

# Official Journal of the European Union

C 184



English edition

## Information and Notices

Volume 66  
25 May 2023

### Contents

#### I Resolutions, recommendations and opinions

##### RESOLUTIONS

###### European Economic and Social Committee

###### 577th plenary session of the European Economic and Social Committee, 22.3.2023-23.3.2023

2023/C 184/01	Resolution of the European Economic and Social Committee on 'United for Democracy' . . . . .	1
---------------	--	---

##### OPINIONS

###### European Economic and Social Committee

###### 577th plenary session of the European Economic and Social Committee, 22.3.2023-23.3.2023

2023/C 184/02	Opinion of the European Economic and Social Committee on 'Youth Action Plan (YAP) in EU external action 2022–2027' (own-initiative opinion) . . . . .	5
---------------	---	---

2023/C 184/03	Opinion of the European Economic and Social Committee on 'Young people's role in the green transition' (Exploratory opinion at the request of the Swedish presidency) . . . . .	13
---------------	---	----

2023/C 184/04	Opinion of the European Economic and Social Committee on 'Wooden construction for CO <sub>2</sub> reduction in the building sector' (exploratory opinion requested by the Swedish Presidency) . . . . .	18
---------------	---	----

EN

### III Preparatory acts

#### European Economic and Social Committee

##### 577th plenary session of the European Economic and Social Committee, 22.3.2023-23.3.2023

2023/C 184/05	Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act)’ (COM(2022) 720 <i>final</i> – 2022/0379 (COD)) and 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 a strengthened public sector interoperability policy – Linking public services, supporting public policies and delivering public benefits – Towards an “Interoperable Europe”’ (COM(2022) 710 <i>final</i> ) . . . . .	28
2023/C 184/06	Opinion of the European Economic and Social Committee on the ‘Proposal for a directive of the European Parliament and of the Council harmonising certain aspects of insolvency law’ (COM(2022) 702 <i>final</i> – 2022/0408 (COD)) . . . . .	34
2023/C 184/07	Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002’ (COM(2022) 666 <i>final</i> – 2022/0391 (COD)) and on the ‘Proposal for a Directive of the European Parliament and of the Council on the legal protection of designs (recast)’ (COM(2022) 667 <i>final</i> – 2022/0392 (COD)) . . . . .	39
2023/C 184/08	Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council – 2022 Strategic Foresight Report – Twinning the green and digital transitions in the new geopolitical context’ (COM(2022) 289 <i>final</i> ) .	45
2023/C 184/09	Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Central Bank and the European Economic and Social Committee – A path towards a stronger EU clearing system’ (COM(2022) 696 <i>final</i> ) and on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets’ (COM(2022) 697 <i>final</i> – 2022/0403 (COD)) . . . . .	49
2023/C 184/10	Opinion of the European Economic and Social Committee on the Proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation (COM(2022) 707 <i>final</i> — 2022/0413 (CNS)) . . . . .	55
2023/C 184/11	Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council, towards a Directive on criminal penalties for the violation of the Union restrictive measures’ (COM(2022) 249 <i>final</i> ) on the ‘Proposal for a Council decision on adding the violation of Union restrictive measures to the areas of crime laid down in Article 83(1) of the treaty on the Functioning of the European Union’ (COM(2022) 247 <i>final</i> ) and on the ‘Proposal for a Directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures’ (COM(2022) 684 <i>final</i> )	59
2023/C 184/12	Opinion of the European Economic and Social Committee on the Proposal for a Council recommendation on adequate minimum income ensuring active inclusion (COM(2022) 490 <i>final</i> — 2022/0299 (NLE)) . . . . .	64
2023/C 184/13	Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation (COM(2022) 688 <i>final</i> — 2022/0400 (COD)) and on the Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC (COM(2022) 689 <i>final</i> — 2022/0401 (APP)) . . . . .	71
2023/C 184/14	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 – Revision of the EU action plan against wildlife trafficking (COM(2022) 581 <i>final</i> ) . . . . .	78

2023/C 184/15	Opinion of the European Economic and Social Committee on the 'Proposal for a regulation of the European Parliament and of the Council establishing a Union certification framework for carbon removal' (COM(2022) 672 <i>final</i> – 2022/0394 (COD)) . . . . .	83
2023/C 184/16	Opinion of the European Economic and Social Committee on the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — State of the Energy Union 2022 (pursuant to Regulation (EU) 2018/1999 of the Governance of the Energy Union and Climate Action) (COM(2022) 547 <i>final</i> ) . . . . .	88
2023/C 184/17	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 Digitalising the energy system — EU Action Plan (COM(2022) 552 <i>final</i> ) . . . . .	93
2023/C 184/18	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council as regards the limit values for lead and its inorganic compounds and diisocyanates' (COM(2023) 71 <i>final</i> – 2023/0033 (COD)) . . . . .	101
2023/C 184/19	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)' (COM(2023) 63 <i>final</i> – 2022/025 (COD)) . . . . .	102
2023/C 184/20	Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC' (COM(2022) 760 <i>final</i> – 2022/0405 (COD)) on the 'Proposal for a Directive of the European Parliament and of the Council on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market' (COM(2022) 761 <i>final</i> – 2022/0406 (COD)) and on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2017/1129, (EU) No 596/2014 and (EU) No 600/2014 to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises' (COM(2022) 762 <i>final</i> – 2022/0411 (COD)) . . . . .	103
2023/C 184/21	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 – Ensuring availability and affordability of fertilisers' (COM(2022) 590 <i>final</i> ) . . . . .	109



## I

*(Resolutions, recommendations and opinions)*

## RESOLUTIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

**577TH PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,  
22.3.2023-23.3.2023**

**Resolution of the European Economic and Social Committee on ‘United for Democracy’**

(2023/C 184/01)

Rapporteurs: **Stefano MALLIA (MT-I)**

**Oliver RÖPKE (AT-II)**

**Séamus BOLAND (IE-III)**

Legal basis	Rule 50 of the Rules of Procedure
Adopted at plenary	23.3.2023
Plenary session No	577
Outcome of vote	
(for/against/abstentions)	181/0/5

Post-pandemic recovery, democratic values, civic space, media freedom, diversity and liberal democracy are all under pressure on both sides of the EU's borders, and they have deteriorated since the start of the war on European soil: less than 50 % of the world's population lives in a democratic system.

As the world continues to witness the atrocious war in Ukraine and its devastating humanitarian, social and economic consequences, the EESC is launching a call to strengthen democracy and democratic values.

The extraordinary mobilisation of the EU civil society organisations offering humanitarian, logistical and medical assistance for the Ukrainian people has also shown the importance of a well-connected, efficient and vibrant civil society. Beyond Ukraine, we also witness grassroots movements fighting for democracy in Iran, Belarus and Moldova. Strengthening them strengthens democracies.

It is now more important than ever to invest in making democracies more resilient and better able to safeguard our fundamental rights, build longstanding peace and stability and ultimately to deliver prosperity for all.

There is no doubt that we should engage in joint reflection on new approaches to strengthening the structures for participatory democracy. A strong, independent and diverse civil society is more important than ever as a key ingredient to ensure active citizenship and resilient democracy that can safeguard the rule of law, fundamental rights, freedom of expression and the integrity of our democratic way of life. Democracy in the EU is intrinsically and irrevocably linked to the concepts of equality, justice, respect for human rights and non-discrimination, as stipulated in Article 2 of the TEU.

In times of complex change and challenges, deliberative/participatory democracy can be one part of a bigger picture of the systemic change that is needed. There are many examples that, if implemented effectively, can enable policymakers to take hard decisions about the most challenging public policy problems and enhance trust between citizens and government. The prerequisite is to guarantee that it takes into account the diversity of opinions and the right to express them freely. However, participatory democracy is not a panacea. Democratic societies face a wide range of challenges, which require different methods of participation. Democratic governance therefore requires the use of different mechanisms for different purposes, to take advantage of their strengths and weaknesses.

We must collectively seek a new balance between representative democracy, participatory democracy, and direct democracy.

The conclusions of the Conference on the Future of Europe (CoFoE) on European democracy of 9 May 2022, specifically proposals 36 and 39, **set the objectives of increasing citizens' participation and strengthening the structures for participatory democracy and deliberative actions**. Bearing in mind the results of the CoFoE and the important role already being played by the European Economic and Social Committee (EESC), the EESC would like to outline various options that could provide a blueprint for institutional reforms to best serve the EESC's purposes.

**Against this background, and building on the Civil Society Days 2023, the European Economic and Social Committee (EESC):**

1. calls for the effective implementation of Article 11 of the TEU, including a **European strategy for civil society** and a European Statute of Associations to connect different building blocks for a truly empowering and inclusive space, in order to renew engagement and implement structured civil dialogue across EU institutions, including by inviting organised civil society to, Social Summits and high-level conferences, in particular. If the civil society sector is to have more meaningful and broad engagement, resources also matter. Better funding opportunities and fair and transparent policy frameworks are needed for CSOs, including cross-border protection, to build capacity and resilience for all CSOs, including youth organisations, the social economy and the voluntary sector, as are access to flexible and sustainable resources, be they private or public;
2. emphasises the need to strengthen the key role of organised civil society and social partners in supporting deliberative democracy, complementing representative democracy, to further strengthen civil dialogue in all Member States and at EU level. The strength and power of European democracies are based on solid and wide-scale cooperation between the EU and its Member States, which must help to build the capacity of civil society organisations, as independent CSOs are 'guardians of the common good', with a pivotal role in identifying sustainable solutions, promoting societal innovations and building mutual trust within societies. CSOs also help to identify processes, provide expertise to increase the diversity of debates, and facilitate participatory democracy as set out in the Treaties;
3. calls for a holistic and cooperative approach on education and training to face current challenges. A European policy for skills should be co-shaped with civil society organisations and social partners, who have political capital, concrete knowledge and an understanding of current needs and shortcomings; in this context, calls for 2025 to be designated as the European Year of Volunteers, as the sector has a key role to play in the development of informal skills;
4. highlights that transversal competences are the true backbone of a participatory and deliberative democracy: cooperation, critical thinking, problem-solving, democratic and collective management, conflict resolution, civic education and media literacy. These competences are central to combatting anti-democratic trends, promoting European values and overcoming current socioeconomic and political divides, while empowering civil society organisations and social partners to co-design policies via consultative or participatory means to achieve accountability, transparency and active citizenship;
5. is committed to helping to further develop tools to enhance participatory and deliberative democracy, such as the European Citizens' Initiative and Online EU Public Consultations, that need to be fully accessible and communicated to the general public;
6. emphasises the importance of the 2024 European elections and of the crucial role of CSOs in encouraging voter participation and pro-European sentiment, as well as in countering abstention and disinformation. The EESC calls on the European political families to underline, in their electoral manifestos, the role of civil society organisations in enhancing democratic life;

7. reiterates its willingness, together with wider civil society organisations and the EU institutions, to act as a bridge builder to debate the European project with citizens, going beyond those already convinced, and to reach out to them in their communities, territories, cities and villages. It is therefore vital to create the possibilities for participating in public debates and foster a culture of participation at all levels;

8. The Commission should make provisions, in its organisation, for contact persons responsible for civil dialogue. It should also work with the Member States to promote the strengthening of civil dialogue structures and support their creation where they do not yet exist, by harnessing European funds. This initiative would raise awareness and improve the quality of civil dialogue, thereby helping the Commission and Member States to better comprehend the benefits that well-functioning civil dialogue can bring to policymaking. Moreover, civil dialogue would be strengthened by research and monitoring activities, leading to the identification and sharing of best practices;

9. highlights in this regard that the involvement of young people and youth organisations is particularly important in mobilising first time voters and young voters. In order to achieve full representativeness, it is necessary to support solutions that allow for broad involvement and foster equality of opportunity in this regard. It is necessary to reach out to those who are furthest from the decision-making centres and engage in discussions with them. Greater participation at local level appears to be a necessity;

10. moreover, calls on the European Parliament, the European Council and the Member States to amend the 1976 Electoral Act as a matter of urgency, to clarify the principles of universality, directness and secrecy of elections. This would allow for the implementation of standards throughout the EU, thus guaranteeing voting rights for persons with disabilities.

#### **Drawing on the above recommendations and the Conference on the Future of Europe, the EESC:**

11. views the recently signed protocol on cooperation with the European Commission (27 October 2022) as a renewed political commitment to contributing to the European political agenda and to Europe's main goal, objectives<sup>(1)</sup> and aspirations, namely achieving a European Union that is competitive, economically prosperous, socially inclusive and environmentally sustainable, whilst ensuring that the transition to climate neutrality, digitalisation and demographic change are socially fair and just, and making the European Green Deal and the 2030 Digital Decade successes for all Europeans. The European Union must also be guided by the European Pillar of Social Rights and a Competitiveness Agenda, the political roadmaps that ensure that no one is left behind;

12. stands ready — and, now more than ever, has the legitimacy — to act as a key hub for citizens and organised civil society participation, including future citizens' panels. The role of such a hub would be to multiply the effect of ongoing citizens' consultations organised by the European Commission and other institutions, and also to systematically collect feedback from European organised civil society on all the major priorities and policies of the European political agenda. This will help to enhance public trust in the EU project and institutions by giving citizens an effective role in public decision making. The EESC would be a host to guide, supervise, design, organise, run, and facilitate deliberative processes with the aid of external experts and representatives of civil society organisations. This offer builds, in particular, on the final report of the Conference on the Future of Europe of 9 May 2022 which explicitly call for 'enhanc[ing] the institutional role of the EESC and empower[ing] it as facilitator and guarantor of participatory democracy activities such as structured dialogue with civil society organisations and Citizens' panels'. Within this context, the recommendations of the EESC own-initiative Opinions and Commission-requested exploratory opinions should be reviewed via evaluations of EU policies, where relevant;

13. is of the view that citizens' panels and CSO consultations could focus on agenda setting, such as the preparation of the Commission's work programme, or could be linked to the lifecycle of key legislative priorities. Citizens' input could be most useful in the pre-legislative phase, to deliberate and make recommendations ahead of certain key (legislative) proposals. To this end, consultations of citizens' panels and of the CSOs could be carried out on the basis of an annual roadmap and timeline, established by the EESC in cooperation with the European institutions. This could include specific requests from the European Commission, the European Parliament or the Council of the European Union, by the EESC itself on its own initiative, or at the initiative of its partner organisation, the European Committee of the Regions;

14. reiterates that the cycle of activity could start with the State of the Union speech and declaration of intent, with a view to the European Commission's annual work programme for the following year. Consultations would take place during the first half of the following year;

---

<sup>(1)</sup> Articles 2 and 3 of the Treaty on European Union.

15. as a complement to tools to strengthen the rule of law, will continue proposing to other EU institutions the establishment of an annual EU Forum on Fundamental Rights, Human Rights and the Rule of Law. This forum will improve monitoring by allowing EU decision-makers to receive early warning from organised civil society and grassroots organisations from all EU Member States, regarding the full and transparent application of Article 2 TEU. Moreover, the Committee calls on the European Commission to include a chapter on civil society in the forthcoming review of the European Democracy Action Plan. The EESC will also play an important role in monitoring the accession processes of candidate countries and facilitate a meaningful discussion with the parties involved to ensure that European values are respected, including those affecting national and ethnic minorities;

16. will launch a European Civil Society Week, to enhance its role as the House of European Civil Society and broaden the reach of its flagship initiatives, such as Civil Society Days, ECI Day, YEYS and the Civil Society Prize. This initiative will bring together key players in European and national civil society organisations, and provide a forum for dialogue on issues that are of concern to civil society stakeholders at European level. The EESC will seek to strengthen grassroots activity in order to reach out as much as possible to those who have limited opportunities to take part in debates on European issues and to ensure that their voices are taken into account in decision-making processes.

Brussels, 23 March 2023.

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

---



## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

577TH PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,  
22.3.2023-23.3.2023

**Opinion of the European Economic and Social Committee on ‘Youth Action Plan (YAP) in EU  
external action 2022–2027’**

**(own-initiative opinion)**

(2023/C 184/02)

Rapporteur: **Michael McLOUGHLIN**

Co-rapporteur: **Tatjana BABRAUSKIENĖ**

Plenary Assembly decision	22.9.2022
Legal basis	Rule 52(2) of the Rules of Procedure Own-initiative opinion
Section responsible	External relations
Adopted in section	6.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	157/0/1

### 1. Conclusions and recommendations

1.1. While welcoming the Youth Action Plan (YAP) in EU external action, the European Economic and Social Committee (EESC) points out that there may be challenges in the roll-out and delivery, which will need monitoring and oversight. The EESC expresses its wish to be actively involved in the implementation of YAP.

1.2. The EESC believes that the expertise and experience of youth organisations in the EU, and around the world, is a great resource in the delivery of the plan, both for the European Commission and the EU delegations. It also considers that basic competences on issues such as youth-friendly spaces, consultation skills, and youth work-methods should be provided to all EU staff working with young people.

1.3. The EESC would like to see constant attention paid during implementation to the most marginalised young people, including young people with disabilities, and all leadership work being complemented by an equal focus on grassroots support for youth in local communities. Leadership and participation processes should be designed to ensure grassroots engagement and bottom up processes to produce leaders grounded in everyday life.

1.4. The EESC stresses that data collection and monitoring are a key challenge for the implementation of the YAP, and that regular reporting by the European Commission, the European External Action Service (EEAS), relevant funded agencies and civil society organisations (CSOs) should feature, consistent with the mapping and gap analysis of international data on youth recently undertaken by the European Commission <sup>(1)</sup>.

1.5. The EESC welcomes and encourages links with the work of the United Nations (UN) and its agencies in this area, particularly with regard to the Youth Peace and Security Agenda and any synergies with the UN Committee on the Rights of the Child.

1.6. The EESC believes that headline EU youth policies like Erasmus+ and the Youth Guarantee can be helpful in working in the areas of youth engagement and youth policies. In utilising such structures, attention should be paid to the independence of application procedures and issues like visas and languages.

1.7. The EESC recommends the Council of the EU to encourage EU Member States to have their own plans that focus on similar issues as the YAP and work in partnership with civil society, in particular youth organisations. In addition, existing linkages and civil society partnerships between EU Member States and target countries should be built on and enhanced, particularly between youth organisations.

1.8. The EESC also recommends that target countries should be encouraged and given the tools to have their own tangible dedicated youth policies and national youth councils or equivalents. At the same time, the Commission should be guided by the principles of human rights when supporting the target countries.

1.9. The EESC believes that linkages should be made between the YAP and the European Year of Skills to ensure that this work is prioritised in partner countries.

1.10. The EESC is of the opinion that activities focusing on education should be centred on equality, particularly protecting young girls, and that strategies should ensure the engagement of hardest to reach. All scholarship opportunities should be open, transparent and have deliberate methods to encourage those hardest to reach.

1.11. The EESC strongly believes that civic engagement with all CSOs should be fostered such as youth groups, trade unions and young entrepreneurs groups.

1.12. The EESC considers that EU trade policy needs to examine its impact and connection with young people, particularly under trade and sustainability chapters and Economic Partnership Agreements (EPAs).

1.13. The EESC recommends that specific mental health community-based services for young people and targets for both output numbers and qualitative mental health improvements should be developed for work with young people in external action, consistent with the European Commission's study.

1.14. The EESC believes that the fight against child labour should be an important part of YAP, so that child labour finally becomes history in the 21st century.

## 2. Background information: relevant EESC activities

2.1. In October 2018, the EESC adopted its opinion on the new EU Youth Strategy <sup>(2)</sup> highlighting the need for a cross sectoral approach to youth and the need for more attention to be given to employment, mental health, equality and education. It also highlighted the importance of the EU's external action policies in this regard.

---

<sup>(1)</sup> Kalantaryan, S., McMahon, S. and Ueffing, P., Youth in external action, JRC130554, Publications Office of the European Union, Luxembourg, 2022.

<sup>(2)</sup> OJ C 62, 15.2.2019, p. 142.

2.2. In September 2020, the EESC adopted the opinion ‘Towards structured youth engagement on climate and sustainability in the EU decision-making process’<sup>(3)</sup>. It also called for establishing the Youth Climate and Sustainability Round Tables, including a youth delegate in the official EU delegation to the Conference of the Parties of the United Nations Framework Convention on Climate Change (UNFCCC COP) meetings, and including young people’s voices in EESC opinions concerning climate and sustainability.

2.3. In the opinion ‘Youth Policy in the Western Balkans, as part of the Innovation Agenda for the Western Balkans’<sup>(4)</sup> adopted in July 2022, the EESC invited governments of the Western Balkans to follow key youth policy documents of the EU and to further invest in evidence-based youth policies addressing youth development challenges, ensuring sufficient and transparent budget allocations.

2.4. The EESC is uniquely positioned to facilitate engagement with youth networks. It established a Coordination Group for the European Year of Youth (EYY) that received a mandate to strengthen cooperation with youth organisations and young people during and beyond the EYY, and to cooperate with other EU institutions and CSOs to ensure better cross-cutting integration of young people in their everyday activities. In September 2022, the EESC adopted the opinion ‘The EU Youth Test’<sup>(5)</sup> and requested more structured, meaningful, and targeted youth participation.

### 3. General comments on YAP

3.1. The EESC very much welcomes the Joint Communication — Youth Action Plan (YAP) in EU external action 2022 — 2027, which marks an important step in external action and youth policy, recognising the potential synergies between the two, which is much overdue. Furthermore, in the EYY, such a development also indicates a recognition that youth and the lives of young people cross all policy areas, and considerations of this group need to feature in all policy work, not just the ‘traditional’ areas associated with young people.

3.2. The war in Ukraine continues to have a severe impact on civilians, in particular on children, adolescents and young people. The focus of YAP in Ukraine, as well as in other areas of the world affected by conflicts, should be to increase youth resilience, support young people’s civic engagement and empower them to be change-makers in their communities, especially in view of post-conflict recovery.

3.3. The Communication is also appropriately situated in the post COVID-19 world, and recognises how young people, their education and their freedom of movement suffered the most in this crisis. While recognised in Europe, the impact of COVID-19 on young people around the world has received less attention, particularly in the developing world and in fragile states.

3.4. In essence, we support the concept that all internal policies related to youth should be capable of being translated into our external relations, allowing for the specific local/regional contexts in which external action is taking place. In light of this, we would support that the Youth Test for EU policies is also recommended to those implementing the YAP.

3.5. The EESC also welcomes the fact that the YAP draws on the European Pillar of Social Rights and the EU Action Plan on Human Rights and Democracy that stress the need for equal, full and meaningful participation of young people in public and political life. Young people — although at the forefront of change — are still too often underrepresented, contrary to the fundamental rights they have. The EESC appreciates the YAP for its high level of ambition and clear focus on action. It also values that it recognises the intergenerational dimensions of today’s global challenges.

3.6. The communication brings together all major policy work related to youth in different areas. In its delivery, it will be important to have some overarching oversight, particularly given the different delivery agencies and the diversity of policies involved. This should also involve those with responsibility for youth and education, youth organisations and young people themselves, as well as aid agencies and other national bodies of EU Member States, funded agencies and CSOs. Similarly, delivery will have to consider various financial sources, actors and indicators involved. Overall, this will be challenging, but an effective oversight system will pay dividends and could be a model of joined-up policy delivery.

---

<sup>(3)</sup> OJ C 429, 11.12.2020, p. 44.

<sup>(4)</sup> OJ C 443, 22.11.2022, p. 44.

<sup>(5)</sup> OJ C 486, 21.12.2022, p. 46.

3.7. Data collection needs to be improved for youth in nearly all areas of external action. The roll-out of the YAP needs to focus on this challenging area, as recognised in the mapping and gap analysis of international data on youth that was recently undertaken by the European Commission. It can be hard to disaggregate outputs and outcomes and to distinguish the precise contribution of any given programme or initiative to an outcome. Therefore, all interventions with youth need longitudinal analysis.

3.8. The EU and all its institutions should work with the United Kingdom (UK) to ensure that the spirit of cooperation and intercultural learning and developed experience from Erasmus+ and all other forms of cooperation is not lost to young people and youth organisations in that country. Every opportunity for optimising the potential for rebuilding relationships with CSOs in the UK should be explored, and conceiving and fostering new ones <sup>(6)</sup>.

#### *Leadership and participation*

3.9. The YAP focuses to a considerable degree on leadership and participation. This is welcomed and very much in line with best practices in working with young people. The EESC believes however that a very thorough and deliberative approach will be needed in further rolling out such an approach in EU external action. Even within the EU and its Member States, we have a long way to go on participative practice despite strong efforts. Youth leadership generally arises from good grassroots work in a supportive environment. This in turn gives rise to young people who can speak up, but based on connections with their peers and experience of local issues like environment, transport, education, mental health, social assistance and many more. This work is often facilitated by CSOs. We hope the thematic programmes on Civil Society and Human Rights and Democracy can focus on these needs.

3.10. A number of associated factors therefore need to be present for good practice in this field. The Erasmus+ programme still seeks to prioritise young people with fewer opportunities, effectively recognising that a leading programme still has much to do in this area. In the field of People to People Contacts and Mobility, administrative aspects such as visas play a decisive role in ensuring a smooth experience for the participants, and there is a need for a common approach here. Applying these challenges to developing countries, fragile states or even totalitarian countries will clearly ramp up the challenges. At the end of the day, all the envisaged leadership and participative work must be built on grassroots and community-based experience.

3.11. We must be careful not to invert the process of working with 'leaders' first in the absence of any real grassroots traction. Funders and international non-governmental organisations can't create this leadership, and quality grassroots linkages need to be ensured. Therefore, we need transparent selection, open and inclusive methods and safeguards against capture by states and others, particularly in fragile states. Engagement, participation, and leadership skills are crucial and our approach must build an infrastructure to make it real. Long term support for youth organisations and civil society must be prioritised over short term project based approaches. Engagement with youth leadership also needs strategies to deal with a constantly changing group who are transient, who grow and develop and at some stage will need or want to move on.

3.12. Meaningful support to grassroots organisations that operate on the ground should be provided so they can develop internally and become relevant actors in their local communities. We hope the work of the Youth Sounding Board (YSB) on international partnership in this regard, and the dialogue platform with youth organisations as part of the Policy Forum on Development (PFD), will address this. In addition, support to trade unions and trade union youth organisations can help to encourage and support young people to participate democratically in their workplace. National Youth Councils can provide a good infrastructure to decide who to work with in partner countries, as long as they are independent, as can initiatives such as the Big 6 Youth Organisation's Global Youth Mobilisation initiative <sup>(7)</sup>.

---

<sup>(6)</sup> EESC Information report on 'The implementation of the EU-UK Withdrawal Agreement, including the Protocol on Ireland and Northern Ireland'.

<sup>(7)</sup> <https://globalyouthmobilization.org/>

### *Delivery methods*

3.13. There are considerable and welcome references to Erasmus+ in YAP. In this regard, the communication avoids 'reinventing the wheel'. The structures and processes of the programme can and should be used in our external relations where relevant. In delivery, it may be helpful to disaggregate the sub-parts of the programme such as youth, schools, vocational education and training (VET) and third level education. Obstacles, like visas, lack of funding and language barriers should be removed, and the delivery should focus on mutual learning, skills development and experience. If national agencies are used, they should be cautiously vetted to ensure respect for proper civil society actors and their independence.

3.14. Initial VET (IVET) facilitates young people's employability in the future and their participation in lifelong learning. VET policies and good practices support the social inclusion and labour market integration of young people not in employment, education or training (NEETs).

3.15. The communication makes useful links between EU external action and the rights of the child, where the EU has developed a strategy recently. More linkage with the 1989 United Nations Convention on the Rights of the Child (UNCRC) in delivering on the YAP would be helpful too, for example by utilising the Geneva committee's states' reports. Many young people are under 18 and principles in the UNCRC can serve as guidance, but EU youth work extends beyond this age. We should not always see 18 as an automatic dividing age.

3.16. A Team Europe approach needs to be applied to implement the YAP at national, regional and multilateral level. The EU should thereby adjust to the specific needs and circumstances in the different regions. The EESC believes that it would be beneficial if the partnerships contribute to filling knowledge and data gaps on youth, especially those related to the priority areas of digital skills development, climate change and the Green Deal. The EESC is interested to learn in the months to come how the manifold actions will be implemented and stands ready to contribute.

3.17. We would have hoped for a greater level of response during the YAP consultation process and more representativeness amongst responses. This shines a light on the need for young people to be provided with all the relevant information regarding important topics to allow them to make informed decisions and contribute accurately and meaningfully to the policymaking process. Tools like the European Youth Information and Counselling (ERYICA) Quality Label can be informative here.

## **4. Specific Comments on parts of the YAP**

4.1. The provisions in the YAP represent the compiling of a lot of ongoing activities, and the challenges in implementation will be immense, particularly after the COVID-19 pandemic. Access to education and equality between genders is critical and there has been progress in this field.

### *Education*

4.2. Strong linkage with the European Year of Skills is needed in rolling out the YAP. The EESC points to the importance of skills development needs, especially in the field of climate change mitigation and adaptation, as well as in the circular economy, mental and physical health, sexual and reproductive health and rights, to be taken into account, including in reskilling and upskilling young people<sup>(8)</sup>. The roles of social and civic dialogue are essential and need to be strengthened.

4.3. Again, there will be multiple stakeholders involved in education, so clear goals and measurements are needed. A constant effort on the hardest to reach, particularly in the poorest and most fragile states is a must. The 10 % spending commitment from the European Commission's Neighbourhood, Development and International Cooperation Instrument (NDICI) and in the humanitarian budget is welcome and we would like to see the commitments of other agencies and states. The long-term solutions in education must come from governments in target countries and local CSOs should play a major role. The international community cannot be the principal actor in the long term. We hope that the Transforming Education Summit can advance on this.

---

<sup>(8)</sup> OJ C 100, 16.3.2023, p. 38.

4.4. Provisions on scholarships and trusts are welcome, but we need to pay attention to selection issues and ensure the involvement of CSOs. It is important that transparent, fair and inclusive procedures for the selection of participants in academic programmes are defined when establishing these opportunities, prioritising access to individuals with fewer opportunities.

4.5. Maximising the value of human capital is vital to increasing competitiveness and to tackling unemployment, while respecting sustainable development. This requires a workforce that is equipped with a range of transversal skills and a capacity to adapt. Education and training policy must be developed and delivered in close cooperation with the social partners and focus more on competences than qualifications. This will help reduce the skills mismatch gap.

#### *Youth organisations*

4.6. There are several fora and bodies to engage young people set out in the communication. The Platform in the Policy Forum on Development is welcomed, as long as it ensures grassroots connections with youth organisations, which are independent, self-organised and ideally youth led.

4.7. There is a welcome mention and reference to involving youth organisations in the communication. The roll-out of the YAP would benefit from engagement in the diverse models of youth work practice present in the EU. This practice can be as relevant as young people's voices, as it builds capacity amongst all young people at local level and in turn gives rise to youth leaders grounded in local experience. Considerable evidence and models are available through the EU/Council of Europe Partnership and the voluntary youth sector.

4.8. Youth organisations can be a tremendous resource in the delivery of the plan. EU Member States should be encouraged to involve their youth sector in this field with national action plans. We should prioritise good models and work from EU youth organisations in development, conflict, and human rights work ahead of, for example, US 'youth development' models which are often used 'off the shelf' in developing countries and other regions, and are often not rooted in the same values. This would work well with the commitment to have tailor-made solutions for particular regions.

4.9. The roll out of commitments on education should also engage in informal and non-formal systems in communities, CSOs and youth work organisations. The Unesco and Council of Europe definitions provide good guidance here along with work in the Erasmus+ youth chapter. We need to recognise the immense benefits of learning outside the school setting for all which is lifelong and life-wide.

4.10. Political dialogue is important and the goals in the YAP are ambitious, but we should not neglect youth policies in each country and the responsibilities of governments, as well as the need for a true voluntary sector and civil society. The roll out of the YAP also needs to support youth work policy development, the development of national youth councils or similar bodies, and approaches like the EU youth test and others.

4.11. Youth organisations already have links around the globe, as illustrated by the work of the World's Big 6 Youth Organisations, and the roll out of the plan should involve them, build on the pre-existing work and be a model for more initiatives. We should also be careful about being too restrictive on the issues of participation. It is unclear if participative processes were utilised in selecting the issues for the Youth Empowerment Fund. Young people may not always select the issues others see as important particularly in the developing world or in fragile states where more practical considerations may be more important.

4.12. Provisions on capacity building for youth organisations are most welcome and should be accompanied by effective support to start grassroots movements in partner countries in which EU delegations can play a crucial role around the world. Partnerships should be offered here, where appropriate, with EU organisations and the work must be monitored. It is important to facilitate the creation and strengthening of networks with both EU and non-EU organisations.

### *Effective delivery*

4.13. There are a lot of actors, policies and funding lines involved in this work such as the EU delegations, various Directorate-Generals of the Commission, the EEAS, the EU Council and the Member States, and a variety of aid budgets. The roll out of the YAP needs to ensure clarity and proper cross-sectoral cooperation to ensure a strong focus on the target group at the end of the day, while providing sufficient budget.

4.14. Contact making concepts can build on existing work and look at twinning and other Erasmus+ (Youth) initiatives. Also, Erasmus+ Youth Participation projects (without transnational dimension) might provide good models for youth projects in target countries.

4.15. Young people are the future leaders and change makers, and are essential partners in contributing to the success of the 2030 Agenda for Sustainable Development, the Paris Agreement on climate change and the digital transition. The Youth Action Plan should ensure EU external action empowers young people at a political, social and economic level. The EESC, acting in its commitment to implement the recommendation from the Conference on the Future of Europe to enhance the institutional role of the Committee and empower it as facilitator and guarantor of participatory democracy activities, such as structured dialogue with CSOs and citizens' panels, is ready to do its part.

4.16. The references to the transition to adulthood in the YAP are strong, very much welcome and in line with the values of youth work in the EU. Important issues here would be for young people to learn their rights and duties as citizens, financial literacy, foreign languages, sustainability of our planet and entrepreneurship. Similarly, the EESC welcomes the link with the UN Youth Peace and Security Agenda and the call for broader engagement with the UN. In delivering the YAP, we need to be conscious of the distance young people generally have from decision-making in many areas.

4.17. The UN Security Council Resolution 2250 (2015) on Youth Peace and Security is a critical tool in engagement with young people globally. It identifies five key pillars for action: participation, protection, prevention, partnerships and disengagement and reintegration. This landmark resolution urges Signing Parties to give youth a greater voice in decision-making at local, national, regional and international levels, and to consider setting up mechanisms that would enable young people to participate meaningfully in peace processes. Support for those who wish to implement this agenda locally and nationally should be forthcoming. Linkage and coordination with the Youth Empowerment Fund would create a lot of synergies here.

### *Gender*

4.18. The EESC believes that tapping into the potential of young people and supporting gender equality is key for sustainable development. The EU external action intends to empower young people at political, social and economic level and help them engage in decision-making and policy-making in a meaningful and inclusive way. The EESC sees the empowerment of girls and young women as vital to ensuring sustainable development and appreciates the references to ensuring gender equality and ending discrimination in the YAP. The EESC points out that the YAP should be translated into meaningful, strategic and long-term actions that will benefit young men and women equally. This includes developing strategies that promote gender mainstreaming in all areas of external action.

4.19. It is important to increase the number of young people, particularly young women, with STEM (science, technology, engineering, and mathematics) capabilities and digital skills and to get girls interested in the STEM fields at an early stage, to support women entrepreneurs and female role models in these sectors and invest in programmes to make girls in high school interested in STEM.

### *Mental health*

4.20. Reference to mental health is welcome in the communication and we hope it will feature prominently in the delivery of the YAP. Since health systems are weak around the world, the more 'youth friendly' implementation of improvements in this field should be fleshed out.

*Persons with disabilities*

4.21. Furthermore the EESC finds that referencing young people with disabilities in the communication is equally important and should also feature prominently in the delivery of the YAP. Young people with disabilities are an often-forgotten group when promoting empowerment and democratic participation of young people and should feature in the implementation of the YAP.

*Economic opportunity*

4.22. Right skills will be key to young people's future economic opportunities. Support will be needed for entrepreneurs and business startups, including finance and credit, since there will be many opportunities, not least in the digital field, especially in the developing world.

4.23. In the field of economic opportunities, the model of the EU Youth Guarantee offers a good example with appropriate adjustments to provide opportunities for NEETs. Education on labour and social rights will be needed to make the decent work agenda a reality.

4.24. Issues like trade need to be examined as part of the YAP, for example in sustainability chapters of free trade agreements, and the involvement of civil society such as youth organisations should be advocated. Young people remain the most vulnerable to child labour and other forms of maltreatment. In order to combat this, the fight against child labour should be made an important part of the YAP so that it finally becomes history in the 21st century. To this end, financial resources must be created to enable child workers to no longer be dependent on their income. On the other hand, the actionability of companies that use child labour in their global production chain must be restricted.

4.25. Young people are often the first to make perilous journeys to emigrate to Europe and elsewhere. To make sure that young people are not forced to take dangerous, often illegal paths over international borders, the YAP should include active cooperation with third countries in order to establish humanitarian corridors and resettlement programs for young people to get to Europe safely and legally.

Brussels, 22 March 2023.

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

---



**Opinion of the European Economic and Social Committee on ‘Young people’s role in the green transition’****(Exploratory opinion at the request of the Swedish presidency)**

(2023/C 184/03)

Rapporteur: **Nicoletta MERLO**

Request by the Swedish Presidency of the Council	Letter of 14.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	8.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	152/00/01

**1. Conclusions and recommendations**

1.1. The EESC believes that young people can and must play a crucial role in the context of the green transition. It considers that a new governance model that is more inclusive and capable of ensuring the active involvement of young people in decision-making processes, overcoming the obstacles that still exist, is essential.

1.2. The EESC stresses the importance of ensuring that youth organisations have a leading role in the decision-making process and in the development and dissemination of projects relating to sustainability and the environment, including by guaranteeing them the necessary financial support.

1.3. The EESC considers it vital to constantly monitor the effects that public investments, including those relating to the green transition, have and will have in the future on young people through an economic, political and social impact assessment of the policies to be implemented, using indicators before, during and after their approval.

1.4. The EESC encourages the EU institutions and the Member States to implement measures and mechanisms to ensure that the youth perspective is taken into account in all policy areas and to create a space that is able to guarantee active participation of young people through the full adoption of the EU Youth Test.

1.5. The EESC considers it crucial to link the initiatives and policies that will be adopted in the context of the European Year of Skills to the theme of the green transition, sustainable development, and the challenges that young people face in a rapidly changing world.

1.6. The EESC considers it essential to consider education and the development of the skills expected by young people on this issue using a cross-cutting approach that is capable of providing theoretical and practical skills, including by implementing and enhancing school-to-work paths and professional apprenticeships, and also involving the social partners. Training on these topics should also be made structural, by designing and developing it starting from the territories and their needs, within a broader framework at national level.

1.7. The EESC considers it necessary to start teaching sustainability and environmental protection issues from an early age, adopting innovative educational tools that take into account environmental protection, social and economic development, and the achievement of related objectives. Quality education for all and decent work for those providing it are key to ensuring this.

1.8. The EESC stresses the importance for schools to engage in green transition issues in concert with local authorities and out-of-school activities, especially with youth organisations and organised civil society, thereby generating an increase in awareness and participation among ordinary citizens. In this connection, the EESC judges the experience of the Green Erasmus Project positively and looks forward to it being implemented.

1.9. In order to equip workers, both younger and older, with enabling skills to govern the innovation brought about by the green transition, the EESC believes it is important to invest in work-based learning and to promote on-the-job training and quality internships and apprenticeships that are capable of creating a virtuous dialogue between market needs and the individual skills of young people. Social dialogue and collective bargaining can play a key role in this regard.

1.10. The EESC considers it essential to have holistic training policies that are integrated with industrial policies, coordinated with other development strategies, and planned in detail at territorial and local level, in close connection with the social partners, so as to ensure that the green transition is a just transition that leaves no one behind.

1.11. In order to ensure adequate participation of women in sectors linked to the green transition, the EESC believes that gender equality must be an integral part of the green transition. The Member States should invest more resources in careers guidance for young people at school and in supporting them into work through efficient public employment services that are adequately linked to the productive fabric of the territory.

1.12. Young entrepreneurs can play an important role in the development of innovation, including in the field of the green transition. The EESC believes that these young people need to be encouraged through specific training and support for innovative projects, and by ensuring adequate financial support.

1.13. To ensure that the green transition is also a just transition and that company closures with subsequent job losses are avoided, the EESC considers it a priority for the Member States to invest significant resources, starting with those of the National Recovery and Resilience Plans, in supporting businesses that need to convert their activities, in redeploying workers who have been made redundant, and in supporting entrepreneurs, particularly young entrepreneurs, who intend to invest in green businesses.

## **2. Background to the opinion**

2.1. This exploratory opinion was requested by the Swedish presidency of the Council of the EU in order to investigate young people's role in the green transition.

2.2. 'Green transition' refers to the transition of the EU economy and society towards the achievement of climate and environmental goals mainly through policies and investments, in line with the European Climate Act, which sets an obligation to achieve climate neutrality by 2050, the European Green Deal, and the Paris Agreement, ensuring that the transition is just and inclusive for all.

2.3. In the face of these great challenges, it is important to note that the generation that is most sensitive and aware of the need to act in order to achieve environmental sustainability is precisely that of young people. In fact, if there is one issue today that is capable of creating a virtuous link between the sensitivity and values of young people and the open questions of our time, with high innovative potential when it comes to production and consumption models, it is that of the environment, the promotion of health, and the safeguarding of the planet's biodiversity.

2.4. In recent years, climate action has mobilised a large number of young people across Europe and numerous environmental and social movements have grown up at territorial, national and European levels, made up of young people demonstrating and demanding tangible measures from governments and policy-makers to protect the environment and achieve climate neutrality.

2.5. The year 2022 was declared the European Year of Youth not only to celebrate and support young people, the generation most adversely affected by the pandemic, by instilling in them new hope, strength and faith in the future, but also as an opportunity to highlight how the green and digital transition offers new prospects and opportunities.

## **3. Youth involvement in the green transition**

3.1. In order to achieve a just green transition, the implementation of the UN's 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs) through the European Green Deal is necessary, including by implementing a new governance model that is more inclusive and capable of actively involving young people in decision-making processes.

3.2. The decisions that political leaders take today on climate change and other environmental issues will have repercussions on today's young and future generations in particular. Young people have a right to have a say on the issues that affect them, as stated in the 2030 Agenda, which recognises young people as 'crucial agents of change' within its SDGs.

3.3. Although the role of young people in building a more sustainable, inclusive and greener world is increasingly recognised, and despite the proclamation of a year dedicated to them, it is clear that in reality young people still find it hard to participate actively in decision-making bodies.

3.4. In recent years, despite a high degree of youth activism on the issue of climate change, we have also been witnessing an increasing disaffection and loss of trust among young people with respect to political institutions, which translates into a decrease in their active participation in political parties and a growing abstentionism in political elections, both as voters and as candidates. This represents a threat to the democratic system and an obstacle to the development of forward-looking policies, starting with those needed to meet the challenges of the climate transition, and capable of responding to different sensitivities and needs. In this regard, the EESC believes that promoting youth participation in politics and other decision-making processes should be a priority and that all options should be explored to make it feasible and effective at all levels.

3.5. As a starting point, it would be important to identify and overcome social, economic and cultural obstacles to the full participation of young people, which may also be due to a lack of awareness or difficult accessing information concerning youth participation and representation mechanisms. Another aspect that should be emphasised concerns the new, often informal ways in which young people today engage and dialogue, often through the use of technology and social media, and which should be taken into due consideration as they are capable of mobilising entire generations.

3.6. Sustainability is deeply embedded in young people's view of the world and their decision-making processes, but with much pragmatism. Youth organisations, which represent the interests and sensitivities of millions of young people in Europe, can therefore play an important role in ensuring that the younger generation not only has a voice in institutions and in civil society, but also the opportunity to make a meaningful and qualified contribution to the decision-making process at local, regional, national and European level <sup>(1)</sup>.

3.7. For these reasons, the EESC emphasises the importance of creating opportunities for all the most representative youth organisations, starting with those representing the most vulnerable young people and those living in the most peripheral and rural areas, to be involved in policy-making and in developing ideas on sustainability issues.

3.8. Youth organisations can fulfil many functions and play a crucial role in disseminating and implementing projects relating to the environment and sustainability. For this reason, the EESC calls on the EU institutions to provide these associations with structural financial support through adequate and specific resources, so that youth organisations have the right conditions to ensure and develop young people's engagement in the green transition.

3.9. Involvement alone, however, is not enough. All public policies must take into account the impact they will have on young people and their expectations, including those of future generations. Therefore, an *ex ante*, *in itinere* and *ex post* evaluation of all investments, including those relating to the green transition, must be carried out in order to establish, with certainty, through the use of indicators, the economic, political and social impacts these will have on young generations.

3.10. The EESC encourages the EU institutions and the Member States to implement measures and mechanisms to ensure that the youth perspective is taken into account in all policy areas, while creating a space for young people to make a coherent and competency-based contribution to the challenges they face through the full adoption of the EU Youth Test <sup>(2)</sup>.

3.11. What is needed, both for the planet and for the advanced development of our Member States, is the empowerment of young people across four pillars: involvement in the processes of change; the possibility of playing an active role by exercising responsibility in individual and collective choices; the improvement of knowledge about the transformations taking place and the inevitable consequences of the green and digital transition; and the development of skills in order to intervene in a qualified manner.

#### 4. The green transition in education and the labour market

4.1. The year 2023 has been declared the European Year of Skills. The EESC considers it crucial to link the initiatives and policies that will be adopted in this context to the theme of the green transition, sustainable development, and the challenges that young people face in a rapidly changing world.

---

<sup>(1)</sup> EESC opinion *Towards structured youth engagement on climate and sustainability in the EU decision-making process* (OJ C 429, 11.12.2020, p. 44).

<sup>(2)</sup> EESC opinion on *The EU Youth Test* (OJ C 486, 21.12.2022, p. 46).

4.2. In the context of the climate and environmental emergency, education for sustainability should become a priority for schools. Educators have an instrumental role to play in ensuring that students are climate literate and have the knowledge and skills they need to take part in the green economy. There are many approaches that teachers and schools can take to explore these issues with students, but this also requires quality education for all and decent work for those providing it. The EESC considers it essential to ensure adequate funding at European, national, regional and local level in order to provide support for projects and initiatives to foster and implement teaching and learning in the fields of the environment and sustainability.

4.3. The topic of the green transition and sustainable development strategies are absolutely cross-cutting. It is therefore necessary to consider education and the development of the skills expected by young people on this issue using a cross-cutting approach that is capable of providing theoretical and practical skills, including by implementing and enhancing school-to-work paths and professional apprenticeships. Training on these topics should also be made structural, by designing and developing it starting from the territories and their needs, within a broader framework at national level and with a view to life-long learning.

4.4. Teaching children about sustainability and environmental protection issues should start at an early age, beginning in pre-school and continuing with dedicated programmes throughout school. It is therefore important that teachers also receive specific training and that they have guaranteed opportunities to update their skills on an ongoing basis.

4.5. Introducing paths of green and cultural transition within the educational processes implies re-asserting the educational role of schools, which are entrusted with the task of supporting civic paths that are capable of teaching students to inhabit the world in a new and sustainable way. Students thus become the protagonists of a change that directs them towards a new model of society that places the environment at the centre and allows them to experiment and disseminate new lifestyles that are in balance with nature.

4.6. The current context, which is constantly and rapidly changing, calls for innovative educational settings by creating a new ecological alphabet that is in line with the goals of the 2030 Agenda and centred on the methods of implementing the circular economy and the tools offered by life-cycle thinking (LCT) <sup>(3)</sup>, which takes into account environmental protection, social and economic development, and the achievement of related objectives.

4.7. The EESC emphasises that everyone needs knowledge to tackle climate change, especially regarding all aspects of sustainable consumption and production, responsible food choices and reduction of food waste, and the use of sustainable energy. Education of young people should be supported by lifelong learning for parents and education of citizens <sup>(4)</sup>.

4.8. The success of the ecological transition will therefore depend on the ability of schools to work in concert with local authorities and out-of-school activities, especially with youth organisations and organised civil society, generating an increase in awareness and participation including among ordinary citizens. In this connection, the EESC judges the experience of the Green Erasmus Project positively and looks forward to it being implemented.

4.9. Awareness, knowledge and positive leadership on environmental protection issues are even stronger among the younger generation, i.e. Generation Z or 'Gen Z' (those under 25) and those with more education and stronger cultural tools. This means that awareness and qualified information are bound to grow and consolidate, but also that the positive responses required can be strengthened by improving young people's education and enhancing their human capital in the social and economic spheres. On the contrary, low educational qualifications and the difficulty in entering the world of work not only slow down the contribution to the country's current growth, but also weaken the role of young people as active participants in new growth processes that are more in line with the challenges of the age in which they live.

---

<sup>(3)</sup> <https://www.lifecycleinitiative.org/starting-life-cycle-thinking/what-is-life-cycle-thinking/>

<sup>(4)</sup> EESC opinion on Empowering youth to achieve sustainable development through education (OJ C 100, 16.3.2023, p. 38).

4.10. There can be no transition without skills. It is crucial to equip workers, both younger and older, with enabling skills to govern the innovation brought about by the green transition that inevitably has, and will have in the future, a significant impact on the world of work. The EESC believes it is important to invest in work-based learning. Work-based learning, i.e. the set of training and learning practices that take place in work contexts, in particular in the form of apprenticeships, represents a decisive asset for the (re)acquisition of skills, both technical and cross-cutting. On-the-job training, internships and apprenticeships are three forms which, in their own and diverse ways, help to create a virtuous dialogue between market needs and the individual skills of young people. The social partners have an essential role to play in achieving this, through social dialogue and collective bargaining.

4.11. The green transition must be a just transition, ensuring reskilling and upskilling for workers and quality jobs for all in order to ensure that no one is left behind. This is why the EESC considers it essential that training policies be holistic, integrated with industrial policies, coordinated with other development strategies, and planned in detail at territorial and local level, in close connection with the social partners.

4.12. There is currently evidence of a lack of such a holistic approach, and of the poor diffusion of green skills and, as a consequence, of green jobs, especially among those with lower educational and skills levels. This runs the risk of generating a new polarisation: between those who possess green skills, and thus enjoy excellent employability in the scenarios opened up by the green transition, and those who instead remain excluded from these training processes, possess limited skills, and are often engaged in operational tasks that risk disappearing due to the combined effect of the green transition and industrial automation.

4.13. Gender equality must also be an integral part of green economy strategies. Young women are underrepresented in technological and scientific fields, because they are unlikely to choose a specialised education in these sectors due to gender stereotypes that see certain jobs as purely male. In order to ensure adequate participation of women in sectors that are undergoing and will undergo in the near future a major development due to the green transition, these stereotypes must be addressed and careers guidance at school can play a crucial role. The EESC believes that the Member States should invest more resources in offering young people careers guidance at school and in supporting them into work through efficient public employment services that are adequately linked to the productive fabric of the territory.

4.14. The development of innovation is a key to the success of the green transition. Encouraging young people with an entrepreneurial attitude in the innovation process through specific training and support for innovative projects and by ensuring adequate financial support is therefore a key aspect when it comes to achieving the objectives.

4.15. The green transition in the European Union could create 1 million new jobs by 2030, but could also lead to between 500 000 and 2 million people becoming unemployed, according to an impact assessment<sup>(5)</sup> by the EU Environment Agency. The EESC considers it a priority for the Member States to invest significant resources, starting with those of the National Recovery and Resilience Plans, in supporting businesses that need to convert their activities, in redeploying workers who have been made redundant, and in supporting entrepreneurs, particularly young entrepreneurs, who intend to invest in green businesses.

Brussels, 22 March 2023.

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

---

<sup>(5)</sup> <https://www.eea.europa.eu/policy-documents/swd-2020-176-final-part>

**Opinion of the European Economic and Social Committee on ‘Wooden construction for CO<sub>2</sub> reduction in the building sector’**

**(exploratory opinion requested by the Swedish Presidency)**

(2023/C 184/04)

Rapporteur: **Rudolf KOLBE**

Co-rapporteur: **Sam HÄGGLUND**

Referral	Swedish Presidency, 14.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	14.12.2022
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	7.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	153/2/4

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) sees bio-based building materials as an important lever to drive the green transition. An increase in the share of wood in construction to reduce carbon emissions must be promoted through active and sustainable forest management in the EU and should be not hampered by policy constraints.

1.2. Given the public sector's capacity to lead by example, the EESC calls on the Member States to increase the use of wood in public buildings, which is below the overall average.

1.3. The EESC also considers that easily accessible support measures to help SMEs research, develop and innovate on alternative building materials are an important means of exploiting the potential of timber construction.

1.4. The EESC suggests that barriers to timber construction arising from formal, legal and technical requirements should be scrutinised as to their necessity with respect to planning quality, and notes that innovations must be able to comply with the state of the art not only by meeting standards, but also through the use of 'equivalent alternative solutions'.

1.5. As different building regulations also create barriers to the use of renewable building materials, the EESC calls for harmonisation measures and sees the New European Bauhaus (NEB) as an important driver in this connection.

1.6. The EESC recommends the consistent use of life cycle assessments for expert sustainability assessments over the whole life cycle of buildings and when comparing environmental impacts.

1.7. The EESC stresses the importance of minimum standards for life-cycle carbon emissions from buildings and for the corresponding carbon reporting requirement across the construction sector.

1.8. The EESC sees the Energy Performance of Buildings Directive (EPBD) as the main policy tool for setting requirements to reduce carbon emissions over the full life-cycle of buildings. The EESC calls on the European Commission to develop a carbon certification scheme that takes full account of the role that wood products play in offsetting emissions.

1.9. The EESC considers it essential to transfer know-how, as envisaged in the NEB Academy, and to provide appropriate training and development at national level. Training and development on the use of new sustainable construction methods and materials is needed for all those involved in the construction process: planners, architects, engineers, technicians, IT specialists and construction workers.

1.10. In the EESC's view, quality-based procurement procedures, including sustainability and life-cycle criteria, as well as the choice of appropriate procurement procedures that allow innovative solutions, are a prerequisite for achieving climate objectives and promoting timber construction. The EESC therefore calls for both a stronger legal obligation with respect to quality-based competition and climate-friendly public procurement as well as for measures to train contracting authorities accordingly.

1.11. The EESC calls on the Member States to participate in the Austrian and Finnish Governments' Wood POP initiative, which aims to mobilise public and private players in the timber sector at national and regional level and to support the reorientation of investments towards sustainable bio-based solutions and timber-based value chains.

## 2. General comments

2.1. The tradition of timber construction is rooted in a centuries-old history of innovation. Among other things, the use of sustainable materials has been included in the thinking behind the New European Bauhaus<sup>(1)</sup>.

2.2. The EESC agrees with the Commission that innovative, bio-based and sustainable (construction) materials, made using low-carbon procedures, are key to the green transition. According to the International Energy Agency (IEA) building report<sup>(2)</sup>, buildings currently account for 33 % of global CO<sub>2</sub> emissions (2021). Most are due, directly and indirectly, to the operation of buildings, but 6,4 % (2021) are caused by construction and the production of building materials. Transport, demolition and infrastructure are not included here. Emissions resulting from transport are attributed to the transport sector. It is fair to assume that actual emissions from construction are higher. According to the Commission, buildings account for around 40 % of energy consumption and one third of greenhouse gas emissions across the EU. Cuts to greenhouse gas emissions are mainly due to energy renovation measures, the growing share of renewable energy sources and the renewal of heating systems. That said, the number of main residences is on the rise, and floor area per dwelling is increasing.

2.3. The EESC stresses the huge importance of forests for the lives of people around the world. For example, Europe's 400 billion trees absorb almost 9 % of its greenhouse gas emissions. The EESC is aware that deforestation is a huge global problem; however, forest resources within the EU are on the increase. Between 1990 and 2020, forest area increased by 9 % and the volume of wood in European forests rose by 50 %<sup>(3)</sup>. The EESC fully supports all of the European Commission's efforts to tackle this global problem and stresses the need to continue promoting healthy and growing forests in the EU. An increase in the share of wood in construction to reduce carbon emissions should be promoted through active and sustainable forest management across the EU and should not be hampered by policy constraints.

2.4. The EESC therefore notes that tapping the potential of both solid and non-solid timber construction in the context of climate action must be inextricably linked to sustainable forest management. The Austrian CareforParis project<sup>(4)</sup>, involving cooperation between the Austrian Research Centre for Forests (BFW), the University of Natural Resources and Life Sciences (BOKU), Wood K Plus and the Environment Agency Austria, has mapped out and analysed different scenarios for forest management. The scenarios take different climate-related changes and adaptation strategies for Austrian forests as a basis, and show possible developments up to the year 2150. The carbon footprint of forests and wood products and the prevention of CO<sub>2</sub> emissions through the use of wood products were analysed in detail. The combination of forest growth, timber use and prevention of greenhouse gas emissions through use of wood products will lead to a positive carbon

<sup>(1)</sup> OJ C 275, 18.7.2022, p. 73; OJ C 155, 30.4.2021, p. 73.

<sup>(2)</sup> IEA (2022) building report at: <https://www.iea.org/reports/buildings>

<sup>(3)</sup> [https://foresteurope.org/wp-content/uploads/2016/08/SoEF\\_2020.pdf](https://foresteurope.org/wp-content/uploads/2016/08/SoEF_2020.pdf)

<sup>(4)</sup> Weiss P., Braun M., Fritz D., Gschwantner T., Hesser F., Jandl R., Kindermann G., Koller T., Ledermann T., Ludvig A., Pölz W., Schadauer K., Schmid B.F., Schmid C., Schwarzbauer P., Weiss G. 2020: Endbericht zum Projekt CareforParis (Final report on the CareforParis project). Climate and Energy Fund, Vienna.

footprint. Europe's forests are an important carbon sink. Between 2010 and 2020, the average annual amount of carbon sequestered in forest biomass reached 155 million tonnes in the European region. In the EU-28, the amount sequestered equates to 10 % of gross greenhouse gas emissions<sup>(5)</sup>. A bigger lever in climate action is the replacement of fossil raw materials and energy sources with wood (in terms of material and energy) and the prevention of emissions associated with it. Providing wood as a substitute for materials with higher life cycle emissions is therefore an important measure in tackling climate change.

2.5. Embodied energy is the energy that must be used for the production, storage, transport, installation and ultimately disposal of materials or components and buildings. Unlike other conventional building materials, wood sequesters carbon before it is used as a building material (a tree consists of approximately 50 % pure carbon). When looking at the carbon footprint of wood, the factors of origin, transport distance and type of processing, as well as reusability, are essential. Comparisons of equivalent buildings over their entire life cycle reveal that, unlike other building materials, wood performs better in terms of embodied energy, greenhouse gas emissions, air and water pollution and other impact indicators. The wood products currently produced each year (= wood used as a material) prevent around 10 % of total annual greenhouse gas emissions through the substitution effect alone.

2.6. More specifically, timber construction can save up to 40 % of CO<sub>2</sub> emissions compared to concrete. When applying the volume-to-weight conversion recommended by Hagauer et al. (2009)<sup>(6)</sup>, the dry weight of 1 cubic metre (m<sup>3</sup>) of wood (mixed softwood and hardwood) is 417 kg. Assuming that the carbon component is 50 %, the CO<sub>2</sub> equivalent is 0,765 tonnes per m<sup>3</sup>. This means that, if 1 million cubic metres of additional ready-to-use wood is harvested, 0,765 million tonnes of CO<sub>2</sub> can be sequestered into permanent products.

2.7. The number of wooden buildings has grown in recent years. In Austria, for example, the proportion of timber constructions<sup>(7)</sup> has increased by more than 70 % in 20 years, accounting for 24 % in 2018 in terms of useful floor area. Of this, 53 % was in the residential sector, 11 % in commercial and industrial construction and 29 % in special-purpose buildings in the agricultural sector. By comparison, the proportion amongst public buildings was only 7 %. In Sweden and Finland, 90 % of all new single-family houses are made of wood, and about 20 % of newly built multi-family houses have a timber construction.

2.8. Increasing urban density can play a key role in combating climate change and inevitably goes hand in hand with taller buildings. Current projects show that timber constructions can reach great heights. Examples of this are the Sara Cultural Centre in Sweden, which has 20 storeys and a height of 75 m<sup>(8)</sup>, and the Ascent Tower in Milwaukee, which has 18 storeys of timber construction<sup>(9)</sup>.

2.9. Today's wood building systems can easily be adapted to provide comprehensive solutions for building renovation, creating high-quality homes and achieving significant energy savings. Renovation projects take advantage not only of the easily available urban infrastructure, but also of the embodied energy already included in the current building stock.

2.10. Using existing reserves instead of adding new buildings means making more efficient use of the resources that a city has to offer, and must therefore be prioritised in principle. The advantages are the speed with which components can be assembled, a better load/weight ratio compared to other materials, and therefore a relatively low self-load on the existing structure.

2.11. Wood is also well suited to cascading use. Having several stages of use increases value creation, reduces resource consumption and means that CO<sub>2</sub> is sequestered for a longer period.

2.12. The formal, legal and technical requirements to ensure planning quality in timber construction are comparatively higher and more comprehensive than for other types of construction. This level of complexity hinders the increase in the market share of timber construction. Standardising components, connections and construction groups can support

---

<sup>(5)</sup> [https://foresteurope.org/wp-content/uploads/2016/08/SoEF\\_2020.pdf](https://foresteurope.org/wp-content/uploads/2016/08/SoEF_2020.pdf)

<sup>(6)</sup> Hagauer, D., B. Lang, C. Pasteiner and K. Nemesthoty (2009), *Empfohlene Umrechnungsfaktoren für Energieholzsortimente bei Holz- bzw. Energiebilanzberechnungen (Recommended conversion factors for energy timber assortments in wood and energy balance calculations)* Federal Ministry of Agriculture, Forestry, Regions and Water Management, Department V/10 — Energy and Environmental Economics, private publisher, Vienna.

<sup>(7)</sup> Share of timber constructions in Austria. A statistical survey of all surface construction projects from 1998–2008–2018. Robert Stingl, Gabriel Oliver Praxmarer, Alfred Teischinger, University of Natural Resources and Life Sciences Vienna, commissioned by proHolz Austria.

<sup>(8)</sup> See the Sara Cultural Centre, Skellefteå, Sweden, White Arkitekter, 2021.

<sup>(9)</sup> See the Ascent Tower, Milwaukee, WIEHAG Austria, 2021.



implementation and ensure cost-effectiveness and quality. One current initiative is the *dataholz.eu* database, which makes tested building components and component connections available online in Germany and Austria. As a matter of principle, the EESC notes that innovations in timber construction must also be able to comply with the state of the art across all sectors, not only through existing standards, but also through the use of 'equivalent alternative solutions'.

### 3. Specific comments

3.1. The EESC notes that, thanks to standardisation, precision and quality, timber construction systems are well suited both to new construction as well as to refurbishing current buildings and making use of existing free space in urban areas. Their many advantages include their adaptability, high level of pre-fabrication, shorter construction times and lower weight compared to other materials.

3.2. A key criterion for assessing buildings is their environmental impact over the entire life cycle. Environmental impacts arise from construction (production and transport of construction products used), use and dismantling (including recycling or disposal of construction products). Environmental impacts are recorded in life cycle assessments (EN 15804:15.02.2022).

3.3. Life cycle assessment is an appropriate tool for assessing the sustainability of construction products. The EESC recommends that the life cycle assessment tool for expert sustainability assessment over the entire life cycle be consistently used for buildings to show and compare their environmental impact.

3.4. In recent years, building regulations concerning the use of renewable building materials have been relaxed. The possibilities for timber construction have grown, particularly when it comes to fire protection. Current projects are exploring this issue.

3.5. The research project TIMpuls<sup>(10)</sup>, led by the Technical University of Munich (TUM), is currently researching fires in multi-storey wooden buildings with the aim of laying solid foundations for a single set of rules for the construction of high-rise wooden buildings.

3.6. Recent research and projects carried out show that timber construction by no means lags behind other design methods when it comes to fire safety and also has benefits in terms of seismic safety<sup>(11)</sup>.

3.7. Different legal rules, even within the Member States, often create unnecessary hurdles. The EESC therefore calls for building regulations to be further harmonised with a view to ensuring parity with other building materials.

3.8. The EESC urges Member States to increase the use of wood in public buildings, which is below the overall average. The public sector has a leading role to play in harnessing the potential of timber construction to achieve climate change objectives. In particular, outstanding, innovative buildings made from timber can be a source of identity and an incentive for the increased use of wood.

3.9. In procurement procedures, criteria such as bio-economy, sustainability, life-cycle costs and climate impact are often not used — or used too little — to identify the best bidder, at the expense of timber construction solutions. The EESC therefore calls for a stronger commitment to include criteria to achieve climate objectives in public procurement.

3.10. In the case of prefabricated timber construction, planning must be almost at the execution stage to avoid any risk of interpretation and to ensure clear comparability. In order to secure advantages in terms of technical and economic optimisation and implementation time<sup>(12)</sup>, consideration must be given to the wide range of products and the influence of manufacturing, logistics and assembly processes at an earlier stage compared to cases of construction using low levels of pre-fabrication. This is possible through the early inclusion of bidder information, with the choice of an appropriate procurement procedure, such as an architectural competition or competitive dialogue, or with the involvement of specialised planners by the tendering party.

---

<sup>(10)</sup> [www.cee.ed.tum.de/hbb/forschung/laufende-forschungsprojekte/timpuls](http://www.cee.ed.tum.de/hbb/forschung/laufende-forschungsprojekte/timpuls) (accessed on 23.1.2023).

<sup>(11)</sup> See the research project on the seismic safety of wooden buildings, Berne University of Applied Sciences, 2020 [www.bfh.ch/de/forschung/referenzprojekte/erdbbensicherheit-holzgebaeude](http://www.bfh.ch/de/forschung/referenzprojekte/erdbbensicherheit-holzgebaeude) (accessed on 23.1.2023).

<sup>(12)</sup> See the leanWOOD research project — Neue Kooperations- und Prozessmodelle für das vorgefertigte Bauen mit Holz (*new cooperation and process models for pre-fabricated construction using wood*), HSLU Hochschule Luzern, 2017.

3.11. The EESC stresses the importance of the New European Bauhaus in promoting high-quality climate-friendly building materials and thereby the use of timber in construction. Currently, timber accounts for only 3 % of building materials in the EU, so the potential of wood construction for climate action is far from being exploited. The EESC therefore considers support for R & D&I relating to alternative building materials under the NEB to be an important element in realising this potential.

3.12. In many cases, users in the construction sector are not always sufficiently aware of the possibilities for using it. A lack of knowledge often leads to only limited use of timber. The EESC therefore considers the transfer of know-how within Europe — as envisaged in the NEB Academy — to be very important, while also recognising the need to ensure that sufficient education and training is provided, including at national level. Training and development on the use of new sustainable construction methods and materials will be needed for all categories of workers involved in the construction process: planners, architects, engineers, technicians, IT specialists and construction workers. It is only with properly trained people that the green transition can be achieved.

3.13. The EESC welcomes the joint European social project RESILIENTWOOD, led by the European Confederation of Woodworking Industries (CEI-Bois) and the European Federation of Building and Woodworkers (EFBWW), which aims to develop recommendations and guidelines for businesses, vocational trainers and public authorities, in order to attract young people to the EU wood industry, adapt to technological changes, and develop workers.

3.14. The EESC believes it is important to publish technical information in order to provide the state of the art in timber construction to all stakeholders and to set construction and structural standards to facilitate timber construction.

3.15. The Energy Performance of Buildings Directive (EPBD) is the main piece of EU legislation in the buildings sector. It requires EU Member States to set performance levels for their buildings, to strategically plan the decarbonisation of their building stock through long-term renovation strategies, and to implement additional measures. The EPBD is therefore the obvious policy tool for setting requirements and clear catalysts for the reduction of carbon emissions over a building's life cycle.

3.16. The provisions of the EPBD must be aligned with the objectives of climate neutrality and identify the most important and urgent measures to be taken by 2050. While it is important to improve the energy performance of buildings, without a clear understanding of their integrated carbon footprint, there is a risk that the measures will be below par.

3.17. The EESC welcomes the Ecodesign Regulation for Sustainable Products proposed in spring 2022 as an important step towards greener, circular products. The establishment of minimum criteria, such as reducing products' environmental and climate footprints, can also be fully applied to timber construction and create economic opportunities for innovation, although timber construction is not currently included in the Regulation.

3.18. Mandatory life-cycle carbon reporting for the construction sector will facilitate data collection and benchmarking and enable the construction sector to develop the necessary skills and capacities. Binding minimum standards for life-cycle carbon emissions need to be introduced and strengthened over time. The EESC calls on the European Commission to develop a carbon certification scheme that takes full account of the role that wood products play in offsetting emissions.

3.19. The EESC calls on the Member States to fully participate in the Austrian and Finnish Governments' new Wood POP initiative, which is a platform to promote dialogue on wood-related policy aimed at mobilising key public and private players in the timber sector at national and regional level, while supporting the reorientation of investments towards sustainable bio-based solutions and wood-based value chains.

3.20. In its complementary opinion CCMI/205 *Industry 5.0 in the wooden construction sector*, the EESC stresses that wood as a building material provides a great opportunity as it is a sustainable and cost-effective alternative to traditional materials such as concrete and steel. Another advantage is the high labour productivity, which allows for faster and more efficient building work. Moreover, timber construction provides employment opportunities in rural areas. It also offers environmental benefits as wood is a renewable resource and generates fewer carbon emissions than other materials both during production and throughout its life cycle. Timber construction also promotes the conservation and maintenance of forests and thus helps to reduce greenhouse gases.

Brussels, 22 March 2023.

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

---

## ANNEX

The supplementary opinion of the Consultative Commission on Industrial Change — ‘Industry 5.0 in the wooden construction sector’ can be found on the following pages:

**Opinion of the Consultative Commission on Industrial Change on ‘Industry 5.0 in the wooden construction sector’**

**(supplementary opinion to TEN/794)**

Rapporteur: **Martin BÖHME**

Co-rapporteur: **Rolf GEHRING**

Plenary assembly decision	15.11.2022
Legal basis	Rule 56(1) of the Rules of Procedure Supplementary opinion
Section responsible	Consultative Commission on Industrial Change (CCMI)
Adopted in CCMI	27.2.2023
Outcome of vote (for/against/abstentions)	29/0/3

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) stresses that the use of wood as a building material presents a great opportunity, as it is a sustainable and cost-effective alternative and complement to traditional building materials such as concrete and steel. Another advantage is the high labour productivity of timber construction, which allows for faster and more efficient construction of buildings. The possibility of prefabricating components in factories also reduces costs and increases safety during construction.

1.2. Education, training and lifelong learning of the workforce in the field of timber construction is more important than ever. Education and training must be the result of social dialogue with the involvement of all social partners.

1.3. The EESC sees significant opportunities for workers, especially in rural areas, in the development of the timber construction sector. Good jobs in the wood industry and timber construction can help to improve the economic situation in rural areas where the wood industry plays an important role.

1.4. The EESC underlines the many environmental benefits of timber construction. One of the biggest advantages is that wood is a renewable raw material that produces lower carbon emissions than other building materials in the production of components and buildings, and over their life cycle. Furthermore, the use of wood in the construction sector promotes the conservation and maintenance of forests, by providing incentives for sustainable forest management. Wood absorbs and stores CO<sub>2</sub> from the atmosphere as it grows. Thus, when it is used for building, it becomes a green building material and contributes to the overall reduction in greenhouse gases.

1.5. The EESC refers to its recent publications on construction and construction products, in particular opinions *Harmonised conditions for the marketing of construction products*<sup>(1)</sup> and *Wooden construction for CO<sub>2</sub> reduction in the building sector*<sup>(2)</sup>.

<sup>(1)</sup> OJ C 75, 28.2.2023, p. 159.

<sup>(2)</sup> *Wooden construction for CO<sub>2</sub> reduction in the building sector* (see OJ, p. 18).

1.6. The use of wood in the construction sector reinforces the view of the anti-seismic behaviour of wood as it was manifested in certain cases such as the earthquake in Alaska in 1964. The EESC believes that people living in earthquake-prone areas should be encouraged to use wood as a building material.

## 2. General comments

2.1. This opinion complements the general comments made in opinion TEN/794 on *Wooden construction for CO<sub>2</sub> reduction in the building sector*.

2.2. The construction sector is a major contributor to greenhouse gas emissions, and thus an important factor in terms of damage to the climate. The emissions come mainly from the use of fossil fuels for the production of heat and electricity in buildings, and from the production of building materials. There is a real need for measures to reduce greenhouse gas emissions in the construction sector, e.g. by using renewable energies, improving the energy performance of buildings, and using sustainable building materials <sup>(3)</sup>.

2.3. The EESC highlights that, in order to increase the importance of sustainably produced wood as a building material in the construction industry, the need for sustainable forest management for the production of wood as a raw material should be emphasised. Sustainable forest management involves managing and using forests in such a way that they are not only environmentally, but also economically and socially, sustainable. This means that forests are preserved for both current and future generations, and that natural resources are used responsibly. One important element of sustainable forest management is preserving forests' biodiversity and ecosystem services. It is also important to reduce forests' vulnerability to natural disruptions such as forest fires and insect infestations.

2.4. From a technical point of view, timber construction requires the input of much less 'grey energy' than other building materials such as concrete. Grey energy is the energy used to produce, transport, store and recycle products; reducing it means using less energy for these processes, leading to lower carbon emissions and more sustainable energy consumption, and can also help to improve the competitiveness of businesses.

2.5. The EESC notes that legislation sometimes hinders the development of timber construction by restricting the use of wood as a building material or by imposing certain rules and standards that are difficult or expensive to implement in timber construction. One example of this is the height limit that some countries impose for wooden buildings; this may limit the possibilities for timber construction and hinder the development of innovative wooden structures. When it comes to fire protection of buildings, it is unacceptable that wood is subject to different performance rules from other materials. The EESC advocates homogenising the rules at European level, regardless of the material.

2.6. Timber construction can make an important contribution to developing a more circular economy and in particular to the objective of a more bio-based economy, as set out in the relevant EU policies. The applications and material properties of wood and wood-based products need to be further developed in this regard. In particular, the recyclability of wood products plays an essential role in this connection, but combinations of wood with other materials will also become increasingly important. Action, coordinated and supported at European level, to promote research cooperation in the fields of material properties and composite materials can play an important role here and stimulate innovation.

2.7. The transformation of our industries towards the concept of Industry 5.0 has a social foundation, but also a strong technical side. Digitalisation (building information modelling), robotisation and machine learning (artificial intelligence) will transform the entire value chain, from forestry to construction, maintenance and recycling. This requires a legal framework with regard to general product requirements, requirements for construction products and standardisation. They need to be coordinated in the field of timber construction. In line with the social objectives outlined for Industry 5.0, technological developments and work organisation concepts should follow a human-centred approach to technology design. It will also be important to systematically consider the potential positive or negative effects for a healthy working and living environment, from the very first step of technological development.

---

<sup>(3)</sup> See *Kreislaufwirtschaft für die Dekarbonisierung des EU-Bausektors — Modellierung ausgewählter Stoffströme und Treibhausgasemissionen* [The circular economy and decarbonisation of the EU construction sector — modelling selected material flows and greenhouse gas emissions]. Meta Thurid Lotz, Andrea Herbst, Matthias Rehfeldt.

2.8. The EESC notes that technological and material changes in timber construction will also change the organisation of work and the skills required. This creates overlaps between the construction and timber sectors and between traditional occupations in these two sectors. Adjustments to the existing curricula for individual occupations, or even redesigning occupations, are a must in this regard and should be coordinated at European level. The objective of attractive occupations with a wide range of tasks and corresponding organisation of the work will also help to make the construction and timber sectors more attractive.

2.9. The EESC believes that, due to the rapid changes in working methods (digitalisation, robotics, artificial intelligence, new machineries), education, training and lifelong learning of the workforce in the field of timber construction is more important than ever. Education and training must be the result of social dialogue with the involvement of all social partners.

### 3. Specific comments

3.1. Increasing levels of timber construction can be expected to make a significant contribution to strengthening regional value chains and reducing environmental footprints. From a materials point of view, timber construction presents a very effective contribution to developing a bioeconomy, particularly if there is a greater emphasis on care and maintenance throughout the entire lifecycle of timber construction, including design. In addition, in order to avoid environmental displacement effects, wood should only be sourced from places that have certified forest land (under the FSC and PEFC forest certification schemes) and whose raw wood production potential exceeds their own needs.

3.2. The EESC considers the nature of land requirements for timber production and the type of management (intensive, extensive, monoculture, organic) and sourcing (conventional or sustainable) to be of key importance for the sustainability of timber construction as a whole. Particularly in view of the desire to increase the level of timber construction in the construction sector, it is crucial, when increasing the amount of land used and converting land to wood production, to take consistent account of sustainability and biodiversity objectives.

3.3. Tests on the ground show that, from a life cycle assessment point of view, timber construction has proved to be more advantageous overall than other construction methods, such as reinforced concrete. In particular, it performs significantly better on the impact indicator for assessing global warming potential, producing only 57 % of the potential of reinforced concrete construction<sup>(4)</sup>.

3.4. The EESC highlights that analysis of studies distinguishing timber construction from solid construction has shown that, in almost all cases, timber construction may have a lower environmental impact in the life cycle indicators (a) primary energy demand (total and non-renewable) and (b) global warming potential. This is independent of the construction materials chosen for the solid construction and of the specific type of timber construction<sup>(5)</sup>.

3.5. The level of prefabrication in timber construction is much higher than in solid construction, which means that work on site is less weather dependent, and a larger proportion of the construction is carried out in optimal working conditions in the workshop. However, the higher degree of vertical integration requires more planning and thus a longer planning lead time.

3.6. The EESC notes that the shorter construction times in timber construction result in lower construction site overheads and shorter periods of provision. Prefabrication allows for fewer transport journeys to the site. Particularly on sites with potential in urban areas, timber construction can quickly create new living space, for example by adding new storeys or extensions.

3.7. Timber construction allows larger living spaces with the same external dimensions, because it often incorporates the insulation into the loadbearing structure, whereas they are separate in the case of solid construction. This means that timber construction allows for a slimmer external wall with the same thickness of insulation.

3.8. The EESC expects timber construction to offer additional potential in other, non-residential types of building use (e.g. office, storage and laboratory buildings), as well as in housing.

---

<sup>(4)</sup> <https://www.berlin.de/nachhaltige-beschaffung/studien/holz-versus-stahlbetonbauweise/>

<sup>(5)</sup> Potentiale von Bauen mit Holz [*Potential of building with timber*]. German Environment Agency. p. 25.

3.9. The EESC notes that, as with all types of construction, high-quality design and execution is of great importance for the life cycle of the structure. This requires, in particular, well-trained architects and engineers, and a European planning directive that provides the right regulatory framework to support the professions. In the planning sector in particular, it must be ensured, via changes to the law and appropriate training for contracting entities, that contracts for services are awarded using quality-based competition <sup>(6)</sup>.

3.10. Taking into account the latest effects of the earthquakes in Turkey but also from previous earthquakes as well as the forecasts of experts for upcoming events, the EESC believes that people living in earthquake-prone areas should be encouraged to build wooden houses and buildings.

3.11. In manufacturing companies, production can be optimised and simplified using Industry 5.0 technologies, leading to a reduction in energy use and thus in carbon emissions from the production process. In addition, the prefabrication of components in factories means that construction sites can be made more efficient and produce less waste, as the components only need to be assembled on site. This leads to a reduction in energy consumption for transport and in the amount of waste generated <sup>(7)</sup>.

Brussels, 27 February 2023.

*President*  
*of the Consultative Commission on Industrial Change*  
Pietro Francesco DE LOTTO

---

---

<sup>(6)</sup> See *Holzbau vs. Massivbau — ein umfassender Vergleich zweier Bauweisen im Zusammenhang mit dem SNBS Standard* [Timber construction v. solid construction — a comprehensive comparison of two construction methods in relation to the Swiss sustainable building standard SNBS]. Daniel Müller.

<sup>(7)</sup> See Koppelhuber, J., Bok, M. (2019). 'Paradigmenwechsel im Hochbau' [*Paradigm shift in building construction*]. In: Hofstadler, C. (ed.) *Aktuelle Entwicklungen in Baubetrieb, Bauwirtschaft und Bauvertragsrecht* [Current developments in construction and in construction contract law]. Springer Vieweg, Wiesbaden. [https://doi.org/10.1007/978-3-658-27431-3\\_19](https://doi.org/10.1007/978-3-658-27431-3_19)

## III

*(Preparatory acts)*

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

577TH PLENARY SESSION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE,  
22.3.2023-23.3.2023**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act)’***(COM(2022) 720 final – 2022/0379 (COD))***and 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 a strengthened public sector interoperability policy – Linking public services, supporting public policies and delivering public benefits – Towards an “Interoperable Europe”’***(COM(2022) 710 final)**(2023/C 184/05)*Rapporteur: **Vasco DE MELLO**

Referral	(a) European Parliament, 21.11.2022 (b) Council of the European Union, 25.11.2022
Legal basis	(a) Article 172 of the Treaty on the Functioning of the European Union TFEU (b) Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	10.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	200/0/3

**1. Conclusions and recommendations**

1.1. Like the Commission, the European Economic and Social Committee (EESC) believes that interoperability between public services is an essential requirement for a digital single market to be established.

1.2. However, achieving this objective must not involve Member States adopting a policy of complete digitalisation of public services to the detriment of those provided in person; it should take into consideration the most vulnerable population groups. Training on digital skills should be available to everyone, but in particular to these population groups.



1.3. Instead of reducing personnel, the development and operation of digital services will, initially, create an additional need for personnel. Adequate staffing is a prerequisite for a successful digital transformation.

1.4. The EESC is pleased to note that digitalisation of public services developed considerably during the pandemic.

1.5. The EESC supports the creation of a governance model for this policy, consisting of two key bodies — the Interoperable Europe Board and the Interoperable Europe Community.

1.6. The EESC welcomes the fact that the communication provides for the design of experimental solutions allowing for partnerships between the public sector and innovative technology companies and start-ups, with a view to creating innovative experimental solutions which could be applied in and shared by public services.

1.7. The EESC considers it important for future funding programmes for public service interoperability projects to make granting of funding conditional on adopting the principles and structures advocated by the European Interoperability Framework.

1.8. While welcoming the fact that this process fits into the so-called dual transition, the EESC warns that some technological solutions for digitalisation could be highly energy-intensive.

1.8.1. The EESC believes that, with the necessary care taken, data protection cannot be allowed to be an obstacle to either public services or private individuals creating new interoperable solutions.

1.8.2. Moreover, the EESC believes that access to data, whether for people, businesses or other public services, should be subject to different levels of authorisation in order to safeguard data confidentiality and to ensure that only data that is strictly necessary is disclosed.

## 2. Background

2.1. The creation of an internal market, i.e. an area of free movement of people, goods, services and capital, entails dismantling all existing national barriers.

2.2. Since its establishment, and more insistently after the creation of the single market, the European Union has been seeking to dismantle any kind of barrier that could hinder the creation of a genuine internal market.

2.3. For a genuine internal market to exist, people and businesses need to have fast, easy access to and interaction with public services in the Member States, whether at local, regional or national level.

2.4. Moreover, the existence of an open area like the European space requires data sharing and cooperation between government bodies at all levels.

2.5. Since the 1990s, the Commission has sought to take steps to build and maintain interoperability <sup>(1)</sup> or, even better, interconnectivity between the Member States' various public services <sup>(2)</sup>.

---

<sup>(1)</sup> Public sector interoperability is defined as being 'what enables administrations to cooperate and make public services function across borders, across sectors and across organisational boundaries'. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a strengthened public sector interoperability policy Linking public services, supporting public policies and delivering public benefits Towards an 'Interoperable Europe'.

<sup>(2)</sup> With Decision No 1719/1999/EC of the European Parliament and of the Council, a Commission initiative on public service interoperability was launched, which consisted of a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations.

- 2.6. This need has increased over time as the internal market has moved to a new, digital way of operating <sup>(3)</sup>.
- 2.7. Digitalisation is a genuine revolution, both in people's habits and in the way businesses and public administration operate.
- 2.8. In recent years, a number of public services in the Member States that previously were only provided in person have also been provided digitally, bringing enormous benefit for both people, businesses and the public services themselves, enabling huge savings, both in working hours and in financial costs.
- 2.9. The COVID-19 crisis has accelerated this trend by demonstrating that interoperability between the various European public services could become a useful tool for implementing the free movement of people, as happened with the COVID certificate.
- 2.10. The European Union recognises that digitalisation of the public sector, given its contribution to GDP <sup>(4)</sup>, could be a key factor in the European digitalisation process, not only because of its leverage capacity in relation to other sectors, but also as a leading factor in this process in the context of the European economy.
- 2.11. As a result, the recovery and resilience plans provide for public investment for the digitalisation of public administration amounting to a total of EUR 47 billion.
- 2.12. The European Union, through the Commission, and the Member States' governments have recognised over time the need to deepen the interoperability and interconnectivity of national public services, among themselves and between these services and those of the European Union <sup>(5)</sup>, so that people and businesses throughout the EU can access these services wherever they are.
- 2.13. While public service interoperability is not a new topic <sup>(6)</sup>, this communication seeks to create a more formal, more stable and more secure framework for cooperation, leading to further deepening of the existing interconnectivity between the digital systems of the various national public services and between them and the European Union's own services <sup>(7)</sup>. This should act as a catalyst for achievement of this objective, so that in 2030 public services in the European Union are provided 100 % online, as proposed in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — 2030 Digital Compass: the European way for the Digital Decade (COM(2021) 118).
- 2.14. To this end, the communication which is the subject of this opinion sets out the following key pillars for the implementation of a coherent approach in this area, namely:

— creation of an interoperability governance structure made up of two bodies (the Interoperable Europe Board and the Interoperable Europe Community), which is designed to allow public administrations to collaborate at both general (European, national, regional and local) and sectoral (justice, transport, internal affairs, health, ecology, etc.) levels, as well as with private stakeholders — with a mandate to reach an agreement on shared interoperability solutions (e.g. frameworks, open specifications, open standards, applications or guidelines);

---

<sup>(3)</sup> The building of a digital internal market has created an urgent need not just to remove barriers to its existence but also to create mechanisms to prevent new barriers from arising.

<sup>(4)</sup> According to Eurostat figures for 2022, the public sector accounts for 53,1 % of European GDP — *Government finance statistics — Statistics Explained* (europa.eu).

<sup>(5)</sup> For example, see the final declarations of the inter-ministerial meetings held in Tallinn (2017), Berlin (2020) and Strasbourg (2022).

<sup>(6)</sup> In 2010, the Commission presented the Communication *Towards interoperability for European public services* (COM(2010) 744 final), which was the subject of EESC opinion TEN/448-449 and the implementation of which was supported by the programme on interoperability solutions for European public administrations (ISA) — Decision 922/2009/EC of the European Parliament and of the Council, succeeded in 2015 by the ISA<sup>2</sup> programme — Decision (EU) 2015/2240 of the European Parliament and of the Council, and the Digital Europe Programme — Regulation (EU) 2021/694 of the European Parliament and of the Council.

<sup>(7)</sup> The Commission proposal acknowledges that the voluntary approach taken thus far is not sufficient to achieve the proposed interoperability objectives.

- introduction of a mandatory assessment of any impact on cross-border interoperability of introducing or altering a public service information system;
- co-creation of an ecosystem of interoperability solutions for the EU public sector (introduction of catalogues of recognised interoperability assets that can be used by administrations and in policymaking, such as digital tools, specifications or solutions), so that public administrations at all levels in the EU and other stakeholders can contribute to the creation, improvement and re-use of such solutions, thus enabling them to innovate together and create public value;
- making granting of certain European Union funding for creating or strengthening national information systems conditional on using solutions and principles pre-defined by the European Union <sup>(8)</sup>.

### 3. General comments

3.1. Like the Commission, the EESC believes that interoperability between public services is an essential requirement for a digital single market to be established and for remaining barriers in the physical market to be removed <sup>(9)</sup>.

3.2. Setting a target of 2030 for public services being delivered 100 % online across the European Union entails speeding up and upgrading a trans-European network that connects them and uses common technical, semantic, legal and organisational components, among others.

3.3. However, achieving this objective must not lead to a national policy of complete digitalisation of public services to the detriment of those provided in person; it should take into consideration the most vulnerable population groups, since everyone must have access to public services provided in person. Training on digital skills should be available to everyone, but in particular to these population groups.

3.4. Instead of reducing personnel, the development and operation of digital services will, initially, create an additional need for personnel. Adequate staffing is a prerequisite for a successful digital transformation.

3.5. Digitalisation should serve to provide a better public service.

3.6. As the EESC stated in its earlier opinion, 'it should not ... be about replacing people with computers, but rather about freeing up people's time for more rewarding tasks' <sup>(10)</sup>.

3.7. Digitalisation and the use of artificial intelligence are not a means of legitimising blanket job cuts. The elimination of routine tasks due to digitalisation should lead to employees having more time for demanding work and advising people.

3.8. In addition, in 2030 there will certainly be a minority of digitally excluded people who will only have access to public services in person <sup>(11)</sup>. Analogue access routes for people to use public services must not be made more difficult or closed in the course of digitalisation.

3.9. The EESC therefore welcomes the fact that this communication seeks to deepen and improve the level of interoperability of the public sector by establishing a legal framework defined at EU level <sup>(12)</sup>.

---

<sup>(8)</sup> See the explanatory document accompanying the proposal for a regulation and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a strengthened public sector interoperability policy Linking public services, supporting public policies and delivering public benefits Towards an 'Interoperable Europe'.

<sup>(9)</sup> Already in its opinion TEN/635 — European Interoperability Framework — Implementation Strategy, the EESC pointed out the importance of interoperability for the completion of the digital single market (OJ C 81, 2.3.2018, p. 176).

<sup>(10)</sup> See EESC Opinion on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European eGovernment Action Plan 2011-2015 — Harnessing ICT to promote smart, sustainable and innovative Government', and on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Towards interoperability for European public services' (OJ C 376, 22.12.2011, p. 92).

<sup>(11)</sup> This is an ongoing concern addressed by EESC opinions (OJ C 81, 2.3.2018, p. 176).

<sup>(12)</sup> The EESC has expressed its support in previous opinions for all European Union projects aimed at achieving the objectives of the European Union's digital transition (OJ C 365, 23.9.2022, p. 13).

3.10. The EESC recognises that this deepening of interoperability will bring enormous benefits both for citizens — particularly cross-border workers — and businesses and for Member States' public administrations themselves.

3.11. However, in order for these benefits to be truly effective, as the Commission acknowledges, it is not enough to lay down technical rules making interconnection of services possible. Sufficient national public investment is needed at all levels.

3.12. Coordination is needed both in law-making and between sectoral service networks in order to avoid, on the one hand, the results obtained from interoperability being rendered ineffective by unnecessary bureaucracy, and, on the other hand, the same data being provided more than once by citizens or businesses to different public services, resulting in duplication of procedures and unnecessary costs.

3.13. On the other hand, there should be no national barriers to digital public services making it impossible for them to be used across borders, either in their connectivity or interoperability, with citizens and businesses from other Member States or with other public services belonging to other Member States <sup>(13)</sup>.

3.14. The EESC is pleased to note that digitalisation of public services developed considerably during the pandemic and lockdowns.

3.15. To this end, we welcome the fact that the communication in question seeks to achieve a line of coherence between all interoperability policies, both national policies and European sectoral policies, to be achieved by encouraging use of common models, sharing of technical specifications and other shareable solutions.

3.16. For the same reasons, the EESC supports the principle of reuse and transmission of elements and data by the various public services, both European and national.

3.17. The EESC is also concerned about use of languages when it comes to interoperability of public services. The language regime should not be a bureaucratic barrier, and it needs to be ensured that data and information sharing take place in a language that can be understood by all.

3.18. The EESC supports the creation and institutionalisation of a governance model for this policy, consisting of two key bodies. These are the Interoperable Europe Board, to be chaired by the Commission and made up of representatives of all the Member States, a representative of the Committee of the Regions and a representative of the European Economic and Social Committee, and the Interoperable Europe Community made up of elements of civil society and the private sector <sup>(14)</sup> <sup>(15)</sup>.

3.19. The EESC considers it important to involve civil society, particularly the social partners, in interoperability policymaking, not just because people and businesses are the end target groups for this policy, but also because civil society can contribute new technological solutions to the policy which would not be achievable through the public sector.

3.20. The EESC believes that civil society should be involved at various levels, and the Commission should encourage and provide incentives for Member States to promote this involvement at different levels — national, regional and local.

3.21. The EESC welcomes the Commission's creation of a single access point, with the aim of concentrating and centralising all knowledge and solutions relating to interoperability. These can be provided by both public and private entities.

---

<sup>(13)</sup> One matter that could become an obstacle to cross-border interoperability of public services is personal data.

<sup>(14)</sup> The Interoperable Europe Board is tasked with designing measures and with supporting, advising and monitoring European interoperability policies, while the Interoperable Europe Community will bring together elements of civil society to assist the Interoperable Europe Board in finding and defining any new solutions it may put forward.

<sup>(15)</sup> The option currently adopted by the Commission is in line with the recommendations made by the EESC in previous opinions (OJ C 81, 2.3.2018, p. 176).

3.22. Like the Commission, the EESC believes that EU public services should reduce their dependence on digital infrastructure provided by third countries, which jeopardises European digital sovereignty.

3.23. To this end, we stress that the Commission considers that open systems should be used, preferably as open-source software, allowing solutions to be shared between developers.

3.24. In this regard, the EESC welcomes the fact that the communication provides for and encourages the design of experimental solutions allowing for partnerships between the public sector and innovative technology companies and start-ups, with a view to creating innovative experimental solutions, which, after a successful testing phase, could be applied in and shared by public services.

3.25. The EESC considers it important for future funding programmes for public service interoperability projects to make granting of funding conditional on adopting the principles and structures advocated by the European Interoperability Framework.

3.26. This will be a good way to force public services to adopt common standards for interoperability on a voluntary basis.

3.27. The EESC is surprised to see that, unlike previous communications <sup>(16)</sup>, this communication makes no mention of the benefits that interoperable European public systems can bring to the fight against fraud, which will result in efficiency and revenue gains for the Member States.

3.28. In this respect, the EESC stresses that interoperable systems should be accompanied by the use of artificial intelligence, which could assist public services in data analysis and, in addition, allow alerts and warnings to be created to be sent to various public services in the Member States.

3.29. Finally, we have two last comments on the green transition and data protection:

3.29.1. One of the objectives of the communication is to incorporate the strategy for public systems interoperability into the green, as well as the digital, transition strategies.

3.29.2. The EESC points out that some highly-effective IT solutions may be highly energy-intensive.

3.29.3. This applies to blockchain technology, which, although very effective in terms of security, for example, of sensitive data, is a large consumer of energy resources.

3.29.4. The EESC welcomes the way in which regulation for regulatory sandboxes has been achieved in this regard in the communication.

3.29.5. The EESC believes that, with the necessary care taken, data protection cannot be allowed to be an obstacle to either public services or private individuals creating new interoperable solutions.

3.29.6. Moreover, the EESC believes that access to data, whether for people, businesses or other public services, should be subject to different levels of authorisation in order to safeguard data confidentiality and to ensure that only data that is strictly necessary is disclosed.

3.29.7. This would avoid issues such as those that have arisen recently concerning the accessibility of data contained in the Central Register of the Effective Beneficiary, which have already been the subject of a ruling by the Court of Justice of the European Union.

Brussels, 22 March 2023.

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

---

<sup>(16)</sup> See the Annex to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions European Interoperability Framework — Implementation Strategy.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a directive of the European Parliament and of the Council harmonising certain aspects of insolvency law’**

(COM(2022)702 final – 2022/0408 (COD))

(2023/C 184/06)

Rapporteur: **Sandra PARTHIE**

Co-rapporteur: **Philip VON BROCKDORFF**

Referral	European Parliament, 26.1.2023 Council of the European Union, 30.1.2023
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	10.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	207/0/3

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) underlines that a properly designed insolvency regime should help viable businesses to remain operational, avoiding their premature liquidation. The aim should be to find a balance between premature insolvency and proceedings starting too late. Transparency of proceedings, as well as easy access to information of a business' performance, are key factors in this context. Furthermore, a properly designed insolvency scheme should also discourage lenders from issuing high-risk loans, and managers and shareholders from resorting to such loans as well as taking other reckless financial decisions <sup>(1)</sup>.

1.2. The EESC believes that insolvency reforms aimed at encouraging debt restructuring and internal reorganisation help to preserve jobs while at the same time reduce both failure rates among small and medium-sized enterprises, as well as the liquidation of profitable businesses. However, the EESC would welcome proposals to address the outstanding issue of the insolvency of natural persons.

1.3. The EESC doubts whether the proposal, which is presented as an important step in closing relevant gaps for the improvement of the EU's Capital Market Union, can actually fulfil this expectation. The proposal falls short of providing a harmonised definition of insolvency grounds and the ranking of claims, both of which are key to achieving greater efficiency and limiting the existing fragmentation in national insolvency rules.

1.4. The EESC therefore urges the Commission, the Parliament and the Council to revise the proposal in Article 27 to oblige counterparties, e.g. suppliers to a business that is entering insolvency proceeding, to sign executory contracts, which are then assigned to the acquirer of the business without the consent of the counterparty. This, in effect, binds them artificially to a contract partner they have never chosen nor vetted and curtails their entrepreneurial freedom. Restraining contractual rights of termination in the case of insolvency will reduce the willingness of vital suppliers to provide credit, especially in the case of MSMEs facing financial difficulties.

1.5. That said, the EESC welcomes the proposal to introduce a special procedure to facilitate and speed up the winding down of microenterprises, allowing for a more cost-efficient insolvency process for such enterprises. These arrangements also support the orderly winding down of 'asset-less' microenterprises, and address some Member States' rejection of access to insolvency proceedings if the projected recovery value is below the judicial costs. The EESC underlines that this covers approximately 90 % of insolvencies in the EU and therefore considers this procedure to be highly significant.

---

<sup>(1)</sup> The World Bank, Resolving Insolvency, accessed 3 January 2023.

1.6. While the EESC endorses this special procedure, we caution that the requirements for national courts to carry out these tasks can lead to an overburdening of national judicial systems, if they are made responsible for assessing whether a microenterprise is indeed insolvent, and for conducting the necessary lengthy proceedings, including the realisation of assets and distribution of the proceeds. The EESC therefore recommends resorting to other competent players, such as insolvency practitioners, to help reduce the burden on the judiciary<sup>(2)</sup>.

1.7. Finally, the EESC would like to point out that inefficient insolvency proceedings can result in higher levels of non-performing loans (NPLs) putting financial stability at risk and also having an impact on credit, inflation, and real GDP. The EESC is of the view that efficient insolvency and creditor/debtor rights (ICR) regimes are one of the complementary tools in the policy maker's arsenal to contain the growth of NPLs by increasing loan repayment probability and by adjusting NPL levels more quickly.

## 2. Gist of the Commission proposal

2.1. The objective of the proposal is to reduce differences in national insolvency laws and hence address the issue of potentially inefficient insolvency frameworks in Member States where such differences occur increasing the transparency of insolvency proceedings in general and reducing obstacles to the free movement of capital. By harmonising targeted aspects of insolvency laws, the proposal aims, in particular, to reduce information and learning costs for cross-border investors. More uniform insolvency laws should, it is hoped, thus expand the choice of funding available to companies across the Union.

2.2. The current proposal aims to close some gaps in previous EU legislation on insolvency rules, i.e. Directive (EU) 2019/1023 of the European Parliament and of the Council<sup>(3)</sup> and Regulation (EU) 2015/848 of the European Parliament and of the Council<sup>(4)</sup>, in particular as regards the recovery of assets from the liquidated insolvency estate, the efficiency of proceedings and the predictable and fair distribution of recovered value among creditors. This includes issues relating to avoidance actions, asset tracing, directors' duties and liability, the sale of a company as a going concern through 'pre-pack proceedings', the insolvency trigger, a special insolvency regime for micro and small enterprises, the ranking of claims and creditors' committees.

2.3. It has been observed that across the existing national insolvency rules in the Member States, there are significant variations in the time it takes to liquidate a company and the value that can eventually be recovered. In some Member States, this leads to lengthy insolvency procedures and a low average recovery value in liquidation cases. According to the European Commission, this constitutes a hurdle for the capital markets union and for cross-border investments within the EU.

## 3. General comments

3.1. The EESC welcomes the Commission's proposal for more transparency and availability of information concerning cross-border insolvency rules and proceedings. The EESC is of the view, however, that this proposal constitutes only a first step towards achieving convergence of insolvency regimes across the EU Member States. The EESC would also welcome proposals to address the outstanding issue of the insolvency of natural persons.

3.2. The EESC underlines that a properly designed insolvency regime should help viable businesses to remain operational, avoiding their premature liquidation. It should also discourage lenders from issuing high-risk loans, and managers and shareholders from resorting to such loans as well as taking other reckless financial decisions<sup>(5)</sup>. A firm impacted by a temporary economic downturn or a wrong decision may still be turned around if the economic situation improves or corrective measures are taken by the firm. When this happens, all stakeholders benefit. Creditors can recover a larger part of their investment, more workers keep their jobs and the network of suppliers and customers is preserved.

---

<sup>(2)</sup> The World Bank, Principles for effective Insolvency and Creditor/debtor Regimes, revised Edition 2021, principles c6.1 and c19.6.

<sup>(3)</sup> Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (OJ L 172, 26.6.2019, p. 18).

<sup>(4)</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

<sup>(5)</sup> The World Bank, Resolving Insolvency, accessed 3 January 2023.

3.3. In this context, the EESC points to studies showing that effective reforms of creditor rights are associated with lower costs of credit, increased access to credit, improved creditor recovery and more effective job preservation<sup>(6)</sup>. The participation rights of a creditors' committee, possibly involving an employee representative, should also be strengthened. If, at the end of insolvency proceedings, creditors can recover most of their investments, they can continue reinvesting in firms and improving companies' access to credit. Similarly, if a bankruptcy regime respects the absolute priority of claims, secured creditors can continue lending and confidence in the bankruptcy system is maintained<sup>(7)</sup>.

3.4. The EESC is of the view that insolvency reforms aimed at encouraging debt restructuring and internal reorganisation, help the preservation of jobs, and reduce both failure rates among small and medium-sized enterprises and the liquidation of profitable businesses.

3.5. The significant disparities in national insolvency laws are often cited as obstacles to cross-border investments, as are taxation regulations. The EESC believes that greater degrees of convergence in insolvency laws would help achieve a better functioning of capital markets, thus facilitating investment across the EU. However, the proposal falls short of harmonising core aspects of insolvency law, such as a harmonised definition of insolvency grounds and the ranking of claims, both of which are key to achieving greater efficiency and limiting the existing fragmentation in national insolvency rules. This does not augur well for achieving the much-needed but ambitious goal of a Capital Markets Union.

3.6. The EESC nonetheless underlines its unwavering support for a more open EU-wide capital market which provides a broader range of access to investment for companies, and acknowledges the Commission's and the World Bank's findings<sup>(8)</sup> that an increase in the recovery rate of assets in the context of greater insolvency and creditor rights (ICR) effectiveness, widens access to credit for European companies.

#### 4. Specific Comments

4.1. The EESC acknowledges that insolvency proceedings differ significantly from Member State to Member State, with national regulation favouring either a more 'debtor in possession' or a more 'creditor's rights' approach, or one that prioritises employment and employment legislation. This leads to different preferences regarding the liquidation of companies, the ranking of claims by creditors and the roles of company directors, insolvency practitioners and courts. Equally, when designing policies, account must be taken of differences between shareholders and debt-holders; while the former are mostly responsive to prevention and streamlining tools, debt-holders respond more to availability of restructuring tools. It is the EESC's view that the Commission proposals are a first step towards convergence across the EU, but still fall short of effective harmonisation, and leave unaddressed the outstanding issue of insolvency in regard to natural persons.

4.2. The EESC supports the Commission's view that national insolvency laws are a key consideration for foreign investors. However, the EESC points out that the amount of insolvencies with a cross-border provision of credit does not exceed 20 % of all cases and that data for the G20 countries show that an effective legal rights system only increases the level of Foreign Direct Investment (FDI) from 2 to 3 % of GDP. Furthermore, a significant portion of FDI is due to corporate mergers and acquisitions of existing corporations rather than investment in new enterprises.

4.3. The EESC therefore cautions against expecting too much from the impact of insolvency law convergence on investments. That said, the EESC recognises that the provision of an effective legal rights framework for creditors and more transparency for all potential investors on insolvency laws and equal information on the legal situation may have positive impacts on foreign investment. Certainty regarding rules on creditor and debtor rights and greater harmonisation of collateral removal procedures across Member States would also reduce risks and provide further impetus for cross-border investments and internal trade.

---

<sup>(6)</sup> The World Bank, Resolving Insolvency, accessed 3 January 2023.

<sup>(7)</sup> The World Bank, Resolving Insolvency, accessed 3 January 2023.

<sup>(8)</sup> How Insolvency and Creditor/Debtor Regimes Can Help Address Nonperforming Loans — EFI Note-Finance. Washington, DC: World Bank.



4.4. Furthermore, the EESC believes that providing investors with information and transparency on issues relating to avoidance actions, asset tracing, directors' duties and liability, the sale of a company as a going concern through pre-pack proceedings, the insolvency trigger, a special insolvency regime for micro and small enterprises, the ranking of claims and creditors' committees, are all very important.

4.5. The EESC also welcomes the fact that the proposal introduces a special procedure to facilitate and speed up the winding down of microenterprises, allowing for a more cost-efficient insolvency process for such enterprises. These arrangements also support the orderly winding down of 'asset-less' microenterprises, and address some Member States' rejection of access to insolvency proceedings if the projected recovery value is below the judicial costs. The EESC underlines that this covers approximately 90 % of insolvencies in the EU and therefore considers this procedure to be highly significant.

4.6. However, while the EESC endorses this special procedure, we caution that the requirements for national courts to carry out these tasks, in line with Article 12 ff. of the directive, can lead to an overburdening of national judicial systems if they are made responsible for assessing whether a microenterprise is indeed insolvent and for conducting the necessary lengthy proceedings. In our view, this would defeat in part the purpose of the proposed legislation. In previous opinions<sup>(9)</sup>, the EESC had stated that resorting systematically to the courts may not be the preferred option and the EESC recommended establishing new bodies which would assume responsibility for this task. The effective involvement of independent insolvency practitioners has proved to be beneficial especially for poorly organised micro-entrepreneurs in simplified liquidation proceedings, and the EESC is of the view that engaging insolvency practitioners should be actively considered<sup>(10)</sup>.

4.7. The EESC also recommends that insolvency practitioners, in cases of legitimate interests, have direct and expeditious access to the national asset registers, regardless of the Member State where they have been appointed. The EESC also points out that such registers have not yet been established in all Member States and urges the relevant authorities to rectify this situation quickly.

4.8. In the interest of efficiency, the EESC welcomes the proposal for pre-pack proceedings, where the sale of the debtor's business (or part of it) is prepared and negotiated before the formal opening of insolvency proceedings. This makes it possible to execute the sale and obtain the proceeds shortly after opening the formal insolvency proceedings intended to liquidate a company. However, the EESC warns against the proposal in Article 27 to oblige counterparties, e.g. suppliers to a business that is entering insolvency proceeding, to sign executory contracts, which are then assigned to the acquirer of the business without the consent of the counterparty. This, in effect, binds them artificially to a contract partner they have never chosen nor vetted and curtails their entrepreneurial freedom. This applies all the more to employees, whose freedom of occupation must not be violated by a forced change of employer. The EESC therefore urges the Commission, the Parliament and the Council to revise this proposal. In addition, the possibility of participation and monitoring by a creditors' committee should also be strengthened in pre-pack proceedings.

4.9. The EESC also points out that the directive does not, in fact, address the issue of convergence of the ranking of claims, nor does it provide a definition of insolvency grounds. As these are a key requirement for harmonised insolvency proceedings, the EESC very much regrets that the Commission has not taken these further.

4.10. Similarly, insolvency triggers are not sufficiently taken up by the proposal, despite claims to the contrary in the communication on the directive. The proposal states that the two usual triggers in the Member States for opening standard insolvency proceedings are the cessation of payments test and the balance sheet test.

4.11. With a view to simplifying insolvency proceedings, which the EESC supports in principle, the directive proposes that the inability to pay debts as they mature should be the criterion for opening simplified winding-up proceedings. Instead of providing guidance on how to define the specific conditions under which this criterion is met, the proposal asks the Member States to define this point themselves, and foregoes the chance for coherence across the EU.

---

<sup>(9)</sup> Including EESC opinion on *Business insolvency* (OJ C 209, 30.6.2017, p. 21).

<sup>(10)</sup> The World Bank, *Principles for effective Insolvency and Creditor/debtor Regimes*, revised Edition 2021, principles c6.1 and c19.6.

4.12. The EESC also notes that banks are typically the primary financial intermediaries and are fundamental for a stable financial system. Non-performing loans (NPLs) erode profitability and can threaten the solvency of banks. Insolvency and creditor/debtor rights (ICR) regimes are one of the complementary tools in the policy maker's arsenal to contain the growth of NPLs and to help resolve them when they reach problematic levels. Firm-level analysis shows that reforms of insolvency regimes which reduce barriers to corporate restructuring and the personal cost associated with entrepreneurial failure may reduce the share of capital sunk in so-called zombie firms. These gains are partly realised by restructuring weak firms, which in turn spurs on the reallocation of capital to more productive firms.

4.13. Finally, the EESC recommends that the Commission publishes regular statistics on insolvency cases under the relevant insolvency regulation so that the effectiveness of the system established can be assessed from time to time.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002’**

(COM(2022) 666 *final* – 2022/0391 (COD))

**and on the ‘Proposal for a Directive of the European Parliament and of the Council on the legal protection of designs (recast)’**

(COM(2022) 667 *final* – 2022/0392 (COD))

(2023/C 184/07)

Rapporteur: **Ferre WYCKMANS**

Referral	(a) Council, 21.12.2022 (b) European Parliament, 12.12.2022 Council, 21.12.2022
Legal basis	(a) Article 304 of the Treaty on the Functioning of the European Union (b) Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	148/0/3

## 1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) considers an effective system of design protection to be beneficial to consumers and the general public in that it encourages fair competition and commercial practices. It also contributes to economic development by enhancing creativity in industry, products, commercial activities and exports.

1.2. In most Member States the design must be registered with a national industrial property office in order to be legally protected. Depending on the national legislation concerned and the type of design, it can also be protected by copyright as an unregistered design or as a work of art. In certain Member States, protection as industrial design and under copyright can be combined, while in others they are mutually exclusive. In some circumstances, a design may also qualify for protection under unfair competition law, but the conditions for protection and the scope of existing rights and means of redress may vary considerably.

1.3. The EESC considers it essential to adapt the legal framework for designs to the digital age in order to foster the EU's recovery and resilience and encourage innovation and competitiveness. It endorses the new definition of a design set out in the proposal for a directive; it makes it more relevant in the light of technological advances, by expanding the concept of a product to cover technological designs that are not embodied in physical objects.

1.4. The EESC also supports limiting protection to those features of appearance which are shown visibly in the application for registration, as this increases the legal certainty of the protection.

1.5. The EESC welcomes the fact that the proposal for a regulation takes up the solution put forward by the Court of Justice of the European Union in its ‘Acacia’ judgment of 20 December 2017 <sup>(1)</sup>, in which it clarified the interpretation of the concept of a ‘repair clause’, especially since this solution improves consumer protection.

<sup>(1)</sup> Joined cases C-397/16 and C-435/16.

1.6. However, the EESC does not believe that merging the publication and registration fees will reduce the total cost of the fees, as the cost of renewals, as proposed, will increase drastically. This measure is therefore not as favourable for individual designers and SMEs as has been claimed. The EESC would therefore like to see lower fees for SMEs and individual designers, perhaps in proportion to their turnover.

1.7. In the EESC's view, the simplification brought about by abolishing the 'unity of class' rule is necessary but not sufficient, as there is still a need to improve the usability of the design filing systems available on the websites of the national industrial property offices and the European Union Intellectual Property Office (EUIPO). To meet this challenge, offices could turn to patent agents, thus making it easier for SMEs and individual designers to protect their designs.

1.8. The EESC considers it inappropriate to use Article 290 of the Treaty on the Functioning of the European Union (TFEU) to draw up rules on disputes and appeals against EUIPO decisions. Delegated acts are intended only to supplement the basic act and must relate only to non-essential elements, but the provisions that the proposal for a Regulation envisages for adoption by delegated act relate to the rights provided for in Chapter VI of the Charter of Fundamental Rights, on justice, and in particular to Article 47 on the right to an effective remedy and to a fair trial; they therefore cannot be regarded as non-essential elements.

1.9. The EESC recommends that such provisions be set out in the regulation itself.

## 2. Background

2.1. In substantive law, Directive 98/71/EC of the European Parliament and of the Council <sup>(2)</sup> (hereinafter 'the directive') partially harmonises national laws on the legal protection of designs, and Regulation (EC) No 6/2002 of the Council <sup>(3)</sup> (hereinafter 'the regulation') establishes an autonomous system of protection of unitary rights throughout the European Union for registered Community designs and unregistered Community designs, provided that the latter satisfies the conditions of protection, i.e. they must be new and have individual character. In the absence of registration, the holder may struggle to prove the existence of a right to the design. Moreover, the duration of protection is limited to three years and the scope of the rights conferred is smaller.

2.2. The regulation was amended in 2006 to give effect to the EU joining the international Hague registration system, the aim of which was to establish a procedure for registering designs that would be unique, simple, inexpensive and centralised within the World Intellectual Property Organization (WIPO).

2.3. The regulation exempts spare parts from the protection of Community designs because no agreement could be reached on this matter during the drafting work on the directive. In 2014, in the absence of support from the Council, the Commission withdrew its proposal to revise the directive.

2.4. The proposal at hand follows on from this failure and stems from the Commission communication of 25 November 2020 entitled *Making the most of the EU's innovative potential — An intellectual property action plan to support the EU's recovery and resilience*, published in the wake of the trademark reforms. Its ambition is to be more fit for the digital age, more accessible and efficient for individual designers, SMEs and industries, cheaper and less complicated, and to increase the legal certainty of the protection system.

## 3. General comments

3.1. An industrial design constitutes the ornamental aspect of an article. It can be three-dimensional or two-dimensional. A successful design seamlessly combines form and function. Whether it's tables or telephones, design makes the article attractive or preferable over another one.

3.2. Industrial design applies to various industrial and craft products, such as technical or medical instruments, watches, jewellery, luxury goods, household goods, electrical appliances, vehicles, architectural structures, textile products, leisure goods etc.

3.3. By making the article attractive and appealing, the industrial design increases the product's market value. Therefore, protecting a design helps ensure a return on investment.

---

<sup>(2)</sup> Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289, 28.10.1998, p. 28).

<sup>(3)</sup> Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ L 3, 5.1.2002, p. 1).

3.3.1. The EESC therefore considers an effective system of protection to be beneficial to consumers and the general public in that it encourages fair competition and commercial practices.

3.3.2. It also promotes economic development, by enhancing creativity in industry and industrial production, and the growth of commercial activities and exports.

3.4. In most Member States the design must be registered with a national industrial property office in order to be legally protected. Depending on the national legislation concerned and the type of design, it can also be protected by copyright as an unregistered design or as a work of art.

3.5. In certain Member States, protection as industrial design and under copyright can be combined, while in others they are mutually exclusive. A design may also qualify for protection under unfair competition law, but the conditions for protection and the scope of existing rights and means of redress may vary.

3.6. In view of the EU's objectives of fostering recovery and resilience, and encouraging innovation and competitiveness, the EU considers it essential to adapt the legal framework for designs to the digital age. It endorses the proposed new definition, as it is relevant in the light of technological advances, while expanding the concept of a product to cover technological designs that are not embodied in physical objects.

3.7. The EESC also supports increasing legal certainty by limiting protection to features of appearance as prominently represented in the application for registration.

3.8. It also endorses adapting the scope of rights conferred by the registration of a design to address issues associated with the deployment of 3D printing technology, as well as the addition, echoing trademark law, of the right for design holders to prevent counterfeit products transiting through EU territory or being placed in another customs situation without being released for free circulation there, in order to combat counterfeiting.

## 4. Specific comments

### 4.1. *Repair clause and consumer protection*

4.1.1. Much has been written on the protection of spare parts ('component parts of a complex product'). It has an exception acquired through the regulation known as the 'repair clause' to limit the monopoly of manufacturers or suppliers (particularly of motor vehicles) on the spare parts market (Article 110). This repair clause provides that the holder of a design relating to a spare part cannot exercise a monopoly and cannot prevent a third party from placing on the market spare parts destined for repairing a product or restoring it to its original appearance.

4.1.2. The producer of a complex finished product (car, watch, mobile phone, etc.) often controls the entire production chain. They are therefore likely to make a double profit, first on the market for the sale of the finished product and also on the market for the sale of spare parts.

4.1.3. However, behavioural economics has established that most consumers make choices based on the sales price of the primary product without considering the sales price of secondary services. They are therefore captive to their initial investment and subjected to a price they would not necessarily have accepted in other circumstances.

4.1.4. The EESC notes that this situation is therefore likely to cause problems in terms of competition law because the original producer/assembler with the rights to the design has an important competitive advantage which can ultimately harm the consumer:

- in terms of customers, by enabling it to charge high prices or tie-in sales;
- in terms of repairers, to gain access to the market or to dictate its terms to the repairers it agrees to supply;
- in terms of suppliers, in that it could prohibit them from supplying independent repairers or prohibit independent suppliers from copying its parts to supply the repair market.

4.1.5. In order to prevent monopolisation of secondary markets, the EU legislator decided to limit the rights that can be obtained on spare parts.

- The first limitation is sometimes referred to as the ‘must match’ exception (Article 8(2)). The external appearance of a product that is necessary to connect to another product cannot be protected.
- The second limitation concerns the protection of parts that are not visible.

4.1.6. A part which is not visible during normal use of the product cannot be protected by filing of a design (Article 4(2)).

These include:

- watch mechanisms,
- the interior of most motors for household appliances,
- the engine of a car (not considered to be visible during normal use of a vehicle, even if it can easily be made visible by lifting the bonnet).

4.1.7. Therefore, the spare parts that can be protected are those that do not include any interconnection mechanism and are visible. Under the regulation, it is therefore possible to protect a large number of parts. For example, for a car this includes:

- headlights,
- wing mirrors,
- bonnets and doors (but not hinges),
- steering wheels.

4.1.8. A product which is not protected by filing of a design can therefore be reproduced by any competing producer of spare parts and fed into the repair market.

4.1.9. However, the application of these provisions has raised questions. The EESC therefore welcomes the fact that the proposal for a regulation takes into account the solution put forward by the Court of Justice of the European Union in its ‘Acacia’ judgment of 20 December 2017, in which it clarified the interpretation to be given to the concept of ‘repair clause’.

4.1.10. The EESC points out that the Paris Court of Appeal specifically applied this solution in its judgment of 11 September 2018 in Case No 2017/01589 in the case of rims marketed on an online sales site. The repair clause could not have been legitimately invoked by the seller since the rims were offered ‘for the aesthetic personalisation of vehicles’ and for ‘tuning’ purposes. The rims in question were therefore found to be counterfeit and the seller penalised for the infringement.

4.1.11. Some Member States have liberalised the spare parts market. The French Climate and Resilience Law No 2021-1104 of 22 August 2021 opened the market to the sale of certain spare car parts as from 1 January 2023.

4.1.12. The aim of this measure was to lower prices on this market; between 2019 and 2020, they had increased on average by 8 %, partly due to the technical complexity of the various parts such as the motors on electric mirrors, sensors installed in windscreens, etc. The most liberal countries for this sector do not have a highly developed industry, with the notable exception of Germany, which has powerful car manufacturers but where the market is already more open.

In France, as from 1 January 2023, equipment manufacturers, whether they produce original equipment, i.e. are involved in the assembly of the new vehicle, or are independent producers, can market flat glass parts. Equipment manufacturers involved in the original assembly of other visible spare parts (optical components, rear-view mirrors, etc.) will therefore be able to market the parts like manufacturers.

## 4.2. *Cost of protecting designs*

4.2.1. The EUIPO has a system for filing designs online, the cost of which currently starts at EUR 350. The EESC points out that a registered Community design is valid for an initial period of five years from the date of filing and can be renewed every five years up to a maximum of 25 years.

4.2.2. In addition to the cost of filing, there are three types of fees:

- the registration fee of EUR 230, to which an additional registration fee of EUR 115 may be added for two to ten additional registrations and EUR 50 beyond ten;
- the publication fee of EUR 120 which may be increased by EUR 60 for two to ten additional publications and EUR 30 beyond ten;
- the deferred publication fee of EUR 40 which may be increased by EUR 20 for two to ten designs and by EUR 10 beyond ten.

4.2.3. The fees payable depend on two factors:

- the number of designs contained in the application;
- whether or not publication of the design will be deferred.

4.2.4. Their structure corresponds to the following model:

- a basic fee for a single design or the first design of a multiple application;
- a reduced fee for the second to tenth designs;
- a further fee reduction per design from the 11th design onwards.

4.2.5. The proposal for a regulation proposes reducing the cost of the first renewal (after five years) to EUR 70 and increasing the second renewal (after 10 years) to EUR 140, the third renewal (after 15 years) to EUR 280, and the fourth renewal (after 20 years) to EUR 560. The total fees for the first two renewals remain the same as the current amount, i.e. EUR 210 in total, but the fees for the subsequent renewals increase drastically.

4.2.6. This measure does not seem to be as favourable for individual designers and SMEs as it claims. The EESC therefore calls for lower fees for SMEs and individual designers, perhaps in proportion to their turnover.

4.2.7. Moreover, the EESC does not believe that modifying the fee structure by merging publication and registration fees will reduce the total cost of the fees.

### 4.3. *Abolition of the ‘unity of class’ requirement*

4.3.1. Even though a filing may relate to several designs, they must be intended to be incorporated into or applied to products in the same ‘class’, under the ‘unity of class’ requirement. These classes are delineated in a list called the Locarno Classification.

4.3.2. According to Article 2(1) of the Locarno Agreement, the Locarno Classification ‘shall be solely of an administrative character’, and comprises:

- a list of classes and subclasses;
- an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall;
- explanatory notes.

4.3.3. The abolition of the ‘unity of class’ requirement provided for in the proposal for a regulation, which would allow companies to file multiple applications for designs, combining multiple designs in a single application, without needing to be limited to products belonging to the same Locarno class, aims to encourage SMEs and individual designers to file their designs for protection.

4.3.4. In the EESC’s view, the simplification brought about by abolishing the ‘unity of class’ rule is necessary but not sufficient, as there is still a need to improve the usability of the design filing systems available on the websites of the national industrial property offices and the EUIPO.

4.3.5. Offices could make use of the expertise of patent agents, thus making it easier for SMEs and individual designers to protect their designs.

4.3.6. Patent agents will of course continue to support right holders in exploiting their designs and to represent them in disputes.

#### 4.4. *Delegation of power and adoption of delegated acts*

4.4.1. The proposal for a regulation provides that the provisions relating to design law disputes will be adopted in delegated acts.

This relates to:

- the withdrawal and amendment of the design (Articles 47a and 47b);
- actions for invalidity (Article 53a);
- appeal proceedings against EUIPO decisions (Article 55a);
- oral proceedings before the EUIPO Boards of Appeal (Article 64a);
- the taking of evidence (Article 65a);
- the notification of decisions and summonses (Article 66a);
- the procedure for communications to the EUIPO (Article 66d);
- the calculation and duration of procedural time limits (Article 66f);
- the resumption of proceedings before the EUIPO (Article 67c);
- professional representation before the EUIPO in the event of a dispute (Article 78a);
- the payment of fees and charges (Article 106aa).

4.4.2. The EESC considers it inappropriate to use Article 290 of the TFEU to draw up rules on disputes and appeals against EUIPO decisions. Delegated acts are intended only to supplement the basic act and must relate only to non-essential elements, but the provisions in question relate to the rights provided for in Chapter VI of the Charter of Fundamental Rights, on justice, and in particular to Article 47 on the right to an effective remedy and to a fair trial; they therefore cannot be regarded as non-essential elements of the basic act.

Brussels, 22 March 2023.

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

---



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council – 2022 Strategic Foresight Report – Twinning the green and digital transitions in the new geopolitical context’**

(COM(2022) 289 final)

(2023/C 184/08)

Rapporteur: **Angelo PAGLIARA**

Referral	European Commission, 27.10.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for the Single Market, Production and Consumption
Adopted in section	10.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	204/0/3

## **Preamble**

The European Commission's report and the following opinion have been drawn up at a time marked by the social, geopolitical and economic implications of Russia's continued military aggression against Ukraine. The strategic choices being made by the European Union in these months are set to shape not only the achievement of the objectives of the twin green and digital transitions, but also the EU's resilience and strategic autonomy.

Therefore, with the following opinion, and aware of the fundamental role that organised civil society plays in identifying and interpreting megatrends, and thus of the importance of involving organised civil society upstream in the EU's strategic foresight process, the EESC is also seeking to contribute to the drafting of the 2023 Strategic Foresight Report, which will focus on strategic guidance to strengthen the EU's global role.

## **1. Conclusions and recommendations**

1.1. The EESC encourages the Commission to continue developing the strategic foresight agenda, and is calling for increased involvement in the process from the very beginning. Greater involvement for the EESC, as the voice of the social partners and organised civil society, would enhance the EU's analysis and foresight capacities and help to pinpoint trends and possible solutions.

1.2. The EESC would like to see the strategic foresight agenda, as well as the European Commission's action, geared towards building a new development model that takes due account of economic, environmental and social sustainability.

1.3. As achieving the twin transitions also depends on people's willingness and behaviour, the EESC recommends that the Commission also pay attention to the concerns of society and to the possible reluctance among people towards the proposed changes.

1.4. The report describes the desired future and the resources needed to achieve it, without addressing the risks and threats in sufficient depth. The EESC calls on the Commission to set out a clearer picture of the risks involved and to analyse the possibilities and scenarios in the event that the desired objectives are not met, especially in the part concerning the availability of raw materials, rare earth metals, water resources and possible related issues.

1.5. The ongoing geopolitical challenges will influence supply systems and the resilience of Europe's agri-food sector. The recent events linked to COVID-19 and to Russia's military aggression against Ukraine disrupted our distribution system and this is likely to happen again in the short term. The EESC welcomes the recommendation to reduce the EU's dependence on imports of feed, fertilisers and other inputs and proposes establishing a definition of open strategic autonomy applied to food systems, based on food production, workforce and fair trade — with the overarching aim of ensuring food security for all EU citizens through a healthy, sustainable, resilient and fair food supply.

1.6. The Strategic Foresight Report does not give consideration to the strategic importance of a strong, cohesive, and innovative European industrial system that is capable of generating quality jobs. The EESC calls on the European Commission to develop specific forecasts on the future of European industrial policy and recommends that suitable economic policies be adopted in order to enhance its long-term competitiveness and productivity and boost public and private investment in this regard.

1.7. Russia's military aggression against Ukraine, the energy crisis and the new economic and geopolitical reality will have an impact on the path towards the twin transitions. The EESC welcomes the EU's determination to achieve its objectives, but at the same time calls on the Commission and the Council to develop all the necessary tools in order to strengthen strategic energy autonomy, bolster the European industrial system and support businesses and workers following on from what was done during the pandemic crisis with the adoption of an instrument based on the SURE model.

1.8. The EESC welcomes the increased references to the social dimension and, as previously stated in its 2021 opinion, calls on the Commission, as part of its strategic analysis, to develop specific forecasting tools relating to the impact of the transitions on social security systems, and consequently propose specific measures to mitigate the social effects of the twin transitions.

1.9. The EESC believes that to reinforce the role of the EU as a global player, the EU needs to stand by its values and to continue working together with third countries, strengthening the common external policy, looking for common solutions and ensuring that our cooperation and trade are beneficial to the economic and social rights of the peoples of those countries, especially in view of long-term sustainability.

## 2. General comments

2.1. The Russian military aggression on Ukrainian territory and the fallout for the economic, social and industrial system — in terms of technology, trade, investment standards and changes in the industrial structure — reinforce the need to invest in the green and digital transitions, including with a view to pursuing European strategic autonomy. For these reasons, the EESC welcomes the strategic reflection on the interplay between the green and digital transitions, and their ability to reinforce each other.

2.2. The succession of crises, first pandemic then military, has increased the demand for security across different aspects of our lives, as people seek greater protection. To this end, delivering on the objectives of the twin transitions must involve paying close attention to the potential negative economic and social consequences, as well as the consequences in all other areas, including by providing for appropriate policy instruments. In this regard, the EESC points out that European citizens, especially those most vulnerable, could be more resistant to the changes brought about by the transitions if they perceive that the consequences of those transitions are harming them.

2.3. Increasing the EESC's involvement in the strategic foresight cycle activities — as the voice of the social partners and organised civil society — would strengthen the EU's analysis and foresight capacities, and help to more accurately pinpoint trends.

2.4. The EESC develops organised civil society's strategic foresight capacity through its members (and by extension the national organisations they represent), and through civil society at EU level by means of its Liaison Group, where the major EU-level civil society networks and organisations are represented. Specifically, it facilitates dialogue and consultation with organised civil society, raises awareness of the importance of strategic foresight and also provides real tools to achieve it. The structured involvement of organised civil society represented by the EESC will also make it easier to cover the different dimensions (industrial, social, economic, environmental, etc.) in the strategic agenda in a holistic way.

2.5. For all these reasons, the EESC is very keen to cooperate with the European Commission in the strategic foresight cycle from the very beginning of the process so as to make it more participatory. An example of this is the hearing through which the EESC has collected the views of civil society organisations as well as experts, to reflect on the challenges and opportunities that the EU will face in moving towards a socially and economically sustainable Europe. The EESC offers, throughout this opinion, input and suggestions on these key aspects on which the European Commission should focus in its next report.

2.6. Given the challenges and opportunities that Europe will face in the decades to come, strategic foresight is set to increase in importance. Therefore, the EESC calls on the Commission to continue developing the strategic foresight agenda by stepping up the EESC's involvement in the analysis and development phase of the report.

2.7. The report does not adequately take into account the fact that the digital divide between the EU's different regions jeopardises achieving the twin transition objectives. The next strategic report must take into account these divides and the possible consequences from the social point of view and in terms of the opportunities available.

2.8. The EESC knows that digital technologies can have a positive impact on achieving the climate objectives, not least by strengthening energy security, and that the green transition also has the potential to transform the digital sector and the economy. In this regard, the EESC welcomes the numerous references to the need for investment in technology and for appropriate policies to achieve the objectives, and also endorses the references to the need to adopt cybersecurity measures to protect strategic technologies.

2.9. On multiple occasions, the 2022 Strategic Foresight Report emphasises the energy needs stemming from digitalisation and from the consumption generated by networks, systems and devices, offset by the increased efficiency and sustainability of the processes to which they are applied (agriculture, logistics, cloud computing, etc.). The references to the need to improve energy efficiency and for Europe to restore a greater focus on the sector's circular economy (from access to raw materials to the management of electronic waste and the development of advanced digital technologies) appear timely.

2.10. However, it would be appropriate to mention in more explicit terms the sustainability and energy-saving benefits associated with the digital transition (going paperless and 'substituting'), thus helping to strengthen the buy-in of the public and policy-makers to the value and impact of these profound transformation processes.

2.11. Among the changes associated with digitalisation, there is no reference to cryptocurrencies and digital currencies. In fact, their growing prevalence is directly related to the all-pervasive nature of digitalisation and the development of blockchain technology, the flows of which go beyond States' regulatory capacities, leaving ample room for the illegal economy to operate. The EESC therefore points to the need for a dedicated section in the strategic foresight report for interpretation and analysis on the use of cryptocurrencies and digital currencies, and encourages the Commission to adopt and implement a single regulatory framework in line with the G20 conclusions.

2.12. The EESC welcomes the dedicated section in the foresight report on agriculture because, unlike with many other areas, it places the role of European policy and its central position in determining future developments at the centre of the foresight. In this case, the report specifies actions to be taken by the EU to prevent risky backsliding, unlike what is generally the case in the other areas under analysis.

2.13. EU food systems should be more diversified; the agricultural workforce should be strengthened especially by attracting young people and ensuring decent working conditions and remuneration; trade policies should be aligned with EU food sustainability standards and competitiveness. Concentration in food chains and financial ownership should also be addressed as well as market transparency, to ensure that future crises will not be exacerbated by excessive commodity speculation.

2.14. The EESC wishes to highlight that in the current geopolitical context, access to critical raw materials is crucial, not only for achieving the twin transition objectives, but above all for maintaining and strengthening the European industrial system and also for social, economic and employment resilience. To this end, the EESC suggests that the Commission carry out a more detailed in-depth analysis through appropriate analysis (also from a geopolitical point of view) and forecasting tools.

2.15. The EESC points out that water and water resources, referred to several times in the report, constitute not only a problem but also an area of potential, especially with regard to improving water efficiency, resource management and awareness-raising campaigns for responsible consumption. In particular, the blue economy plays a considerable role and has ever-increasing potential in the EU and global economy, in terms of job creation and people's welfare and health. The EESC believes in seizing these opportunities — that cover a wide range of both traditional and emerging sectors and operations — to the maximum extent, while at the same time minimising the adverse impact on the climate, biodiversity and the environment.

2.16. The EESC calls on the Commission, in the context of the twin dynamics, to take greater account of how situations may change arising from the war in Ukraine, especially in relation to the supply of energy and critical raw materials

2.17. The EESC agrees with the call for European policies to be adapted to a new economic model, for an increase in investment to enhance well-being, and for an increase in the productivity and competitiveness of Europe's industrial and economic system. Here, the EESC calls for specific forecasts to be developed on the future of European industrial policy, which is essential for achieving full strategic autonomy.

2.18. The EESC agrees with the recommendation to step up public and private investments in order to achieve the transition objectives. However, it points out that European economic decisions, and especially the prospects of possible further interest rate hikes, could negatively affect investments.

2.19. The EESC welcomes the call for a just transition and the report's stronger focus, compared to the previous one, on social cohesion and the role of social dialogue. The EESC also believes that the focus on the social dimension and the quality of work will become priority factors on the European agenda, modifying a scale of priorities that still places them in a complementary position.

2.20. The EESC appreciates the attention paid in the 2022 Strategic Foresight Report to the changes brought about by the twin transitions regarding the labour market and the economic situation of the most vulnerable sections of society (families, communities), as well as the simultaneous emphasis on the need for adequate resources for social intervention. The EESC also calls for more attention to be paid to issues of poverty and social exclusion.

2.21. The EESC calls on the EU to take into consideration the ageing of the population and demographic change, with the consequent increase in the foreseeable demand for care on the one hand, and the shortage of healthcare workers on the other. The EU must ensure that care remains accessible and affordable and does not become a luxury good.

2.22. The EESC draws attention to the vagueness with which the 2022 Strategic Foresight Report addresses the accelerating workplace hybridisation caused by digitalisation (including relegating it to an aside in the paragraph on digitalisation and transport demand), framing it as a consequence of a mere technological transformation process and neglecting its effects on working conditions and employment relationships, as well as on the associated regulatory requirements.

2.23. The EESC notes that the strategic foresight system risks becoming overly economic, and centred on competition and on the market as the true cement holding European action, interests and strategy together. It places civil society and workers in a complementary role, without considering sufficiently the twin transitions' ability to generate new and greater wealth and to facilitate the creation of new models capable of reducing vulnerabilities and socialising the benefits generated.

2.24. The EESC calls on the Commission to conduct a specific Eurobarometer survey on the topics to be covered in the next Strategic Foresight Report in order to better understand citizens' expectations and points of view. This is also crucial for gauging the degree to which future measures proposed by the foresight analysis will be accepted.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Central Bank and the European Economic and Social Committee – A path towards a stronger EU clearing system’**

(COM(2022) 696 final)

**and on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 648/2012, (EU) No 575/2013 and (EU) 2017/1131 as regards measures to mitigate excessive exposures to third-country central counterparties and improve the efficiency of Union clearing markets’**

(COM(2022) 697 final – 2022/0403 (COD))

(2023/C 184/09)

Rapporteur: **Florian MARIN**

Referrals	Council, 31.1.2023 European Parliament, 1.2.2023 European Commission, 8.2.2023
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	2.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	201/1/3

## 1. Conclusions and recommendations

1.1. The Committee welcomes the proposal for a regulation<sup>(1)</sup> and the Commission’s efforts to ensure the strategic autonomy of our capital markets, increase internal clearing capacity and make the EU clearing system more secure and robust. The Committee believes that it is essential for the financial stability of the EU capital markets to have a competitive and efficient clearing system.

1.2. The EESC suggests that EU-based clearing houses should develop, design and invest in improving their capacity frameworks to encourage market operators to clear their operations in the EU.

1.3. The Committee believes that a comprehensive plan should have been implemented to encourage the transition to EU-based clearing operators immediately after Brexit and is disappointed with the slow decision-making process regarding a EUR 81 trillion derivatives market. The EESC expected a clearer stance on reducing exposure to UK central counterparties (CCPs) and more specific rules and incentives to drive the move towards EU-based CCPs.

1.4. The EESC considers that it is crucial to have specific data about the EU clearing system covering all asset classes and volumes, and believes that more should be done in this regard. The relationship between the data collected and the risk dynamic should be considered on a regular basis in order to have a precise understanding of financial stability risks. The EESC appreciates that alongside financial risk, the risk models must account for the social, governance and environmental risks of CCPs and should be equally important within different risk scenarios and analyses.

<sup>(1)</sup> COM(2022) 697 final.

1.5. The EESC requests a comprehensive evaluation of potential additional costs for the European Securities and Markets Authority (ESMA) and other EU bodies regarding the labour force, IT systems, joint supervisory teams and the proposed Joint Monitoring Mechanism.

1.6. Given the additional powers conferred on ESMA by the 2019 changes to the EMIR Regulation and the current proposal for a regulation, the EESC would like to see a system of checks and balances on ESMA activity. The Committee suggests that ESMA should do more to establish that a significant proportion of the services provided to their EU clients have to be cleared by EU CCPs.

1.7. Regarding intragroup transactions, the Committee appreciates the decision not to exempt entities from countries listed as non-cooperative jurisdictions for tax purposes and those listed as high-risk jurisdictions for anti-money laundering and counter-terrorist financing purposes from clearing obligations and margin requirements.

1.8. The EESC is disappointed that the Commission did not conduct a comprehensive assessment of the existing framework and of how the attractiveness of the EU market has changed in recent years, given that the regulation was last amended over three years ago. The Committee welcomes the introduction of Article 7b and asks ESMA to present a report on the primary reasons for the use of non-EU CCPs one year after the regulation comes into force.

1.9. The Committee suggests that the EU CCPs must be transparent about their fees, margin calls and actions during periods of market stress, in order to improve predictability for all market participants.

1.10. The EESC asks the Commission to explain the specific definition of the term 'urgently' in the suggested modifications to Article 20 and asks the co-legislators to establish which exemptions are considered 'urgent' decisions.

1.11. The EESC supports the proposed modifications to Article 23 regarding the creation of joint oversight teams and the Joint Monitoring Mechanism. The Committee proposes that civil society be involved in the monitoring mechanism established under Article 23c and that the EESC be part of the Joint Monitoring Mechanism as an observer.

1.12. The EESC considers that the five-year deadline for the Commission to review the application of the regulation is too long. It also considers that more should be done to reduce the time required to grant authorisations or to extend activities and services, as well as to build a central database. The EESC asks for more interoperability in the European clearing system, along with a reduced administrative burden and simpler access solutions.

1.13. The Committee endorses the increased transparency offered by the modifications to Article 38, stipulating that clearing members and clients that provide clearing services must inform their clients and potential clients about the margin models and the potential losses or other costs.

## 2. Background

2.1. The Capital Markets Union (CMU), launched in 2015 by the European Commission, is an ambitious long-term project focused on ensuring the free flow of capital in the Union, one of the four fundamental freedoms of the single market. Brexit has brought a sharp decrease in Europe's global role in capital markets, declining from 22 % of global activity before Brexit to just 14 %<sup>(2)</sup>. Thirty years after the single market was launched, twenty years after the euro was introduced and seven years after the CMU initiative was rolled out, the EU still has work to do to create a single capital market.

2.2. The EMIR Refit<sup>(3)</sup> and EMIR 2.2 Regulations<sup>(4)</sup> have provided enhanced transparency as regards third-country CCPs, introducing changes to the clearing mandate and conferring additional powers on ESMA, the EU supervisory authority. This proposal for a regulation grants ESMA even more powers. With clearing capacity an important part of the CMU, the European financial markets are put at risk by overdependence on services provided by third-country CCPs, especially in the United Kingdom (UK). As part of the Brexit agreement, the EU allowed UK clearers to continue to provide services to EU market participants until the end of June 2022. This deadline has been extended by three years due to the threat to financial market stability, with the intention of allowing enough time for the gradual shifting of clearing operations in the EU.

---

<sup>(2)</sup> Report — A new vision for EU capital markets.

<sup>(3)</sup> OJ L 141, 28.5.2019, p. 42.

<sup>(4)</sup> OJ L 322, 12.12.2019, p. 1.

2.3. The proposal for a regulation aims to provide further stability, predictability and proportionality for all operators with clearing obligations, and introduces requirements for market participants to declare how reliant they are on third countries for the processing of their derivatives transactions. The proposed amendments also focus on measures to make EU CCPs more attractive and reduce the administrative burden, promote central clearing in the EU by obliging clearing operators to hold an active account in EU CCPs and provide local authorities with the necessary powers to supervise risk related to cross-border transactions.

### 3. General comments

3.1. The EESC has been calling for legislation strengthening the EU capital markets and making it more stable and attractive for a long time<sup>(5)</sup>. Given the recent geopolitical developments (Russia's invasion of Ukraine, increased energy prices, geopolitical tensions in many parts of the globe, and the COVID-19 pandemic) and the immediate effects on the economic environment, the EESC points out that swift action is needed to safeguard and increase the stability of the EU's financial markets. The EESC considers that it is crucial for the financial stability of the EU capital markets to have a competitive and efficient clearing system.

3.2. The Committee welcomes the proposal for a regulation and the Commission's intention to act on ensuring the strategic autonomy of our capital markets, building up our internal clearing capacity and ensuring that the clearing system is safer and more resilient. Strengthening the EU clearing market should take into account the costs generated by the migration of the capital from non-EU clearing markets, the need to protect the risk-based approach and the interdependence between non-EU and EU financial markets.

3.3. The proposal to amend the EMIR Regulation comes after the dramatic increase in energy prices in Europe, mainly caused by Russia's unjustified attack on Ukraine; this has generated instability in the clearing markets, with certain companies unable to provide the collateral on their derivatives contracts. The EESC urges that consolidating the clearing sector in the EU should remain a priority. Price, liquidity, risk, margins, regulation and efficiency should be considered with a view to making the EU clearing system more competitive. The Committee endorses the need to reduce the time required to grant authorisations or to extend activities and services, as well as to build a central database.

3.4. The Committee considers that EU-based CCPs have to devise, design and invest in improving their capacity frameworks in order to persuade market operators to clear their operations in the EU, notably by enhancing their technology and operational capabilities, ensuring better cooperation between market participants and improving risk management practices. In order to improve predictability, CCPs must be transparent about their fees, margin calls and actions during periods of market stress.

3.5. Stable capital markets require a balanced and stable labour market. The EESC appreciates that alongside financial risk, the risk models must account for the social, governance and environmental risks of CCPs, and appreciates that they should be equally important within different risk scenarios and analyses.

3.6. The EESC appreciates the consultation conducted by the Commission at the beginning of 2022, the meetings with the representatives of Member States and the European Parliament, the financial services and economic and financial committees, as well as the bilateral meetings with relevant stakeholders.

3.7. The EESC is disappointed that the deadline for UK-based clearing houses to have unlimited access to EU-based stakeholders was extended by three years, to 30 June 2025. It considers that a thorough plan should have been put in place to incentivise the shift to EU market-based clearing operators immediately after Brexit. The Committee is critical of the past lack of reaction, limited consultation and slow decision-making process regarding a EUR 81 trillion derivatives market.

3.8. European banks benefit from a UK market multi-currency pool, and the shift to European clearing houses would generate a euro-based clearing process, with significant costs for the banking system. Although the EESC supports this shift, and considers that it must be made as soon as possible, it would point out that the right incentives must be provided in order to prevent banks from shifting to other markets. More targeted and adapted incentives should be taken into account to consolidate the clearing sector in the EU.

---

<sup>(5)</sup> OJ C 155, 30.4.2021, p. 20,

3.9. Since many EU market operators clear their derivatives transactions in other countries, the EESC was expecting a clearer stance against this trend and more specific rules and incentives triggering a shift towards EU-based CCPs. The Committee would have expected that at least public entities be required to clear in the EU and calls for a clear vision to end this dependence as soon as possible.

3.10. The EESC considers that developing clearing activities in the EU should take into account the entire supply chain, for the benefit of market participants. Market liquidity should be carefully managed when reducing exposure to UK CCPs, alongside a longer-term perspective and standardisation of access requirements for the EU clearing market. Preparing clients for clearing should be taken into account, and various simulations carried out for the benefit of those clients. The Committee also considers that ESMA should carefully adapt measures to small and mid-size market participants.

3.11. The EESC underscores just how important a role third-country CCPs play in the EU's financial stability. It is vital to reduce concentration risks and ensure that relations with these CCPs are based on a transparent, predictable, proportionate and risk-oriented approach. This proposal for a regulation will grant ESMA even more powers and the EESC would like to see a system of checks and balances on ESMA activity in place.

3.12. The EESC suggests that in order to have a clear picture for the purpose of monitoring, it is important to have specific data about the EU clearing system; this data must be comparable and cover all asset classes and volumes. Collecting the right data for an accurate picture of financial stability risks is important, and the synergy between data collected and the risk dynamic should be taken into account on a systematic basis. The EESC considers that more should be done in this regard.

3.13. More synergies between clearing activities and the European Single Access Point should be taken into account. The ESAP promotes data-driven finance and considerably improves access by companies, businesses and financial institutions to data and entities' information, as well as making the economy fit for the digital future, strengthening digital sovereignty, increasing the speed of information flow and setting common standards, with a focus on data, technology and infrastructure<sup>(6)</sup>.

3.14. The EESC endorses the proposal to alleviate the EMIR derivatives rules and to allow bank guarantees and letters of credit to be accepted as high-liquid collateral, as these non-cash alternatives ensure market liquidity and are already used on a large scale in more advanced capital markets, like the US one. The EESC supports the increased role of central banks in protecting EU consumers.

3.15. The EESC supports the changes proposed to Articles 11, 14, 15 and 17 regarding the four-month implementation period for non-financial counterparties that for the first time are required to exchange collateral, and regarding the shorter and less complex procedures for CCPs to expand their products. The Committee welcomes the proposed changes as they will streamline the process of extending activities and services and granting and refusing authorisations. More interoperability is needed in the European clearing system, along with a reduced administrative burden and simpler access solutions.

#### 4. Specific comments

4.1. The EESC does not agree with the European Commission's statement that *'This legislative initiative will have no impact on expenditures for ESMA or other bodies of the European Union'* and considers that costs will increase in areas such as the labour force, IT systems, joint supervisory teams and the proposed Joint Monitoring Mechanism. The Committee observes that, in the proposed amendment to Article 90, the Commission asks ESMA to report on 'the staffing and resources needs'. Therefore, the EESC calls for a thorough assessment of additional costs, calculating and announcing the estimated budgetary implications.

4.2. The EESC acknowledges and endorses the Commission's proposal to introduce the requirement for all market participants subject to clearing obligations to hold an account in EU CCPs. It asks ESMA, after consultation with the European Banking Authority, the European Insurance and Occupational Pensions Authority, the European Systemic Risk Board and the European System of Central Banks, to establish a significant proportion of the services provided to their EU clients identified as of substantial systemic importance that have to be cleared at EU CCPs.

---

<sup>(6)</sup> OJ C 290, 29.7.2022, p. 58.



4.3. The Committee salutes the intention to ask market participants to report the exact figures and dependence on foreign clearers. The Committee expects ESMA to swiftly develop the technical standards that specify this information, looks forward to a thorough report one year after the entry into force and expects the EMIR Regulation to be amended accordingly.

4.4. Regarding intragroup transactions, the EESC appreciates the non-exemption from clearing obligation and margin requirements for entities from countries listed as non-cooperative jurisdictions for tax purposes and those listed as high-risk jurisdictions for anti-money laundering and counter-terrorist financing purposes. The Committee fully supports the administrative measures relating to these jurisdictions and considers that these entities pose a significant threat to the EU's financial system.

4.5. Although updating digitally means additional budgetary needs, the EESC considers it vital that digital investments are in place to support the proposed updates of the EMIR Regulation. The Committee appreciates the proposal for an advanced IT programme for submitting supervisory documents online, accessible to all relevant authorities.

4.6. The EESC is disappointed that the Commission has not performed a thorough evaluation of the existing framework, given that the regulation was last amended more than three years ago. Furthermore, in order for the current amendments to be fit for purpose, the Committee would have expected a targeted analysis of how the attractiveness of the EU market has changed in the past years, especially related to recent significant geopolitical developments.

4.7. The Committee suggests that the technical standards developed under Article 7 should be transparent and inclusive. The option to introduce changes in order to adapt these standards quickly should also be taken into account. Providing tools for price comparison for execution costs, clearing costs and clearing member costs is important for asset managers.

4.8. The Committee welcomes the introduction of Article 7b which specifies that clearing service providers have to report on the scope of clearing in a non-EU CCP and the obligation to inform their clients about the possibility of clearing a relevant contract in an EU CCP. The Committee asks ESMA to develop a standardised reporting procedure to be used in all Member States, and recommends that a report on the main reasons that non-EU CCPs are used be presented one year after the regulation enters into force. A common approach to fines for market operators should also be carefully managed in order to ensure proportionality in the single market.

4.9. The Committee asks the Commission to clarify the exact meaning of the word 'urgently' in the proposed changes to Article 20, and asks the co-legislators to agree and specify which exemptions fall under the 'urgent' decision.

4.10. The EESC endorses the proposed changes to Article 23 regarding the establishment of joint supervisory teams and the Joint Monitoring Mechanism, but notes that these will have budgetary implications as these authorities will need to take on more staff, including for ESMA. The EESC proposes that civil society be involved in the monitoring mechanism established under Article 23c, especially with regard to future policy decisions.

4.11. A proper evaluation of interconnections, interlinkages and concentration risks under the CCP Supervisory Committee (Article 24a) also requires the involvement of civil society, and the EESC should be part of the Joint Monitoring Mechanism as an observer. The need to reduce the overlapping of responsibilities between the large number of authorities involved in the clearing system should be taken into account. The cooperation between European and national authorities should be efficient and adapted to the dynamics of market risks.

4.12. The five-year deadline for the Commission to carefully review the application of the regulation after its entry into force seems very long, given the period between amendments of the EMIR Regulation. Furthermore, the EESC was expecting the Commission's report on the application of EMIR Refit and EMIR 2.2, as agreed, on 2 January 2023, but the Commission is now proposing to cancel it. The Committee is against that proposal and considers that it might result in the amendments to EMIR not being evaluated at all, given the consequent changes already done to EMIR Regulation.

4.13. Finally, the Committee endorses the increased transparency offered by the proposal to amend Article 38 regarding the obligation of clearing members and clients that provide clearing services to inform their clients and potential clients about the margin models and the potential losses or other costs, should the CCP apply recovery measures. The EESC considers that clearing members should also contribute to improving transparency within the EU clearing system.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the Proposal for a Council Directive amending Directive 2011/16/EU on administrative cooperation in the field of taxation**

(COM(2022) 707 final — 2022/0413 (CNS))

(2023/C 184/10)

Rapporteur: **Petru Sorin DANDEA**

Co-rapporteur: **Benjamin RIZZO**

Referral	Council, 7.2.2023
Legal basis	Article 113, 115 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	2.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	208/0/5

## 1. Conclusions and recommendations

1.1. The EESC welcomes the Commission's proposal on DAC 8, which qualifies as a substantial step forward in improving and complementing the current DAC Directive.

1.2. The EESC deems the proposed improvements to the DAC Directive to be effective in deterring non-compliance with fiscal rules by crypto-asset holders, thereby reinforcing the fight against tax fraud, tax evasion, and tax avoidance, in line with several previous initiatives of the Commission.

1.3. The EESC deems the Commission initiative to be fully consistent with the principle of fair and effective taxation, which is a cornerstone of the European social market economy, aimed at ensuring that everybody contributes their fair share and enjoys equal and proportionate treatment, regardless of the kind of assets held.

1.4. The EESC notes that a global effort to regulate crypto-assets and their use is key in order to successfully address the growing issues and implications with a worldwide scope relating to such assets. The ongoing work carried out at the OECD and G20 levels for the achievement of a global agreement regarding the transparency of crypto-currencies is crucial in this respect and the EESC encourages the Commission to play an active role on the international stage.

1.5. The EESC appreciates that enhanced and more effective taxation of crypto-assets will help increase the coverage of taxation and boost national budgets, allowing the deployment of additional resources targeted at the common good and at the investment priorities of the Commission (green transition and digitalisation).

1.6. The EESC considers that the tax identification number ("TIN") reporting system is the most effective compliance method for ensuring the effectiveness of the new rules. For this reason, the EESC strongly supports the Commission's proposal on TIN since it contributes to preventing possible mistakes, thereby improving legal certainty and the predictability of the system.

1.7. The EESC believes that reporting obligations should not be solely limited to exchanges and transfers in crypto-assets, but should also be extended, at least during the initial phase, to overall holdings of crypto-currency assets for the sake of transparency and certainty, although it remains clear that taxation should only apply to effective gains.

1.8. The EESC stresses the need for effective and proportional penalties, leaving it up to the Member States to decide on the specific amounts of sanctions to be issued. The EESC also recommends that, after the implementation of the Directive, the Commission should report on the penalty structures implemented by the Member States, giving guidance on possible changes if needed.

1.9. The EESC hopes that the penalties and compliance measures will be able to strike a proper balance between effectiveness of the rules and adequate deterrence on the one hand and proportionality on the other hand. Proportionality could, for example, be ensured by taking adequate account of the number of transactions involved in infringements carried out by a given company.

1.10. The EESC stresses that the specific provisions and safeguards on data protection included within the proposal for a Directive, and in line with the GDPR rules, should be duly applied and respected following high standards, in order to fully protect the fundamental rights of the individuals whose data will be collected, exchanged and stored.

1.11. The EESC recommends that the Commission include in its draft proposal rules to enhance the cooperation between the tax authorities already covered by the current text and the authorities in charge of combatting money laundering and the financing of illegal activities and terrorism. In this context, the EESC reiterates that public authorities, in this case tax authorities, require adequate resources in terms of both qualified personnel and high-grade digital technology and standards.

## 2. Commission proposal

2.1. The Commission proposal for a Council Directive amending Directive 2011/16/EU<sup>(1)</sup> on administrative cooperation in the field of taxation ('DAC 8')<sup>(2)</sup> aims at updating the current Directive ('DAC') in order to expand the reporting and exchange of information between tax authorities to include income or revenue generated through crypto-assets by users residing in the European Union. Tax authorities do not currently have the necessary information to monitor proceeds obtained using crypto-assets, which are easily traded across borders.

2.2. The legislative initiative aims at introducing greater tax transparency on crypto-assets by means of specific provisions on the reporting and exchange of information for direct tax purposes. The proposal also refines the existing applicable provisions in order to avoid loopholes and reinforce the legal framework.

2.3. DAC 8 is aligned with the definitions set out in the Markets in Crypto-Assets Regulation ('MiCA')<sup>(3)</sup>, which does not in itself provide a basis for tax authorities to collect and exchange the information needed to tax crypto-asset income. However, DAC 8 builds on the experience with the MiCA and relies on the authorisation requirement already introduced by this Regulation, thus avoiding additional administrative burdens for crypto-asset service providers.

2.4. The proposal is consistent with the recently approved OECD Crypto-Asset Reporting Framework ('CARF')<sup>(4)</sup>, as well as with amendments to its Common Reporting Standard. Such standards have also been endorsed by the G20. During the Commission's consultation, most Member States supported aligning the scope of the EU legal framework with the work done at the OECD.

2.5. In order to improve the Member States' ability to detect and tackle tax fraud, tax evasion and tax avoidance, all reporting crypto-asset service providers, regardless of their size or location, will be required to report the transactions of their clients residing in the EU. Domestic and cross-border transactions are both included. In some cases, reporting obligations will also cover non-fungible tokens (NFTs). Detailed rules concerning the obligations to be fulfilled by reporting crypto-asset service providers are laid down in Annex VI.

2.6. Reportable transactions include exchange transactions and transfers of reportable crypto-assets. Both domestic and cross-border transactions are included in the scope of the proposal and are aggregated by type of reportable crypto-assets.

2.7. Financial institutions will report on e-money and central bank digital currencies, while the scope of the automatic exchange of advance cross-border rulings for high net-worth individuals will be extended. Such individuals are those holding a minimum of EUR 1 000 000 in financial or investable wealth, or in assets under management. The Member States will exchange information on the advance cross-border rulings issued, amended, or renewed between 1 January 2020 and 31 December 2025.

---

(1) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

(2) COM(2022) 707 final.

(3) COM(2020) 593 final.

(4) Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard, OECD, 8.10.2022.

2.8. The proposal will not limit the ability of the Member States to shape their compliance system. However, a common minimum level of penalties for the most serious non-compliant behaviour, such as the complete absence of reporting despite administrative reminders, will be established and enforced.

### 3. General comments

3.1. The EESC welcomes and supports the Commission's proposal on DAC 8, since it represents a substantial step further in improving and completing the DAC Directive following the recommendations of the European Court of Auditors, which warned that 'if a taxpayer holds money in electronic crypto-currencies, the platform or other electronic provider supplying portfolio services for such customers are not obliged to declare any such amounts or gains acquired to the tax authorities. Therefore, money held in such electronic instruments remains largely untaxed' <sup>(7)</sup>.

3.2. The EESC deems the proposed improvements to the DAC Directive as an effective tool to deter non-compliance with fiscal rules by crypto-assets holders, thereby reinforcing the fight against tax fraud, tax evasion, and tax avoidance, in line with several initiatives undertaken by the Commission in recent years.

3.3. The EESC praises the broad and articulate consultation carried out by the Commission on the proposal at hand, involving all interested stakeholders as well as a more targeted audience of sector operators, who were consulted separately by the Commission. The Member States were also able to voice their position, encouraging the Commission to work closely in line with the OECD's ongoing work. The consultations made the legislative process more transparent and meaningful, notwithstanding the highly technical nature of the proposal.

3.4. The EESC stresses that a global effort to regulate crypto-assets and their use is necessary in order to successfully address the growing issues and implications with a worldwide scope relating to such assets. In this respect, the ongoing work and negotiations carried out at the OECD and G20 levels for the achievement of a global agreement regarding the transparency of crypto-currencies are crucial and the EESC encourages the Commission to play a leading role on the international stage.

3.5. The EESC deems the Commission initiative to be fully in line with the principle of fair and effective taxation, which is a cornerstone of the European social market economy, aimed at ensuring that everybody contributes their fair share and enjoys equal and proportionate treatment, regardless of the kind of assets held or the form of payments accepted.

3.6. The EESC appreciates that enhanced and more effective taxation of crypto-assets will help increase the coverage of taxation and boost national budgets, allowing the deployment of additional resources targeted at the common good and at the investment priorities of the Commission (green transition and digitalisation).

3.7. The EESC fully agrees with the Commission that more transparency will reduce discrepancies and the current unjustified differentiation in the legal framework and treatment resulting in crypto-asset users enjoying 'an advantage over those who do not invest in crypto-assets', thereby hindering not only 'the objective of fair taxation', but also the correct functioning of the single market and an effective level playing-field.

3.8. The EESC supports the combined use of both Article 113 TFEU (since the information exchanged could be also used for VAT purposes) and Article 115 TFEU as a legal basis to support the proposal. The approximation of national laws affecting the functioning of the single market, enshrined in Article 115, is indeed relevant to the case at hand, considering that crypto-assets can be used for several purposes. Discrepancies in both the general legal framework and enforcement tools should therefore be avoided across the single market, since they may harm its consolidation.

### 4. Specific comments

4.1. The EESC encourages the Commission and the Member States to include in the current proposal reporting obligations for natural persons that hold crypto-assets. This would certainly increase the effectiveness and scope of application of the proposal.

4.2. The EESC considers that a tax identification number ('TIN') reporting system is the most effective compliance method in order to ensure the effectiveness of the new rules. For this reason, the EESC strongly supports the Commission's proposal on TIN, since it contributes to reinforcing the effectiveness of the proposal, given that, as a unique identification code, TIN makes it possible to avoid mistakes, thereby contributing to legal certainty and the predictability of the system.

---

<sup>(7)</sup> European Court of Auditors (2021), Exchanging tax information in the EU: solid foundation, cracks in the implementation. Exchanges of information have increased, but some information is still not reported.

4.3. The EESC notes that most Member States already have legislation or at least administrative guidance in place to tax income obtained through crypto-asset investments, but the competent authorities often lack the necessary information to put this into practice. Therefore, legal certainty and clarity can only be ensured by addressing national inefficiencies through an EU legislative initiative aimed at boosting effective and efficient collaboration among tax authorities.

4.4. The EESC believes that reporting obligations should not be limited solely to exchanges and transfers in crypto-assets, but should also be extended, at least in this current initial phase, to overall holdings of crypto-currency assets for the sake of transparency and certainty, even though it remains clear that taxation should only apply to effective gains.

4.5. The EESC stresses the need for effective and proportional penalties, leaving it up to the Member States to decide on the specific amounts of sanctions to be issued. Minimum thresholds appear to have the potential to increase the effectiveness of the new rules on the taxation of crypto-currencies. The EESC hopes that the penalties and compliance measures will be able to strike a proper balance between effectiveness of the rules and adequate deterrence on the one hand and proportionality on the other hand. Proportionality could, for example, be ensured by taking adequate account of the number of transactions involved in infringements carried out by a given company.

4.6. Furthermore, after the implementation of the Directive, the Commission should report on the penalty structures of the Member States and give guidance on the necessary changes to the system of penalties and compliance measures.

4.7. The EESC stresses that the specific provisions and safeguards on data protection included within the proposal for a Directive, and in line with the GDPR rules and principles, should be carefully applied and respected following high standards in order to fully protect the fundamental rights of the individuals whose data will be collected, exchanged and stored.

4.8. Again, the EESC calls on the Member States to adequately invest in its tax authorities and other administrations involved, in order to have the capabilities necessary to fulfil the task of better cooperation in the field of taxation.

4.9. Finally, the EESC recommends that the Commission include in its draft proposal the requirement for there to be cooperation between the tax authorities already covered by the current text and the authorities in charge of combatting money laundering and the financing of illegal activities and terrorism, since it could be that several cases of crypto-assets being used for illegal purposes and money laundering have surfaced in recent years. In this context, the EESC reiterates that public authorities, in this case tax authorities, require adequate resources in terms of qualified personnel and high-grade digital technology and standards.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council, towards a Directive on criminal penalties for the violation of the Union restrictive measures’**

(COM(2022) 249 *final*)

**on the ‘Proposal for a Council decision on adding the violation of Union restrictive measures to the areas of crime laid down in Article 83(1) of the treaty on the Functioning of the European Union’**

(COM(2022) 247 *final*)

**and on the ‘Proposal for a Directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures’**

(COM(2022) 684 *final*)

(2023/C 184/11)

Rapporteur: **José Antonio MORENO DÍAZ**

Referral	European Commission, 26.7.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	8.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	141/1/2

## 1. Conclusions and recommendations

1.1. The EESC welcomes the decision to include sanctions violation among the list of crimes under Article 83(1) TFEU, and the proposal of the Directive to approximate definitions and minimal penalties in national legislation for sanctions breaches.

1.2. However, the EESC regrets that the abovementioned decision was not subject to full democratic deliberation in the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs due to the activation of the urgency procedure. Similarly, the EESC remains concerned that the proposal for a Directive tabled by the Commission has not been preceded by an impact assessment. Moreover, the EESC regrets that the Commission’s proposal for a Directive on the definition of criminal offences and penalties for the violation of sanctions does not mention the European Economic and Social Committee among the stakeholders consulted.

1.3. In the development of the Directive, the EESC encourages the European Commission, the European Parliament and the Council of the European Union to expand the humanitarian carve out, exempting humanitarian agencies and personnel from criminal liability, bringing this provision in tune with current international practice, while ensuring that appropriate mechanisms are provided for to prevent abuse for criminal or political purposes.

1.4. The EESC supports the inclusion of appropriate guarantees and protection for whistleblowers and journalists who publicise attempts to evade sanctions, to which the abovementioned carve-out should extend.

1.5. The EESC urges the European Commission, the European Parliament and the Council of the European Union to ensure that the private sector and civil society organisations are provided adequate information and proactive support in adjusting to the new legislation and in complying with new requirements.

1.6. The EESC encourages the European Commission, the European Parliament and the Council of the European Union to ensure that, beyond promoting the harmonisation of legislation, Member States are equipped with adequate administrative capacities, sufficient funds, and trained personnel for detecting, prosecuting and punishing sanctions violations, which could be supported by cooperation between Member States via the sharing of best practices in detection and prosecution.

1.7. The EESC welcomes the fact that the proposal for a Directive insists on the respect for the principle of non-retroactivity and the EESC underlines the need to guarantee the due process rights and other human rights safeguards of accused persons.

1.8. The EESC remains concerned that common crimes as serious as gender-based violence and hate crimes remain outside the scope of Article 83(1) TFEU as 'Eurocrimes', stressing that geopolitical imperatives should not take precedence over the protection and wellbeing of our citizens.

## 2. Background

2.1. Foreign policy sanctions (or restrictive measures in EU jargon) are agreed by the Council of the European Union under the Common Foreign and Security Policy (CFSP) and take the form of binding legislation with direct effect in all EU member states.

2.2. In contrast to sanctions legislation, which is adopted centrally and is applicable throughout the EU, the implementation and enforcement of sanctions is decentralised: member state authorities are in charge of monitoring that firms and citizens abide by the prohibitions, granting derogations, establishing penalties for violations and investigating and prosecuting them. This applies to all sanctions except for prohibitions on entry, which are managed directly by state authorities.

2.3. The de-centralised nature of the system for implementing EU sanctions results in fragmentation<sup>(1)</sup>: national legislation varies in terms of the definitions and scope of sanctions violations, and the penalties they may result in. There is also variation in administrative capacities for investigation. In addition, individual national authorities enjoy broad discretion in determining whether or not to grant a derogation on humanitarian grounds.

2.4. Research has confirmed significant variation in the implementation and enforcement of sanctions by different EU member states<sup>(2)</sup>. A recent study by the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes ('Genocide Network') highlighted considerable discrepancies in penalties for sanctions violations among EU member states<sup>(3)</sup>.

2.5. The Commission enjoys some oversight powers in this regard: it ensures that all Member States fulfil their obligations under EU sanctions regulation, such as having appropriate penalties in place. As in other areas of EU governance, the Commission is entitled to launch an infringement procedure against any member state which fails to honour these obligations, although no such action has ever been taken to date. The Commission also supports the implementation of sanctions by issuing guidance, e.g. on granting derogations.

2.6. While the system's inherent potential for fragmentation is evident, it is only recently that the Commission has started to take some steps<sup>(4)</sup> towards improving the implementation and enforcement of EU sanctions. While the Commission's renewed activity in this regard pre-dates the Russian invasion of Ukraine launched in February 2022, the wave of sanctions it unleashed added new impetus to the strengthening of sanction implementation and enforcement.

---

(1) Portela, C., 'Implementation and Enforcement', in N. Helwig et al., *Sharpening EU sanctions policy*, FIIA Report 63, Finnish Institute of International Affairs: Helsinki. Study commissioned by the Office of the Prime Minister of Finland, 2020, p. 107.

(2) Druláková, R. and Prikryl, P., 'The implementation of sanctions imposed by the European Union', *Central European Journal of International and Security Studies*, vol. 10, no. 1, 2016, p. 134.

(3) Genocide Network, *Prosecution of sanctions (restrictive measures) violations in national jurisdictions: a comparative analysis*, 2021.

(4) European Commission Communication: 'The European economic and financial system: fostering openness, strength and resilience', (COM(2021) 32 final).



2.7. Council Decision 2022/2332 <sup>(5)</sup> identifies the violation of EU sanctions as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union, popularly known as 'Eurocrimes', and thereby enabling the Commission to propose legislation to approximate the definition of criminal offences as well as penalties in the Member States <sup>(6)</sup>.

2.8. This proposal is justified on the grounds that violations may help to perpetuate threats to peace and security, as well as to the rule of law, democracy and human rights in third countries, and they often have a cross-border dimension. Specifically, it is posited that the violation of sanctions is a 'particularly serious area of crime, since it may perpetuate threats to international peace and security, undermine the consolidation and support for democracy, the rule of law and human rights and result in significant economic, societal and environmental damage' <sup>(7)</sup>. The current situation allows individuals and companies contemplating circumvention to 'shop around' while preventing the establishment of a level the playing field for EU operators.

2.9. On 30 June 2022, the Council of the European Union reached an agreement on the text and requested that the European Parliament give consent on the draft Council decision to add violations of Union restrictive measures to the areas of crime laid down in Article 83(1) TFEU <sup>(8)</sup>. The European Parliament assented through the emergency procedure on 7 July 2022 <sup>(9)</sup>. The Decision was adopted on 28 November 2022 <sup>(10)</sup>.

2.10. The Commission tabled a draft Directive on 2 December 2022 proposing the establishment of minimum rules concerning the definition of criminal offences and penalties for sanctions violation <sup>(11)</sup>.

### 3. General comments

3.1. The identification of sanctions violations as an area of crime under Article 83(1) TFEU is a positive development that will help to harmonise the typification of sanctions violation and associated penalties throughout the EU and improve sanctions implementation and enforcement.

3.2. The EESC encourages the European Commission, the European Parliament and the Council of the European Union to take into account the concerns set out in the following section when proposing and adopting the Directive currently under consideration and other substantive secondary legislation on the establishment of minimum rules concerning the definition of criminal offences and penalties for sanctions violations.

### 4. Specific comments

4.1. The European Parliament gave its consent to the draft Council decision via an urgent procedure. This means that the European Parliament gave its consent without prior deliberation by its Committee on Civil Liberties, Justice and Home Affairs (LIBE). The strong geopolitical imperative underlying the adoption of the proposal should not detract from the need to submit legislative proposals to appropriate democratic scrutiny. Democratic accountability standards should be preserved. The EESC reiterates the importance of ensuring adequate scrutiny by the European Parliament on the proposal for a Directive on the establishment of minimum rules concerning the definition of criminal offences and penalties for sanctions violations that is currently under consideration.

4.2. In the same vein, the proposal for a Directive mentions that the Commission refrained from conducting an impact assessment, pointing to the 'urgent need to hold accountable individuals and legal persons involved in the violation of Union restrictive measures' <sup>(12)</sup>. Although the EESC acknowledges the pertinence of expediting the adoption of the Directive

---

<sup>(5)</sup> Council Decision (EU) 2022/2332 of 28 November 2022 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union (OJ L 308, 29.11.2022, p. 18).

<sup>(6)</sup> European Commission Communication: 'Towards a Directive on criminal penalties for the violation of Union restrictive measures', (COM(2022) 249 final).

<sup>(7)</sup> This wording from Commission Communication COM(2022) 249 final, p. 4, is reflected in preambular paragraph 10 of Council Decision (EU) 2022/2332 (OJ L 308, 29.11.2022, p. 18).

<sup>(8)</sup> Council of the European Union, press release, 30 June 2022.

<sup>(9)</sup> European Parliament legislative resolution. TA/2022/0295.

<sup>(10)</sup> OJ L 308, 29.11.2022, p. 18.

<sup>(11)</sup> European Commission Proposal for a Directive of the European Parliament and of the Council on the definition of criminal offences and penalties for the violation of Union restrictive measures (COM(2022) 684 final).

<sup>(12)</sup> COM(2022) 684 final.

on criminal penalties for the violation of Union sanctions, it is the Committee's view that the relative urgency of harmonising definitions and penalties does not justify skipping the impact assessment that ought to accompany the preparation of the Directive. This is particularly the case since the individuals and legal persons involved in the violation of sanctions can already be held accountable under existing national legislation, which means that delaying the adoption of the Directive will not leave violations unpunished. Thus, the EESC supports the conduct of a regular impact assessment and once the Directive has been adopted, the EESC advocates it in place quickly.

4.3. While the EESC welcomes the extensive consultations that the Commission conducted with a broad spectrum of stakeholders, the EESC regrets that the Commission's proposal for a Directive on the definition of criminal offences and penalties for the violation of sanctions does not mention the European Economic and Social Committee among them.

4.4. The attention devoted to detecting, prosecuting and punishing sanctions violations ought to be matched by a comparable effort to guide economic operators and civil society actors in the implementation of sanctions. Deficiencies in sanctions implementation are often due to a lack of awareness among stakeholders in the private sector, despite efforts by national agencies to inform them<sup>(13)</sup>. It should be kept in mind that the bulk of EU economic operators are small and medium sized enterprises (SMEs) which are often unfamiliar with the duties emanating from sanctions legislation given that economic measures were rare in past sanction practice<sup>(14)</sup>. The EESC welcomes the Commission's current efforts to improve the support given to economic operators and encourage their continuation<sup>(15)</sup>.

4.5. Adequate provisions should be made to safeguard humanitarian action in jurisdictions under sanctions. Liability for possible sanctions violations remains a concern for humanitarian actors providing relief to heavily-sanctioned jurisdictions<sup>(16)</sup>. Such actors consistently draw attention to the difficulty of guaranteeing that no transgression of sanctions legislation occurs in the course of their operations, as well as to the negative implications of their association with Western sanctions in the eyes of belligerents<sup>(17)</sup>. The recent adoption by the United Nations Security Council of Resolution 2664 on December 2022<sup>(18)</sup>, which contains a general carve out allowing for the provision of funds and services to humanitarian organisations<sup>(19)</sup> and was quickly implemented by US authorities<sup>(20)</sup>, turns the persistence of narrow humanitarian clauses in EU legislation into an exception, putting it in the spotlight. In order to ensure that the penalty framework does not hinder humanitarian action, the language of the proposed Directive ought to be strengthened. At the moment, it only exempts 'the delivery of humanitarian aid to persons in need'<sup>(21)</sup> from criminalisation. The EESC supports the adoption of a broader humanitarian exemption excluding criminal liability under EU sanctions regimes for all staff of impartial humanitarian organisations. Such a clause would ensure the conformity of EU sanctions legal frameworks with International Humanitarian Law (IHL). At the same time, provisions should exist to prevent possible abuse for criminal or political purposes. The protection of humanitarian actors should extend to investigative journalists.

---

<sup>(13)</sup> Druláková, R. and Zemanová, S., 'Why the implementation of multilateral sanctions does (not) work: lessons learnt from the Czech Republic', *European Security*, vol. 29, no. 4, 2020, p. 524.

<sup>(14)</sup> Portela, C., 'Sanctions in EU foreign policy', in N. Helwig et al., *Sharpening EU sanctions policy*, FIIA Report 63, Finnish Institute of International Affairs: Helsinki. Study commissioned by the Office of the Prime Minister of Finland, 2020, p. 23.

<sup>(15)</sup> Council Decision (CFSP) 2022/1506 of 9 September 2022 on a European Union action to support the development of information technology tools to improve the dissemination of information on Union restrictive measures (OJ L 235, 12.9.2022, p. 30).

<sup>(16)</sup> Portela, C., 'What if the EU made sanctions compatible with humanitarian aid?', in F. Gaub (ed.) *What if...? Fourteen Scenarios for 2021*, EUISS: Paris, 2020.

<sup>(17)</sup> Debarre, A., 'Safeguarding humanitarian action in sanctions regimes', New York: International Peace Institute, 2019.

<sup>(18)</sup> United Nations Resolution 2664, S/RES/2664(2022).

<sup>(19)</sup> Operative paragraph 1 of S/RES/2664(2022) stipulates that the provision of funds or the provision of goods and services necessary to ensure the timely delivery of humanitarian assistance by the United Nations (...) or non-governmental organizations or by others as added by individual Committees established by this Council 'are permitted and are not a violation of the asset freezes imposed by this Council or its Sanctions Committees.'

<sup>(20)</sup> U.S. Treasury Department, press release, Treasury Implements Historic Humanitarian Sanctions Exceptions, 20 December 2022.

<sup>(21)</sup> COM(2022) 684 final.

4.6. The EESC encourages the Commission to monitor the implementation of the directive not merely with reference to the adoption of legislation, but paying attention to the endowment of sufficient administrative, financial, technological and human resources capacities and appropriate training to allow national bureaucracies, judicial and law enforcement authorities to give effect to the contents of the new legislation. In the absence of adequate equipment, staffing and financial endowment, the harmonisation of legislation alone is likely to fail in its mission of detecting, prosecuting and punishing sanctions violations. In addition, the EESC encourages the Commission to make criteria it will apply for monitoring, in order to provide some orientation to stakeholders.

4.7. When criminal convictions allow for the confiscation of assets, a sizable portion of the proceeds ought to be allocated for compensating victims and, in the case of those sanctions currently in force against Russian targets over its war on Ukraine, to post-war reconstruction efforts in Ukraine. The EESC supports this demand, in line with the EESC opinion <sup>(22)</sup> on the Commission proposal for a Directive on asset recovery and confiscation. The EESC further encourages the Commission to work with dedicated civil society organisations on the definition of victims and on the design of mechanisms to channel the proceeds of sanctions evasion to victims, or to social investment endeavours that directly benefit them. In the interest of accountability, the EESC advocates enhanced transparency in the form of release of figures of confiscated assets and their subsequent destination.

4.8. The proposed Directive should also contain adequate provisions for the protection of whistleblowers and investigative journalists who uncover sanctions evasion practices. Their key role as 'early warning' mechanisms merits protection. In that regard, the EESC supports the Commission's proposal to extend the protection afforded under Directive (EU) 2019/1937 <sup>(23)</sup> to the reporting of violations of EU restrictive measures and to persons reporting such violations.

4.9. As indicated in the Directive's current wording, provisions should be made to uphold the principle of non-retroactivity of criminal penalties, in line with the principle '*nulla poena sine lege*'. The EESC underlines the need to guarantee the due process rights and other human rights safeguards of accused persons.

4.10. Lastly, the EESC regrets that, while the identification of sanctions violations as a 'Eurocrime' has proved a swift process, crimes as serious and common crimes such as hate crimes and gender-based violence cannot be covered under the scope of Article 83(1) TFEU. Geopolitical imperatives should not be prioritised at the cost of neglecting other crimes of immediate relevance to our citizens.

4.11. To conclude, it should not be forgotten that harmonising penalties aim is to improve the credibility of sanctions adopted under the CFSP. From that vantage point, Member States should strive to respect visa bans with the same diligence that is expected of EU citizens and operators <sup>(24)</sup>.

Brussels, 22 March 2023.

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

---

---

<sup>(22)</sup> OJ C 100, 16.3.2023, p. 105.

<sup>(23)</sup> Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

<sup>(24)</sup> Mangas Martín, A., 'Sobre la vinculatoriedad de la PESC y el espacio aéreo como territorio de un estado (Comentario al auto del TS español de 26 de noviembre de 2020, sala de lo penal' (On the binding nature of the CFSP and airspace as the territory of a state (Commentary to the judicial decree of the Spanish Supreme Court of 26 November 2020, criminal division)). *Revista General de Derecho Europeo*, 53, 2021.

**Opinion of the European Economic and Social Committee on the Proposal for a Council recommendation on adequate minimum income ensuring active inclusion**

(COM(2022) 490 final — 2022/0299 (NLE))

(2023/C 184/12)

Rapporteurs: **Jason DEGUARA** and **Paul SOETE**

Referral	European Commission, 25.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	8.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	143/00/08

## 1. Conclusions and recommendations

1.1. The EESC welcomes the content of the recommendation, especially the implementation of realistic and sufficient criteria for the level of adequacy and accessibility of minimum income, the legal guarantee thereof and the reporting system, the European Commission's further recognition of the need for an active social policy and further actions to combat poverty across the EU.

1.2. There is a need for a rights-based approach for all to an adequate minimum income which leaves no one behind, does not have overly restrictive criteria and is accurately measured to ensure that it is effective.

1.3. Addressing poverty and income inequalities is important not only for reasons of social fairness but also to support economic growth. The overall stabilising effect of minimum income systems for the economy should also be noted in this context.

1.4. The right of the Member States to define the principles of their social systems, the complementary competences of the EU and Member States and the full use of the EU Treaty's instruments should be the guiding principles of any EU action in the field of social protection.

1.5. Quality and sustainable employment is the best way out of poverty and social exclusion. At the same time, ensuring that more people are in an inclusive and good quality labour market helps finance social protection systems and makes them more financially sustainable.

1.6. Currently, in a large number of Member States the setting and level of minimum income benefits are not based on a robust methodology or linked to statistically underpinned indicators reflecting decent and dignified life. The first step is to set up this kind of methodology and to take into account the different income sources and the specific situations of households.

1.7. The EESC insists that it is necessary for minimum incomes to be kept in line with inflation, especially with the rise in cost of living in terms of food and energy, and this should be done on a regular basis, with the support of civil society organisations, social partners and welfare organisations.

1.8. Continuous monitoring of implementation of income support policies and other social protection policies ensuring active inclusion is necessary to achieve the objectives of this recommendation. The progress reports by Member States should be drafted with the participation of relevant civil society and welfare organisations and social partners, or their reports should be regularly addressed by the Commission's monitoring mechanism, as stated in the Council recommendation.

## 2. Introduction

2.1. Despite some progress achieved in reducing poverty and social exclusion in the EU since the beginning of the century, in 2021 over 95,4 million people still remained at risk of poverty.

2.2. There is an increase in the poverty risk for people living in (quasi) jobless households and a worsening in the depth and persistence of poverty in many Member States, and the risk is higher for women than for men. The EU's target is fixed at reducing the number of people at risk of poverty by at least 15 million by 2030.

2.3. In the long term, demographic evolution will have major economic consequences as the labour force will shrink and a rapidly ageing population will put additional pressure on public finances and the financing of minimum income schemes.

2.4. The current context for the Council's political agreement — with the war in Ukraine, the increase in energy prices and the rise of inflation — is even more challenging. The IMF estimates that inflation worldwide will rise by 8,8 % this year and 6,5 % in 2023.

2.5. Single parents constitute less than 15 % of the families in the EU but have a much higher risk of poverty and non-employment. Even a full-time job will not safeguard single parents from the risk of poverty. Dual-income households in full-time employment that are normally not at risk of poverty however are at risk if they have more than two children<sup>(1)</sup>.

2.6. Minimum income benefits are means-linked benefits of last resort, granted on the basis of needs and for unemployed people who are able to work, linked to sufficient incentives to (re)enter the labour market. Usually national policies require assessment of the disposable income combined with personal means testing. The minimum income schemes are embedded in national contexts and traditions and linked to the wider social protection systems of each Member State.

2.7. There are very large differences across welfare states in general concerning minimum income level and composition and this is also the case in the EU. As indicated by the Commission studies, the labour market situation of minimum income beneficiaries varies significantly across Member States.

2.8. None of the countries currently ensure adequate income support for jobless families to avoid poverty risks, and 20 % of jobless people are not eligible to receive any support. There is also a problem of non-take-up of minimum income estimated at between 30 and 50 %.

2.9. The income components to be considered to analyse the minimum income level are wages, social assistance benefits, child benefits (the most common additional income), housing, energy and health allowances, other benefits like benefits in kind, all of which are measured after taxes and social contributions.

2.10. At European level, minimum income has been the subject of the following actions and instruments:

— Council recommendation 92/441/EC and Recommendation 2008/867/EC on the active inclusion of people excluded from the labour market,

— The European Pillar of Social Rights (EPSR), Article 14<sup>(2)</sup> and other principles such as those on 'active support to employment', 'social protection', 'access to essential services', 'education, training and lifelong learning' and 'equal opportunities',

---

(1) From *Minimum income support for families with children in Europe and the US. Where do we stand?* by Ive Marx, Elize Aerts, Zachary Parolin, May 2022 SocArXiv; Children at risk of poverty or social exclusion.

(2) Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring dignity at all stages of life, and effective access to enabling goods and services. For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market.

- The European Semester which offers a framework for the relevant monitoring of policy coordination activities based on the benchmarking framework of the Council's social protection committee,
- The Council's conclusions from 2020 on strengthening minimum income protection during the COVID-19 pandemic and beyond inviting Member States to review their national minimum income schemes <sup>(3)</sup>,
- Employment guidelines 2022.

### 3. General comments

3.1. Poverty is multidimensional and it manifests in all areas of life. Poverty reflects failures in the systems for redistributing resources and opportunities in a fair and equitable manner. Thus a minimum income scheme is a necessary, although not sufficient, condition to enable a dignified life and a viable road out of poverty. Poverty intersects with other forms of social injustice. Gender and racial inequalities exacerbate the risk of poverty while poverty increases the risk of exclusion and discrimination, manifesting especially in terms of health, education and training and exposure to financial dependency and violence.

3.2. The EESC welcomes the content of the recommendation, especially the implementation of realistic and sufficient criteria for the level and accessibility of minimum income, its legal guarantee and the reporting system, further recognition by the European Commission of the need for an active social policy at EU level and further actions to combat poverty across the EU. The recommendation is a step towards implementing Principle 14 of the EPSR, which states that 'everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life'.

3.3. Following Russia's illegal and barbarous aggression against Ukraine, the current context for the Council's political agreement is even more challenging given the sharp increase in energy prices and high rate of inflation affecting households, especially low-income families. Against the backdrop of megatrends such as globalisation, digital and green transition and demographic change, the European labour markets are in the process of major transitions. Minimum income systems play a key role in providing support and incentives to (re)integrate people into the labour market.

3.4. There is a need for a rights-based approach for all to an adequate minimum income which leaves no one behind, does not have overly restrictive criteria, is based on transparent and non-discriminatory requirements and is accurately measured to ensure its effectiveness. An inclusive society should cater for all sectors of society and Member States should introduce robust monitoring mechanisms to follow up on the minimum income and its take-up without further delays.

3.5. Effective minimum income schemes can help to guarantee that human rights are respected, ensure that people live in dignity, help them remain active and included in society, and help integrate people into sustainable and good quality employment. The EESC also highlights the importance of minimum income schemes for self-employed people in Europe, who should be fully entitled to the same support and benefits as other groups.

3.6. Addressing poverty and income inequalities is important not only for fairness reasons but also to support economic growth. As stated in the OECD report from 2021 <sup>(4)</sup>, well-designed tax policies can support inclusive and sustainable growth and address the distribution of income and wealth. Inclusive growth should in this context aim at fairness of sharing the benefits of growth as well as promoting the inclusiveness of labour markets. The overall stabilising effect of minimum income systems for the economy should also be noted in this context.

3.7. Minimum income schemes should be part of national strategies to combat poverty which effectively integrate measures to achieve fair wages and decent work, access to affordable and good quality essential services, access to basic social security and adequate income support, person-centred social services and active inclusion policies.

3.8. The EESC stresses the aim of a Europe-wide methodology supported by a European analysis to help Member States define adequacy of minimum income through an appropriate method such as the agreed EU at risk of poverty (AROP) indicator of 60 % of equalised disposable income or/and underpinned by a reference budget (including food, housing, water, electricity, heating, telecommunications, health, transport, leisure and culture).

---

<sup>(3)</sup> The EESC has discussed the minimum income in its opinions: *For a European Framework Directive on a Minimum Income* (own-initiative opinion) (OJ C 190, 5.6.2019, p. 1); *Decent minimum wages across Europe* (exploratory opinion requested by the European Parliament/Council) (europa.eu) — para. 1.6, 3.3.7 (OJ C 429, 11.12.2020, p. 159); *European minimum income and poverty indicators* (own-initiative opinion) (europa.eu) (OJ C 170, 5.6.2014, p. 23).

<sup>(4)</sup> OECD (2021): Tax and fiscal policies after the COVID-19 crisis.

3.9. As stated in the recitals of the Council's political agreement, quality and sustainable employment is the best way out of poverty and social exclusion. The more people are in the labour market, the more sustainable financing will be available for social protection systems, as they are largely financed through employment taxes.

3.10. While Member States have developed and reformed their social safety nets over the years, taking into consideration the guidance provided by Council Recommendation 92/441/EEC, developments in the economy, labour markets and societies at large in Europe have brought new challenges and a pressing need to update the European framework for tackling income inequalities and poverty.

3.11. The right of the Member States to define the principles of their social systems, the complementary EU and Member State competences and the full use of the EU Treaty instruments should be the guiding principles of any EU action in the field of social protection. It is also important to analyse existing minimum income schemes in relation to the comprehensive social protection arrangements of Member States. However, there is scope for EU-level action to support the Member States in their endeavours.

3.12. Tackling income inequalities requires determined reforms, coordinated policies and well-targeted actions by Member States in a wide range of policy areas, such as tax and benefit systems, wage setting mechanisms, labour market incentives, education and training, equal opportunities and good quality services with access and affordability for all. Furthermore, a key prerequisite for all redistribution systems is sustainable growth based on well-functioning markets and competitive companies.

3.13. The EESC concurs with the Commission services' conclusion that job counselling, individual action plans and integration of activation measures into minimum income have a positive effect on the likelihood of entering employment successfully.

3.14. The EESC stresses the Commission services' finding that a large proportion of minimum income beneficiaries are not subject to Active Labour Market Policy (ALMP) measures, even though they might be capable of working. While there should be a fair balance overall between incentives and a stronger link with conditions to receive income support and activation measures, attention should be paid to special groups such as young adults outside of the labour market or who are at risk of poverty or social exclusion.

3.15. The European Anti-Poverty Network (EAPN) has identified adequacy, accessibility and an enabling character as three key policy design criteria for minimum income schemes:

- Adequacy means sufficient for a dignified life;
- Accessibility focuses on ensuring access and comprehensive coverage for all people who need minimum income schemes;
- Enabling character relates to the use of design parameters that are in line with an integrated, person-centred 'active inclusion paradigm'.

3.16. As rightly pointed out in the Council's political agreement, disproportionate administrative burden, lack of awareness or fear of stigmatisation or discrimination may cause those eligible for minimum income not to request access to it.

3.17. Social economy enterprises, together with small and medium sized enterprises in general, are important, especially as entry-level employment. The EESC welcomes the Commission's Social Economy Action Plan and urges the Commission to assess the best projects at the appropriate level.

3.18. Special attention should be given to specific groups such as single-parent families, migrant families, young people, people with disabilities and Roma.

3.19. Many pensioners today depend on a minimum income as their pension is too low. If they are not able to work it is not possible for these elderly people to go back to the labour market to get a better income. They require pension systems that provide them an adequate pension so that they do not have to rely on minimum income support. Since the demographic trend in the Member States signals that we will have more pensioners in the future, it is important that they have pension systems that provide adequate pensions.

3.20. The EESC proposes that Member States should assess minimum income levels at least on a yearly basis and it should be indexed to take account of inflation, at least on a yearly basis depending on the level of inflation.

#### 4. Specific comments

##### 4.1. *Concerning the adequacy of the minimum income*

4.1.1. Currently, in a large number of Member States the setting and level of minimum income benefits is not based on a robust methodology or linked to statistically underpinned indicators. The first step is to set up this kind of methodology and to take into account the different income sources and the specific situations of households.

4.1.2. As for the level of the minimum income, the EESC notes that in the recommendation there are different methods proposed to define this minimum: by referring to the national at-risk poverty threshold, by calculating the monetary value of necessary goods and services according to national definitions, or by reference to other established national laws or practices. This also implies that systems with reference budgets can be considered. Those systems are based on a nationally defined basket of goods and services reflecting the cost of living in a given Member State or even a region and can help to guide the adequacy assessment.

4.1.3. The EESC insists that it is necessary for minimum incomes to be kept in line with inflation, especially with the rises in cost of living in terms of food and energy, and this should be done on a regular basis. In this sense, the annual review at Member State level is a clear recommendation.

4.1.4. Reference budgets of baskets of goods and services need to be developed at Member State level with coordination at European level. This would help Member States to ensure the adequacy of minimum income schemes. The basket of goods and services must include housing, water, energy, telecommunications, food, health, transport, culture and leisure, among other needs. Mechanisms which allow accurate and quick indexation to real prices are crucial to ensure adequacy, especially in times of crises which impact the cost of living.

4.1.5. Minimum income allowances should not be used as means to subsidise low wages. Where top-up solutions are envisaged for those experiencing in-work poverty, these should be temporary and complementary measures. Acknowledging the multiple forms of work, an active labour market policy and adequate wage policy together with supportive social security and tax systems should be encouraged and supported to ensure good quality employment and a decent standard of living. People who are permanently or completely unable to be employed in decent conditions for a life in dignity should be guaranteed robust safety nets for as long as they need them.

4.1.6. The EESC welcomes the decision that allowances such as disability allowance will not be considered part of the means testing to decide whether a person is entitled to the minimum income allowance, as those allowances cover additional costs due to specific needs. This shows that we are being very sensitive to those who really need help in our society.

4.1.7. Special attention has to be given to vulnerable families and single parents, mostly women as for them the complementary role of child benefits, and of accessible childcare and other care provisions, is essential.

4.1.8. Adequate minimum wages, set by law or collective bargaining, constitute a valuable instrument for addressing poverty. The implementation of the directive on adequate minimum wages will have a positive impact on the risk of poverty for a significant part of the workforce, certainly for single workers in full-time jobs and for dual-income households. Social partners should be encouraged to implement this through collective agreements. Once the directive is implemented the minimum wage could, where applicable, also be used as a reference for the minimum income as long as the minimum income is situated at the poverty level.



4.1.9. The EESC believes that minimum income schemes should include both cash and in-kind services to those who cannot work or for whom it is almost impossible to work.

4.1.10. In-work benefits can also play an important role in attracting inactive people to the labour market <sup>(5)</sup>.

4.1.11. The European Council's target of reducing the number of people at risk of poverty or social exclusion by 15 million is set for 2030 and could seem to be limited in ambition. But this target has to be considered as a minimum taking into consideration that some countries are currently even below 20 % in terms of adequacy and will need quite a long time to achieve the targets. The Commission stated that the recommendation establishes a period for a progressive implementation of the provisions relevant to the adequacy of income support. For the other challenges, like coverage and take-up, the delays should be shorter.

#### **4.2. Concerning coverage, eligibility and take-up**

4.2.1. Currently on average 20 % of jobless people are not eligible for the minimum income schemes. This is due to eligibility conditions concerning the minimum age, the period of residence in the country, lack of addresses for homeless people, family composition issues, etc. Those gaps in coverage should be addressed by the Member States. There is also an issue with the continuity of coverage during the different phases of life and activity. In any case, transparent and non-discriminatory access criteria should be put in place in the Member States.

4.2.2. The responsibility for non-take-up seems to lie to a large extent with the administration; this is unfair and should be tackled. Apparently, the non-take-up of minimum income ranges from 30 to 50 % in the Member States. This seems very high and quite a broad estimate. Member States should be encouraged to gather information about non-take-up and the reasons why this number is so high. The EESC wholeheartedly supports the Council's political agreement's focus on encouraging the full take-up of minimum income through a set of measures such as reducing administrative burden, ensuring user-friendly information and taking steps to combat stigmatisation and proactive action towards people who do not have sufficient resources.

4.2.3. The minimum income should explicitly guarantee access to young adults from the age of 18 and to migrants. As minimum income is a non-contributory benefit, care should be taken to avoid ambiguous language with respect to what should be understood as an 'appropriate' length of residency.

4.2.4. EU-level disaggregated quantitative and qualitative indicators are required to capture the current coverage of minimum income schemes. Particular attention should be given to take-up rates and the efficacy of schemes, especially as regards marginalised groups, including Roma, refugees and homeless people.

#### **4.3. Concerning access to the labour market**

4.3.1. Minimum income systems should be designed with strong activation measures for people able to work with respect of policies for temporary care priorities. In any case, income from work should not disproportionately reduce social benefits so as to avoid an incentive trap.

4.3.2. The participation in public work programmes and the opportunities in the social economy sector should be fully developed especially for the more vulnerable groups.

4.3.3. For the long-term unemployed and inactive people able to enter the labour market, targeted support is especially important. In-work benefits together with structural measures to facilitate the inclusion of vulnerable groups can facilitate their entry into the labour market, but should be temporary.

4.3.4. Participation in activation programmes requires availability of adequate measures such as education and training and life-long learning programmes, accompanied by supporting services such as counselling, coaching or job-search assistance. Development of effective measures requires strong engagement by Member States in active labour market policies in cooperation with relevant stakeholders such as the social partners. The administration and their staff should be qualified for their difficult task and draw on expert and scientific knowledge. The individual qualifications, potential, skills and career plans of unemployed persons should be taken into account systematically.

---

<sup>(5)</sup> The role of in-work benefits in the labour market is highlighted in point 3.4.3 of opinion SOC/737 on Guidelines for the employment policies of the Member States (OJ C 486, 21.12.2022, p. 161).

#### **4.4. Concerning access to essential services**

4.4.1. The recommendation confirms the need to guarantee effective access to good quality and affordable essential services (water, sanitation, energy, transport, financial services and digital communications) as listed in Principle 20 of the EPSR. Digitalisation should be considered a new social determinant for access to essential services and actions should be taken to overcome the digital divide.

#### **4.5. Concerning governance**

4.5.1. The EESC stresses the need to make the governance of social safety nets at all levels more effective. Special attention should be paid to strong coordination of different stakeholders, both horizontally and vertically. Roles and responsibilities of stakeholders should be clearly defined while avoiding silo effects.

4.5.2. The implementation of minimum income schemes should involve all relevant stakeholders, including civil society organisations (notably those working with people experiencing poverty), social service providers and the social partners in all Member States. Stakeholders should be consulted as part of the development of ongoing monitoring and evaluation systems.

#### **4.6. Concerning monitoring**

4.6.1. As indicated in the Council's political agreement, continuous monitoring of implementation of income support policies and related labour market activation measures as well as of access to services, supported by regular evaluations, is necessary to achieve the objectives of this recommendation in the most efficient way. The progress reports by Member States should be drafted with meaningful participation of relevant civil society and welfare organisations and social partners or their reports should be regularly addressed by the Commission's monitoring mechanism. The EESC is not, as mentioned in the draft of the recommendation, one of many stakeholders at EU level but a central Treaty-based institution in the monitoring process.

4.6.2. Minimum income schemes should include safeguards which ensure non-discrimination against actual or potential beneficiaries, as well as mechanisms to secure accessibility for vulnerable groups. All Member States should set up internal bodies to monitor that data protection and the fundamental rights of all those involved are respected.

4.6.3. To progress it is important to build on the existing information at EU level and engage in the necessary action so that each Member State is in a better position to improve the way national income schemes operate. This includes the need to organise exchanges on national practices, thematic seminars and events. In this regard, and to review the progress, the EESC welcomes the proposed institutional activities such as reinforcing the existing cooperation between the Commission and Member States within the Social Protection Committee, Employment Committee and Network of Public Employment Services. However, ways need to be found to overcome the obstacles and difficulties caused by data protection legislation which may unnecessarily hamper smooth cooperation between authorities.

4.6.4. The stages of monitoring Member States are imperative, especially for those that are still way behind the targets. The EESC stresses the importance of a clear way forward using the European Semester and other tools to keep following all Member States in their progress.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation**

(COM(2022) 688 final — 2022/0400 (COD))

**and on the Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC**

(COM(2022) 689 final — 2022/0401 (APP))

(2023/C 184/13)

Rapporteurs: **Sif HOLST** and **Nicoletta MERLO**

Referral	European Parliament, 15.12.2022 (COM(2022) 688 final) Council of the European Union, 21.12.2022 (COM(2022) 688 final) European Commission, 8.2.2023 (COM(2022) 689 final)
Legal basis	Articles 19(1) and 157(3) of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	8.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	164/01/02

## 1. Conclusions and recommendations

1.1. The EESC welcomes the initiative to give equality bodies the role of advocates for the rights of victims of discrimination, and particularly welcomes the explicit focus on promotion and prevention and on provision of adequate resources, enabling equality bodies to carry out their role independently and effectively.

1.2. The EESC emphasises the importance of striking the right balance between setting out standards for equality bodies and subsidiarity in the proposed directives, while ensuring that the overall objective of the directives — to increase the strength and effectiveness of equality bodies — remains a priority.

1.3. Believing that not properly taking into account intersectional and multiple forms of discrimination would be a missed opportunity, the EESC requests that the aspect of intersectionality be taken into account in policies at both national and EU level, so as to guarantee that every victim is given protection.

1.4. The EESC welcomes the introduction of the proposed legal obligation for equality bodies to be free from external influence and to ensure that they have sufficient sustainable human, professional, technical and financial resources.

1.5. The EESC supports the obligation for public institutions to consult with equality bodies in a timely manner and to take their recommendations into consideration, but recommends that Member States should be required to report on actions taken in relation to their interactions with equality bodies and the results of such actions.

1.6. The EESC believes that entrusting the supervision mechanism to the European Commission ensures a high level of attention to monitoring. However, for this to be effective, it calls for consideration to be given to whether the reporting timeframe can be reduced to three years instead of five, as proposed by the directives.

1.7. The EESC welcomes the clarification that accessibility for all also requires attention to the accessibility requirements of persons with disabilities and stresses that accessibility can also be a matter of access to advice.

1.8. The EESC considers it very important to respect the diversity of national legal frameworks and practices on non-discrimination — including the fact that many Member States have given equality bodies powers beyond the minimal requirements of the existing equality directives — and to take into account differences in the way social partners and civil society organisations are involved in the process. The proposals should respect the principles of subsidiarity and proportionality, while safeguarding against lowering of existing standards of protection for victims of discrimination. The EESC further insists that the proposals must promote a leading role for social partners and civil society organisations in the implementation of national non-discrimination frameworks and reinforce existing practices of support for social partners and civil society organisations from equality bodies.

1.9. The EESC recognises that exercising investigative powers in the context of proceedings on behalf of or in support of victims of discrimination must be without prejudice to the powers and independence of investigations by courts, tribunals and other public monitoring bodies such as labour inspectorates.

1.10. The EESC calls for adequate protection to be provided for complainants, proportionate compensation to be guaranteed for the offence suffered by the victim, and penalties to be ensured for offenders, with a view to focusing on an individual-centred approach to victims of violence or discrimination. The sanctions, which may comprise payment of compensation to the victim, must be effective, proportionate and dissuasive and set out at national level in line with the national legal frameworks and practices <sup>(1)</sup>.

1.11. The EESC suggests that the promotion of information campaigns on EU rights and respect for diversity be developed and financed by the European Commission, and carried out at local level by national equality bodies, together with civil society organisations and social partners, and adapted to the needs of territories. Special attention should be paid to the most vulnerable groups and special campaigns should be planned targeting children and young people at school, from an early age.

1.12. The EESC calls for the regular collection and analysis of disaggregated data to monitor inequalities and discrimination, including multiple discrimination, and stresses the importance of carrying out systematic research on inequalities and discrimination, also in cooperation with organised civil society and social partners in work-place related matters.

## 2. Background to the Opinion

2.1. Equality bodies are national public institutions set up across Europe to promote equality for all and tackle discrimination. They are independent organisations protecting and assisting victims of discrimination, monitoring and reporting on discrimination issues. They play a fundamental role in the non-discrimination architecture of the EU <sup>(2)</sup>.

---

<sup>(1)</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Article 17 Sanctions) (OJ L 303, 2.12.2000, p. 16).

<sup>(2)</sup> Equinet.

2.2. Equality bodies were first established by the Racial Equality Directive (2000/43/EC) <sup>(3)</sup>. Three subsequent equality directives entrusted equality bodies with the same missions in their respective field: the Gender Equality Directive in the field of goods and services (2004/113/EC) <sup>(4)</sup>, the Gender Equality Directive in the field of employment (2006/54/EC) <sup>(5)</sup> and the Gender Equality Directive in the field of self-employment (2010/41/EU) <sup>(6)</sup>.

2.3. These directives do not include references to the structure and functioning of equality bodies, but only establish some minimum competences, and thus do not preclude the existence of even substantial differences between Member States. The European Commission adopted a Recommendation on standards for equality bodies in 2018 <sup>(7)</sup>, seeking to address challenges resulting from the broad and incomplete provisions on equality bodies in the EU directives. However, this recommendation did not succeed in closing this gap either <sup>(8)</sup>.

2.4. On 7 December 2022, the European Commission adopted two proposals <sup>(9)</sup> to strengthen equality bodies, in particular their independence, resources and powers, so that they can combat discrimination more effectively under all EU directives already adopted in the field of equal treatment.

### 3. General comments

3.1. Equality, as one of the EU's basic values, is also one of the EESC's priorities. In its previous opinions <sup>(10)</sup>, the EESC recognised the EU's efforts in the fields of gender equality; protection against discrimination on the grounds of ethnic origin, race or age, religion, and opinion or belief; the protection of LGBTQIA+ rights and the rights of persons with disabilities; as well as its work on Roma integration and upholding migrants' rights. The EESC also stressed the need for strong policies, real resources, long-term engagement and more significant support for national equality and human rights bodies, especially as regards improving their independence, efficiency and increasing their staffing and financial resources <sup>(11)</sup>.

3.2. The EESC welcomes this initiative on empowering equality bodies as defenders of the rights of discrimination victims, and sees it as an indispensable contribution to the European Commission's broader work to move towards a Union of Equality, which is focused on the promotion of equal treatment and non-discrimination as a general principle of EU law.

3.3. The EESC particularly welcomes the explicit focus of the two proposals on promotion and prevention as a timely recognition of the need for policies, actions and minimum standards that tackle the structural discrimination and stereotypes that are often still present in our society, promoting greater uniformity between Member States while respecting existing functioning structures and approaches at national level.

3.4. The EESC emphasises the importance of striking a proper balance between setting out standards for equality bodies and subsidiarity under the proposed directives, while ensuring that their overarching objective — namely, increasing the strength, independence and effectiveness of equality bodies — remains a priority.

---

<sup>(3)</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

<sup>(4)</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ L 373, 21.12.2004, p. 37).

<sup>(5)</sup> OJ L 204, 26.7.2006, p. 23.

<sup>(6)</sup> OJ L 180, 15.7.2010, p. 1.

<sup>(7)</sup> Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies (OJ L 167, 4.7.2018, p. 28).

<sup>(8)</sup> Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies (OJ L 167, 4.7.2018, p. 28).

<sup>(9)</sup> COM(2022) 688 final and COM(2022) 689 final.

<sup>(10)</sup> See opinions on: *The situation of women with disabilities* (SOC/579) (OJ C 367 of 10.10.2018, p. 20); *The situation of Roma women* (SOC/585) (OJ C 110 of 22.3.2019, p. 20); *Shaping the EU agenda for disability rights 2020-2030* (SOC/616) (OJ C 97 of 24.3.2020, p. 41); *Diversity management in the EU Member States* (SOC/642) (OJ C 10 of 11.1.2021, p. 7); the *LGBTIQ Equality Strategy 2020-2025* (SOC/667) (OJ C 286 of 16.7.2021, p. 128), the *Action plan on integration and inclusion 2021-2027* (SOC/668) (OJ C 286 of 16.7.2021, p. 134); the *Strategy for the rights of persons with disabilities* (SOC/680) (OJ C 374 of 16.9.2021, p. 50); and *The new EU Roma strategic framework for equality, inclusion and participation post-2020*.

<sup>(11)</sup> See EESC Opinion on 'Improving Equality in the EU' (OJ C 75, 28.2.2023, p. 56).

3.5. The EESC agrees with the European Commission that, in order to create the conditions for everyone to live, thrive and lead regardless of differences, there is a need to empower existing equality bodies, so that they can achieve their full potential and be better prepared to prevent discrimination and assist victims of discrimination.

3.6. The EESC believes that the promotion of equality bodies is crucial to ensure the fundamental rights of all EU-citizens. By actively promoting equality bodies, the EU is securing the support of any EU-citizens who are being discriminated against and ensuring their right to support and representation.

3.7. The EESC recalls point 2.10 in the EESC opinion on Improving equality in the EU<sup>(12)</sup>: ‘The EESC believes that promoting equality and protecting fundamental rights must be integrated into a broader social vision that multiplies and strengthens the tools through which the Member States and the European institutions give support to individuals and public and private actors’.

3.8. EU-level action that is in line with the principles of subsidiarity and proportionality, and consistent with the other Union policies, is necessary in this area. The European Commission declared that the present initiative revises already existing legislation to increase its effectiveness, setting up minimum standards and involving social partners and civil society.

#### 4. Specific Comments

##### 4.1. *Enhancing the competences of equality bodies*

4.1.1. Given the prolonged stalemate with passing the so-called Horizontal Directive, and based on a victim-centre approach in which justice delayed is justice denied, the EESC believes that not taking proper account of intersectional and multiple forms of discrimination would be a missed opportunity. Some forms of discrimination cannot be addressed by looking at discriminatory grounds one by one, and do need an intersectional approach.

4.1.2. Though a number of existing directives require Member States to set up national equality bodies, current EU rules leave a wide margin of discretion in terms of set-up and operation, and there are significant differences among equality bodies regarding powers, independence, resources, accessibility and effectiveness. The new initiative introducing minimum standards for equality bodies is intended to contribute to the European Commission’s efforts to move towards a Union of Equality and strengthens the effectiveness of EU’s non-discrimination law.

4.1.3. The European Commission’s proposal to extend the mandate of equality bodies to cover Council Directive 79/7/EEC, so that equality bodies are able to provide protection against gender-based discrimination in the field of state social security, must be without prejudice to the role and powers of social partners and should serve to reinforce and support their work.

4.1.4. The EESC acknowledges the centrality and supports the introduction of the proposed legal requirement for equality bodies to be free from external influence and to ensure that they are provided with sufficient sustainable human, professional, technical and financial resources.

4.1.5. The EESC applauds the proposed strong safeguards for the independence of equality bodies, which is crucial to their ability to provide sufficient support to citizens.

4.1.6. The EESC emphasises the particular importance of safeguards for the availability and adequacy of the human, technical and financial resources provided to equality bodies. Resources are a prerequisite, both for the independence of equality bodies and for their ability to effectively protect victims and prevent discrimination.

4.1.7. Part of the European Commission’s proposal is a requirement for public institutions to consult equality bodies in a timely manner, and to take their recommendations into consideration. The EESC recommends that Member States should be required to report on what action they have taken in relation to the recommendations made by equality bodies, as well as the results of these actions.

---

<sup>(12)</sup> See EESC Opinion on ‘Improving Equality in the EU’ (OJ C 75, 28.2.2023, p. 56).

4.1.8. The proposal also stipulates that the European Commission establish common indicators to measure and ensure comparability of data collected at national level, and issue a report on equality bodies across the EU every five years. The EESC would welcome a shorter timeframe for this exercise, and therefore suggests that the European Commission reduce the reporting period to three years.

4.1.9. The importance of monitoring cannot be overemphasised. It is the only way to ensure that equality bodies can be truly effective and capable of providing the necessary support to victims of discrimination. The EESC believes that placing the oversight mechanism with the European Commission ensures a high level of focus on monitoring.

4.1.10. The EESC also believes that the European Commission must actively promote the general access of all victims to the resources and assistance of equality bodies. This can be done through effective oversight, adequate promotion of equality bodies operating at local level and dialogue with the Member States. Including civil society organisations and social partners in the dialogue can bring important added value and further effective oversight.

4.1.11. The EESC continues to call for increased cooperation with and support to civil society organisations and human rights defenders doing frontline work, especially in marginalised and vulnerable communities, as outlined in its previous work <sup>(13)</sup>.

4.1.12. Recalling that ‘the intersection of race, ethnic origin, social class, age, sexual orientation, nationality, religion, sex, disability, refugee or migrant status etc. has a multiplier effect which increases the discrimination’ <sup>(14)</sup>, the EESC believes that it is important to continue to have knowledge-exchange and learning promotion programmes at all levels, including by securing an intersectional approach to the work.

4.1.13. The EESC welcomes the fact that the directives contain provisions for multi-mandate bodies to guarantee the necessary resources and visibility for the equality function. However, the meaning of ‘autonomous exercise of the equality mandate’ will have to be further defined and interpreted — also ensuring that it does not require a hermetic separation between the different mandates in cases where they can be used to strengthen and complement each other. Introducing a structural ‘firewall’ in equality bodies with different dedicated departments could be counterproductive when it comes to achieving strong equality bodies.

## 4.2. *Effective access to justice for victims of discrimination*

4.2.1. Part of the proposals is to ensure that equality bodies are strengthened in handling discrimination cases and that the services of equality bodies are free and accessible to all victims, on an equal basis.

4.2.2. The EESC believes that the assistance provided by equality bodies is essential to ensure that victims of discrimination are not limited to individual recourse to judicial redress and the law, but that these competencies must be without prejudice and complementary to the collective representation and litigation powers of social partners. The EESC also appreciates the clarification of the fact that accessibility for all also requires a focus on the accessibility requirements of persons with disabilities and underlines that accessibility can also be a matter of access to counselling, for example, if individuals live at a remote location or have difficulties accessing online resources. The assistance of equality bodies is a prerequisite for addressing the structural, intersectional and systemic dimensions of inequalities.

4.2.3. The EESC stresses the importance of the ability of equality bodies to act on both complaints from victims and to raise issues on a more general level, on its own initiative or after dialogue with relevant civil society organisations or social partners. Fear of the consequences, including loss of livelihood, might make it difficult for victims to come forward. A lack of awareness of rights and how to enforce them might also be a hindrance.

---

<sup>(13)</sup> OJ C 341, 24.8.2021, p. 50.

<sup>(14)</sup> OJ C 367, 10.10.2018, p. 20.

4.2.4. It is highly important to take into account the considerable diversity of Member States in terms of the number, structure and modus operandi of the equality bodies, and to respect the national legal frameworks and practices, while safeguarding against lowering of existing standards for anti-discrimination protection, including through the present powers of equality bodies being weakened under different national legislation. Moreover, there are also differences in terms of how the organisations of social partners and civil society are involved in the process, and this has to be taken into account <sup>(15)</sup>.

4.2.5. The EESC believes that the right of equality bodies to participate in legal proceedings, which already exists in a number of Member States, is essential to ensure better protection of the principles of equal treatment, especially in situations where victims do not have access to justice due to procedural or financial obstacles, and they are not reached by social partners. The EESC further stresses that, in line with the existing equality directives, the litigation powers of equality bodies should be without prejudice and complementary to the relevant competences and legal standing of social partners and civil society organisations, in accordance with the criteria laid down by their national law <sup>(16)</sup>. In this regard, it is very important that equality bodies cooperate at national level with the courts, with specialised administrative tribunals such as labour courts, and with social partners.

4.2.6. The EESC recognises that meeting the burden of proof obligations under the existing equal treatment directives requires access to evidence for all parties with a legitimate interest in bringing proceedings on behalf of or in support of victims of discrimination, such as social partners, equality bodies and civil society organisations. The exercise of investigative powers in this context must be without prejudice to the powers and independence of investigations by courts, tribunals and other public monitoring bodies such as labour inspectorates.

4.2.7. The EESC believes that these two proposals should focus more on an individual-centred approach to victims of violence or discrimination. In this regard, adequate protection should be provided for complainants, so as to avoid silence for fear of repercussions. Proportionate and adequate compensation should be guaranteed for the offence suffered by the victim, and penalties should be ensured for offenders. The sanctions, which may comprise payment of compensation to the victim, must be effective, proportionate and dissuasive, in line with Article 17 of Directive 2000/78/EC <sup>(17)</sup>.

### 4.3. *Awareness-raising*

4.3.1. The EESC welcomes the focus on awareness raising and emphasises the importance for Member States and equality bodies to step up awareness-raising efforts, including by supporting organised civil society to prevent discrimination and create equality. The EESC proposes that information campaigns on EU rights and the respect of diversities developed and funded by the European Commission be carried out by national equality bodies together with civil society organisations and social partners and adapted to local needs. Special attention should be paid to the most vulnerable groups and special campaigns need to be planned and addressed to children and young people at school, starting from an early age.

4.3.2. The EESC urges for social partners and civil society organisations to be included in the preparation, execution, and dissemination of these information campaigns. The insights of the relevant organisations will further the reach and effectiveness of the campaigns, and can bring a voice to the most vulnerable groups.

### 4.4. *Collection of data*

4.4.1. Equality bodies play an important role in data collection, which goes beyond collecting data about their own work. The directives acknowledge this and, among others, give powers to equality bodies to access statistics collected by public and private entities, including public authorities, trade unions, companies, and civil society organisations. This statistical information should not contain any personal data and its collection must limit the additional administrative or

---

<sup>(15)</sup> Matters relating to legal standing for all parties with a legitimate interest in engaging in non-discrimination proceedings under the EU Equality Directives, such as trade unions, employers' associations, equality bodies and civil society organisations, are regulated by the existing EU Equality Directives and, more specifically, by Article 9(2) of the Framework Employment Directive (Directive 2000/78/EC) and Article 17(2) of the Recast Gender Directive (Directive 2006/54/EC).

<sup>(16)</sup> Recital 34 of Proposal for a Directive COM(2022) 688 final and Recital 35 of Proposal for a Directive COM(2022) 689 final, which state that the proposed provisions on legal standing are without prejudice to the role, powers and tasks of social partners and civil society in participating in proceedings enforcing obligations under anti-discrimination law.

<sup>(17)</sup> OJ L 303, 2.12.2000, p. 16.



financial burden on the referring entities as much as possible. Equality bodies will also be required to prepare annual activity reports and regular reports on the state of equal treatment and discrimination in their country. While these are important and far-reaching powers that can be put to very good use, they are also resource-intensive. Therefore, the EESC stresses the importance of providing equality bodies with adequate additional resources to deploy these powers.

4.4.2. To ensure regular focus on existing inequalities and discrimination, the EESC calls for the regular collection and analysis of disaggregated data to monitor discrimination based on sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation.

4.4.3. The EESC underlines the importance of regular research on inequality and discrimination, and the need for strong cooperation between the European Commission, Member States, human rights bodies, civil society organisations and social partners in work-place related matters regarding monitoring and evaluation and the development of the policy agenda.

Brussels, 22 March 2023.

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

---

**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 – Revision of the EU action plan against wildlife trafficking**

(COM(2022) 581 final)

(2023/C 184/14)

Rapporteur: **Ozlem YILDIRIM**

Co-rapporteur: **Cillian LOHAN**

Referral	European Commission, 25.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted in section	9.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	152/0/1

## 1. Conclusions and recommendations

1.1. The revised EU Action Plan against Wildlife Trafficking contains many right elements that would make it successful. The four priorities and their objectives are well designed and are an improvement on the previous version. However, the EESC is concerned about the resources that will be allocated to implement the plan at national level and whether or not they are sufficient, as insufficiency could lead to the plan failing, as was the case with the previous plan.

1.2. The EESC welcomes the fact that the European Commission has committed to providing sufficient financial and human resources to curb wildlife trafficking by integrating wildlife trade in the EU funds addressing: (i) security and organised crime; (ii) the environment; and (iii) international cooperation/partnerships. In particular, it should be a priority under: EMPACT; the Internal Security Fund; the LIFE programme; Interreg programme; and the Neighbourhood, Development and International Cooperation Instrument.

1.3. However, it is important to agree on a percentage from these funds to be completely dedicated to curbing wildlife trafficking in order to help accountability for the action plan. Member States should commit to providing sufficient funds to develop specialised staff in their countries in order to fight wildlife trafficking. The allocated funds should be reported, monitored, and evaluated as part of the implementation of the action plan at national level. The resources should include equipment as well as staff. Furthermore, staff should enjoy high-quality working conditions, with full collective bargaining rights and a progressive career structure. This is key to attracting the best people and maintaining high levels of motivation. Particular attention should be paid to issues surrounding health, welfare and personal safety.

1.4. Tackling wildlife trafficking should be mainstreamed across policy areas at EU and Member State level. There should be homogenous and a minimum level of training for all actors involved in preventing wildlife trafficking, and adapted capacity building depending on the skills required in the different domains where wildlife trafficking is mainstreamed. Specialised units or staff should be trained among prosecutors, judges, customs officers, national CITES authorities and police authorities. They should be able to detect, arrest those involved in, prosecute and judge wildlife crimes.

1.5. Homogenous structures should also be put in place in all Member States, which the EESC recommends take the form of inter-agency committees and specialised units or staff trained to combat wildlife trafficking. These inter-agency committees would include representatives of specialised units to fight wildlife trafficking. Inter-agency committees would be

particularly useful in consulting and organising joint investigations within the Member States with other agencies that focus on other illegal activities, such as financial crimes and cybercrimes. These are usually connected to wildlife trafficking, as organised criminals can and do use their channels for other kinds of crime (such as drug trafficking and money laundering) to traffic wildlife products. Dedicated channels for communication and collaboration should be established with social partners and civil society.

1.6. Including due diligence obligations for companies trading in the EU — through an ambitious corporate sustainability due diligence directive — could incentivise companies to trade sustainably harvested wildlife in the first place and deter them from entering illegal activities and help enforcement agencies detect criminals.

1.7. The EESC believes that it is important to engage with business sectors involved in wildlife trade to reduce the demand of wildlife products in the EU and to cut down illegal wildlife product importation. The plan provides for thematic sessions with the EU Wildlife Trade Enforcement Group for relevant business representatives to address specific issues (e.g. traditional medicine, exotic pets, the luxury industry, hunting tourism, timber, the fishing and fish-product trade industries, transport, courier companies and online trade). However, coordinated information campaigns for the general public (specifically aimed at reducing demand) should be a key feature of the strategy. CSOs could also play a role in cutting demand by raising awareness and conducting demand-reduction campaigns targeted towards communities that consume illegal wildlife products in the EU.

1.8. The EESC calls upon the Commission to involve national and supranational law enforcement bodies in increasing the visibility of the prevention and prosecution of trade in endangered species as part of their communication about organised crime, both in their permanent communication tools and through temporary targeted campaigns.

1.9. Lastly, it is of crucial importance that the European Commission set up a clear and ambitious monitoring and evaluation mechanism to follow up on the implementation of the action plan, and to measure its progress and success, taking into account the EU's external action to combat wildlife trafficking (in line with Priority 4).

## 2. Background

2.1. Wildlife trafficking has become one of the world's most lucrative organised criminal activities, which the European Commission estimates is worth up to EUR 20 billion a year<sup>(1)</sup> globally. Worldwide, illegal wildlife trade has grown exponentially in recent years because it is considered a low-risk, high-return activity.

2.2. Despite its comprehensive legal framework for wildlife protection, the European Union is an important final market and transit platform for illegally traded wildlife. The EU's significance as a market for illegal wildlife products is detailed in the annual reports of large seizures, which the European Commission has requested yearly since 2011.

2.3. Acknowledging that the EU is a major market for wildlife products, the European Commission has made unprecedented efforts to raise awareness among businesses, consumers and the general public of the features and scale of wildlife trafficking in Europe. As a result, in February 2016, the European Commission adopted the EU Action Plan against Wildlife Trafficking<sup>(2)</sup>, which sets out a comprehensive blueprint for fighting wildlife trafficking inside the EU, and for strengthening the EU's role in the global fight against these illegal activities. Despite successfully raising the profile of wildlife trafficking to a priority issue, the action plan has had little impact on reducing demand. TRAFFIC<sup>(3)</sup> issued a report<sup>(4)</sup> compiling the data of all seizures which fell under the Convention on Trade in Endangered Species (CITES) for 2018, which shows that the demand in the EU for wildlife species did not change from when the first data was gathered in 2011.

---

<sup>(1)</sup> [https://ec.europa.eu/environment/cites/infographics\\_en.htm](https://ec.europa.eu/environment/cites/infographics_en.htm).

<sup>(2)</sup> [https://ec.europa.eu/environment/cites/trafficking\\_en.htm](https://ec.europa.eu/environment/cites/trafficking_en.htm).

<sup>(3)</sup> <https://www.traffic.org/>.

<sup>(4)</sup> <https://www.traffic.org/site/assets/files/12745/eu-seizures-report-2020-final-web.pdf>.

2.4. The most recent report from TRAFFIC on seizures in 2020 <sup>(5)</sup> reflects the impact of the COVID-19 pandemic on wildlife trafficking. Less trade triggered by COVID-19-associated disruptions to air transport, commerce operations, and other interfaces for transporting or selling goods is likely to have been a contributing factor to the decline in reported seizures. A significant reduction in interceptions in the EU in 2020 was observed, although this does not necessarily indicate shifts in demand or changes in illegal wildlife trade dynamics.

2.5. In addition to being an import market, the EU is also a source region for some endangered species, such as the European eel (*Anguilla anguilla*). From 2016 to 2017, 48 people were arrested and 4 000 kg of live juvenile eels, worth about EUR 4 million, were seized. Moreover, not all illicit wildlife entering Europe is destined for European markets, with the EU often acting as a staging post. Enforcement bodies often seize pangolins, seahorses, ivory and shark fins destined for Asia from Africa.

### 3. General comments

3.1. The EU must remain vigilant and multiply its efforts to halt and reverse wildlife trafficking. Not only is this lucrative trade a risk to human health due to the risk of zoonotic disease transmission, it also directly undermines EU policies to support sustainable development worldwide, particularly the Sustainable Development Goals related to protecting global biodiversity and ecosystems <sup>(6)</sup>, as well as efforts to strengthen good governance and address inequalities.

3.2. Wildlife trafficking today is not only bringing many species (including some iconic species) to the brink of extinction, but also hindering sustainable economic development <sup>(7)</sup>. In short, the EU Action Plan against Wildlife Trafficking needs to be well implemented to meet the EU's international environmental agreements, especially the CITES and the Convention on Biological Diversity (CBD). However, the EESC encourages the European Commission to go beyond these international agreements in order to improve wildlife protection in the EU and curb wildlife trafficking, the benefits of which would be seen not only in the EU but also worldwide. Wildlife trafficking is one of the main drivers of biodiversity loss, which, besides bringing many species to extinction, is contributing to climate change by fomenting the illegal logging of trees, which are imperative for storing carbon.

3.3. Equally important is the fact that we need to stop transnational organised crime and its fatal consequences. According to a UNEP-Interpol report, environmental crime is up 26 % <sup>(8)</sup>. This includes wildlife trafficking and is a threat to peace, security and the rule of law, and often converges with other serious crimes such as corruption, cybercrime and financial crimes. In some African regions, for example, wildlife trafficking threatens national security. Murder and assassination must also be mentioned here, as people in charge of protecting endangered species face a real threat to their lives and pay a heavy price for their commitment. The Thin Green Line Foundation found that there were 595 reported deaths of rangers killed by poachers between 2009 and 2016. Hundreds more unknown rangers were also killed in developing countries, which went unreported. 'In 2017, over 100 rangers were reported killed, and 2018 is on track for the same, with nearly two deaths per week' <sup>(9)</sup>.

3.4. The EESC welcomes the revision of the EU Action Plan against Wildlife Trafficking, and the decision to bring wildlife trafficking into the core of European Commission action. The EESC agrees with the European Commission's assessment of the previous EU Action Plan against Wildlife Trafficking showing that a lack of specialised staff, resources and training in many of the Member States and non-EU countries remains a major issue. There is also an important need to improve cooperation: (i) within EU Member States; (ii) among EU Member States; (iii) between the EU and non-EU countries; and (iv) with stakeholders and civil society. Moreover, more should be done in assuring digital traceability and digital cooperation among agencies.

<sup>(5)</sup> [https://www.traffic.org/site/assets/files/17391/2020\\_eu\\_seizures\\_report\\_final.pdf](https://www.traffic.org/site/assets/files/17391/2020_eu_seizures_report_final.pdf).

<sup>(6)</sup> <https://sustainabledevelopment.un.org/topics/biodiversityandecosystems>.

<sup>(7)</sup> Extract from a European Commission analysis conclusion: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0038>.

<sup>(8)</sup> UNEP-INTERPOL Report: Value of Environmental Crime up 26 %.

<sup>(9)</sup> <https://globalconservation.org/news/over-one-thousand-park-rangers-die-10-years-protecting-our-parks/>.

3.5. The EESC welcomes the fact that the European Commission has linked the revision of the Environmental Crime Directive to the EU Action Plan against Wildlife Trafficking. However, is concerned that the Environmental Crime Directive will not be up to the task of providing effective and dissuasive sanctions for wildlife trafficking. On 9 December 2022, the Council adopted its position on the file and significantly lowered the penalties for natural persons, while also reducing ambitions to harmonise sanctions for legal persons. Levels proposed by the Council are too low to be dissuasive and effective. Maximum fine limits should not be less than 15 % of the legal person's total worldwide turnover — much higher than the 5 % or 3 % which were adopted by the Council. We believe that an ambitious Environmental Crime Directive is essential for achieving a successful EU Action Plan against Wildlife Trafficking.

#### 4. Specific comments

4.1. The action plan should make explicit reference to whistle-blowers and other environmental human rights defenders as relevant stakeholders in developing and implementing it at EU and national levels, as they play a key role in exposing and preventing breaches of environmental law. These people should also be protected from intimidation or litigation when reporting wildlife trafficking or assisting investigations, as currently stated in the Environmental Crime Directive.

4.2. The EESC believes that it is important to engage with business sectors involved in wildlife trade to reduce the demand of wildlife products in the EU and to cut down illegal wildlife trade and ensure that any trade in wildlife is legal and sustainable. The plan provides for thematic sessions with the EU Wildlife Trade Enforcement Group for relevant business representatives to address specific issues (e.g. traditional medicine, exotic pets, the luxury industry, hunting tourism, timber, the fishing and fish-product trade industries, transport, courier companies and online trade). However, the role that CSOs can play to support efforts to combat wildlife trafficking should be better recognised and reflected in the action plan and through its implementation (e.g. raising awareness and conducting behaviour-change campaigns). The information provided by the EU to its citizens about the rules, risks and consequences of trading and using wildlife products is not widely disseminated, yet information on practices and the use of traditional medicine (involving the use of parts and derivatives from wild fauna and flora for remedies) are widely spread across the EU. This practice bears risks for users (as some remedies do not have scientifically proven benefits) and fatal consequences for the wild species caught and traded (accelerating their extinction). With more prevention on this specific topic, the EU could cut down up to 30 % of wildlife products trafficked each year, as this number corresponds to the rate of seized wildlife products destined for medicinal use in the EU <sup>(10)</sup>. In this sense, the EESC and law enforcement agencies could also be involved in developing public campaigns to raise awareness about the problem.

4.3. When assigning clear responsibilities for implementing actions at national level and ensuring coordination between the relevant actors, the EESC recommends homogeneity in all Member States. Giving options such as those reflected in the plan to ensure coordination (for instance: (i) through the creation of inter-agency committees or memoranda of understanding; (ii) through the adoption of national action plans; or (iii) through the appointment of a national focal point) will lead to uncertainty, as Member States will choose different options. Developing inter-agency committees at national level, with an appointed focal point for each will help implement the action plan.

4.4. It is crucial that these inter-agency committees and specialised staff or units be trained homogeneously in all 27 Member States. This would facilitate cooperation within and between Member States because staff would react, investigate, and prosecute in the same way. The fact that each inter-agency would have a focal point would also improve cooperation and coordination among Member States and with third countries outside the EU. Having a focal point would improve cooperation because it makes it easier and faster for inter-agency committees and specialised staff in Member States to contact each other, especially when an urgent need arises due to cross-border trafficking. Focal points could make cooperation among Member States more agile, without depending on international bodies such as Europol for more localised cases affecting two countries. However, these groups could be at risk and become targets of organised criminals. Detailed information about the focal points should be restricted to law enforcement agencies and judicial authority spheres in order to protect the identities of staff.

---

<sup>(10)</sup> Council agrees its negotiating mandate on the environmental crime directive — Consilium (europa.eu).

4.5. Regarding the implementation of the EU action plan against wildlife trafficking, EU Member States reported that due to a lack of resources and staff it was difficult for them to enforce operations. Hence again the importance of ensuring Member States commit to dedicating sufficient resources to implement the new EU action plan at national level. Also, resources are important for providing decent working conditions for the staff.

4.6. The text should explicitly state that Member States commit to providing sufficient funds to develop specialised staff in their countries with the aim of fighting wildlife trafficking. The allocated funds should be reported, monitored, and evaluated as part of the implementation of the action plan at national level. The resources should include not only staff but also equipment. Furthermore, staff should enjoy high-quality working conditions, with full collective bargaining rights and a progressive career structure. This is key to attracting the best people and maintaining high levels of motivation. Particular attention should be paid to issues surrounding health, welfare and personal safety. There should be homogenous training for all actors involved in preventing wildlife trafficking, and homogenous structures set up in all Member States, which the EESC recommends take the form of inter-agency committees and specialised units or staff trained to combat wildlife trafficking.

4.7. The action plan highlights the role of different international agencies and initiatives such as EMPACT, which is a flagship instrument for multidisciplinary and multiagency operational cooperation to fight organised crime at EU level. EMPACT could be a key instrument for implementing the EU Action Plan against Wildlife Trafficking. For instance, it could organise trainings for the inter-agency committees and specialised staff in all Members States in a homogenous way.

4.8. Preventing illegal hunting activities, especially for trophies, should be covered by the EU Action Plan against Wildlife Trafficking. In the Carpathian Mountains, for example, bears are hunted illegally, with poachers receiving low penalties which are not deterrent enough.

4.9. The EESC agrees with the suggestion that EMPACT coordinates regular joint operations involving cross-border cooperation with EU Member States, the European Commission (OLAF), and relevant EU agencies such as Eurojust, Frontex, Europol and the European Fisheries Control Agency. Once more, in order to ensure effective cooperation, proper resource allocation at national level is essential.

4.10. Regarding trade policies and instruments to support action against wildlife trafficking, the EESC welcomes the proposal for including ambitious commitments to combat wildlife trafficking in future free trade agreements. However, this will not be enough to curb wildlife trafficking. EU efforts to increase opportunities for international trade and investment will be futile and counterproductive if the EU does not urgently fill in the gaps in law enforcement. Digital product passports could also serve the same purpose. They could increase traceability and transparency on the risks in global supply chains, and help joint international control mechanisms and enforcement efforts, as well as ensure that people and consumers have the same level of information on the products that they buy, regardless of their origin.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the ‘Proposal for a regulation of the European Parliament and of the Council establishing a Union certification framework for carbon removal’**

(COM(2022) 672 *final* – 2022/0394 (COD))

(2023/C 184/15)

Rapporteur: **Stoyan TCHOUKANOV**

Referral	European Parliament, 1.2.2023 European Council, 6.2.2023
Legal basis	Article 192, paragraph 1, of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted in section	9.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	159/0/2

## 1. Conclusions and recommendations

1.1. The EESC welcomes the Commission’s proposal for an EU certification framework for carbon removals, recognising the need to scale up carbon removals and promote regenerative practices, while not losing the primary focus on crucial greenhouse gas emission reductions to limit global warming. However, the EESC notes that the proposal leaves too many crucial points to be developed further through delegated acts.

1.2. The EESC recognises that different carbon removal validation and reward schemes currently exist across the Union and that a common certification framework has the potential to give clarity and reliability by establishing overarching EU rules to govern how the climate benefits of carbon removals are measured, validated and verified. The voluntary nature of the framework involves an incentive effect that can provide new revenue channels for those interested in conducting carbon removal activities. The EESC is calling for more clarity on the expected timeline for full implementation, considering the set of bodies and certification units that will need to be created.

1.3. The EESC notes that there may be legitimate questions about the use of carbon removal in the EU’s climate policy, from the potential for reduced or delayed emission reductions due to promises of future carbon removal, to the threat of fraudulent claims and greenwashing based on carbon credit purchases. In order to prevent greenwashing, the EESC calls for the expected carbon storage duration and reversal risks to be clearly reflected in the use of the different carbon removal certificates (which cover ‘permanent storage’, ‘carbon farming’ and ‘carbon storage in long-lasting products’).

1.4. The EESC welcomes the Commission’s aim of giving the public, carbon removal providers and buyers transparency and clarity on the value of certified carbon removal activities. However, it calls for further safeguards around the value and use of certificates. It invites the Commission to provide guidance defining appropriate claims that can be made based on different instances of certified carbon removal and calls for the distinction to be maintained between certificates resulting from permanent carbon storage, carbon farming and carbon storage in products.

1.5. The EESC calls for the future methodologies developed under the framework to clearly outline accountability aspects and uphold transparency. The risk of reversal needs to be continuously monitored and mitigated. Liability as well as the transfer of liability for removed and stored carbon needs to be clearly defined across the spectrum of carbon removal activities.

1.6. The EESC calls on the Commission to ensure that the methodologies are based on scientific evidence and guided by the scientific community. The EESC points out that the system for certification is far too complex and burdensome to promote a major uptake of these practices — these procedures look very time-consuming and technical and may demotivate operators in their activities, given that they are often small-scale businesses with narrow margins even in the best-case scenario.

1.7. The EESC notes that a diverse range of measurements of carbon removals is required to conduct monitoring, reporting and verification (MRV), including the use of remote sensing and satellite imagery. With regard to the required measurements, the EESC stresses that it is essential to keep the costs of carbon removal MRV as low as possible, to ensure broad accessibility of the certification framework.

1.8. The EESC stresses that the potential risks and side effects for major players (farmers, forest industry, and construction and wood industries) associated with the proposal, including those of an environmental or socio-economic nature, need to be carefully assessed and addressed before integrating the certification framework into other policies, such as the common agricultural policy.

1.9. In the EESC's view, the current Common Agricultural Policy (CAP) should not be used to finance carbon farming or carbon removals <sup>(1)</sup>. While there may be a small role for the CAP in carbon removals, this instrument is designed for the production of food, feed and biomass, which is the primary objective of the agriculture and forestry sector. In this specific context, carbon removals are a by-product, which means that additional financing sources should be made available.

1.10. The EESC feels that the high level of ambiguity from the Commission around financing will act as a strong disincentive for participation for potential partakers. The EESC therefore emphasises that some level of certainty in relation to financing is necessary. Given the opportunities of carbon removals in the future, the EESC recommends developing a roadmap towards a common financial instrument for these measures.

## 2. General comments

### *The need to scale up carbon removals to achieve net zero targets*

2.1. In accordance with the Paris Agreement, the European Union has committed to reaching net zero greenhouse gas emissions (GHGs) by 2050, and net negative emissions thereafter. According to the latest report by the Intergovernmental Panel on Climate Change (IPCC), focusing solely on emission reductions will not suffice to reach this goal: *'the deployment of carbon dioxide removals to counterbalance hard-to-abate residual emissions is unavoidable if net zero CO<sub>2</sub> or GHG emissions are to be achieved'* <sup>(2)</sup>.

2.2. While carbon removals are no substitute for necessary drastic GHG emission reductions, they will need to complement emission reduction efforts to reach net zero and net negative emissions. Consequently, carbon removals will need to be significantly upscaled globally to control atmospheric concentrations of GHGs and limit global warming. To meet its climate goals, the EU anticipates that it will need to reduce its emissions by 85-95 % compared to 1990, with carbon removals needed to fill the gap. Several hundred million tonnes (Mt) of CO<sub>2</sub> will therefore need to be removed from the atmosphere every year.

2.3. To this end, the EU has so far introduced several initiatives:

- the Climate Law, which sets the EU's objective of achieving climate neutrality by 2050;
- the Land Use, Land Use Change and Forestry (LULUCF) Regulation, whose latest proposal for amendment foresees a net carbon removals target of 310 Mt CO<sub>2</sub> equivalent in 2030, storing carbon in soils, forests and wood products; and
- the Communication on Sustainable Carbon Cycles, which outlines the roadmap to carbon farming contributing to the proposed 2030 target for LULUCF, and industrial solutions removing at least 5 Mt in 2030. The Communication also announced plans to develop the proposal for a regulatory framework for the certification of carbon removals.

<sup>(1)</sup> OJ C 323, 26.8.2022, p. 95.

<sup>(2)</sup> IPCC WGIII SPM, 2022.



### ***Governing carbon removal projects***

2.4. With its proposal establishing a voluntary Union certification framework for carbon removals, the European Commission aims to scale up high-quality and sustainable carbon removals by incentivising funding, fighting greenwashing and building trust, as well as harmonising market conditions.

2.5. The Commission establishes three main categories of carbon removal methods:

- permanent storage. Includes methods such as bioenergy with carbon capture and storage (BECCS) and direct air carbon capture and storage (DACCS). At least 5 Mt of CO<sub>2</sub> should be removed via methods in this category by 2030, reaching levels of up to 200 Mt CO<sub>2</sub> removed by 2050;
- carbon farming covers methods such as afforestation and reforestation, improved forest management, agroforestry, soil carbon sequestration, and peatland restoration. Together with carbon storage products, carbon farming contributes to the proposed LULUCF net removal target of 310 Mt CO<sub>2</sub> equivalent annually, to be reached by 2030, and a 'climate positive' economy in 2050;
- carbon storage products include methods such as the use of wood-based materials in construction, as well as long-lasting carbon capture and utilisation (CCU), and together with carbon farming will help to deliver the above-mentioned proposed LULUCF and climate positivity targets.

2.6. To ensure that only high-quality carbon removals are certified according to the Regulation, the Commission has established certain base criteria:

- carbon removal activities must be measured accurately and deliver unambiguous benefits for the climate (quantification);
- carbon removal activities must go beyond market practices and what is legally required (additionality);
- certificates must clearly account for the duration of carbon storage and distinguish permanent from temporary storage (long-term storage);
- finally, carbon removal activities should benefit other environmental objectives such as biodiversity, or at least must not harm the environment (sustainability).

2.7. To more clearly define the rules applying to each carbon removal method, and to operationalise the quality criteria, the Commission will develop tailored certification methodologies with support from an expert group and lay them down in delegated acts. The EU will first develop methodologies and recognise certification schemes. In a second step, operators may join EU-recognised certification schemes, while third parties will verify activities eligible for certification. Certified carbon removals will be recorded in inter-operable registries.

2.8. There are several synergies between existing and upcoming initiatives in the field relevant to carbon removal. Carbon removals under the proposed regulation could:

- receive public support via the Common Agricultural Policy, State Aid, or the Innovation Fund;
- be included in corporate reporting, to be more closely defined in the Initiative on Substantiating Green Claims or the Corporate Sustainability Reporting Directive;
- make use of synergies with other labels and certifications, such as the certification of organic farming and sustainable biomass;
- be included in supply chain contracts, establishing industrial value chains and synergies with sustainable food systems;
- contribute to the integrity of voluntary carbon markets.

### 3. Specific comments

#### ***Robust certification as a much-needed backbone to rapidly grow carbon removal capacities in Europe***

3.1. Establishing overarching EU rules to govern how the climate benefits of carbon removals are measured, validated and verified, can provide crucial support for the development of strong carbon removal capacities in Europe. This includes a wide variety of innovative methods for farmers, foresters, industries and others to capture and store non-fossil CO<sub>2</sub>.

3.2. Certification represents a necessary and significant step towards integrating carbon removals into EU climate policies. This includes, for example, the creation of incentives for soil carbon storage for land managers (e.g. via the CAP), rewarding procurements of building materials that store non-fossil carbon (e.g. via building codes), or reporting on climate targets (e.g. via CSRD).

3.3. The EESC therefore fully supports the Certification Framework for Carbon Removals in principle and as a step towards robust certification.

#### ***The need to track removed carbon to ensure climate, economic and societal co-benefits***

3.4. While it is imperative to deploy carbon removals on a large scale, it is also just as important to keep these efforts in check. The EESC notes that there may be legitimate questions about the use of carbon removal in the EU's climate policy, from the potential for mitigation deterrence, to the threat of fraudulent green claims and greenwashing based on carbon credit purchases.

3.5. Therefore, the EESC believes that the EU needs an effective and robust certification framework to ensure that only high-quality and reliable carbon removal is certified. This will enable the EU to recognise and reward carbon removal without hampering decarbonisation.

3.6. Establishing a quality floor for all certified carbon removals is crucial to provide confidence to the key players that EU-certified carbon removal creates a real climate benefit. Further down the line, it will also have to provide a strong enough signal that the certified carbon removals can be safely integrated into wider EU climate-related policies.

3.7. In this context, carbon removal activities need to show additionality — that a removal would not have occurred without the intervention. This is a strict requirement should the certificates be used for compensation claims, but can potentially be relaxed when there are no claims made (e.g. in the case of direct government payments to farmers to incentivise a shift to regenerative practices). For this reason, carbon removal activities should generate co-benefits in terms of sustainability, rather than only have a 'neutral' impact, as currently envisaged by the Commission.

3.8. The EESC also stresses that the risk of reversal (release of stored CO<sub>2</sub>) needs to be continuously monitored and mitigated. Liability, as well as the transfer of liability, for removed and stored carbon needs to be clearly defined and be specific to each type of carbon removal.

#### ***Maintaining the distinction between permanent carbon storage, carbon farming and carbon storage in products***

3.9. Carbon removal methods vary significantly in terms of how CO<sub>2</sub> is extracted from the atmosphere, where the carbon is stored, and for how long.

3.10. Generally, carbon stored in terrestrial reservoirs and living biomass (short-cycle removal methods) is more vulnerable and exhibits shorter storage durations than carbon stored in geological reservoirs (long-cycle removal methods).

3.11. As a result, the various methods of removing and storing carbon should be counted, managed, and certified in different ways, according to the nature of the carbon storage. The EU already separates the LULUCF pillar from industrial sector emissions. The Sustainable Carbon Cycles communication introduces distinctions between 'fossil', 'biogenic', and 'atmospheric' carbon types, which it proposes be separately labelled, tracked and accounted for within the EU by 2028 at the latest.

3.12. In addition, it should be emphasised that the three families of carbon removal methods (permanent carbon storage, carbon farming and carbon storage in products) play different roles in our path towards net zero emissions, have different climate outcomes, costs, deployment challenges, levels of maturity and public perception. Therefore, they should also be incentivised and governed in different ways, allowing for tailored policies and financial support which meets the needs of each Carbon Dioxide Removal (CDR) method.

3.13. In light of the above, the EESC agrees with the Commission's aim to give the public, carbon removal providers and buyers transparency and clarity on the value of certified carbon removal activities.

3.14. But the EESC urges the Commission to go further and also introduce guidance defining the appropriate claims that can be made based on different instances of certified carbon removal (i.e. permanent storage, carbon farming, carbon storage in products). This will be crucial for fostering the full spectrum of possible cases of carbon removal certification, while ensuring the integrity of the claimed climate benefits and preventing greenwashing.

***Ensuring transparency and scientific input in the development of methodologies***

3.15. As the Commission is to engage in a separate process, backed by an expert group, to develop methodologies for carbon removal activities as well as set out further details around certificates in delegated acts, the EESC calls for civil society to be involved and consulted.

3.16. The EESC calls on the Commission to ensure that the methodologies that will be developed are based on scientific evidence and guided by the scientific community.

3.17. The EESC notes that a diverse range of measurements of carbon removals is required to conduct monitoring, reporting and verification (MRV), including the use of remote sensing and satellite imagery. With regard to the required measurements, the EESC stresses that it is essential to keep the costs of carbon removal MRV as low as possible, to ensure broad accessibility of the certification framework.

3.18. The EU should consider providing dedicated funding for research, methodology development, and pilot deployment. For small players, support for capacity-building and to cover administrative costs will be crucial to democratise access to the certification framework.

3.19. Finally, the EESC stresses that the potential risks and side effects associated with the proposal for major players (farmers, forest industry, and construction and wood industries), including those of an environmental or socio-economic nature, need to be carefully assessed and addressed before integrating the certification framework into other policies, such as the common agricultural policy.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — State of the Energy Union 2022 (pursuant to Regulation (EU) 2018/1999 of the Governance of the Energy Union and Climate Action)**

(COM(2022) 547 final)

(2023/C 184/16)

Rapporteurs: **Marcin NOWACKI, Angelo PAGLIARA, Lutz RIBBE**

Referral	European Commission, 25.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	7.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	208/4/7

## 1. Conclusions and recommendations

1.1. With its 2022 Report on the State of the Energy Union, the European Commission presents a quite optimistic reflection on the measures taken and goals set in the last months.

1.2. Reading the report it becomes clear that many objectives that were perceived before the war against Ukraine as being too ambitious are now presented as being realistic answers to the energy crisis. The question arises as to what hindered the EU as a whole from being more straightforward when it came to climate protection, security of supply, energy autonomy and resilience of the European energy system before 24 February 2022.

1.3. While it is instructive to learn about the various facts and figures that are presented in the Communication, the Energy Union is about much more than mathematically or statistically definable targets for the roll-out of renewable energy, energy savings or emission reduction. The EESC points out that that the Energy Union is above all a political project with the following precisely defined political objectives, described as visions <sup>(1)</sup>:

- (1) An Energy Union built on solidarity and trust between Member States speaking with one voice in global affairs;
- (2) An integrated energy system where energy flows freely across borders, based on competition, effective regulation and optimal use of resources;
- (3) A sustainable low-carbon and climate-friendly economy designed to last;
- (4) Strong, innovative and competitive European companies developing products and technology needed for energy efficiency and low carbon to reduce bills, actively participate in the market and where vulnerable customers are protected;
- (5) Building up the skills of the European workforce that are necessary for building and managing Europe's energy economy;
- (6) Creating investor confidence based on price signals communicating long-term needs and policy objectives, which assumes, inter alia, phasing out subsidies for fossil energies; and

<sup>(1)</sup> See COM(2015) 80 final 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy'.

- (7) Putting citizens at the centre of the Energy Union, who take ownership of the energy system transition, benefit from new technologies to reduce their energy bills, participate actively in the market and where vulnerable consumers are protected.

The report provides a description of measures so far undertaken or planned toward the implementation of these visions. The EESC nevertheless regrets that the account provided in the report does not relate to the visions but, rather, to the five mutually reinforcing and closely interrelated dimensions designed to bring greater energy security, sustainability and competitiveness. This double set of on the one hand objectives or visions and on the other hand dimensions makes it extremely difficult to follow the implementation of the visions, also because for instance the issues of citizens at the centre of the energy union or the need for upskilling and reskilling of the workforce appear in several of the dimensions. The EESC regrets that this makes it very difficult to follow the progress made in implementing the objectives of the Energy Union Strategy.

1.4. The Communication rightly makes reference to the REPowerEU plan, which has been supported by the EESC and which has revived and strengthened the Green Deal and Fit for 55 instruments, focusing on diversification, savings, security of supply and speeding up renewable energy source development. However, the current climate and energy crisis, and the lack of security, stability and predictability in supply and prices, are putting a huge strain on the European Union. The crisis would be less severe if more targeted action had been taken earlier and, for example, if the EU's own objectives (such as those of the European Energy Union) had been taken more seriously.

1.5. According to the 2022 Report on the State of the Energy Union, an estimated EUR 300 billion of public money needs to be invested in the different lines of action aimed at achieving full independence from Russian fossil fuels between now and 2030, which will have a significant impact on the EU's total budget. Additionally, further private investment will be required, including investment by European citizens. The EESC believes that the money needs to be spent in a way that helps achieve the above-mentioned objectives of the Energy Union. Also, the spending should not lead to a reduction in resources for the just transition, for research and innovation, or for businesses and consumers affected by rising energy prices.

1.6. The unprecedented rise in energy prices, triggered by Russia's invasion of Ukraine, is bringing about enormous social and economic consequences, as well as consequences for countries' industrial and productive fabric. The EESC underlines the lack of clear European coordination during the energy crisis and, as part of the response, calls for the creation of an instrument based on the SURE model, in order to support workers and businesses in difficulty.

1.7. Recent events have increased the potential risk of cyber-attacks and acts of sabotage on critical infrastructures such as the energy grid and power plants. The EESC therefore recommends designing and adopting a comprehensive strategy to protect the EU against these kinds of threats.

1.8. The main medium-term strategic objective of the EU countries — specifically in the light of what has happened with the war in Ukraine and also considering a possible further complication of the international situation — must remain that of energy autonomy. We understand 'strategic energy autonomy' to mean a political concept that will help shape the future EU energy market, where autonomous decisions made by the EU will guarantee energy independence from unreliable suppliers. The EESC regrets the fact that this topic is not properly considered in the report and remains in the shadows, with the focus solely on independence from energy imports from Russia.

1.9. In order to reach the EU's strategic autonomy objectives, the EESC calls on the Council and the Commission to develop appropriate instruments, including through the establishment of a European Sovereignty Fund, to boost investment in clean domestic energy technologies and energy infrastructure. At the same time, it is crucial to encourage the Member States to use the funds optimally and efficiently for clean energy development. Such a strategy must also include guidance on how to motivate businesses, community institutions, members of the public and energy communities to invest more. The instruments and resources that are currently provided appear insufficient for the major challenges that need to be addressed. The EESC invites the Commission to take particular care with regard to the impact of new resources and supplies on the environment, and with regard to new dependencies on third countries.

1.10. When developing energy autonomy, the EESC proposes to follow a bottom-up approach since this approach makes it easier to achieve the objectives mentioned in point 1.3.

1.11. The Green Deal is not yet accompanied by the equivalent social policies to make this transition a just transition. Given that employment and industrial systems will be greatly affected by the transition processes, the EESC regrets the fact that the report does not properly take into account the importance of comprehensive employment, skills and social policies. Educational investments, reskilling and upskilling need to be seen as a socio-economic responsibility.

## 2. General comments

2.1. The ideal answer to the supply shock generated by the Russian aggression against Ukraine and the answer most in line with the strategic goals of the Energy Union would be an energy system based on 100 % domestic clean energy. We are aware that there is no agreement as to whether it is feasible for this objective to be met. But in the expected scenario, such an energy system would bring as a central benefit absolute autonomy and high resilience. Once the capital expenditure for investments in renewable energy installations, smart technologies, clean transport and energy efficiency is refinanced, it would offer the most affordable energy to the final consumer while strengthening local and regional economies and creating more jobs than the old system. All those benefits are clearly described in the respective recitals of the Clean Energy Package. While renewable energy theoretically has the potential to ensure energy autonomy in operational terms, it still needs to be ensured that the whole ecosystem, including the material for the renewable installations itself, allows for local production. However, the State of the Energy Union Report shows that the European energy system is still a long way from meeting this goal.

2.2. This situation thus calls for differentiation: if absolute autonomy is not reachable, the EU will need strategic autonomy. Strategic autonomy would involve defining to what degree energy imports will remain unavoidable in the future and what this means for the vulnerability/resilience of Europe's energy system. However, the State of the Energy Union does not give any answer to this, neither does any other strategy paper of the Commission provide such indications.

2.3. To answer the question mentioned in point 2.2, the contribution of renewable energies, including electrical storage and demand management and other flexibility options, to cover the demand in the sectors of electricity, heating and transport needs to be calculated (capacity credit). The capacity credit is the fraction of the installed capacity of a power plant which can be relied upon at a given time. As renewable energies are distributed energies, it makes perfect sense to start this assessment in the place where they are generated. Following this approach, the first capacity credit would need to be assessed at a local level (e.g. district level) expressing the contribution that prosumers, renewable energy communities and other generators can achieve. It is at local level that one of the objectives or visions of the Energy Union — putting citizens at the centre of the energy system — needs to be implemented. The next level would be regional level, where deficits (capacity credit below 100 %) and surpluses (capacity credit above 100 %) could be balanced as far as possible. Inter-regional, national and eventually European level would follow. As renewables entail considerable systemic costs for energy infrastructure, the main aim is to consume energy from renewable sources locally; otherwise, the costs must be borne by energy producers.

2.4. This bottom-up approach described in point 2.3 best suits the nature of renewable energies and flexibility options with respect to producers of all sizes, including large energy powerhouses as well as small producers, including so called prosumers.

2.5. In terms of the Energy Union, the approach described in point 2.3 has three basic advantages.

2.5.1. Firstly, from an investment planning perspective, the volume of energy imports to the EU needed today and in the future must be anticipated. Only then can failed investments and especially locked-in effects be avoided. To put it very concretely: it is impossible to properly ascertain the actual demand for LNG in 2025, 2030, and 2035 without the described analysis. Any purchase decision, especially those based on long-term contracts, risks being incorrect if the capacity credits are not assessed at local, regional, inter-regional and European level. This is of particular importance as long-term contracts are needed for securing LNG now. The success of the Energy Union depends on this analysis, but it does not exist.

2.5.2. The second advantage of analysing the capacity credits of renewables, including flexibility options, at local, regional, inter-regional and European level is that it would help to effectuate a forward-looking energy infrastructure planning system covering the electricity grid, the low-carbon gas network, and the district heating systems. Here, it is fundamentally important to state that the gas infrastructure in Europe must be H2-ready. However, no reliable criterion for H2-readiness currently exists. The EESC calls on the Commission to start developing such standards, with a view to submitting a proposal as soon as possible.

2.5.3. A third advantage is closely linked to the one mentioned in point 1.10: a rethink of system stability is needed. The future system of transmission and distribution networks in Europe and at the level of EU Member States should be a matrix of standardised connections, interconnected and covering both centrally managed high-voltage lines and energy

cooperatives based on commercialised medium and low-voltage lines. At the local level, it is essential to accelerate the roll-out and simplified development of distributed energy through legal and organisational mechanisms that enable the use of so-called direct lines, cable pooling, and cooperation with RES producers on joint, defined PPA (Power Purchase Agreement) principles.

2.6. Today, transmission grid operators at national level are not sufficiently interested in developing local networks which would increase flexibility in the electricity sector, as, from their point of view, this may destabilise the power system. Distribution grid operators are not encouraged to invest in local networks because the current regulatory and political environment lacks clear guidance. The grid fee regulation only incentivises the transmission and distribution of electricity. No incentives are given for smart electricity management concepts. The EESC is convinced that the development of energy cooperatives and the prosumer model of energy generation makes it possible to strengthen energy security at the local level and reduce the load on the power grid. Local consumption of volatile renewable energy reduces pressure on the grid, which is why local consumption should be the preferred option whenever resource and cost efficient. Prosumers and energy communities (with the participation of energy distributors, local governments, entrepreneurs, and citizens) can balance the available resources and demand for electricity in their households, companies, and public buildings — especially with the development of energy storage and digital technologies. The EESC points to the risk of electricity distributors being in a conflict of interest in this regard, and requests that the competent surveillance authorities consider measures to avoid negative effects of vertical integration.

2.7. Against the backdrop of the bad practice described in point 2.6, it becomes even more important to follow the approach described in point 2.3 in order to realise the three advantages explained in points 2.5.1, 2.5.2 and 2.5.3. The EESC therefore calls on the Commission to develop a proposal on how to incorporate this approach into its Energy Union policy. Achieving the strategic perspective of energy independence, net of the necessary emergency interventions in the last year, will require constantly monitoring and developing the following issues:

- the balance of existing resources (oil, gas, renewable and nuclear sources, etc.);
- the balance of potential resources (exploration, extraction of conventional resources, development of innovative technologies, etc.);
- the programme and hierarchy of optimal development of different energy sources in Europe; the financing system for the energy independence programme.

This also requires an assessment of which existing installations still in operation should be maintained, and which old sources, including conventional capacities, should be replaced in a smooth and complementary process. There should also be an analysis of the benefits and costs of Steam Methane Reforming (SMR) and carbon capture and storage (CCS)/carbon capture and utilisation (CCU) technologies.

2.8. In this regard, the EESC reiterates that the process of speeding up the permitting of renewable projects is critical. This is an important thing, relatively easy to deliver on the process side. The level of bureaucracy clearly slows down some projects, especially those involving large generation capacities. We see and appreciate the Commission's efforts in this area, but changes must finally be delivered.

2.9. While fulfilling the task set out in point 2.5.3, the Commission should also take into account the strategic link between the European energy strategy and the need for a strong, sustainable and innovative European industrial system, which has not been considered in the Reports on the State of the Energy Union so far. The EESC recommended, in its opinion on the *State of the Energy Union 2021* (TEN 767), that Energy Union governance and management more carefully reflect on synergies with the new EU industrial strategy. The EESC calls on the European Commission to take into consideration, starting from the next report, the importance of this strategic link and to ensure better coordination with the strategic foresight report.

2.10. Likewise, the central and active role of citizens, who should be placed at the centre of the policies, is not appropriately considered in the document or the annexes. The EESC strongly believes that the citizens should be at the core of the Energy Union, integrating them into the market, and making them real 'prosumers'. The concept of prosumption needs to be widened to include energy sharing, virtual self-consumption and other cases of prosumption that use the public grid. To this end, the EESC calls on the policy-makers to encourage and promote all the necessary measures to enable people to become energy prosumers.

2.11. Member States are obliged to submit their National Energy and Climate Plans (NECPs) by June 2023. To this end, Member States must receive a clear message with a roadmap enabling them to appropriately plan their path in the energy transition as described in point 2.3 and taking the recommendations given in points 2.7, 2.8, 2.9 into account.

2.12. The planned activities for developing a new market design need to be set in the context of the above-mentioned aspects. The EESC agrees that action is needed to optimise and improve the EU's electricity market design, also in view of the future evolution of the energy landscape as described in point 2.3, new emerging technologies, geopolitical developments and the lessons learned from the current crisis. The EESC takes favourable note of the intention of the Commission to review the REMIT framework to mitigate the risks of market abuse and calls on the Commission to put in place all the necessary measures to preserve the functioning of the market and avoiding the distortive effects in pricing and speculation. The European energy market should not work like the financial markets. Our internal energy market needs to reflect the realistic picture of the situation in the energy system in Europe. The EESC draws attention to the recent report of the European Court of Auditors, that points to the inadequacy of the resources of ACER to monitor the market to prevent abuse, and calls on the Commission to make sure that ACER can fulfil its tasks in this regard.

2.13. The EESC is concerned about the reduction in renewable energy subsidies seen in 2021, while fossil fuel subsidies remain stable. After the crisis, decisive steps are needed to end the 'competition for subsidies' between renewables and fossil energies. In its report, the Commission does not give any kind of indication to this effect.

2.14. The EESC points out that the 2022 Report on the State of the Energy Union does not pay due attention to the issue of costs and consequences related to the European strategy's pillar for reducing energy demand. The EESC therefore recommends that the Commission further explore how this reduction could affect different regional contexts, and outline the tools needed to mitigate its effects.

2.15. Climate policies will have a strong impact on workers and businesses and will require massive training, reskilling and upskilling. This transition should be used as an opportunity to create quality jobs with good working conditions in all sectors and regions. The Just Transition is not taken sufficiently into account in the report. The EESC urges the Commission to strengthen the just transition mechanism, with a particular focus on the impacts on workers, jobs and the industrial system. Similarly, social partner involvement in developing policies for sustainability, security and solidarity should be continuous and structural in nature. The 'just transition' is not just a question of financing the transition. It also includes the objective of safeguarding workers' rights, creating decent work, quality jobs and social security, and maintaining and further increasing the competitiveness of European businesses, and requires specific action at all levels, particularly at regional level.

Brussels, 22 March 2023.

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

---



**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 Digitalising the energy system — EU Action Plan**

(COM(2022) 552 *final*)

(2023/C 184/17)

Rapporteur: **Thomas KATTNIG**

Co-rapporteur: **Zsolt KÜKEDI**

Referral	European Commission, 25.11.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	7.3.2023
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	198/1/7

## 1. Conclusions and recommendations

1.1. The EESC supports the objectives and welcomes most of the measures proposed in the action plan. In particular, the EESC has already made clear the link between the energy transition and the digital transformation, pointing to the benefits of digitalisation in terms of energy savings, reduced energy intensity and better management of energy infrastructure. However, while the action plan's optimistic attitude is inspiring, the Commission tends to ignore the fact that the physical reality is very different from the use cases of digitalisation that are mentioned in the action plan.

1.2. While both the strategic approach and the specific measures of the action plan point in the right direction, the Commission fails to integrate the action plan into the general energy policy. A silo approach focusing only on digitalisation and ignoring the general framework will not generate the benefits that are rightly explained in the action plan. The digitalisation of the energy system must create cooperative solutions in which incentives are provided for users to participate in the digitalised energy system; for example, the use of smart meters and the use of dual-charging e-vehicles that support the stability of the electricity system. Peer-to-peer trading, virtual self-consumption and energy sharing all require digital tools. However, either administrative barriers make these practices unattractive or there is a lack of effective incentives.

1.3. The EESC confirms that it is definitely necessary to make the energy system smarter and more flexible, but the energy system is currently strained by deficits such as the inflexibility of the transmission and distribution network resulting from underinvestment in energy infrastructure. While some energy providers have made significant profits, not enough has been invested in smart grids to achieve the goals of the energy transition. Grid expansion and transformation is lagging behind due to the regulatory framework not incentivising investment in digitalisation and flexibilisation, among other things, and existing grids have become unsuitable for the transmission and distribution of volatile energy. In order to avoid network outages in the digitalised energy system, we urgently need to start transforming our energy system by developing and expanding the network (transmission and distribution grids).

1.4. The EESC calls on the European Commission to incorporate the ideas behind 'promoting investments in digital electricity infrastructure' into an amendment to Article 58 of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU<sup>(1)</sup>,

---

<sup>(1)</sup> OJ L 158, 14.6.2019, p. 125.

ensuring a regulatory framework that effectively incentivises investment in the digitalisation of electricity grids. In parallel, flexibility markets need to be developed to make flexible consumption, generation and prosumption based on digital technologies attractive.

1.5. More than six years after the presentation of the Clean Energy Package, both energy communities and collective self-consumption still play a minor role in Europe's energy systems. The European Commission has so far ignored the existence of barriers to these forms of energy generation and consumption. Europeans must be given incentives that eventually convince and motivate them to digitalise all their energy-related activities. In many cases a clear legal and administrative entitlement is needed as well. The EESC calls on the Commission and the Member States to develop corresponding initiatives, including direct support enabling energy communities and collective prosumers to develop their full potential, whereby, especially in terms of security of supply, these forms of generation and consumption must become a crucial part of the system. Otherwise, digital tools will not make a difference.

1.6. The EESC reiterates that, with the right approach, a climate-neutral, decentralised and digitalised energy supply structure can have significant positive effects on employment and the economy, especially regional economies<sup>(2)</sup>. In the current crisis, the European Union needs a general approach to energy policy that combines specific energy and climate-related issues with the objectives of social and regional cohesion policy.

1.7. However, the EESC notes that a policy of change can only be successful if it takes into account the various social dynamics at work in the transition and addresses them in its strategies and measures. We should strengthen the role of active consumers in digitalisation and should encourage and entitle them to use as many smart solutions as possible, as they can improve the efficiency and performance of the internal energy market, while taking into account distribution system operators to ensure security of supply. The tools must be user-friendly and attention must be paid to vulnerable groups and people with disabilities. A policy for a just transition and active political management of change is therefore indispensable. If the social dimension is neglected in the implementation, the transformation risks failing due to public resistance.

1.8. With regard to the future design of energy systems and infrastructure, the EESC has repeatedly stressed that all consumers must be actively involved in the development of smart energy systems and that incentives must be put in place so that civil society can participate in the energy transition. 'Connecting local and regional innovators', as mentioned by the Commission in point 7.3, is very important. Collective action like cooperation between smart cities and communities can create the best and most affordable solutions that a region may need.

1.9. The EU's digital and energy policies are already guiding the digitalisation of energy, as issues such as data interoperability, security of supply and cybersecurity, privacy and consumer protection cannot be left to the market alone and their proper implementation is key. In this context, the EESC points out that privacy violations and misuse of data must be prevented by all means. This includes not only technical precautions, but also responsibility over and monitoring of this data space by state authorities subject to political and democratic control. At the same time, particular attention must be paid to protecting critical infrastructure data.

1.10. The Commission states in its communication that it is essential to ensure that digitalisation does not undermine the framework for consumer protection already established in the internal market in electricity. The EESC takes note of this and adds that consumer rights must be adapted and improved in the energy market. Consumers must not be disadvantaged or overcharged. They should benefit from digital tools, which, if rightly developed, can help increase consumer protection.

1.11. For all initiatives, it is important that consumers have a smart meter at home. This is still not the case in many Member States, which is why there is an urgent need to step up efforts to more widely deploy smart metering as a fundamental prerequisite for most digital solutions in the energy sector, especially for electricity supply and, to a lesser degree, for gas supply. Member States who have not yet fully rolled out smart meters need to speed this up and increase their national objectives with regard to this rollout. International evidence shows that smart meter rollouts are most effective when the grid operators are accountable. Smart meters should be considered as an integral part of the electricity grid.

---

<sup>(2)</sup> See OJ C 367, 10.10.2018, p. 1.

1.12. There is a risk that new data-driven services and innovative technology solutions will not be implemented fast enough if there are not enough skilled workers and trained professionals to help deploy them. The necessary labour market and education policy measures require sufficient financial resources as well as the development of an action plan to ensure a coordinated approach. The EESC believes that close cooperation with the social partners is essential in this regard.

1.13. Cybersecurity is an essential requirement to ensure the reliability of the increasingly digitalised energy system. The developments of the last few decades, and in particular recent events, show the danger of cyberattacks and acts of sabotage against critical infrastructure. However, problems can arise not only as a result of cyberattacks or sabotage actions, but also from hardware and software failures, so the Commission must pay special attention to hardware and software design during digitalisation to ensure robustness. A failure or impairment of critical infrastructure can cause devastating supply shortages and endanger public safety. More decentralised generation and use of energy in conjunction with the internet increases the 'attack surface' and cyber-related risks. The digitalised energy system (both in terms of hardware and software) must be reliable, ensuring continuous availability.

1.14. The EESC believes that a combined strategy for energy transition and digitalisation in rural areas has not received the expected level of attention and support. It calls for the rapid implementation of the Commission's long-term vision for the EU's rural areas and the mobilisation of stakeholders under the EU Rural Pact.

## 2. Background

2.1. The Commission published a Communication with the aim of driving forward the digitalisation of the energy system. The EU Action Plan on *Digitalising the energy system* aims to achieve the objectives set out in the Strategic Foresight Report on the green and digital transitions, with digital technologies contributing to the creation of a climate-neutral and resource-efficient society, while ensuring that everybody can benefit from this transition.

2.2. In its EU Action Plan, the Commission proposes a set of actions in five areas: promoting connectivity, interoperability and seamless exchanges of energy data through the creation of a common data space, promoting and coordinating investment in the smart grid, providing better services based on digital innovation to engage consumers in the energy transition, ensuring cybersecurity in the energy system, and ensuring that the growing energy needs of the ICT sector are in line with the European Green Deal. The Commission believes that digitalisation can improve the affordability, sustainability and resilience of the EU energy system.

2.3. Smart solutions are designed to give consumers more control over their energy consumption and bills, thereby improving management of energy use, even though many end consumers might understand this potential without requiring a smart solution. Innovative energy services should reduce energy consumption and energy should be used when it is cheap. Smart meters provide important information to reduce energy consumption costs, e.g. smart charging of electric vehicles, smart heat pumps together with photovoltaic panels. Smart meters help customers to control the data in their bills and enable them to eliminate incorrect bills and back-billing, which are currently among the biggest consumer concerns. The action plan provides for support for digital tools, which serve the interest of consumers and in some cases are developed in collaboration with them, improved digital skills, funding for smart digital solutions through programmes that can help meet the objective of digitalising the energy system, support for national regulators in defining and monitoring common smart grid indicators, the creation of a common European energy data space and the close involvement of all relevant stakeholders, in particular grid operators and energy suppliers.

2.4. According to the Commission, ICT technologies offer great greening potential. Digital solutions should help to balance energy supply, storage and demand and make the energy system more flexible, facilitating the integration of decentralised renewable energy sources. Flexibility markets need to be developed in order to make investments in flexibility options attractive, regardless of whether these investments are made by generators, consumers or prosumers taking advantage of digital tools.

2.5. At the same time, the action plan emphasises the need to curb the rising energy consumption in the ICT sector. The action plan also provides for the creation of a digital twin of the European electricity grid, support for energy communities through digital tools, the development of energy-related labels for computers, data centres and blockchains, and the development of an EU code of conduct for the sustainability of telecommunications networks.

2.6. In an increasingly digitalised energy system with decentralised generation, transmission and distribution of energy and more digitally connected devices in homes, the risk of espionage, cybercrime and hardware failure related to energy consumption is increasing. Therefore, the Commission proposes well-coordinated cybersecurity measures to strengthen the system's overall resilience.

2.7. The action plan outlines that this requires both medium- and long-term action, as well as a governance framework. The Commission explains that it will involve multiple stakeholder communities, businesses and international partners and notes that limited public funding must be used wisely and more private investment is needed.

### 3. General comments

3.1. In its action plan, the Commission rightly addresses the enormous potential of digital technologies to increase the flexibility of the electricity system. The EESC supports these objectives and welcomes most of the measures proposed in the action plan. In particular, the EESC has already made clear the link between the energy transition and the digital transformation, pointing to the benefits of digitalisation in terms of energy savings, reduced energy intensity and better management of energy infrastructure. However, while the action plan's optimistic attitude is inspiring, the Commission tends to ignore the fact that the physical reality is very different from the use cases of digitalisation that are mentioned in the action plan.

3.2. The EESC is of the opinion that the main challenges facing the energy sector are: diversifying Europe's energy sources, reducing dependence on energy imports, securing an integrated internal energy market, improving energy efficiency, rapidly expanding the energy grid, ensuring security of supply, decarbonising the economy, reducing emissions, transitioning towards a low-carbon economy, with low-carbon and clean energy technologies, increasing and massively expanding renewable energy to meet the climate goals, promoting related research and education, ensuring a just transition and supporting the social dimension of energy, like reducing energy poverty. Digitalising the energy system is the basis for this and can help meet all these main challenges.

3.3. While both the strategic approach and the specific measures of the action plan point in the right direction, the Commission fails to integrate the action plan into the general energy policy. A silo approach focusing only on digitalisation and ignoring the general framework will not generate the benefits that are rightly explained in the action plan.

3.4. The Commission's proposal paints a picture of an ideal state that builds on a well-developed energy system (e.g. transmission and distribution networks) and digitalises it. However, in Europe, transmission and distribution networks must be developed first before complex digital technology can be developed. We are digitalising in vain if intelligently managed energy cannot be transmitted through energy transmission networks. Furthermore, a huge amount of energy is wasted on transmission and distribution networks. Even today, the cost of green electricity that cannot be used or transmitted and that has to be curtailed amounted to more than EUR 2 billion before the energy crisis and has amounted to more than EUR 12 billion during the energy crisis in large countries like Germany. This economic loss will increase many times over unless electricity grids and system-compatible storage capacities are expanded quickly and better ways of using electricity directly on site are found at the same time. Digitalisation in this area can play a role in identifying these losses and using the data thus generated in network development.

3.5. It is true that considerable investment is needed in energy infrastructure to make grids smart. It is also true that many Member States do not incentivise such investment as their regulation shows a clear bias towards capital expenditure (CapEx), and investment in digitalisation is mainly operational expenditure (OpEx). Coordinating and monitoring such investment and associated progress will not be enough. The EESC calls on the European Commission to incorporate the ideas behind 'promoting investments in digital electricity infrastructure' into an amendment to Article 58 of Directive (EU) 2019/944 on common rules for the internal market of electricity, ensuring a regulatory framework that effectively incentivises investment in the digitalisation of electricity grids.

3.6. The European Commission rightly points out that digital tools play an important role in developing collective self-consumption schemes and energy communities. Both guidance and the planned experimentation platform can help, but they are not the most important aspects. More than five years after the presentation of the Clean Energy Package, both energy communities and collective self-consumption still play a minor role in Europe's energy systems. In many cases, the main reasons for this are significant bureaucratic barriers and a lack of information on the part of consumers and producers. The European Commission has so far ignored the existence of these barriers. Europeans must be given incentives

that eventually convince and motivate them to digitalise all their energy-related activities. The digitalised energy system as a whole must be so attractive to the parties operating in that system that not only do financial incentives help to create this digitalised energy system, but the entire environment encourages them to create a controlled, managed and secure energy system. The EESC calls on the Commission and the Member States to develop corresponding initiatives, including direct support enabling energy communities and collective prosumers to develop their full potential, taking into account distribution system operators to ensure security of supply. Otherwise, digital tools will not make a difference.

3.7. Bidirectional e-vehicle charging is another very promising case that shows that more active consumers can directly contribute to system stability with digital technology, including ICT, both on the grid and the consumer side. However, there are almost no business cases for bidirectional e-vehicle charging in the whole of Europe as the market was not designed for providing market-based incentives for feeding flexible electricity in and out. In its efforts to redesign the market, the Commission should focus in particular on designing a market that makes cases like the ones named in chapter 4.2 of the action plan attractive and helps mainstream them, whereby bidirectional charging can also be used in the future by network operators as a factor in load control, which should also be taken into account in legislation to ensure security of supply.

3.8. The EESC reiterates that, with the right approach, a climate-neutral, decentralised and digitalised energy supply structure can have significant positive effects on employment and the economy, especially regional economies<sup>(3)</sup>. In the current crisis, the European Union needs a general approach to energy policy that combines specific energy and climate-related issues with the objectives of social and regional cohesion policy.

3.9. The EESC emphasises that the technocratic design of the economic framework conditions and the financial promotion of new technologies, especially the digitalisation of the energy system, play an important role in the energy transition. At the same time, the EESC notes that a policy of change can only be successful if it takes into account the various social dynamics at work in the transition and addresses them in its strategies and measures. We should strengthen the role of consumers in digitalisation and should encourage them to use as many intelligent solutions as possible, as they can help improve the efficiency and performance of the internal energy market, with all parts of the energy value chain being closely involved to ensure security of supply. A policy for a just transition and active political management of change is therefore indispensable. If the social dimension is neglected in the implementation, the transformation risks failing due to public resistance.

3.10. The transformation of the energy system may generate unexpected profits for service providers, who may ask for higher charges for their new solutions. However, innovative services, apps and energy management systems can unlock the huge untapped potential for energy users, generating a relief for consumers suffering from high energy prices. Digitalisation can help to make prices on the market comparable, to make prices for flexibility options such as load shifting fair and to reveal at an early stage of the market process that energy consumers, such as vulnerable households, could pay less for the service provided. For example, smart energy accounting solutions can give socially disadvantaged people the opportunity to use as much energy as they can pay for and does not allow them to run into debt.

3.11. The EESC also calls on the Commission to take into account the reality of the smart meter market and to intervene if necessary. The envisaged installation of smart meters could lead to high costs for tenants. In practice, there is hardly any competition between the various metering service providers. Sector inquiries in Germany and Austria have shown that there are considerable indications of the existence of a non-competitive oligopoly in the submetering sector<sup>(4)</sup>. To ensure competitiveness, it must be ensured that consumption recording devices can also be used by third-party providers. Otherwise, a change of billing company would always be associated with the costs of replacing existing consumption recording devices.

3.12. In this connection, the EESC reaffirms its position that a two-tier energy society is to be avoided at all costs. We cannot have a situation in which only affluent and technologically well-equipped households benefit from the energy transition and all the rest have to bear the costs. The EESC therefore supports the incentives and tools for implementing the Energy Efficiency Directive to help vulnerable customers and households, and points out that ambitious targets for district heating/cooling may worsen the conditions of social housing.

---

<sup>(3)</sup> OJ C 367, 10.10.2018, p. 1.

<sup>(4)</sup> For example, it was found that the largest metering service provider in Austria had attempted to exclude third-party providers from using its smart meter equipment by using forms of hardware protection (Austrian Federal Competition Authority (BWB), 2022).

3.13. With regard to the future design of energy systems and infrastructure, the EESC has repeatedly stressed that all consumers — households, businesses and energy communities — must be actively involved in the development of smart energy systems and that incentives must be put in place so that civil society can participate in the energy transition, but also so that it helps fund it. ‘Connecting local and regional innovators’, as mentioned by the Commission in point 7.3, is very important. Collective action like cooperation between smart cities and communities can create the best and most affordable solutions that a region may need.

3.14. The action plan envisages the creation of a common European energy data space and sound governance to ensure EU-wide coordinated exchanges and use of energy data. The EU’s digital and energy policies are already guiding the digitalisation of energy, as issues such as data interoperability, security of supply and cybersecurity, privacy and consumer protection cannot be left to the market alone and their proper implementation is key. In this context, the EESC points out that privacy violations and misuse of data must be prevented by all means. This includes not only technical precautions, but also responsibility over and monitoring of this data space by state authorities subject to political and democratic control. Public data ownership must be promoted since data are an important economic factor in a networked and digitalised society. On the other hand, private GAFAs<sup>(5)</sup> data monopolies must be prevented. At the same time, particular attention must be paid to protecting critical infrastructure data.

3.15. The proposed data space is a promising approach but requires clear rules governing access to the anonymised data for all market participants that are interested in using the data, for example to better plan energy trading and sharing. It is important to quickly elaborate on the ‘solid governance’ mentioned in the action plan by formulating basic rights for all market players, including consumers, prosumers, energy traders, etc.

3.16. With regard to strategic coordination at EU level, the action plan provides for the establishment of a Smart Energy Expert Group (formerly Smart Grids Task Force). Its purpose is to contribute to building the European framework for sharing energy-related data, to strengthen the coordination of data exchanges for the energy sector at EU level, to determine the driving principles and ensure consistency across different data-sharing priorities and initiatives, and to support the Commission in developing and rolling out a common European data space for energy. The EESC points out that clear guidelines and objectives must be developed in this context and that the involvement of the social partners and organised civil society is essential.

3.17. The idea of supporting transmission system operators and distribution system operators in creating a digital twin of the electricity grid is an interesting approach and can help to improve grid modelling. However, it needs to be specified exactly what role the digital twin will play in planning grid expansion, in making the grid smarter, in integrating flexibility options, including virtual power plants, energy prosumption and energy sharing, and in optimising resilience. In this respect, amendments to Directive (EU) 2019/944 also appear necessary.

3.18. The Commission states in its communication that it is essential to ensure that digitalisation does not undermine the framework for consumer protection already established in the internal market in electricity. The EESC takes note of this and adds that consumer rights must be adapted and improved in the energy market. Consumers must not be disadvantaged or overcharged. Particular attention should be paid to vulnerable groups, people with disabilities and those with low digital skills. Adequate protective regulations are needed here because it is already apparent that many consumers lose track of digital information and bills.

3.19. The Communication provides that the potential for Member States to establish regulated prices, notably for vulnerable customers and people experiencing energy poverty, must not be negatively affected by digitalisation. Digital tools also allow public authorities to better map, monitor and address energy poverty, while the energy sector can further optimise its operations, focusing on security of supply, and prioritise the use of renewables.

3.20. The EESC welcomes the Commission’s announcement to ensure that key R&I projects work together to identify strategies to engage consumers in the design and use of accessible and affordable digital tools by mid-2023. The EESC points out once again that there is still a need for significant investment in research and innovation.

Against this background, public investment in smart and renewable energy systems is of great importance in terms of ensuring security of supply, combating energy poverty, ensuring affordable prices and creating jobs. The EESC recommends

---

(5) The four internet giants Google, Apple, Facebook and Amazon.

once again, as in opinion ECO/569, that the golden rule be applied to public investment. For all initiatives, it is important that consumers have a smart meter at home. This is still not the case in many Member States, which is why there is an urgent need to step up efforts to more widely deploy smart metering as a fundamental prerequisite for most digital solutions in the energy sector. Member States who have not yet fully rolled out smart meters need to speed this up and increase their national objectives with regard to this rollout.

3.21. There is a risk that new data-driven services and innovative technology solutions will not be implemented fast enough if there are not enough skilled workers and trained professionals to help deploy them <sup>(6)</sup>. The EESC believes that, in order to achieve the goals, appropriate measures must be taken immediately, in close cooperation with the social partners.

3.22. However, sufficient financial resources and programmes are also needed to train long-term unemployed people, women and young people in particular through specific programmes and to create attractive framework conditions for them. This includes job guarantees as well as a training and qualification initiative and a wide range of retraining and further education opportunities. The necessary labour market and education policy measures require sufficient financial resources as well as the development of an action plan to ensure a coordinated approach.

3.23. The EESC calls for close cooperation between training providers and businesses in designing training courses that provide the skills and competences needed for the digital and sustainable transformation of the economy, including through further education and retraining of workers and entrepreneurs. The European Year of Skills 2023 will be used to strengthen and effectively implement these measures.

3.24. Cybersecurity is an essential requirement to ensure the reliability of the increasingly digitalised energy system. The developments of the last few decades, and in particular recent events, show the danger of cyberattacks and acts of sabotage against critical infrastructure. However, problems can arise not only as a result of cyberattacks or sabotage actions, but also from hardware and software failures, so the Commission must pay special attention to hardware and software design during digitalisation to ensure robustness. A failure or impairment of critical infrastructure can cause devastating supply shortages and endanger public safety. More decentralised generation and use of energy in conjunction with the internet increases the 'attack surface' and cyber-related risks.

3.25. The whole energy system value chain, from production and transmission to distribution and the consumer, including all digital interfaces along its path, can be a target for cyberattacks and physical attacks. It is in the interest of everyone in Europe to better protect this critical infrastructure. The EU must be better prepared for possible attacks of this kind. The EESC therefore calls for an immediate critical assessment of the measures taken so far and for a comprehensive strategy to protect the EU against threats such as natural disasters, physical attacks and cyberattacks. In this context, the EESC draws attention to its other opinions on this matter <sup>(7)</sup> and recommends that all foreign investment in strategic sectors in the EU should be in line with the EU's security policy.

3.26. The ICT sector accounts for approximately 7 % of global electricity consumption. As part of the green and digital transitions, it is therefore essential to ensure that the growing energy needs of the ICT sector are reduced in line with the climate neutrality objective. The EESC agrees that it is vital to address energy and resource consumption throughout the ICT value chain and the key emerging additional sources of ICT-related energy consumption. Solutions already exist on how to reuse waste heat from data centres to heat homes and businesses. Therefore, it is important that waste heat be treated on an equal footing with renewables as part of the revision of the Renewable Energy Directive (RED III) and other energy-related legislation connected with the Fit for 55 package. However, concrete and feasible solutions that can serve as best practices are needed to achieve optimal results.

3.27. Interoperable technical standards, cybersecurity, data protection and other key features of a digitalised energy system must be ensured globally, in international fora and in cooperation with partner countries. To advance the green and digital transitions with partner countries through bilateral contacts, the EESC calls on the Commission to integrate digital and green aspects into energy-related projects, partnerships and cooperation agreements.

---

<sup>(6)</sup> Based on the results of the public consultation, the Commission has identified shortcomings in skills development and the lack of adequate skilled workers as the most important barriers to the uptake of digital technologies (Synopsis Report available in Have Your Say).

<sup>(7)</sup> OJ C 286, 16.7.2021, p. 170.

#### 4. Specific comments

4.1. The EESC believes that a combined strategy for energy transition and digitalisation in rural areas has not received the expected level of attention and support. It calls for the rapid implementation of the Commission's long-term vision for the EU's rural areas and the mobilisation of stakeholders under the EU Rural Pact.

4.2. The EESC recommends ensuring labour market equality in the energy sector by exploring opportunities for women, while preventing the energy transition and digital transformation from becoming traps for women's careers and pay, and expanding social dialogue and collective agreements on equality in energy companies across Europe.

Brussels, 22 March 2023.

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

---



**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Council Directive 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council as regards the limit values for lead and its inorganic compounds and diisocyanates’**

(COM(2023) 71 final – 2023/0033 (COD))

(2023/C 184/18)

Referral	European Commission, 13.2.2023 Council, 8.3.2023 European Parliament, 13.3.2023
Legal basis	Article 153 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	197/0/3

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, while respecting the position of social partners presented in the explanatory memorandum to the proposal.

Brussels, 22 March 2023.

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

---

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE)’**

(COM(2023 63 final – 2022/025 (COD))

(2023/C 184/19)

Referral	European Parliament, 13.2.2023 Council, 21.2.2023
Legal basis	Articles 192(1) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Agriculture, Rural Development and the Environment
Adopted at plenary	22.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	194/0/3

Since the Committee unreservedly endorses the contents of the proposal and has already set out its views on the subject in its earlier opinion CESE 5002/2014, adopted on 12 November 2014 <sup>(1)</sup>, it decided to issue an opinion endorsing the proposed text and to refer to the position it had taken in the above mentioned document.

Brussels, 22 March 2023.

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

---

<sup>(1)</sup> OJ C 230, 14.7.2015, p. 91.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/65/EU to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises and repealing Directive 2001/34/EC’**

(COM(2022) 760 *final* – 2022/0405 (COD))

**on the ‘Proposal for a Directive of the European Parliament and of the Council on multiple-vote share structures in companies that seek the admission to trading of their shares on an SME growth market’**

(COM(2022) 761 *final* – 2022/0406 (COD))

**and on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2017/1129, (EU) No 596/2014 and (EU) No 600/2014 to make public capital markets in the Union more attractive for companies and to facilitate access to capital for small and medium-sized enterprises’**

(COM(2022) 762 *final* – 2022/0411 (COD))

(2023/C 184/20)

Rapporteur: **Kęstutis KUPŠYS**

Referrals	Council of the European Union, 6.2.2023 (COM(2022) 760 <i>final</i> and COM(2022) 762 <i>final</i> ); 8.2.2023 (COM(2022) 761 <i>final</i> ) European Parliament, 1.2.2023
Legal basis	Articles 50(1), 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	2.3.2023
Adopted at plenary	23.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	123/2/5

## 1. Conclusions and recommendations

1.1. Increased equity funding for European companies is key in order to ensure post-COVID-19 recovery and to build a resilient European economic system in the face of Russia’s war against Ukraine. For this reason, the EESC strongly welcomes the Listing Act proposed by the Commission.

1.2. The Committee believes that bringing family-owned companies to capital markets would open up untapped potential to attract capital for growth, and the multiple-voting rights regime helps families to retain control, making listing more attractive to them. The EESC agrees that a detailed framework design should be produced at the national level, while encouraging high-level EU harmonisation.

1.3. The EESC also welcomes the Commission’s initiative to streamline the contents of a prospectus that would significantly reduce costs and burden for issuers.

1.4. In general, the Committee welcomes the proposal to give issuers the choice to publish a prospectus in English only, it being the established common language of international investors. However, publication of a full-scale document, and not only the summary, in national languages would empower local retail investors. The EESC advises issuers to bear in mind that using 'English-only' issuance documents would hinder the development of a national retail investment base.

1.5. The EESC notes that bundling investment research with other services is likely to increase the visibility of listed small and medium-sized enterprises (SMEs). Therefore, the Committee welcomes the proposed increase in the unbundling threshold to EUR 10 billion; however, further measures to encourage independent research may also be needed.

1.6. The EESC highly values the Commission's approach in mitigating legal uncertainty surrounding information disclosure requirements. However, the proposal for a cross-market order book supervision (CMOBS) mechanism that would facilitate the exchange of order book data among supervisors might pose the risk of creating an uneven playing-field, since bilateral trading venues would be beyond the scope of the reporting regime.

## 2. Background

2.1. On 7 December 2022, the Commission published a set of proposals<sup>(1)</sup> on measures to further develop the EU's Capital Markets Union (CMU). Part of the package — a new Listing Act — aims to reduce the administrative burden on companies of all sizes, particularly SMEs, so that they can better access funding by listing on stock exchanges.

2.2. The Commission states that EU capital markets remain fragmented and underdeveloped in size. Studies show that the total number of listed companies on SME growth markets in Europe has barely increased since 2014<sup>(2)</sup>, despite the fact that those listed enjoyed clear benefits, as evidenced by the increase in their market valuation. In general, listed companies increase their revenues, create more jobs and grow their balance sheets at a faster pace than their unlisted peers. A number of studies provide evidence of a sub-optimal situation with respect to SME initial public offerings (IPOs) in Europe.

2.3. The Listing Act establishes simpler and improved listing rules, in particular for SMEs, while also seeking to avoiding jeopardising investor protection and market integrity.

2.4. The Act claims to ensure significant cost reductions and to contribute to increasing the number of IPOs in the EU. Simpler prospectus rules would make it easier and cheaper for companies to get listed. Allowing companies to utilise multiple-voting rights shares (MVRS) when listing for the first time on SME growth markets provides an opportunity for the owners to keep control of their company's vision.

2.5. More proportionate rules on market abuse would also lead to greater clarity and legal certainty for listed companies about compliance with key information disclosure requirements. The proposed Listing Act also aims to enhance the provision and distribution of investment research on midcaps and SMEs, which in turn should support their listings on public markets.

2.6. Other anticipated benefits include:

— shorter, more timely, more comparable and easier to navigate corporate information for investors;

— better coverage of equity research, helping to make investment decisions;

— more efficient supervision thanks to clearer listing rules and improved tools for investigating cases of market abuse;

---

<sup>(1)</sup> Capital markets union: clearing, insolvency and listing package.

<sup>(2)</sup> Technical Expert Stakeholder Group on SMEs final report, *Empowering EU Capital Markets for SMEs: Making listing cool again*.

— more standardised prospectuses, easier for supervisors to scrutinise.

2.7. In compliance with the environmental, social and governance-focused (ESG) policy objectives, the Listing Act would seek to ensure that companies issuing ESG bonds include ESG-relevant information in the listing documentation to make it easier for investors to assess the validity of the ESG claims. Companies issuing equity will be able to refer to the already published — and hence publicly available — ESG information in the listing documentation.

### 3. General comments

#### *A case for improved access to listing on European public markets*

3.1. The EESC maintains the view that increased equity funding for European companies is key in order to ensure lasting post-COVID-19 recovery as well as to building a **resilient European economic system** in the face of Russia's ongoing war against Ukraine. For that, financial market infrastructure is essential in order to unlock the investment flows needed to recapitalise the economy.

3.2. Highly developed public markets are also important for the retail investment community. Europeans keep EUR 11 trillion worth of currency and deposits in their bank accounts <sup>(3)</sup>. The share of deposits in total assets of households is three times more than for households in the USA. By failing to activate end-investors to channel their funds into European capital markets, the EU is not taking full advantage of its pools of capital for our companies. Asset managers should gain more confidence in European equity market prospects, and European retail investors should have more choices when it comes to building their portfolios. To achieve that, it is necessary to ensure that a diversified supply of high-quality issuers become listed on European public markets.

3.3. During times of corporate financial distress, of economic unpredictability, and in particular of **rising debt costs**, equity acts as a stabilising factor and a buffer against future shocks.

3.4. The Committee also notes that equity financing from European households to European corporations helps to ensure the EU's open **strategic autonomy** at the very basic level: ownership of assets and execution of corporate control. The loss of essential European companies to foreign control, especially in the sphere of influence of countries with values that differ from Europe's, poses considerable risk to the economic and political stability of the EU. It also hinders the development of the EU-based financial system inside the EU, oriented towards the EU's needs. For instance, financial trading in the EU remains dominated by non-EU investment banks <sup>(4)</sup>.

3.5. Young and innovative businesses standing at the forefront of the green and digital transitions should be encouraged to seek listing on European equity markets and get much-needed financing by issuing publicly traded shares, as this is the most sustainable way to help these companies **exploit their full creative potential and create jobs**.

3.6. An inflationary surge leads to increased appetite for equity investments, especially among savvy retail investors. European equity markets may become a place where these investment inflows go to the key economic sectors where companies generate sufficient returns. At the same time, the Committee is of the view that it is crucial for the EU to get sound and robust trading rules to realise the full potential of EU capital markets. The lesson from the financial crisis showed that the EU must protect markets with fairness, integrity, resilience and transparency, also ensuring the highest level of investor protection.

3.7. An analysis conducted in 14 EU Member States showed that up to 17 000 large companies are eligible to list but are not seeking to do so <sup>(5)</sup>. The Committee sees a risk that if the EU fails to encourage new listings in equity markets, our capital markets may see trade dwindle as investors diversify their portfolio globally, if there is not a sufficient offer of titles to invest in within the EU.

3.8. A new generation of Europeans are entering the retail investment market with sustainability (i.e. ESG-based factors) on their minds. At the same time, many economic agents are moving towards green goals, encouraged by the European Green Deal policies. The EESC sees this combination of factors as a potential strong driver to unlock the full potential of the

<sup>(3)</sup> Eurostat — Statistics explained.

<sup>(4)</sup> ESMA annual statistical report 'EU securities markets', 2020; p. 40.

<sup>(5)</sup> Oxera report *Primary and secondary equity markets in EU*, 2020.

European sustainable finance taxonomy and corporate non-financial disclosure framework. Companies, acting both voluntarily and also in order to align with the upcoming EU legislation, will have to put more emphasis on ESG in their operations, and the new generation of investors will demand ESG compliance and a tangible positive **social and regenerative environmental impact** on a par with the financial gain.

3.9. The Committee also points to some studies showing that economies with market-based funding reallocate investment towards less polluting and more technology-intensive sectors <sup>(6)</sup>. In contrast, credit-intensive expansions tend to be followed by deeper recessions and slower recoveries <sup>(7)</sup>.

3.10. Reaching a stock market capitalisation of 100 percent of EU GDP (from around 64 percent currently <sup>(8)</sup>) should be a clear target. The EESC believes that there is no choice but to support public markets and improve the IPO environment.

#### *Importance for SMEs and family-owned businesses*

3.11. In the EESC's view, SMEs still do not play the role they could play in equity markets. Efforts should be made to bring the necessary resilience to SMEs via equity financing.

3.12. The Committee notes that underinvestment in equity has been evident in Europe for decades now, and the problem of a lack of equity capital for SMEs is acute. SMEs do not have the visibility to attract capital; transforming them into listed companies would provide better opportunities in the long term. The EESC strongly supports the view that listed SMEs need to find an appropriate place in the portfolios of individual (retail) investors, mutual and pension funds, and insurance companies.

3.13. A well-functioning IPO market is also important in the pre-IPO environment as it impacts on the planning of exit strategies and therefore the provision of risk capital by venture capital firms.

3.14. Equity research is a necessary tool to increase SMEs' visibility and should therefore be promoted. Initiatives such as improving equity research coverage or the European Single Access Point would help raise the visibility of SMEs for investors.

3.15. Certain care is necessary to encourage family-controlled companies to consider listing. For example, in Germany, 90 percent of all companies are family-controlled, and 43 percent of companies with sales of more than EUR 50 million are family businesses <sup>(9)</sup>. Family ownership has its merits; however, growth potential may be (at least partly) limited if the necessary funding cannot be obtained. The EESC is confident that bringing family-owned companies to capital markets would open up untapped potential <sup>(10)</sup>, and the MVRS regime helps families retain control, making listing more attractive to them.

3.16. Most global financial centres provide the possibility of having MVRS. Europe needs a harmonised approach to keep up with global developments in order not to lose those businesses that are willing to scale up.

#### *Transparency and disclosure*

3.17. The transparency requirements for companies preparing to list publicly will increase compared to private companies. Unlike a private company, a publicly listed company collects money from outside shareholders who do not have the same level of information, nor the same level of influence in decision-making, as owners of a private company.

<sup>(6)</sup> Haas, R.D. and A. Popov, *Finance and Carbon Emissions*, ECB Working Paper Series, 2019.

<sup>(7)</sup> Jordà, Ò., M. Schularick and A.M. Taylor, *When Credit Bites Back*, *Journal of Money, Credit and Banking* 45, no. 2 (1 Dec 2013): 3–28.

<sup>(8)</sup> Federation of European Securities Exchanges database, 2022.

<sup>(9)</sup> Stiftung Familienunternehmen.

<sup>(10)</sup> OJ C 75, 28.2.2023, p. 28

3.18. Therefore, a significantly higher level of investor protection is warranted and needed, e.g. by laying down disclosure obligations (including those relating to inside information) and strong reporting standards.

3.19. The Committee is of the view that mandatory disclosure is extremely important and necessary for a well-functioning public market. Investors need to receive an efficient amount of information on securities value projections. Any reduction in the necessary disclosure of information would deter investment in the issuer. This in turn might become a major obstacle to full exploitation of the opportunities provided by capital markets.

3.20. However, including excessive information in offer documents, just for the sake of avoiding litigation, is not the preferred way forward either for the issuer or for the investor. The right balance should be struck.

#### 4. Specific comments and recommendations

4.1. In view of the above, the Committee strongly welcomes the Listing Act proposed by the Commission, with a number of minor exceptions concerning several of its aspects.

4.2. The EESC clearly sees the need to tackle fragmented national rules on **MVRS**. The Committee expects that the minimum harmonisation of those rules, aimed at attracting family-owned businesses to the EU's capital markets, will help bring about a genuine pan-European CMU. A detailed framework design should be produced at the national level in order to adapt to the local ecosystem, while encouraging high-level EU harmonisation.

4.3. The EESC notes that free float is not the only factor that matters when it comes to ensuring liquidity. The minimum 10 percent free float requirement should only apply at the moment of listing. For smaller Member States in particular, flexibility is critical, as their markets can adequately operate with a lower free float. This is crucial to prevent abrupt de-listings.

4.4. The EESC welcomes the initiative to streamline the **contents of a prospectus** that would provide a significant reduction in costs and burden for issuers. However, the co-legislators should seek a balance between the burden for issuers and the information needs of investors. 800-page prospectuses should become a thing of the past, but the necessary depth of the information, in particular on ESG factors, taking into account the double materiality principle, should be ensured. Building on the strong provisions of the Corporate Sustainability Reporting Directive, <sup>(1)</sup> such reporting would give a boost to Green Deal financing.

4.5. Currently, the content is dispersed and non-homogeneous, and it is not always available in English ('the language customary in the sphere of international finance', as set out in the proposal), except for the summary. Furthermore, the information is provided in non-machine-readable formats. One issuance process may give rise to multiple regulatory documents, fragmented into several files (e.g. securities note, summary of the prospectus and registration document).

4.6. Therefore, harmonising and simplifying the prospectus for equity instruments is welcomed. In general, the EESC agrees with the Commission's proposal to give issuers the choice to publish a prospectus in English only as the established common language in the sphere of international investors (except for the summary, which should be provided in the local language in order to retain retail investors).

4.7. However, the Committee also sees the use of **local languages** as equally important, because English is not commonly spoken in all Member States. In the EESC's view, publication of a full-scale document (and not only the summary) in national languages, along with English, would enable local retail investors to engage more actively. The issuers and their advisors have to bear in mind that the use of 'English-only' issuance documents would hinder the development of a national retail investment base and be counterproductive when it comes to reaching the expected goals of the EU's soon-to-be-announced Retail Investment Strategy. In this respect, the EESC notes that measures should be introduced to encourage local retail investors to get involved in capital markets by adequately publicising the issuance documents and increasing reader-friendliness.

---

<sup>(1)</sup> . OJ C 517, 22.12.2021, p. 51.

4.8. Equity research is a key element for developing a healthy ecosystem for SMEs' equity finance. To complement existing research channels, authorising the **bundling of SMEs' research** with other services is likely to increase the production and distribution of research reports. The EESC welcomes the proposed increase in the unbundling threshold to EUR 10 billion. This will correct the decreased SME coverage and visibility that MiFID II <sup>(12)</sup> has created. However, the EESC stresses that there is a higher concentration of equity research production in the hands of larger financial institutions. Due to their scale, very large brokers are more able to set negligible fees and/or use trade execution to cross-subsidise the provision of research than small or medium-sized brokers <sup>(13)</sup>. Furthermore, large brokers are mostly interested in providing research on 'blue chip' companies, while SMEs may be underserved. A large majority of issuers report <sup>(14)</sup> that MiFID II has decreased SME coverage and visibility. The EESC sees a clear need to introduce further measures to encourage independent research, learning from best practices available in Europe <sup>(15)</sup>.

4.9. In the post-IPO phase, listed companies should be exemplary in terms of transparency, and the protection of minority shareholder interests should be the top priority. If shareholders risk being treated unfairly or not protected well when the company goes public, their trust in EU capital markets will not increase. The EESC highly values the Commission's approach in mitigating legal uncertainty surrounding **disclosure requirements**, via the targeted amendments to the Market Abuse Regulation.

4.10. The Committee believes that the existing framework of ad hoc requests in cases of suspected market abuse seems appropriate and sufficient in order to achieve **effective surveillance**, while taking note that several supervisors see merit in enhancing the exchange of order book data through the CMOBS mechanism. The scope in the proposal of CMOBS might pose the risk of creating an uneven playing-field, since bilateral trading venues would not be included in the mechanism.

4.11. The EESC strongly encourages that other ongoing initiatives contributing to improving the attractiveness of public markets be pushed forward at an increasing speed. The Committee has published several opinions on past, ongoing and expected legislative initiatives <sup>(16)</sup>. Fast progress towards the CMU should be maintained despite the geopolitical challenges; a strong CMU is needed more than ever precisely because of the growing risks of economic and social instability.

Brussels, 23 March 2023.

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

---

<sup>(12)</sup> MiFID = Markets in Financial Instruments Directive

<sup>(13)</sup> Oxera report on *Unbundling: what's the impact on equity research?*, 2019.

<sup>(14)</sup> European Commission, final report on *The impact of MiFID II rules on SME and fixed income investment research*, 2020.

<sup>(15)</sup> See not-for-profit initiative 'Lighthouse' under the Instituto Español de Analistas Financieros.

<sup>(16)</sup> OJ C 155, 30.4.2021, p. 20; OJ C 290, 29.7.2022, p. 58; OJ C 177, 18.5.2016, p. 9; OJ C 10, 11.1.2021, p. 30; OJ C 341, 24.8.2021, p. 41.



**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 – Ensuring availability and affordability of fertilisers’**

(COM(2022) 590 final)

(2023/C 184/21)

Rapporteur: **Arnold PUECH d’ALISSAC**

Referral	European Commission, 9.12.2022
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	9.3.2023
Adopted at plenary	23.3.2023
Plenary session No	577
Outcome of vote (for/against/abstentions)	170/3/4

## 1. Conclusions and recommendations

1.1. The EESC welcomes the communication from the Commission on ensuring availability and affordability of fertilisers as the global fertiliser crisis, which started in early 2021 and worsened following the war in Ukraine, is particularly acute in Europe where farmers are facing both record prices and supply shortages. The current situation is a threat to European agriculture and global food security.

1.2. The EESC highlights that emergency domestic actions are required to limit the impact of the fertiliser crisis. Besides the possibility of directly supporting the most affected nitrogen manufacturers and farmers through State Aid (which faces budgetary constraints, raises risks of competitive distortions and should be subject to conditionality), the EESC considers that corrective measures are necessary to improve the functioning of the EU fertiliser market, as they are likely to have a greater impact on farmers and be more cost effective for taxpayers.

1.3. To address both fertiliser supply and prices by facilitating imports and domestic competition, the EESC advises taking actions that include the suspension of EU import tariffs on all fertilisers, the facilitation of fertiliser logistics and regulatory flexibilities.

1.4. The EESC also considers that medium-term measures are required to limit the EU's dependence on imported mineral fertilisers and reduce the environmental footprint of crop fertilisation. These should aim to limit fertiliser use through enhanced plant nutrient efficiency, partly substituting synthetic fertilisers by recycled livestock manure and other waste, and improving Europe's self-sufficiency in fertiliser production, in order to support the agro-ecological transformation of farming.

1.5. The EESC welcomes the announcement of a new fertiliser market observatory (to be established in 2023), given that transparency in the EU fertiliser market must be increased through the regular publication of representative domestic market prices, and through the development of public statistics on fertiliser production and use.

1.6. The EESC further calls for taking into consideration the social aspects related to farmers (who are highly impacted by fertiliser prices), food consumers (who are facing food price inflation) and industry workers when adopting new measures.

1.7. On the international stage, the EESC urges the EU to step up actions against global food insecurity, including the promotion of fertiliser transparency, availability and effective use. Global fertiliser trade should be facilitated by keeping markets open, avoiding export restrictions and bans, increasing fertiliser production in Europe and expanding logistic routes.

## 2. Introduction and background

- 2.1. Fertilisers are made of three essential nutrients for plant growth: nitrogen (N), phosphorus (P) and potassium (K).
- 2.2. Fertilisers are a key input in the majority of current agricultural production. Their availability and affordability play an essential role in food security. Since the beginning of 2021, there has been a global mineral fertiliser crisis, initially due to a surge in demand in the wake of the post-COVID recovery, and further aggravated since Russia's invasion of Ukraine by supply limitations from Russia, Belarus and Ukraine, three major global fertiliser suppliers.
- 2.3. The fertiliser crisis has been particularly acute in Europe since (i) the EU is a large net importer of fertilisers; (ii) the EU fertiliser market for nitrogen and phosphorus is protected by import duties pushing domestic prices above global prices; (iii) EU fertiliser imports from Russia, Belarus and Ukraine, which previously accounted for 43 % of EU imports, have significantly dropped since March 2022, in spite of the EU's official no-ban policy on food and fertiliser imports from Russia.
- 2.4. Domestic fertiliser prices have risen to record levels (threefold for mineral nitrogen in November 2022 vs. January 2021). Together with scarce supply and delayed purchases, this resulted in a significant decrease in EU fertiliser use for the 2022 harvest <sup>(1)</sup>, and a possible shortage in several Member States in the spring 2023 affecting the 2023 harvest.
- 2.5. This is happening in the context of the European Green Deal and the Farm to Fork Strategy <sup>(2)</sup>, as published by the European Commission in May 2020, including the proposed EU-wide targets to 'reduce nutrient losses by at least 50 %, while ensuring that there is no deterioration in soil fertility', reducing 'the use of fertilisers by at least 20 % by 2030'.

## 3. General comments

- 3.1. The EESC stresses that easily available and affordable fertilisers are essential for agricultural production and food security in Europe and globally. Fertiliser shortages and excessive fertiliser prices lead to reduced crop yields, jeopardise food production and participate in food price inflation at the expense of European citizens and mankind.
- 3.2. The current crisis on the fertiliser markets is a particular threat in low-income countries, which are acutely affected by food insecurity. It is also a threat in Europe where vulnerable groups are already facing food affordability challenges, and the fertiliser crisis can lead to reduced harvests, thereby impacting global food security as the EU is a major cereal producer and exporter.
- 3.3. The EESC believes that the global scarcity of fertilisers is not only caused by the high price of natural gas, but also by a supply-demand imbalance and logistical limitations. In the EU, this is further aggravated by the continent's high level of dependence on mineral fertiliser imports, EU import duties and the war in Ukraine.

## Emergency domestic actions

- 3.4. In spite of the high fertiliser prices, the cost competitiveness of several EU manufacturers of nitrogen fertilisers appears to have been affected by the extremely high price of natural gas in Europe, which has reached seven times the US level vs. three times in 2021. Besides prioritised access to natural gas in the event of gas rationing, specific support to the EU nitrogen industry may be useful on a case-by-case basis, with the objective of maximising the use of existing production capacities, as enabled by the amended EU Temporary Crisis Framework for State Aid. In this respect, economic and social conditionality is required to avoid windfall effects, as some fertiliser manufacturers saw their profits boosted in the wake of the fertiliser crisis.

---

<sup>(1)</sup> According to the European Commission, 'a combination of drought and high fertiliser prices resulting in lower application rates of P and K in particular, (...) contributed to lower yields' and the 8 % drop in the EU 2022 cereal harvest vs 2021. *Source:* Short-term outlook for agricultural markets, European Commission, 5.10.2022.

<sup>(2)</sup> COM(2020) 381 final, 20.5.2020.

3.5. Fertiliser users, and notably arable farmers and mixed crop and livestock specialists, accounting for 62 % of EU fertiliser expenses and 69 % of EU nitrogen consumption<sup>(3)</sup>, have been hit hard by the current crisis. They are facing cash shortages for purchasing fertilisers ahead of crop harvest, as well as a cost-price squeeze, as the higher prices for agricultural products may not compensate for the effect of increased prices for fertilisers and other farm inputs<sup>(4)</sup>. Targeted support to fertiliser users may therefore help address the crisis, as enabled by the amended EU Temporary Crisis Framework for State Aid.

3.6. However, there are strong budgetary limits and priority competition in funding such support by making use of the EU agricultural reserve worth EUR 450 million for the financial year 2023. Funding such actions through national CAP strategic plans is not an appropriate option either, as these have just been approved and would require a long time to be amended. Alternatively, making use of State aid raises both national budgetary constraints and the risk of significant competitive distortions between farmers from different Member States. This is illustrated by the fact that only three Member States so far have implemented aid schemes dedicated to farmers' fertiliser purchases, for a total budget of EUR 855 million.

3.7. The EESC considers that corrective measures **improving the functioning of the EU fertiliser market** are thus more advisable and more cost effective for taxpayers. Such emergency, temporary measures should target both fertiliser supply and prices in Europe by facilitating imports and competition. Some fertiliser companies are increasing their profit in huge proportion: a positive and strategic message in favour of this industry is necessary if we want them to use these means to invest in European factories and increase our rate of autonomy, which is the price of our independence.

3.8. Following the proposal of 17 July 2022 by the European Commission, Council Regulation (EU) 2022/2465 of 12 December 2022<sup>(5)</sup> provides for a temporary suspension of import tariffs for urea and ammonia (except from Russia and Belarus). The EESC welcomes this decision, considering that besides partners already benefiting from free trade agreements with the EU (such as North African countries), other major supply sources should be positively impacted by such a suspension (such as the US, and Central Asian and Arab Gulf countries). However, the Regulation entered into force too late to be effective for the 2022/2023 season, as most urea imports have been delivered or ordered at skyrocketing prices, while the Council limited it to a period of six months instead of the initial two years. The EESC advises the Commission and the Council to extend the Regulation to the next season and to all nitrogen- and phosphorus-based fertilisers, as this would promote availability through the diversification of supply as well as alleviate EU domestic fertiliser prices.

3.9. Other measures should also be urgently implemented to address the functioning of the EU mineral fertiliser market in the fields of logistics and regulation, including (i) incentivising farmers and fertiliser distributors to perform early purchases and manage price risks; (ii) facilitating harbour import logistics for fertiliser vessels and inland truck transportation; (iii) unifying national interpretations regarding fertiliser suppliers with respect to Russian sanctions; (iv) allowing temporary flexibilities in EU regulations including REACH, transport legislation, and the Fertiliser Product Regulation.

3.10. The European Commission, following the technical proposals from its Joint Research Centre<sup>(6)</sup>, should quickly propose legislative measures enabling the safe use of processed manure above the threshold established for nitrate vulnerable zones by the Nitrates Directive (RENURE), allowing a greater level of substitution of synthetic fertilisers. Pending this new threshold, the EESC recommends that the current maximum threshold of 170 kg/ha/year of organic nitrogen be applied to all EU farmers.

### Medium term domestic actions

3.11. As mentioned in its Strategic Foresight Report 2022<sup>(7)</sup>, the EESC recommends reducing the EU's dependence on imports of feed, fertilisers and other inputs, and proposes a definition of open strategic autonomy applied to food systems based on food production, workforce and fair trade — with the overarching aim of ensuring food security for all EU citizens through a healthy, sustainable, resilient and fair food supply.

<sup>(3)</sup> Source: FADN, 2017

<sup>(4)</sup> For reference, the price for ammonium nitrate in France in November 2022 was 203 % above the level of January 2021. By contrast, the price for milling wheat had risen by 45 % in the same period. Source: La Dépêche Le Petit Meunier.

<sup>(5)</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R2465> (OJ L 322, 16.12.2022, p. 81).

<sup>(6)</sup> <https://publications.jrc.ec.europa.eu/repository/handle/JRC121636>

<sup>(7)</sup> <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/strategic-foresight-report-2022> (see OJ, p. 45).

3.12. When it comes to fertilisers, the EESC is of the opinion that, while emergency actions should be undertaken immediately, longer term measures should also be implemented in order to optimise European agriculture's dependence on imported mineral fertilisers, while at the same time reducing the environmental footprint of crop fertilisation in Europe. These should target (i) optimising overall fertiliser use through enhanced plant nutrient efficiency, leading to lower losses; (ii) partly substituting synthetic fertilisers with a higher use of recycled livestock manure and other waste from the food chain; (iii) improving Europe's self-sufficiency in fertiliser production. The EESC underlines that agriculture is in transition and will continue, with agroecology, conservative agriculture, to get better.

3.13. Enhancing plant nutrient efficiency is necessary in order to reduce fertiliser consumption as well as nutrient losses to water and air. This should make it possible to decrease fertiliser use without affecting the production volume. This can be achieved through enhanced fertilisation practices, including the use of cover crops, the choice of fertilisers (favouring nitrogen types such as nitrate based and the use of urease/nitrification inhibitors), the use of bio-stimulants as well as precision farming allowing optimised application (split application, balance sheet calculation, soil and plant analysis, plant sensors, decision support tools).

3.14. Plant breeding is also key to nutrient efficiency, as improved varieties are capable of taking up less nutrients, especially nitrogen, for the same harvested quantity. In this respect, the EESC believes that innovative technologies and seeds should be developed to always be able to provide solutions to farmers faced with restrictions on existing tools<sup>(8)</sup>.

3.15. Substituting nutrient demanding crops such as cereals, oilseed rape and sugar beet with plants with lower nutrient requirements such as sunflower<sup>(9)</sup> and legumes is a trend that farmers have naturally adopted since 2021-2022<sup>(10)</sup>. However, this should be considered with caution in a public policy framework as, given the respective dry matter yields and protein contributions per hectare, such a move could disrupt agricultural markets and jeopardise food security.

3.16. Partial substitution of mineral fertilisers by organic fertilisers recycled from livestock manure and other organic waste is also a relevant medium-term objective in the EU<sup>(11)</sup>. This will offer benefits for the soils (higher organic content) and the climate (lower emissions from synthetic nitrogen fertiliser manufacturing) as well as decrease import dependence. However, the potential from livestock manure should not be overestimated, as most of it is already recycled, the available resources are geographically limited (regions with structural surplus for manure) and subject to significant mobilisation, processing and transportation costs. Nutrients from human waste are mostly not spread on agricultural soils, even though these could contain two billion kilos of nitrogen<sup>(12)</sup>. The European Commission should also encourage the development of techniques for nutrient retrieval from algae and sewage sludge and safe agricultural application.

3.17. As regards nitrogen fertilisers, promoting alternative, non-fossil pathways for ammonia production is a highly relevant long-term objective, as this would decrease the EU's gas dependency as well as its carbon footprint. Renewable hydrogen produced by water electrolysis (itself from renewable electricity) is at a pilot industrial stage, while the methanation of agricultural by-products and organic waste can produce both biomethane for ammonia generation and a digestate usable as an organic fertiliser. However, despite the current high market price for fossil-based ammonia, renewable alternatives are far from competitive and will require time, technology maturation and possibly significant public subsidies before reaching the industrial stage.

3.18. The EESC welcomes the announcement of a new fertiliser market observatory, to be established in 2023, and the organisation of fertiliser stakeholder consultations in the framework of the expert group of the European Food Security and Crisis Mechanism (EFSCM). The EESC also considers that any significant level of transparency in the EU fertiliser market can only be guaranteed by the regular publication of representative domestic market prices for a range of N, P and K fertilisers as well as the development of public statistics on fertiliser consumption.

<sup>(8)</sup> OJ C 194, 12.5.2022, p. 72.

<sup>(9)</sup> The area sown with sunflower in the EU has gained 750 000 ha while the cereal area has decreased by the same magnitude in 2022.

<sup>(10)</sup> OJ C 75, 28.2.2023, p. 88.

<sup>(11)</sup> <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/information-reports/benefits-extensive-livestock-farming-and-organic-fertilizers-context-european-green-deal-egd-ir-information-report>

<sup>(12)</sup> It is estimated that one person excretes more than 4 kg of nitrogen via urine per year (Viskari et al., 2018 — <https://www.frontiersin.org/articles/10.3389/fsufs.2018.00032/full>).

**Social aspects**

3.19. The EESC considers that the Communication does not sufficiently consider social aspects related to availability and affordability of fertilisers. Indeed, farmers (particularly smallholders) have to pay a higher price for fertilisers that may not be paid back at harvest, given that fertiliser purchase and sale of products are decoupled. Moreover, more costly fertilisers are partly responsible for food price inflation, which, more specifically affects the poorest households. Finally, working conditions for employees in the European fertiliser industry are also affected by the losses in competitiveness, production shutdowns, as well as the high level of uncertainty faced by the sector in the EU.

**Ensuring availability and affordability of fertilisers in the world**

3.20. The EESC supports efforts by the European Commission, Member States, European financial institutions, G20 countries, UN agencies and International financial institutions to fight global food insecurity, including the promotion of fertiliser markets with healthy competition and transparency, fertiliser availability and their effective use.

3.21. Transparency in the global fertiliser market is of particular importance. The EESC encourages the G20's Agricultural Market Information System (AMIS) to enhance the representativeness of its fertiliser price database, currently limited to four products and locations.

3.22. The FAO and WTO recently warned<sup>(13)</sup> that that global shortages in fertilisers will likely persist into 2023, threatening agricultural production and food security in Africa in particular. Global fertiliser trade should urgently be facilitated by keeping markets open, avoiding export restrictions and bans, increasing fertiliser production, expanding logistics routes and maximising fertiliser efficiency. The EESC welcomes international initiatives in this respect, including the Global Crisis Response Group on Food, Energy and Finance (UN), the Global Alliance on Food Security (G7), FARM (EU, G7, African Union) and the Global Fertilizer Challenge (US, EU).

3.23. High import prices for food and fertiliser and disruptions of supply chains add up to urgent balance-of-payments needs in certain low-income countries. The EU should step up efforts in this respect both bilaterally (Food security and resilience facility) and through multilateral initiatives such as the IMF's Poverty Reduction and Growth Trust (PRGT) and Food Shock Window.

Brussels, 23 March 2023.

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

---

<sup>(13)</sup> *Global fertilizer markets and policies: a joint FAO/WTO mapping exercise*, 14 November 2022, [https://www.wto.org/english/news\\_e/news22\\_e/jigo\\_14nov22\\_e.htm](https://www.wto.org/english/news_e/news22_e/jigo_14nov22_e.htm)





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



Publications Office  
of the European Union  
L-2985 Luxembourg  
LUXEMBOURG

EN