Commission's commitment to give equal importance to alleged breaches of TSD provisions. Together with the abovementioned introduction of roadmaps with benchmarks, the SEP can become a key tool to increase adherence to TSD chapter commitments.

4.9. The EESC also welcomes the revision of the Operating Guidelines for the SEP, but calls for further clarifications. It remains unclear what the evidentiary standards are, to what extent the SEP will collect evidence on allegations and what type of remedies complainants can expect. To date, only one complaint relating to TSD infringements has been lodged through the SEP, and the EESC notes the delay in its preliminary assessment. This underlines the importance of anchoring the SEP in future TSD chapters, and updated Guidelines may help future complainants.

4.10. The EESC notes that sanctions are limited to serious breaches of core TSD commitments, namely the ILO fundamental principles and rights at work as well as the Paris Agreement. However, clarification is required as to the Commission's approach to determining what constitutes a serious violation and defining sanctions, and suggests that the Commission explore whether these aspects can be linked to the roadmaps.

4.11. The EESC calls again upon the Commission to explore with trade partners innovative rapid response instruments in relation to concrete violation cases at company level, as are currently implemented with success under the US-Mexico-Canada Free Trade Agreement (USMCA).

5. Opportunities for further strengthening the DAGs

5.1. DAGs play a crucial role in making TSD chapters work and contribute to a positive dynamic in the cooperation and dialogue of trade partners. DAG members represent organisations that have established contacts with civil society counterparts in partner countries. They can thus contribute with valuable experience on the ground, which politicians and civil servants do not possess. DAGs are also an untapped wealth of know-how on cross-cutting TSD issues and should be used to their full potential.

5.2. The EESC has been the strongest advocate for a strengthening of the DAGs' role and has echoed concrete civil society proposals⁽⁴⁾. It thus supports the more ambitious involvement of the DAGs throughout all stages of the lifecycle of trade agreements. This starts with the need to pay increased attention to the establishment of DAGs, especially in partner countries with reduced civic space, and where cooperation between the government and civil society is not a given.

5.3. Trade partners may take different approaches to their involvement of civil society. However, the EESC reiterates that the SDGs, and in particular Goal 17, adopted by all UN Member States and hence covering the EU's trade partners, acknowledge the paramount role played by civil society organisations in realising the global partnership for sustainable development. This expectation needs to be transposed clearly into the spirit and institutional framing of the agreements.

5.4. The EESC considers the need for better-informed negotiations of the provisions of the DAGs framework as crucial. Without sufficient clarity in the agreement, DAGs may struggle for years to come. The role of DAGs should be described more specifically and parties should be accountable for the designated DAG bodies being fit for purpose, in particular when referring the role back to existing bodies. Drawing lessons from the establishment of DAGs such as in the EU-Japan FTA, structures need to clearly support and facilitate a framework of cooperation between DAGs as well as their interaction with the TSD committee. What is not explicitly set out in the agreement will be more difficult to realise in practice. Lessons from the EU-Korea FTA show that academic participation, in particular in partner country DAGs, remains challenging in terms of representativeness and the spirit of true civil society involvement.

⁽⁴⁾ Non-Paper of the EU DAGs, October 2021.

5.5. The EESC further considers that the DAGs' assigned monitoring role concerning concrete implementation should focus on all matters impacting sustainability in FTAs. Such a role must inherently include oversight of implementation roadmaps and enhanced meaningful access to the joint committees. Integrating DAGs into the country-specific priority setting and the TSD work programmes will help with the operationalisation of tasks. In return, the EESC shares the expectation that civil society organisations should deliver timely, well substantiated and evidence-based contributions, which are essential for identifying, prioritising and acting upon TSD matters.

5.6. A real exchange between DAG members from the EU and the partner countries needs to flourish through continued exchange and contact. More meetings of the EU DAGs and between DAGs from the EU and the partner countries are paramount and should consider working through dedicated topical sub-groups or targeted workshops. Intersessional engagements with both trade partner governments beyond the annual Civil Society Fora would further contribute positively. The sequencing of the joint meetings should allow for the DAGs to inform and contribute to the parties' Civil Society Forum and TSD Committee in a meaningful way through joint statements and with the DAG chairs and vice-chairs presenting views at the TSD Committee, as is already established practice under the CETA and the Korea agreement.

5.7. The EESC considers that sufficient financial resources and technical assistance should be allocated to DAGs and to the supporting EESC DAG secretariats to enable them to properly carry out their tasks and fulfil expectations. Similarly, the Commission services will need to allocate sufficient resources to put the reinforced TSD approach into effect. The preliminary experiences of covering an entire trade agreement beyond TSD, as in the Trade and Cooperation Agreement (TCA) with the UK, should be carefully evaluated. Broadening the DAG membership to cover an entire agreement might have unintended consequences for the required TSD know-how of the DAG.

5.8. The EESC welcomes both the closer alignment of the TSD expert group with Member States and the EP's own ambition of closer DAG cooperation including holding an annual debate with DAG representatives. The EESC also considers regular close exchange between the EP's monitoring groups and standing rapporteurs and the respective DAGs a vital component of collective monitoring.

5.9. However, the EESC identifies an important missing gap in the agreements' life cycle, namely a stronger involvement of civil society during the negotiation process. It had put forward proposals for a new negotiating methodology⁽⁵⁾, establishing a new roadmap to ensure that civil society organisations and social partners are genuinely involved throughout negotiations. This proposal aims to preserve the transparency of the agreement's negotiating process while ensuring its confidentiality.

5.10. In this context, the EESC regrets that its repeated call for the reinstatement of the expert group on FTAs was not considered in the Communication and urges the Commission to still take such action. Its creation was considered a crucial step in the Commission's strategy to improve engagement with civil society in trade policy and to increase transparency, and constituted the logical continuity of the TTIP advisory group. It allowed its appointed members from European business, trade unions and civil society organisations to lead negotiators on all EU trade agreements and provide input on key EU proposals such as the reform of the WTO — as a group and permanent forum for meaningful and solid views on EU trade policy, bridging the challenges and opportunities of trade deals for the different interest groups that it represented and to a degree that ad hoc Civil Society Dialogue meetings could not do. With the increased focus on implementation and enforcement of the EU's trade agenda, a renewed expert group could also provide valuable direction and advice as a permanent body.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽⁵⁾ Opinion of the European Economic and Social Committee on a new framework for free trade agreements, economic partnership agreements and investment agreements that guarantees the real involvement of civil society organisations and the social partners and ensures public awareness (own-initiative opinion) (OJ C 290, 29.7.2022, p. 11).

Opinion of the European Economic and Social Committee on ‘Prohibiting products made with forced labour in the Union market’

(COM(2022) 453 final)

(2023/C 140/13)

Rapporteur-General: **Thomas WAGNSONNER**

Referral	European Parliament, 6.10.2022 Council, 12.10.2022
Legal basis	Articles 114 and 207 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	14.12.2022
Section responsible	External Relations
Adopted at plenary	25.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	196/1/4

1. Conclusions and recommendations

1.1. The EESC welcomes the European Commission’s proposal for a regulation prohibiting products made with forced labour on the Union market (COM(2022) 453 final)⁽¹⁾ since, as stated in point 1.4.j) of the EU Action Plan on Human Rights and Democracy 2020 — 2024⁽²⁾, the promotion of economic, social, cultural and labour rights and therefore the eradication of all forms of forced labour and exploitation are crucial.

1.2. The EESC notes that the current proposal fails to properly take into account the perspective of workers forced into exploitation, both inside and outside the European Union. To strengthen the situation of workers forced into labour, European legislation should consider an adequate compensation for victims. The EESC points out that the ratification of the 2014 Protocol to the International Labour Organization (ILO) Forced Labour Convention 1930⁽³⁾ by all EU Member States is crucial.

1.3. The EESC endorses the definition in Article 2(a) of the regulation, based on the ILO’s definition of forced labour. This definition includes ‘all work or service’: goods transported using forced labour should therefore be included in the Commission’s proposal.

1.4. The EESC recognises that the Commission mentions forced child labour in the proposed regulation. To speed up the process of abolishing child labour, the scope of this regulation should include the ILO Minimum Age Convention, 1973 (No 138)⁽⁴⁾, ILO Recommendation No 146⁽⁵⁾, the ILO Worst Forms of Child Labour Convention, 1999 (No 182)⁽⁶⁾ and ILO Recommendation No 190⁽⁷⁾. The EESC points to the need for a corresponding EU legislative initiative to combat all other forms of child labour.

⁽¹⁾ COM(2022) 453 final

⁽²⁾ EU Action Plan on Human Rights (HRs) and Democracy 2020 — 2024

⁽³⁾ ILO P029 — Protocol of 2014 to the Forced Labour Convention, 1930

⁽⁴⁾ ILO C138 — Minimum Age Convention, 1973 (No. 138)

⁽⁵⁾ ILO R146 — Minimum Age Recommendation, 1973 (No. 146)

⁽⁶⁾ ILO C182 — Worst Forms of Child Labour Convention, 1999 (No. 182)

⁽⁷⁾ ILO R190 — Worst Forms of Child Labour Recommendation, 1999 (No. 190)

1.5. The EESC welcomes the inclusion of all economic operators. The focus of investigations by competent national authorities should depend on the size and economic resources of economic operators. Companies presenting a high risk of using forced labour, as well as big economic operators, should be prioritised.

1.6. The EESC notes that no impact assessment was carried out before the proposal was submitted, despite the fact that impact assessments have been carried out on other initiatives such as the proposal for a Directive on Corporate Sustainability Due Diligence (CSDD). This regulation focuses on the banning, suspension of circulation and detention at customs or ports of imported and exported products, which will result in new procedures. The assessment should be balanced and take into account the benefits and costs of tackling forced labour.

1.7. Organised civil society has a central role to play in combating all forms of forced or compulsory labour. The social partners are strategically well-placed to provide institutional engagement and sustainability. The institutional anchoring of social partners and NGOs in this legislation is of paramount importance.

1.8. As the current proposal is linked to the proposed Directive on CSDD, there is still a need for clarity on how the two pieces of legislation will work together in practice. The European Commission should follow a coherent approach and avoid inconsistencies.

1.9. The EESC welcomes the proposal to issue guidelines, as stated in Article 23 of the regulation, to assist companies with identifying, preventing, mitigating or bringing to an end risks of forced labour in their operations and value chains. This is especially important for small and medium-sized enterprises (SMEs). It is very important that the guidelines are published upon the entry into force of the regulation.

1.10. The European Commission must play an active and leading role in the Union Network Against Forced Labour Products (UNAFLP) proposed in Article 24 of the regulation, in order to support and coordinate the national authorities as they enforce the regulation. The EESC stresses that sufficient funding is a key to create an adequate and effective infrastructure at European and national level to tackle forced labour.

1.11. The EESC points out that the proposed database in Article 11 will be a core instrument of the ban. A detailed structure of this database has to be worked out. The EESC emphasises the need for precise and transparent risk indicators based on but not limited to the origin and components of a product and other relevant information. To ensure effective enforcement, detailed information about the product, manufacturer, importer, origin and components are needed, along with the resources and minerals used in the product and its components. This database has to be kept up to date, with new information added partly as a result of investigation processes.

1.12. The EESC highlights the importance of transparency and open access to information for companies, competent authorities, organised civil society and the general public. The EESC proposes to introduce a benchmarking system as part of the database. The core of this benchmarking system is a rating system for regions and sectors down to product groups, products and companies presenting high and low risk based on but not limited to the information assembled in the database by experts. The EESC stresses the importance of enabling organised civil society, including the social partners, to provide relevant information.

1.13. The EESC believes that the competent authorities should have the right to detain goods at the EU border as soon as they see a substantiated concern pursuant to Article 2(n) of the regulation. The EESC proposes that the economic operators should have different obligations depending on whether they are ranked as high or low risk. Additionally, the competent national authorities should focus their work in the preliminary phase of investigations on products connected to high risk regions, businesses and/or sectors. In any case, business secrets must be ensured for example by using suitable confidentiality clauses.

1.14. In the preliminary phase of investigations, the economic operator has to deliver a due diligence statement if the product is connected to high risk regions, businesses and/or sectors. Non-compliance with due diligence requirements that are going to be stated in detail in the guidelines (Article 23) as well as non-transmission of the required due diligence statements must be classified as a substantiated concern and lead to the detention of the product and the direct opening of an investigation.

1.15. The EESC asks the European Commission to study the feasibility of a Public EU Rating Agency for environmental and social sustainability, as well as human rights in the business context. Such an agency should develop European standards for due diligence systems among other tasks like the technical support of national competent authorities. These standards could essentially contribute to the creation of a level playing field which is in particular in the interest of European companies.

1.16. The EESC notes the need for both clear and comprehensible wording to guarantee legal certainty and easy guidelines to maintain a manageable administrative burden for economic operators, especially SMEs. The national competent authorities must provide technical support for businesses, especially SMEs, when those businesses devise their due diligence systems.

1.17. The EESC emphasises the need for uniform, EU-wide minimum penalties for infringements of the regulation. This will avoid a race to the bottom among the Member States and ensure a level playing field.

1.18. The European Commission should step up efforts to create international structures intended to solve the problem of forced labour. The EESC again calls for EU support for a binding UN treaty on business and human rights, and for consideration to be given to a possible ILO convention on decent work in supply chains. Cooperation and exchange of information with third countries and international organisations is important to ensure the proper implementation.

2. Background

2.1. The ILO estimates in its recent publication on modern slavery that around 27,6 million people are in situations of forced labour on any given day. No region of the world is spared from forced labour, not even Europe.

2.2. ILO Forced Labour Convention, 1930 (No 29) ⁽⁸⁾ defines forced or compulsory labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.’ The Forced Labour Protocol (Article 1(3)) consists of three aspects:

- ‘work or service’ refers to all types of work occurring in any activity, industry or sector, including in the informal economy;
- ‘menace of any penalty’ refers to a wide range of penalties used to compel someone to work;
- ‘offered voluntarily’ refers to a worker’s free and informed consent to take a job and the freedom to leave at any time (this covers issues such as the involuntary handing over of an identity document).

The ILO classifies ILO Convention No 29, the 2014 Protocol to Convention No 29 ⁽⁹⁾ and ILO Convention No 105 ⁽¹⁰⁾ on the abolition of forced labour as fundamental ILO Conventions.

⁽⁸⁾ ILO C029 — Forced Labour Convention, 1930 (No. 29)

⁽⁹⁾ ILO P029 — Protocol of 2014 to the Forced Labour Convention, 1930

⁽¹⁰⁾ ILO C105 — Abolition of Forced Labour Convention, 1957 (No. 105)

2.3. The EESC points out that several fundamental international and European agreements prohibit forced labour, like Article 5(2) of the EU Charter of Fundamental Rights ⁽¹¹⁾ and Article 4 of the Universal Declaration of Human Rights ⁽¹²⁾. Article 8 of the International Covenant on Civil and Political Rights ⁽¹³⁾ stipulates that ‘No one shall be required to perform forced or compulsory labour’. Effective instruments dealing with forced labour are necessary to achieve the goals laid down in the UN Sustainable Development Goals ⁽¹⁴⁾ (especially SDG 8). The European Social Charter ⁽¹⁵⁾ provides a framework for socially just working conditions and fair social rights. The EESC emphasises the crucial importance of enforcing human rights, including labour rights, regardless of the possible conflict with the four freedoms of the internal market (free movement of goods, services, capital and people).

2.4. The EESC explored this topic directly in the REX/395 opinion on Combating forced labour in the EU and the world: the role of the EU — the EESC’s contribution to the 2014 ILO conference ⁽¹⁶⁾ and touched on it in various other opinions, including SOC/727 ⁽¹⁷⁾, INT/911 ⁽¹⁸⁾, INT/973 ⁽¹⁹⁾, REX/532 ⁽²⁰⁾ and REX/518 ⁽²¹⁾.

2.5. The number of people in forced labour increased by 2,7 million between 2016 and 2021. The recent crises, especially the COVID-19 pandemic, the climate crisis and multiple armed conflicts, most recently the Russian aggression in Ukraine, have disrupted income and so exacerbated poverty, fuelling the problem of forced labour.

2.6. The EESC welcomes the European Commission’s proposal for a regulation prohibiting products made with forced labour on the Union market (COM(2022) 453 final). As part of the EU’s commitment to promote decent work worldwide, combating forced labour has to be a priority on the EU’s human rights agenda.

2.7. As stated in point 1.4.j) of the EU Action Plan on Human Rights and Democracy 2020–2024, the promotion of economic, social, cultural and labour rights and therefore the eradication of all forms of forced labour and exploitation is crucial to secure in particular the EU’s global leadership on human rights and democracy. Together with the Commission’s communication on decent work worldwide ⁽²²⁾, this regulation is one in a series of instruments necessary to achieve this goal and support the competitiveness of socially responsible European producers within the common market and elsewhere.

⁽¹¹⁾ EU Charter of Fundamental Rights

⁽¹²⁾ Universal Declaration of Human Rights

⁽¹³⁾ International Covenant on Civil and Political Rights

⁽¹⁴⁾ UN Sustainable Development Goals

⁽¹⁵⁾ European Social Charter

⁽¹⁶⁾ Opinion of the European Economic and Social Committee on combating forced labour in the EU and the world: the role of the EU — the EESC’s contribution to the 2014 ILO conference (own-initiative opinion) (OJ C 311, 12.9.2014, p. 31).

⁽¹⁷⁾ Opinion of the European Economic and Social Committee on a Decent work worldwide (COM(2022) 66 final) (OJ C 486, 21.12.2022, p. 149).

⁽¹⁸⁾ Opinion of the European Economic and Social Committee on ‘Mandatory due Diligence’ (exploratory opinion) (OJ C 429, 11.12.2020, p. 136).

⁽¹⁹⁾ Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability, Due Diligence and amending Directive (EU) 2019/1937 (COM(2022) 71 final) (OJ C 443, 22.11.2022, p. 81).

⁽²⁰⁾ Opinion of the European Economic and Social Committee on ‘Sustainable supply chains and decent work in international trade’ (exploratory opinion) (OJ C 429, 11.12.2020, p. 197).

⁽²¹⁾ Opinion of the European Economic and Social Committee on Binding UN treaty on business and human rights (own-initiative opinion) (OJ C 97, 24.3.2020, p. 9).

⁽²²⁾ COM(2022) 66 final

2.8. The EESC points out the importance of creating a harmonised EU regulatory framework in this area. Together with the Commission's proposal for a Directive on CSDD⁽²³⁾ which addresses corporate behaviour and due diligence processes for companies, this regulation should be an appropriate regulatory tool for establishing consistency between EU (e.g. Regulation (EU) 2019/1020⁽²⁴⁾) and national legislation. It should also complement efforts to promote the eradication of forced labour and the implementation of international standards on responsible business conduct, such as the UN Guiding Principles on Business and Human Rights⁽²⁵⁾ and the Organization for Economic Cooperation and Development (OECD) Guidelines on Multinational Enterprises⁽²⁶⁾. Furthermore, the ILO Tripartite Declaration on Principles for Multinational Enterprises and Social Policy⁽²⁷⁾ (ILO MNE Declaration) and the ILO Handbook for Employers & Business on Combating Forced Labour⁽²⁸⁾ can be used as support for companies and governments in eradicating forced labour.

2.9. Organised civil society has a central role to play in combating all forms of forced or compulsory labour. The social partners, in particular, are strategically well-placed to provide institutional engagement and sustainability. Therefore, institutional anchoring in this legislation of the social partners and NGOs in the future implementation process at all levels of the supply chain is of paramount importance.

2.10. The practise of maximising profits at the cost of failing to uphold human rights is one of the leading causes of forced labour. The EESC notes that the causes and roots of forced labour need to be addressed more broadly. Nevertheless, this regulation can be an important additional step in laying the global foundations for a level playing field.

3. General comments

3.1. The EESC points to the importance of taking effective measures to prevent and eliminate the use of forced labour in and outside the EU, to provide victims with protection and access to appropriate and effective remedies such as compensation, and to exact sanctions against the perpetrators of forced or compulsory labour. The EESC would point out that the ratification of the ILO 2014 Protocol to Convention No 29 (P029)⁽²⁹⁾ by all EU Member States is the first step in ensuring effective implementation. The EU must apply the recommendations laid out in P029 in its political and legislative work and foster the international ratification process using all available instruments (e.g. trade agreements, development cooperation, human rights dialogue, etc.). Furthermore, the worldwide promotion of the ratification and effective implementation of the ILO Right to Organise and Collective Bargaining Convention, 1949 (No 98)⁽³⁰⁾ is a key element in fighting the causes of forced labour.

3.2. The implementation of corporate due diligence procedures is an important step in applying corporate responsibility to the production process throughout the supply chain; accordingly, it focuses on the production process. Both efficient application and sustaining a manageable administrative burden, especially for SMEs, require clearly defined and realistic obligations, which are consistent and coherent with regulatory acts that have already been presented by the European Commission, in particular the CSDD initiative. The EESC is pleased that the import ban, which complements the existing and planned regulatory framework, focuses on the product line.

3.3. Nevertheless, the focus on the product line disregards the fact that forced labour is often a systemic pattern across the entire organisation of a producer, manufacturer or importer. The EESC stresses that while identifying products is an important starting point, forced labour should not be addressed in silos. The regulation must explicitly aim to include all products of an economic operator, given that forced labour will not be limited to one product line within a facility.

⁽²³⁾ COM(2022) 71 final

⁽²⁴⁾ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

⁽²⁵⁾ UN Guiding Principles on Business and Human Rights

⁽²⁶⁾ OECD Guidelines on Multinational Enterprises

⁽²⁷⁾ ILO MNE Declaration

⁽²⁸⁾ ILO Handbook for Employers & Business on Combating Forced

⁽²⁹⁾ Ratification of ILO P029

⁽³⁰⁾ ILO C098 — Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

3.4. The EESC notes that no impact assessment was carried out before the proposal was submitted, despite the fact that impact assessments have been carried out on other initiatives such as CSDD. This regulation focuses on the banning, suspension of circulation and detention at customs or ports of imported and exported products, which will result in new procedures. Nevertheless, the assessment should be balanced and take into account the benefits and costs of tackling forced labour.

3.5. However, as the proposal for the Directive on CSDD is currently being prepared and the proposal for the regulation also provides clear elements of due diligence in supply chains, there is still a need for clarity on how the two pieces of legislation will work together in practice. The European Commission should therefore follow a coherent approach and avoid inconsistencies.

3.6. The EESC notes that the proposal has severe limitations when it comes to addressing systemic forced labour. To address this issue properly, a clear procedure for incorporating regions and sectors ranked as presenting a high risk of forced labour could vastly strengthen the power of this regulation to address the pervasiveness of state-imposed forced labour (in particular in EU supply chains) and compel companies to remove it.

3.7. The EESC points out that the proposed database described in Article 11 will be a core instrument of the ban. Nevertheless, a detailed structure of this database has to be worked out. The EESC emphasises the need for clearly defined, precise, transparent and accurate risk indicators based on but not limited to the origin and components of a product and other relevant information. This database has to be kept up to date, with new information added partly as a result of investigation processes.

3.8. The EESC highlights the importance of transparency and open access to information for companies, competent authorities, organised civil society and the general public. Therefore, the EESC proposes to introduce a benchmarking system as part of the database, similar to the one proposed in the European Commission's proposal for the Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation (COM(2021) 706 final). The core of this benchmarking system is a rating system for regions and sectors down to product groups, products and companies presenting high and low risk based on but not limited to the information assembled in the database by experts. Additionally, the EESC stresses the importance of enabling organised civil society, including the social partners, to provide relevant information. Particular focus has to be placed on enabling civil society organisations in third countries to easily provide relevant information regarding forced labour. Close cooperation with the EU permanent representations and delegations, as well as UN offices (including ILO offices), the recently launched ILO Forced Labour Observatory and its database and other civil society organisations like Delta 8.7 on forced labour is crucial for gathering relevant information.

3.9. A key element of the proposal for a regulation is that the competent national authorities, acting on their own initiative or in response to information they have received, have to start an investigation when they have grounds to suspect that these goods were made with forced labour. The EESC believes that the competent national authorities should have the right to detain goods at the EU border as soon as they see a substantiated concern pursuant to Article 2(n). A similar approach is already in use by the US customs authorities in the form of 'Withhold Release Orders'. The EESC proposes that the economic operators should have different obligations depending on whether they are ranked as high or low risk.

3.10. For high risk, a due diligence system has to be mandatory, including information gathering, risk assessment and risk mitigation, similar to the system laid down in the Regulation for Deforestation-free products but tailored to the proposal regarding forced labour. Therefore, detailed information about the product, manufacturer, importer, origin and components is needed, along with the resources and minerals used in the product and its components as part of supply chain mapping and disclosure, which is an essential requirement to determine where forced labour occurs in the value chain. Taking into account the situation of SMEs, simplified due diligence should be carried out, limited to gathering relevant information. Additionally, the national competent authorities should focus their preliminary investigations on products connected to high risk regions, businesses and/or sectors. In any case, business secrets must be ensured for example by using suitable confidentiality clauses.

3.11. In the preliminary phase of investigations, the economic operator has to deliver a due diligence statement if the product is connected to high risk regions, businesses and/or sectors. Non-compliance with due diligence requirements that are going to be stated in detail in the guidelines (Article 23) as well as non-transmission of the required due diligence statements must be classified as a substantiated concern and lead to the detention of the product and the direct opening of an investigation. Regarding products connected to low risk regions, businesses and/or sectors, the economic operators are freed from the mandatory due diligence and the procedure must be carried out as proposed by the European Commission. Nevertheless, to avoid irresponsible disengagement, the EESC emphasises that due diligence should not be a shield against the opening of an investigation.

3.12. The EESC points out that proper enforcement can only take place if EU Member States dedicate enough funding and resources to their competent national authorities. The European Commission has already recognised that effective enforcement is massively undermined when national customs authorities are under-resourced. Additionally, the competent national authorities should have sufficient time to carry out an in-depth and careful investigation.

3.13. As stated in the recent ILO publication on modern slavery, the socio-demographic composition of the victims of forced labour is diverse. Vulnerable social groups like migrant workers, especially, are at higher risk of forced labour. Therefore, the EESC calls for account to be taken of the situation of migrant workers, stateless people and children. Special emphasis must be placed on gender.

3.14. According to the ILO, 160 million children worldwide are involved in child labour. The effective abolition of child labour is part of the ILO Declaration on Fundamental Principles and Rights at Work. The EU's commitment to the fight against child labour is laid down in its zero-tolerance approach to child labour based on Article 32 of the EU Charter of Fundamental Rights, the EU strategy on children's rights⁽³¹⁾, and point 1.4.c of the EU Action Plan on Human Rights and Democracy 2020–2024. The EESC recognises that the European Commission explicitly mentions forced child labour in Article 2(a) of the proposed regulation. Nevertheless, to speed up the process of abolishing child labour, the scope of this regulation should include the ILO Minimum Age Convention, 1973 (No 138), ILO Recommendation No 146, the ILO Worst Forms of Child Labour Convention, 1999 (No 182) and ILO Recommendation No 190. Furthermore, the EESC notes the need for a corresponding EU legislative initiative to combat all other forms of child labour.

3.15. The EESC notes that the current proposal fails to properly take into account the perspective of workers forced into exploitation, both inside and outside the European Union. To strengthen the situation of workers forced into labour, European legislation should consider an adequate compensation for victims. Workers' representatives, local trade unions, the International Trade Union Confederation (ITUC) and the workers themselves, as well as civil society organisations should be part of the investigation and decision-making processes so as to make sure that the affected workers' views and interests are taken into account at every stage.

3.16. The European Commission should step up efforts to create international structures intended to solve the problem of forced labour and harmonise actions and measures to guarantee legal certainty at international level. Moreover, the EESC has been calling for EU support for a binding UN treaty on business and human rights, and for consideration to be given to a possible ILO convention on decent work in supply chains as already mentioned in the EESC's SOC/727⁽³²⁾ opinion. Cooperation and exchange of information with third countries and international organisations is important to ensure the proper implementation of the regulation's objectives.

3.17. The EESC points out that strong and ambitious legislation is essential to combat forced labour in the EU and all its partner countries. Therefore, the current proposal must be aligned with the definitions and criteria in the US, Canada and other developed mature markets in particular (e.g. US UFLPA, US Tariff Act and the Fighting against Forced Labour and Child Labour in Supply Chains Act under discussion) so as to avoid inconsistencies and tackle the issue of forced labour

⁽³¹⁾ Charter of Fundamental Rights of the European Union (OJ C 326, 26.10.2012, p. 391), the EU strategy on children's rights

⁽³²⁾ Opinion of the European Economic and Social Committee on a Decent work worldwide (COM(2022) 66 final) (OJ C 486, 21.12.2022, p. 149).

effectively at global level. Nevertheless, it is important to have an efficient EU institutional system for verifying cases of forced labour worldwide, which the companies need to abide by. The proposal should seek to develop joint international structures to address forced labour with a view to greater harmonisation, legal clarity and certainty at international level, especially to avoid EU companies having conflicts with foreign legislation.

3.18. Since forced labour is a global problem and given that global value chains are deeply interlinked, international cooperation against forced labour must be promoted. The EESC stresses that strong cooperation and the exchange of information with third-country authorities and international organisations, especially the ILO and UN, are essential to ensure that the ban is properly implemented.

3.19. The EU permanent representations and delegations on the ground should play a key role in communicating with victims of forced labour and civil society organisations. They should also play a key role in cooperating with the UN and ILO on collecting and delivering valuable data for risk assessments (e.g. when setting up or supporting national surveys on forced labour) and act as cooperation partners in ongoing investigations. They should be the point of first contact for complaints.

3.20. The process of globalisation has strengthened the position of globally active companies and weakened the power of public institutions, especially in the Global South. The EESC points to the importance of incorporating the fight against forced labour into the EU's trade and development cooperation policy. Regarding less and least developed countries, the active support of local labour authorities should be a priority. The EESC emphasises that this legislation should treat all countries equally and warns against placing less and least developed countries at a disproportionate disadvantage.

3.21. The EESC welcomes the scope of the proposal, including all economic operators regardless of their size. Still, the focus of authorities' investigations should depend on the size and economic resources of economic operators. Therefore, companies presenting a high risk of using forced labour, as well as big economic operators, should be prioritised. The EESC points out that the uniqueness of digital markets requires special treatment when enforcing this legislation.

3.22. The EESC would like to take the opportunity offered by the issuing of this legislative act to ask the European Commission to study the feasibility of a Public EU Rating Agency for environmental and social sustainability, as well as human rights in the business context, as already discussed in the EESC opinion REX/518 point 3.11. Such an agency should develop European standards for due diligence systems. These standards could essentially contribute to the creation of a level playing field which is in particular in the interest of European companies. Moreover, this Agency must develop mandatory quality standards for firms carrying out audits and accreditation processes for these auditing firms in the EU, as well as a monitoring system for regular checks of these firms.

3.23. The EESC calls for competent national authorities to be appointed or established in the Member States to carry out the accreditation of firms running audits in the area of environmental and social sustainability, as well as human rights in the business context. The Public Rating Agency must assist competent national authorities by providing technical support and training for implementing national systems supporting businesses with regard to liability and due diligence. The EESC notes that, regarding the implementation of this regulation, there is a need for both clear and comprehensible wording to guarantee legal certainty and easy guidelines to maintain a manageable administrative burden for economic operators, especially SMEs, in their daily work. Therefore, the competent national authorities must provide technical support for businesses, especially SMEs, when those businesses devise their due diligence systems (in line with the UN Guiding Principles on Business and Human Rights, the OECD Guidelines on Multinational Enterprises and the ILO MNE Declaration).

4. Specific comments

4.1. The EESC endorses the definition in Article 2(a), based on the ILO's definition of forced labour which includes 'all work or service'. Goods transported using forced labour should therefore be included in the proposal both in order to comply with the definition and given the fact that transport services are an essential part of the goods supply chain.

4.2. The European Commission must play a strong, active and leading role in the UNAFPL proposed in Article 24, in order to support and coordinate national authorities as they enforce the regulation. The EESC calls on the Commission to provide a clearly defined structure and sufficient funding for this Network to enable it to support the EU Member States as they gather information and use it to keep up a steady flow of information. The Network should coordinate actions, such as carrying out international investigations, and support the enforcement of import bans. Moreover, the Commission should consider the possibility of carrying out investigations itself as it already does when monitoring and investigating anti-competition practices. The EESC calls on the Commission to involve organised civil society, especially the social partners, in all of the Network's actions.

4.3. The EESC welcomes the European Commission's proposal to issue guidelines, as stated in Article 23 of the proposal, to assist companies in identifying, preventing, mitigating or bringing to an end risks of forced labour in their operations and value chains. Additionally, the Commission or other public authorities should provide clear recommendations on how to develop due diligence schemes for SMEs and therefore particularly support SMEs. The EESC calls on the Commission to involve organised civil society in the drafting process and to publish these guidelines (Articles 11 and 23), both in a way that makes them easily accessible and as soon as possible, in any case well before the regulation enters into force. This will enable the competent national authorities, customs and business entities to prepare for the implementation of the legal act and the possible related difficulties.

4.4. The EESC points out that the national competent authorities need the consent of economic operators to carry out investigations, as stated in Article 5(6). This weakens the investigation process and creates a loophole in the proposed regulation.

4.5. The EESC emphasises the need for uniform, EU-wide minimum penalties for infringements of the regulation. This will avoid a race to the bottom among the Member States and ensure a level playing field. Additionally, establishing a regular (e.g., 2-year) reporting obligation for the Commission on the application of the regulation in the individual Member States would be beneficial.

4.6. The EESC expresses its concern that the implementation of the regulation will be the responsibility of national custom authorities (Article 12). This could potentially create inefficiencies in implementation, as there may be cases of differentiation between the various national customs offices, causing intra-EU inconsistencies. Therefore, proper implementation in the various countries should be emphasised and institutionally secured. It is necessary to provide national enforcement authorities with clear guidelines and resources enabling them to effectively monitor and enforce the proposed regulation. Technical support should be granted to the business community to help it cope with the legislation. To this end, we believe that the EU needs a conceptual framework for common risk assessment, as well as clear guidelines, avoiding duplication of bureaucracy and streamlining procedures when possible.

4.7. Regarding the deadlines for the investigation process, we believe that the time required for companies to submit evidence should be longer than 15 days in the preliminary process stage and another 15 days in the second stage of the investigation. Moreover, the 30-day period offered to companies to recall products that violate the regulation should be longer. In addition, there is a need for more clarity on how the withdrawal process will take place in practice, including the destruction of products if necessary.

4.8. As mentioned in the EESC's INT/973 opinion on *Sustainable corporate governance*⁽³³⁾, trade unions and workers' representatives are well aware of where possible misconduct may occur. Hence, the EESC points to the importance of involving workers' representatives and local trade unions, along with the ITUC, in the process of setting up (risk mapping) due diligence processes and in monitoring them (implementation) and reporting breaches (alert mechanisms). The EESC calls for trade unions and workers' representatives in the EU and third countries to be explicitly mentioned in Article 26(a).

4.9. The EESC points out that organised civil society should be consulted during the preparation of the delegated acts referred to in Article 27 of the regulation.

Brussels, 25 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

⁽³³⁾ Opinion of the European Economic and Social Committee on the proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability, Due Diligence and amending Directive (EU) 2019/1937 (COM(2022) 71 final) (OJ C 443, 22.11.2022, p. 81).

Opinion of the European Economic and Social Committee on ‘Proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) 2017/745 and (EU) No 2017/746 as regards the transitional provisions for certain medical devices and *in vitro* diagnostic medical devices’

(COM(2023) 10 final — 2023/0005 (COD))

(2023/C 140/14)

Referral	Council of the European Union, 23.1.2023 European Parliament, 26.1.2023
Legal basis	Articles 114 and 168(4), point (c), of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	190/0/2

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided to issue an opinion endorsing the proposed text.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on fees and charges payable to the European Medicines Agency, amending Regulation (EU) 2017/745 of the European Parliament and of the Council and repealing Council Regulation (EC) No 297/95 and Regulation (EU) No 658/2014 of the European Parliament and of the Council’

(COM(2022) 721 final — 2022/0417 (COD))

(2023/C 140/15)

Referral	Council of the European Union, 22.12.2022 European Parliament, 15.12.2022
Legal basis	Article 114 and Article 168(4)(c) and (b) of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted at plenary	24.1.2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	195/0/1

Since the Committee unreservedly endorses the proposal and feels that it requires no comment on its part, it has decided to issue an opinion endorsing the proposed text.

Brussels, 24 January 2023.

The President
of the European Economic and Social Committee
Christa SCHWENG

CORRIGENDA**Corrigendum to Opinion of the European Economic and Social Committee on ‘Proposal for a directive of the European Parliament and of the Council on asset recovery and confiscation’ (COM(2022) 245 — final)**

(Official Journal of the European Union C 100 of 16 March 2023)

(2023/C 140/16)

On page 108:

for: ‘2. **General and specific comments**’,

read: ‘3. **General and specific comments**’.

Corrigendum to Opinion of the European Economic and Social Committee on ‘Proposal for a Regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115’ (COM(2022) 305 final — 2022/0196 (COD))

(Official Journal of the European Union C 100 of 16 March 2023)

(2023/C 140/17)

On page 142:

for: ‘3. **Specific comments**’,

read: ‘4. **Specific comments**’.

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)



Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN