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## I

*(Resolutions, recommendations and opinions)*

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

474TH PLENARY SESSION HELD ON 21 AND 22 SEPTEMBER 2011

**Opinion of the European Economic and Social Committee on 'The promotion of renewable energies and the European Neighbourhood Policy: the case of the Euro-Mediterranean region' (exploratory opinion)**

(2011/C 376/01)

Rapporteur: **Mr COULON**Co-rapporteur: **Mr BUFFETAUT**

On 28 January 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty on the Functioning of the European Union, on

*The promotion of renewable energies and the European Neighbourhood Policy: the case of the Euro-Mediterranean region*

(exploratory opinion).

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2011.

At its 474th plenary session, held on 21-22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 164 votes to 2 with 9 abstentions.

**1. Conclusion and recommendations: from cacophony to symphony**

1.1 The European Economic and Social Committee strongly urges a return to peace in the countries of the Mediterranean and calls for a future of stability in the Euro-Mediterranean region.

1.2 Recent events in the countries of North Africa and the Middle East confirm that a 'laissez-faire' approach is no longer possible, and that a more sustainable future must be built, with personal well-being and social development at its core.

1.3 It is vital in this regard that renewable energies, solar energy in particular, should be promoted by means of regional cooperation that is geared to co-development.

1.4 The EESC welcomes the regional initiatives for large-scale renewable energy development in the Mediterranean (Dii, MSP, Medgrid, etc.) and strongly urge that these initiatives be set up rapidly, effectively and in a coordinated way.

1.5 In addition to these initiatives, the EESC calls for a 'New Green Deal' for the region, focusing on energy saving and

launching a radical overhaul of our patterns of consumption and production.

1.6 The Mediterranean offers considerable scope for energy and carbon savings. This hinges partly on technologies that should be promoted, and partly on new patterns of behaviour that should be encouraged. Improving energy efficiency is a crucial adjunct to the development of renewable energies.

1.7 The responsibility for effectively introducing a low carbon-consumption energy system for all the Euro-Mediterranean countries does not fall exclusively to the energy sector of each country. It requires robust regional solidarity and major financing as part of a win-win approach for the northern and southern shores.

1.8 Given the diversity of circumstances in the different countries in terms of available resources, the level of needs and greenhouse gas emission levels, the Mediterranean countries effectively bear shared, but differing, responsibilities. What we need, then, is a regional vision, expressed through robust strategies adapted to each country.

1.9 Programmes should be introduced at national level (such as legislation, tax incentives, and standards) to create the right conditions for promoting renewable energies. This should include a long-term programme geared to permanently abolishing harmful subsidies for fossil fuels.

1.10 We welcome the European Commission's initiative in rethinking its Mediterranean approach and advocating structured and reinforced cooperation in which renewable energies are a key element <sup>(1)</sup>.

1.11 However we consider that this willingness to cooperate must swiftly be translated into initiatives and programmes. The EESC emphasises that any dialogue that is opened must, from the outset, include a section on the social aspects.

1.12 We repeat the call made by the EESC in March 2011 on *Energy supply: what kind of neighbourhood policy?* <sup>(2)</sup> backing the extension of the energy community (Energy Community of South East Europe, including the Balkan countries) to the southern Mediterranean countries, with the specific task of fostering energy efficiency, renewable energies, and network interconnections and interoperability.

1.13 Starting with the Maghreb countries, this community should incorporate a number of appropriate elements of Community legislation. In addition, it should be an objective of this new energy community to promote a new energy charter and a new protocol on energy efficiency and the development of renewable energies.

1.14 In this regard, the Committee also recalls the importance of setting up a social forum along the lines of that established in conjunction with the Energy Community of South East Europe. Developing renewable energies should not be limited to purely industrial projects.

1.15 It is the EESC's view that technical assistance geared to building up local expertise in the area of renewable energies and energy efficiency that can contribute to developing renewable energies is a necessity, as is south-south cooperation. Training needs in renewable energy technologies should be identified in advance and lead to a tailor-made Euro-Mediterranean action plan.

1.16 We strongly recommend providing increased support for research and development work in order to boost the profitability of renewable energy projects. Technology transfers could be carried out through a shared regional research and development platform including universities and research centres.

1.17 With this in mind, the EESC advocates the introduction of a Mediterranean energy Erasmus scheme, enabling students

from the entire region (north, south, east and west) to receive training in renewable and sustainable energy-related techniques.

1.18 New measures to support and promote renewable energies need to be adopted. They should ensure that projects, including those referred to in Article 9 of the Renewable Energy Directive, are in financial balance <sup>(3)</sup>.

1.19 The EESC supports the project to create a Euro-Mediterranean investment bank, together with the recent communications from the European Parliament and the Parliamentary Assembly of the Union for the Mediterranean in this regard.

1.20 The EESC considers that innovative and appropriate support mechanisms need to be specifically designed to support renewable energies. These mechanisms should be identified within a Euro-Mediterranean framework and should result in the launch of pilot projects supported by the Euro-Mediterranean investment bank, with the aim of moving towards a 'New Green Deal'.

1.21 It is also crucial that the liberalisation of trade in renewable energy-friendly goods and services be promoted in the course of trade negotiations.

1.22 The European Neighbourhood Policy (NEP) action plans represent a key tool for promoting national and regional energy objectives in bilateral relations.

1.23 The EESC would also point out that the new Emissions Trading Scheme (ETS) Directive <sup>(4)</sup> on carbon financing could jeopardise some funding for *projects launched in the southern Mediterranean* unless the Commission undertakes to open negotiations with third countries, as set out in the directive.

1.24 The launch of the Mediterranean Solar Plan (MSP) has clearly acted as a catalyst for a number of initiatives to facilitate the development of renewable energies that have been rolled out across the region, and this is to be welcomed. However, without sound coordination between these different initiatives – and between the institutions managing and supporting them (European Commission, UfM, etc.) – the results may be disappointing. EU technical assistance programmes for the southern countries and in support of these initiatives could help bring about the effective and harmonious introduction of renewable energies in the region, and turn the present cacophony into a symphony.

1.25 Where energy networks are concerned, decentralised solar energy production would provide an effective and economically viable solution in isolated areas lacking networks. It is particularly useful for large territories of low population density.

<sup>(1)</sup> COM(2011) 200 final and COM(2011) 303 final.

<sup>(2)</sup> OJ C 132, 3.5.2011, p. 15.

<sup>(3)</sup> OJ L 140, 5.6.2009, pp. 16-62.

<sup>(4)</sup> OJ L 140, 5.6.2009, pp. 63-87 (Article 11a(5)).

1.26 It would be advisable to establish an EU-level instrument for hedging against political risk in the southern Mediterranean countries (e.g. EU-backed bonds). It should also be ensured that in the future the Member States undertake to purchase a minimum amount of electricity from the southern countries.

1.27 Increased awareness among all stakeholders, including civil society, to the full range of initiatives is essential. National programmes to promote renewable energies could include publicity campaigns on the energy efficiency of renewables. Social networks and new information and communication technologies can provide significant support for this effort.

## 2. Introduction

2.1 The region has been experiencing strong economic growth and rampant urbanisation for a number of decades, especially around the shoreline. These trends are set to continue. The combined effect of these factors is that the Mediterranean has a fragile, deteriorating ecosystem <sup>(5)</sup>.

2.2 The Mediterranean is marked by two types of glaring, major energy inequality: between the richer and more energy-hungry countries of the north and those of the south; and in terms of energy resources.

2.3 Although some progress has been made in the region, current energy trends are not sustainable. These trends must be reversed by taking concerted steps to avoid high carbon, energy-wasting development. Jobs can be created in new, growth niche areas such as energy efficiency, eco-construction, access to basic services, and renewable energy industries and technologies.

2.4 While there are successful examples of best practice, such as the introduction of a specific law on renewable energies in Algeria, and the completion of a number of principally wind and solar projects, mostly in Egypt, Morocco and Tunisia, current efforts to put them on a long-term footing and scale them up are unfortunately insufficient in most cases.

2.5 It must however be acknowledged that after a lengthy period of scepticism or indifference, renewable energy development in the Mediterranean is beginning to influence, to varying degrees, the practices of businesses, local authorities and states, and how cooperation is conducted.

## 3. The energy outlook in the Mediterranean: potential and benefits of renewable energies and greater energy efficiency

3.1 Energy dependency in the Mediterranean and the EU could increase significantly. In 2007, the regional energy dependency rate stood at 42 %. According to research carried out by the Mediterranean Energy Observatory (OME), by 2030 this rate should stabilise and may even fall back to 40 % (40 %

for oil, 30 % for gas and 70 % for coal), while it will be higher in the northern countries, at 97 %. The Mediterranean Energy Observatory's alternative scenario, however, shows that this pressure could be lowered and the regional dependency rate brought down to 18 % by 2030. But even in this case, major disparities between countries will persist. The social and economic risks stemming from rising supply costs and the repercussions for the energy bills of countries, households and businesses would probably intensify sharply as a result.

3.2 Under any scenario, the CO<sub>2</sub> emissions produced by fossil fuel energy consumption in the region will exceed their 1990 level by at least 30 %. Moreover, in 2030, per capita emissions from the southern and eastern Mediterranean countries, although 40 % lower than those from the northern Mediterranean countries, could account for some 55 % of the Mediterranean basin's emissions, compared with 36 % in 2007.

3.3 A growing risk is emerging in relation to the region's worsening water deficit. Desalination, which has already developed in some countries, is almost inevitable, and this is likely to exacerbate tensions arising from the interdependence between water and energy.

3.4 It is legitimate to aspire to economic and social development, and energy is crucial to achieving this. This factor alone poses a serious threat to economic and social development, and not only in the most 'vulnerable' countries.

3.5 The new energy paradigm thus implies seeing the 'energy system' as encompassing not only the energy sector (supply) but also energy consumption (demand) and ensuring that it develops in such a way as to secure energy provision under the best possible conditions in terms of resources, economic and social costs, and local and global environmental protection. This brings new actors to the fore – businesses, communities, households, the construction sector, transport, industrial and agricultural production and the service sector.

3.6 The Mediterranean offers considerable scope for energy and carbon savings. Several reliable estimates show that, over the coming twenty years, a potential 20 % reduction in consumption could be achieved (and more if energy prices continue to rise).

3.7 Improving energy efficiency is a crucial adjunct to the development of renewable energies. It should be pointed out that energy efficiency and savings are predominantly dependent on action by citizens, business and workers to change their behaviour <sup>(6)</sup>.

3.8 However, a series of obstacles – institutional, regulatory, technical and financial, or stemming from training and information issues – are hampering the development of this potential. It must be acknowledged that in most cases, renewable energies are less competitive than their conventional counterparts, particularly in the current context where external costs are not internalised.

<sup>(5)</sup> EESC Information Report on *Climate change and the Mediterranean: environmental and energy challenges*, CESE 682/2009, 30 September 2009.

<sup>(6)</sup> OJ C 318, 29.10.2011, p. 155.

3.9 To make up for these shortcomings, programmes should be introduced at national level aimed at creating the right conditions for promoting renewable energies, with the focus on national legislation to facilitate the development of renewables, tax incentives, and standards. Similarly, long-term national plans should be introduced, as part of the development of renewables, to permanently reduce or even abolish harmful subsidies for fossil fuels. These should take into account the situation of the most vulnerable population groups.

3.10 Likewise, a clear regulatory framework needs to be adopted, alongside new measures to support and promote renewable energies in a way which ensures that the projects under Article 9 of the Renewable Energy Directive are in financial balance.

3.11 A key aspect of renewable energy development is support for decentralised electricity generation, in particular solar generation, by means of appropriate legislation, financing and training.

3.12 Another major obstacle lies in the various stakeholders' perception of renewable energies. A drive to increase awareness among all stakeholders, including civil society, is essential. National renewable energy promotion programmes could include publicity campaigns focusing on both energy efficiency and the renewable energies to be developed.

#### **4. The energy/environment/cooperation issue in the Mediterranean: the regional dimension**

4.1 Given the diversity of circumstances in the different countries, the Mediterranean countries effectively bear shared, but differing, responsibilities. Responsibilities are shared when it comes to planning for a sustainable energy future, defining its main features and, together, laying down common foundations (resources, financing mechanisms, pooling of best practices, training, capacity-building, technology transfer, etc.). Responsibilities differ with regard to implementation: this will require the specific factors in each country to be taken into account (free of prior assumptions about technology). What we need, then, is a regional vision, set out in robust strategies adapted to each country.

4.2 The trends pointing to strong growth of energy demand in the region, the scale of the concerns with regard to sustainable socio-economic development, concerns relating to security of supply, and the need to move towards low-carbon economies to meet changing climate conditions only serve to underline the urgent need for a step change in the implementation of further policies on energy saving.

4.3 This challenge can only be met by embarking upon Euro-Mediterranean energy cooperation, focusing on a new energy system model that is compatible with sustainable development, with a view to meeting the needs of the present without compromising the ability of future generations to meet their own needs. At regional level, legislative harmonisation and the adoption of flexible instruments will be crucial to creating a competitive green energy market.

4.4 The EESC welcomes the emphasis that the Commission places, in connection with the ENP, on the potential for cooperation on producing and managing renewable energies, and its hope that cooperation in the energy sphere will be stepped up through increased dialogue with the Mediterranean countries.

4.5 The EESC however considers that this positive stance must swiftly be translated into initiatives and programmes aimed at promoting such cooperation. It emphasises that any dialogue that is opened must, from the outset, include a section on the social aspects so as to ensure that the development of renewable energies is part of a broader economic and social development plan. If this process is to be valid, greater importance must be given to the social partners. Similarly, civil society, broadly defined, together with the media must be involved in order to make sure that efforts made in pursuing the 'specific joint interests' of the countries of the north and south are embraced by their populations.

4.6 The EESC repeats the call made in its opinion of March 2011 on *Energy supply: what kind of neighbourhood policy do we need to ensure security of supply for the EU?* <sup>(7)</sup> and supports the Commission's proposal to offer credible prospects for progressive and differentiated integration for the southern Mediterranean into the EU's internal energy market, and even establish a sort of 'energy community' covering the EU and the southern Mediterranean or extend the treaty establishing the energy community to those neighbours who have not yet joined it.

4.7 The EESC believes that it should be an objective of this new energy community to promote a new energy charter and a new protocol on energy efficiency and the development of renewable energies. In this regard, it also recalls the importance of setting up a social forum along the lines of that established in conjunction with the Energy Community of South East Europe (including the Balkan countries).

4.8 The EESC calls for a 'New Green Deal' for the region, focusing on energy saving and launching a radical overhaul of our patterns of consumption and production.

4.9 The question of financing is especially significant. In particular, the issue of political risk needs to be resolved in order to foster private financing. With regard to the Mediterranean Solar Plan, for example, it would be advisable to establish an instrument for hedging against political risk at EU level (e.g. EU-backed bonds).

4.10 The Committee supports the project to create a Euro-Mediterranean investment bank, together with the recent communications from the European Parliament <sup>(8)</sup> and the Parliamentary Assembly of the Union for the Mediterranean <sup>(9)</sup> in this respect. We call for this bank to be set up at the initiative of the European Investment Bank, and more specifically in partnership with the financial institutions of the south.

<sup>(7)</sup> OJ C 132, 3.5.2011, p. 15.

<sup>(8)</sup> EP Resolution of 17 February 2011 - P7\_TC1-COD(2010)0101.

<sup>(9)</sup> Recommendation of the Committee on Political Affairs, Security and Human Rights of the Parliamentary Assembly of the Union for the Mediterranean, 4 March 2011, Rome.

## 5. Research, technology transfer, capacity-building, training, trade and civil society participation aspects

5.1 The radical change in the energy paradigm, where primacy of supply is being replaced by primacy of demand, is transforming the relationship between the general public and energy systems. In this context, the Committee calls for networking between universities from each side of the Mediterranean and hopes that support will be forthcoming for initiatives enabling experiences and best practices to be shared between all relevant stakeholders, following the example of the Mediterranean Summer School on sustainable energy in the Mediterranean.

5.2 We strongly recommend increased support for research and development work, which, by encouraging technological innovation, can generate major productivity gains that are capable of raising the economic profitability of renewable energy projects to levels attractive to investors. Technology transfers between the two sides of the Mediterranean must be facilitated: this could be done as part of a joint regional research and development platform bringing together universities and research centres, and bringing together the various aspects of setting up and operating facilities.

5.3 With this in mind, the EESC advocates the introduction of a Mediterranean energy Erasmus scheme, enabling students from the entire region (north, south, east and west) to receive training in renewable and sustainable energy methods.

5.4 There are many mutually reinforcing arguments in favour of working with alternative scenarios and progressively putting the business/territorial/training partnership at the forefront of future sustainable energy development strategies in the Mediterranean.

5.5 It is the EESC's view that technical assistance geared to building up local expertise that can contribute to developing renewable energies is a necessity, as is south-south cooperation. Training needs should be identified in advance and lead to a tailor-made Euro-Mediterranean action plan.

5.6 Developing renewable energies should generate decent jobs, but will also require an initial and sustained training effort both regionally and interregionally. This can only be effectively achieved in the framework of structured social dialogue.

5.7 In order to promote renewable energies as part of ongoing and future trade negotiations, trade in renewable energy-friendly goods and services should be liberalised.

5.8 Moreover, the ENP action plans provide a key tool for promoting national and regional energy objectives in bilateral relations. The EESC urges the Commission to update the action plans so that the development of renewable energies enjoys

brighter prospects. Care must therefore be taken to ensure consistency between the action plans regarding renewable energy.

5.9 It is important for civil society (NGOs, associations, citizens' organisations, trade unions, etc.) to be involved in programmes to promote renewable energies. The success of such programmes depends not only on public awareness but also on the fullest information possible in order to maximise mobilisation of public opinion and of all stakeholders.

## 6. Regional initiatives to support the development of renewable energies

### 6.1 *The Mediterranean Solar Plan (MSP): a catalyst for sustainable development in the region*

6.1.1 The main objective of the Mediterranean Solar Plan is to meet the energy needs of the southern countries and to transport part of the electricity they generate to European countries, a further key factor for the economic and financial profitability of the projects. Exporting green electricity to Europe is possible under Article 9 of the EU Renewable Energies Directive. Such exports do however depend on the existence of interconnections, and require the introduction of a specific regulation to prevent opportunistic behaviour or market distortion.

6.1.2 The MSP target is to install 20 GW of new capacity by 2020 generated from renewable resources (essentially solar and wind) and to develop north-south and south-south interconnections and electricity networks. Energy efficiency and technology transfer are at present seen as supporting measures: this is regrettable, in view of the potential and the challenges in the region, as emphasised above. Based on the Mediterranean Energy Observatory's forecasts for 2020, the MSP's objective would mean that additional new renewable capacity of some 11 GW would need to be installed under the 'laissez-faire' scenario, but only 1 GW under the alternative scenario. It would be desirable in this context for the Member States to undertake to purchase a guaranteed minimum amount of electricity from the southern countries in order to boost the project.

6.1.3 The MSP faces a dual problem: firstly, that of enhancing project profitability by exploiting local and export electricity purchasing prices and using concessionary resources, subsidies or carbon credits, and secondly, that of ensuring that the necessary finance is available, both from equity – which should be forthcoming if profitability is adequate and risks controlled – and from borrowing, initially from development finance institutions (EIB, AFD, KfW, EBRD, the World Bank, the African Development Bank and the Islamic Development Bank), and subsequently from commercial banks.

6.1.4 The MSP initiative extends beyond the bounds of cooperation as so far experienced. It will bring together the member states of the UfM, the European Commission, businesses, research centres and NGOs from the sector, as well as many public and private investors and financial institutions.

6.1.5 The EESC urges the European Commission to work closely with the UfM secretariat, which has a mandate to implement the MSP, and in particular the MSP Master Plan. A shared reference framework must be introduced in order to facilitate implementation of the Master Plan. In particular, a common approach should be adopted to key issues such as financing tools and technology transfer.

#### 6.2 *Medgrid, a co-development project for electricity exchange in the Mediterranean*

6.2.1 As mentioned earlier, the main challenges include the need to complete and strengthen the electricity interconnection networks between countries across the Mediterranean, the only interconnection at present being that linking Spain and Morocco, with a transmission capacity of 1 400 MW. According to MEDELEC (a federation of all the electricity entities around the Mediterranean), the maximum transmission capacity that the network could attain on the basis of existing investment plans is around 5 GW. Consequently, achieving the aims of the Mediterranean Solar Plan will require a major effort to boost the capacity of interconnections both between the southern countries and between them and the northern shore.

6.2.2 Medgrid's aim is to devise a blueprint for a Mediterranean network by 2020, promote institutional and regulatory frameworks for electricity exchanges, evaluate the return on investments in network infrastructure, develop technical and technological cooperation with the southern and eastern Mediterranean countries, and promote advanced transmission technologies.

#### 6.3 *Dii GmbH – Renewable energy bridging continents*

6.3.1 Dii is working to a longer timescale than the Mediterranean Solar Plan. Its basic premise is that by 2050 15 % of demand for electricity in European countries could be supplied by solar installations in the deserts of the southern Mediterranean countries. However, since its inception in 2009, Dii has shifted to a co-development objective focusing on the development of renewable energies in general and not only on solar energy and south-north exports. In practice, Dii has the same vision as the MSP, but over a longer timeframe and without quantified targets.

#### 6.4 *Other initiatives*

6.4.1 Other initiatives should be mentioned: the EU's technical assistance project *Paving the way for the Mediterranean Solar Plan* to develop renewable energies in the region; European funding for the southern Mediterranean countries – the Neighbourhood Investment Facility (NIF) and the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) – that can be used to finance renewable projects; and the Commission Communication on *Energy infrastructure priorities for 2020 and beyond – A Blueprint for an integrated European energy network* (COM(2010) 677 final), which mentions both trading green electricity between south and north and the need to strengthen the interconnections that can facilitate such trade. A number of countries have also launched national plans, such as the Moroccan and Tunisian solar plans, each of them comprising a portfolio of national renewable energy development projects.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on 'Metropolitan Areas and City Regions in Europe 2020' (own-initiative opinion )**

(2011/C 376/02)

Rapporteur: **Mr VAN IERSEL**

On 20 January 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*Metropolitan Areas and City Regions in Europe 2020.*

The Section for Economic and Monetary Union Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 1 September 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 142 votes to 3 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the increasing acknowledgment of metropolitan developments in Europe by the European institutions – Council, Commission, European Parliament and Committee of the Regions – in the framework of the Territorial Agenda 2020. This rising priority is in line with the consistent views of the Committee, as expressed over the last decade.

1.2 A Metropolitan Area (MA) is not just a big city. The EESC defines it either as a big city or a polycentric group of cities, both categories including surrounding smaller municipalities and rural areas, each MA making up a critical mass of at least 500 000 inhabitants (or substantially more). MAs are functional regions forming major economic areas and labour markets. As a rule, they do not correspond with (longstanding) administrative entities like provinces and districts. MAs are major nodes in the Trans-European Transport Network, while themselves having complex transport networks.

1.3 The EESC advocates an imaginative approach to a 21st century urban renaissance and resilient and competitive metropolitan areas. Economic, social, environmental and territorial trends, as well as depressed financial prospects, urgently demand a coherent EU Urban Agenda, closely linked with Europe 2020. The EESC's view on the Urban Agenda and on the impact of Europe 2020 is worked out in sections 5 and 6 below.

1.4 At the moment there is much confusion about how to tackle the issue at EU level and often also at national level, partly due to problems concerning governance and ownership, partly also to fragmentation of approaches. More particularly, tensions arise from conflicting views on desirable top-down and bottom-up approaches as well as from problems between big

cities and smaller (peri-urban) municipalities and rural areas. A major issue is also that metropolitan developments often do not coincide with administrative borders.

1.5 The EESC believes that well-balanced and robust MAs, stimulated in the framework of Europe 2020, will develop as spearheads of future developments, each with their own identity and characteristics. They will also have a positive macro-economic impact for Europe. Policies on metropolitan developments should run parallel with a focus on reducing regional disparities.

1.6 The EESC recommends the establishment of a High Level Group (HLG) or Task Force on metropolitan developments alongside the Commission's existing Interservice Group on Urban Development. Such a Task Force should be interdisciplinary and embrace a variety of representatives from Member States, MAs, public and private stakeholders, and civil society. A structural exchange between practitioners and research should be ensured, for instance in the European Metropolitan network Institute, the Joint Programming Initiative Urban Europe, and METREX.

1.7 The objective of the Task Force should be to develop a long-term vision on metropolitan Europe beyond national boundaries. A coherent and efficient European Urban Agenda 2050 should replace fragmented approaches by an overall concept, and should focus on the holistic Europe 2020 programme for smart, sustainable and inclusive growth.

1.8 The Agenda should be sustained by in-depth analyses of actual (and future) trends supported by Eurostat statistics and data and research from ESPON and other well-defined sources.

1.9 The Lisbon Treaty and Europe 2020 also imply a change in governance. Multi-level governance should at this stage be taken seriously, and not remain a dead letter. MAs should be acknowledged as full actors in regional development. Within the Commission, urban and metropolitan affairs should be better coordinated and accordingly presented. Metropolitan policy is essentially a component of European, national (it after all affects the main areas in Europe and the Member State), regional and local policy. The MA authorities should be responsible for coordinating all these aspects.

1.10 Metropolitan development in Europe is well under way. The EESC is convinced that a future-oriented EU Platform – Task Force and Interservice Group – can function as a catalyst in steering the debate on ongoing processes, in defining top-down and bottom-up approaches, in encouraging regional/local authorities and civil society to develop appropriate models, in promoting interconnections, and in supporting cross-border initiatives.

1.11 The momentum is rising. In this Opinion, the EESC develops analyses, arguments and proposals in support of desirable approaches. It asks the Commission and the Council to take these into account with a view to strengthening the urban dimension in the forthcoming legislative package for the cohesion policy in connection with the Commission's reflections on 'Cities of Tomorrow'.

## 2. Analytical remarks

2.1 The European Union has a difficult and complicated relationship with cities and metropolitan areas. The mutual complexities between the EU and cities and metropolises are due to a number of reasons ranging from a lack of effective governance to a broad diversity of situations and developments.

### 2.2 History at Commission and Council level

2.2.1 In 1972 the European Council declared European Regional Policy an essential factor in strengthening the Community. The funding started with support to less favoured regions promoting a balanced and harmonious development in Europe. By 1986, eliminating regional disparities was seen as an important side-objective of the creation of the Single market.

2.2.2 In the eighties and nineties the efficiency of policy and programmes was enhanced. The Treaty of the EU, 1992, and, a few years later, negotiations on the enlargement of the Union resulted in a substantial increase of the Structural Funds.

2.2.3 Cities as such entered EU policymaking at a later stage, although urban pilot schemes were already launched in the early 1990s. Little distinction was made between big and small cities. The main distinction and point of discussion long remained

between rich and poor parts of the EU, between the so-called Banana in Western Europe on the one hand, and everywhere else on the other.

2.2.4 In 1998 the Commission took an interesting initiative with a Communication *Sustainable Urban Development: a framework for action*. However, its effect on deliberations in the Council and on day-to-day operations remained very limited.

2.2.5 Meanwhile, DG Regio, DG Research, DG Mobility and Transport, DG Energy, and DG Employment developed programmes and projects in cities. ESPON took responsibility for targeted studies of regional and metropolitan developments supported by the INTERREG programme.

2.2.6 The Council became more directly involved in urban affairs from 2004 onwards. Biannual meetings of the Informal Meeting of Ministers Responsible for Spatial Planning and Territorial Development in which the urban dimension was a central issue, took place. Through a lack of formal Treaty-based competences, Commission and Council were limited in undertaking concrete actions.

2.2.7 Meanwhile, the Informal Ministerial Meetings have adopted a range of Declarations. A very important one is the Leipzig Charter of 2007 that was meant to set an Urban Agenda. It identified a range of urban issues, including big cities, to be addressed in a common European framework, respecting subsidiarity. This Declaration was the start of a more structured approach. Follow-up actions also worth mentioning are the Ministerial Meeting's conclusions <sup>(1)</sup> on the contribution of architecture and culture to sustainable development. Objectives and arguments were further developed, notably in the Informal Ministerial Meetings of Marseille and Toledo <sup>(2)</sup>. The Conclusions and Declaration of Gödöllő in May 2011 prove that the momentum is rising for an integrated and cross-sectoral approach to balanced metropolitan developments <sup>(3)</sup>.

2.2.8 In spite of the presence of cities in Commission Communications and EU programmes, the overall picture and progress of an urban agenda is not impressive. This is not only due to a lack of formal competences, but also to a lack of clear targets and a satisfactory focus. Domestic political reasons and subsidiarity hold Member States back from discussing urban affairs at EU level.

<sup>(1)</sup> OJ C 319/05, 13.12.2008, p. 13.

<sup>(2)</sup> These declarations were adopted during the French and the Spanish Presidency in Marseille in 2008 and Toledo in 2010.

<sup>(3)</sup> See the Hungarian Presidency's Conclusions, and the Territorial Agenda of the European Union 2020, agreed at the Informal Ministerial Meeting, Gödöllő, 19 May 2011.

### 2.3 Previous views of the EESC

2.3.1 In 2004, the EESC launched a proposal <sup>(4)</sup> to intensify attention in the EU to metropolitan areas and big cities with a critical mass for mainly two reasons: on the one hand they are, with their bright and their dark sides, 'laboratories of the world economy'; on the other, because agglomerations tend to grow. During the last decade both trends intensified. Of late these were fully acknowledged by the Informal Ministerial Meetings.

2.3.2 The EESC argued that, parallel to a focus on reduction of regional disparities, equal attention is required for strong MAs which are to be considered as spearheads for future developments.

2.3.3 Large conurbations in Europe are usually, as elsewhere in the world, magnets for high-quality activities, international companies and research centres, services, creative developments of all kinds, and education institutes. Globalisation puts them still more in the spotlight as national frontiers are blurring: by means of modern transport and digital connections they are internationally interlinked, whilst at the same time offering a fertile context for proximity of talents.

2.3.4 Undeniably, as magnets to all kinds of people from within the EU as well as for immigrants, MAs and city-regions also have a fairly high proportion of unemployed and low-qualified people, phenomena that are not easy to handle and at the same time often a source of (major) social, cultural and economic problems. The ecological challenges are manifold and manifest.

2.3.5 In its opinion of 2008, the EESC gave a short description of the state of play in Member States. In spite of a trend towards devolution and a debate across Europe on what approach and measures should be taken vis-à-vis metropolitan development, each country has its own agenda which is narrowly connected to historical and legislative developments. Therefore the EESC advocated the establishment of an EU High Level Group to discuss and set an Urban Agenda for MAs <sup>(5)</sup> with a focus on competitive, sustainable and inclusive growth. In this view, MAs should, in cooperation with national governments, be encouraged to define their own Lisbon Agenda. The process – including best practices – should be discussed at EU-level, with an active and monitoring role played by the Commission.

2.3.6 At this very moment such an approach has not yet come into practice. It remains unclear who is responsible for what in which setting and context.

<sup>(4)</sup> EESC own-initiative opinion on *European Metropolitan Areas: socio-economic implications for Europe's future*, OJ C 302/20, 7.12.2004, p. 101. In 2007 a range of specific issues was worked out in the EESC follow-up of own-initiative opinion on *European metropolitan areas: socio-economic implications for Europe's future*, OJ C 168/02, 20.7.2007, p. 10.

<sup>(5)</sup> EESC exploratory opinion *Towards balanced development of the urban environment: challenges and opportunities*, rapporteur Mr van Iersel, OJ C 77/27, 31.3.2009, p. 123.

### 3. Current situation

3.1 Nowadays the significance of MAs is undisputed <sup>(6)</sup>. Worldwide trends are also analysed by the OECD and the World Bank. Research centres across Europe base their views on similar assumptions to the ones we are making here. But there is still much confusion about how to tackle the issue at EU level, and often also at national level. Partly this is due to problems concerning governance and ownership, partly also to fragmentation of approaches. Some examples:

- in large urbanised areas there is often a gap between town planners who are responsible for spatial development, infrastructure, housing and general services, and those actors who promote economic development and dynamism, and job creation, in other words there is not usually a meeting of minds;
- increasingly, academics and research institutes publish useful case studies on conurbations, but effective communication with public authorities is still limited;
- authorities at national, regional and local level are usually reluctant to share views with the private sector, e.g. estate planners and investors;
- cities and regions as well governments look primarily to Brussels to get financial support, as a rule overlooking the opportunity to discuss favourable policies or the need to discuss effects of EU legislation for MAs.

3.2 The increasing commitment of the Commission and the Council results in a substantial range of programmes. Due to differing sectoral approaches these programmes vary in focus and are usually based on divergent definitions of the issues. Consequently, these approaches usually hamper visibility, harming their effectiveness to outsiders and end-users.

3.3 Undoubtedly, the Lisbon Strategy has contributed to integrating urban development into the larger European framework and ambitions. But this often meets with unwillingness in Member States, which rarely feel the need for 'supra-national' involvement in their urban backyards. Therefore European funding for projects in cities involves often also the national administration, instead of a being matter between the Commission and the local level without any top-down interference.

<sup>(6)</sup> Famous are the works of Richard Florida *Cities and the creative class*, Charles Landry, *The Creative City*, and Edward Glaeser *Triumph of the City*.

3.4 In spite of illustrative good examples there is, in general, in the Member States as well as at European level, confusion about the kind of bottom-up and top-down approaches that are needed. This leads rather to individual city-marketing by metropolises instead of a more structured approach.

3.5 Finally, the debate is often negatively affected by counter-productive tensions between rural and urban areas (including peri-urban municipalities).

3.6 Successful multi-layer governance is hampered in most cases by historic and cultural barriers which hinder a positive response to the real challenges.

3.7 In summary, Member States and conurbations often continue to focus on their daily operations instead of being open to integrated strategies or long-term objectives. The added value of the EU is not well defined, partly because Member States do not agree on the mandate of the Commission nor on the precise role of the (Informal) Council, and partly because the Commission is at the moment not entitled to respond to varying views of the Member States on its role.

#### 4. A pro-active approach to a 21st century urban renaissance

4.1 In spite of an increasing focus in Commission Communications and EU programmes on cities, the overall picture remains fragmented. Economic, social, territorial and environmental requirements as well as depressed financial prospects make a coherent and operational Urban Agenda necessary. Such an Agenda would support existing and hidden economic, social, cultural and technological potentialities across the continent.

4.2 In earlier opinions, the EESC provided strong arguments for such an EU Agenda in relation with the international political and academic debate on the promotion of a 21st century urban renaissance. Revealing elements in the debate on the metropolitan dimension are:

- a paradigm shift to MAs and city-regions as a consequence of the globalisation that is characterised by international networking and value chains, and a blurring of national boundaries;
- the transition and restructuring of industrial based regions to newly specialised manufacturing industry and services and its effects on economic basins and MAs;
- a specialisation of cities as a basis of clusters which attract investments;
- the proximity of universities, research centres, qualified people, regionally developed value chains in industry and highly developed services;

- international connectivity parallel to smart internal mobility and transport systems;
- the green city: climate change, low-energy and environmental requirements which ask for enhanced and focused local and regional management and public-private partnerships;
- a broadly felt need for urban density instead of urban sprawl;
- better interaction between urban and rural areas;
- social sustainability, demographic change, quality of labour at all levels of society sustained by appropriate education and schooling in the region;
- the urgent need of bridging cultural gaps focused on creating positive opportunities for minorities which are beneficial for society at large, and
- the need to improve quality of living and housing, especially in connection with migration;
- emphasis on the art of urban planning, ensuring conditions for optimal development of MAs as a whole, which entails involvement of urban designers and architects;
- guarantees for internal and external safety and security;
- leisure.

4.3 Last but not least, effective governance of metropolitan areas and cities must be based on a combination of top-down and bottom-up approaches. At the level of MAs, involvement of all stakeholders must be ensured; best results will be obtained if and when all levels of society involved take ownership. The better the interaction between the levels of decision-making and implementation – multi-level governance – the more effective the output.

4.4 Elected regional and local actors are key in taking ownership. In addition, new forms of participatory democracy of civil society can be developed. Trends, identified at EU-level, can be supportive.

4.5 The Treaty of Lisbon explicitly recognises 'territorial cohesion' as a general objective, in addition to economic and social cohesion<sup>(7)</sup>. All three aspects are cited as political areas of shared competence between the EU and Member States. Consequently, policies regarding regions are no longer to be considered as an exclusive preserve of the Member States in the name of 'subsidiarity'. This view is also reflected in provisions on Trans-European networks<sup>(8)</sup>.

<sup>(7)</sup> See Article 3.3 TEU.

<sup>(8)</sup> See Article 170 – 172 TFEU.

4.6 In addition, the principle of subsidiarity is extended to regional and local level, as the Treaty explicitly underlines local and regional autonomy<sup>(9)</sup> which is quite in line with reality as the accomplishment of policies regarding the internal market, industry, R&D, energy, environment, health largely depend on implementation in regions, especially in MAs.

## 5. The Urban Agenda and metropolitan development

5.1 European society must prepare for the future. Territorial cohesion is one of the tools at its disposal. In the EESC's view, holistic approaches to MAs – centres of gravity – and metropolitan development processes are compatible with the unique urban structure in Europe and they promote socio-economic resilience.

5.2 Metropolitan development should entail a new virtual way of looking at the map of Europe. It should no longer exclusively present a picture of cooperating Member States nor a picture in terms of big versus small and rural versus urban. The map should show rather metropolitan development – within countries as well as cross-border – as a spatial adjustment to the societal, economic and technological developments of today and the foreseeable future. In that context an Agenda for metropolitan development should help European society to adjust in an optimal way.

5.3 In the EESC's view, metropolitan developments should effectively help remove polarisation between rural areas and cities. It is a hotly debated issue. There are plenty of arguments in favour of promoting positive interaction between the two. New tools must be developed in order to promote mutual benefits. An interesting forthcoming initiative is URMA – urban-rural cooperation in metropolitan areas – by METREX, in which methods and concrete projects for improvement will be presented. Other pragmatic improvements can be achieved through an appropriate application of poly-centrism as well as in setting up projects, based on new forms of governance. Good practices should be disseminated.

5.4 In addition to developments the EESC mentioned in 2008, one notices that efforts to get metropolitan developments off the ground have been stepped up. Most of these are economics- driven. But spatial, social and cultural motives can also play an important role. Among many diverse examples and models the following are noteworthy:

- the cooperation between the German *Metropolregionen* is intensifying within the *Initiativkreis Europäische Metropolregionen*;
- the *pôles métropolitaines* in France alongside the *pôles d'excellence*;
- *Grand Paris* (including its future connection to the Atlantic Ocean and to the north);

- an expected extension of the Öresund-region and reinforcement of Greater Stockholm;
- intensified projects in the Dutch Randstad (around Amsterdam and the future 'twin-city' Rotterdam-The Hague;
- the building-up of the metropolitan areas of Barcelona, Valencia and Bilbao;
- the emerging LEP (Local Enterprise Partnership) experience in some of England's larger cities;
- metropolitan development of the city regions of Warsaw, Gdansk and Katowice in Silesia; the latter two examples are looking for major cross-border impacts (Baltic Sea and Czech Republic);
- metropolitan developments around Prague and Budapest;
- the emerging 'twin-city' Vienna – Bratislava;
- the metropolitan ambition around Leipzig with a cultural denominator, 'the decade of Luther' – the 500th anniversary of the Lutheran Reformation of 1517.

5.5 There is potential for metropolitan development to be given a particular boost by the upcoming macro-regions like the Baltic region, the Danube region and North West Europe (although not formalised, literature identifies Nord-Pas-de-Calais, Belgium, Luxemburg, The Netherlands and North-Rhine Westphalia as such a macro-region).

5.6 From a European viewpoint, cross-border initiatives – sometimes with, but often without support of the national governments – need particular attention. Worth mentioning is the German *Initiativkreis Metropolitane Grenzregionen*. In addition to existing models, such as Öresund and Lille-Courtrai, a range of new initiatives are being taken. Some examples are Oberrhein (Basel, Strasbourg, Karlsruhe), Niederrhein (Rhineland-Pfalz, Luxemburg, Nancy), Katowice, Savoie-Aosta etc. Hamburg plans to strengthen its links with the Öresund region through better connectivity. The development of relations between Kaliningrad in Russia and the MA of Gdansk provides interesting examples of cooperation.

5.7 Smaller Member States, like Slovenia, can reap particular benefits from well-defined cross-border initiatives. Since 2007, these new cross-border initiatives are stimulated by the legal instrument European Grouping of Territorial cooperation (EGTC).

<sup>(9)</sup> See Article 5.3 TEU.

5.8 The EESC recommends that the use of EGTC is not limited to neighbouring cross-border regions. European metropolitan regions that envisage building a more competitive Europe vis-à-vis third countries (China) should be encouraged to create intensified cooperation along value chains, accompanied by a 'superstructure' of traditional cooperation in the fields of culture, education, administrative cooperation etc. to make economic cooperation less crisis-prone. An illustrative example would be an EGTC for Hamburg – Toulouse, both of them specialised in aircraft industry.

5.8.1 The EESC recommends that the issues encountered by representatives of existing and potential EGTCs and notifying authorities, as mentioned in the EGTC Monitoring Report 2010, be addressed in the revision of the EGTC Directive 2011.

5.9 The EU needs an in-depth analysis of metropolitan developments under the ongoing socio-economic circumstances. Such analysis asks for an up-to-date geographical economic, social and technological European map. ESPON can be very supportive in this field. Eurostat's role in delivering reliable data remains indispensable. In addition, Urban Audit and Urbact should be used in a better way to ensure the dissemination of results from research and practical experience.

5.10 The EESC believes that a High Level Group (HLG) or Task Force on metropolitan development should be established on the basis of Europe 2020 alongside the existing Interservice Group on Urban Development. This HLG should be interdisciplinary and embrace a variety of representatives from Member States, MAs, public and private stakeholders, and civil society.

5.11 The objective of the Task Force should be to develop a long-term vision on metropolitan Europe, including cross-border metropolitan areas as is also foreseen in the Joint Programming Initiative Urban Europe, with a long-term perspective to Europe 2050.

5.12 Building on elements of metropolitan development such as those mentioned in point 4.2, a European platform can function as a catalyst because of the following considerations:

- to define common denominators between metropolitan developments in spite of a broad diversity between MAs and to promote best practices;
- to apply Europe 2020, its holistic approach and its emphasis on getting as many stakeholders on board to achieve EU objectives around smart sustainable and inclusive growth in MAs;

- to discuss significant leadership and management challenges and development;
- to draw benefit from the pooling of knowledge between research and public authorities;
- to define rational responses in an enduring period of financial cuts which require more efficient use of available resources anyway;
- to work out the triangle education-research-innovation which is the driving force behind metropolisation across Europe;
- to discuss and start, within the concept of the sustainable city of the future, smart pilot projects concerning the Liveable city, the Connected city, the Entrepreneurial city and the Pioneering city;
- to measure the impact of the European agenda on climate change for cities (energy, transport, building) and to formulate desirable approaches;
- to help eliminate the polarisation between rural areas and cities;
- to provide an added value to the intensifying national discussions on metropolitan developments and create opportunities for more resilient regions;
- to identify the significance of MAs as functional regions in a broader (worldwide) context.

5.13 Hitherto, structural exchanges of experiences and 'lessons learned' remain limited. An EU task force could play a very stimulating role and disseminate best practices and practical experiences. These can also be of help in formulating European policies and focus the participation of European Funds in grass roots projects.

5.14 There are numerous studies and analyses on urban developments in Europe. A European framework should add to combat fragmentation and enhance cooperation. Specialised knowledge research centres and universities can be better pooled across Europe.

5.15 An example for a European pilot project would be to set up fictitious 'living labs' (communities of practice) on specific themes, such as economic clusters, the knowledge triangle, sustainable development, inclusive PPP, social housing, leadership in (sub-national) territorial development and so on. Each 'lab' is coordinated by one MA and consists of a variety of public and private stakeholders.

5.16 There would be also room for demand-driven initiatives in which MAs present certain challenges and problems at EU level. Ways and means should then be found across Europe to help face these appropriately. At a later stage, policy recommendations, experiences, and overviews of best and bad practices can be gathered.

5.17 Other possible initiatives are: a European teaching system for cities and MAs which ensures reliable data on future projects which are already realised elsewhere; an annual Conference on the state of play concerning metropolitan developments; and, most importantly, lessons to be learned from urban experiences to accomplish the single market.

5.18 According to the EESC, in developing interactive methods and a real working multi-level governance, and bringing cities and MAs on board in European integration, totally new avenues of hidden potentialities will be opened and open-minded attitudes will probably rise.

## 6. Europe 2020 a solid base for an EU Urban Agenda

6.1 According to the EESC, Europe 2020 provides useful tools to develop potentialities and open-minded attitudes. An appropriate focus in metropolitan developments will create better social and economic conditions as well as increased national and international exposure.

6.2 The EESC shares the view of Commissioner Hahn who acknowledges cities and MAs as crucial players in the Europe 2020 strategy by stating at the Informal ministerial meeting on Urban development in Toledo (June 2010) that 'in coping with the challenges of fast moving globalisation and rapid structural changes, cities are at the fore-front in delivering innovation and driving economic progress'.

6.3 In its opinion of 2008, the EESC advocated an agenda for metropolitan areas on the basis of the Lisbon Strategy <sup>(10)</sup>. In particular the holistic programming of Europe 2020, adding new facets to the Lisbon Strategy, provides special opportunities for MAs as well as for improving multi-layer governance that has been a very weak point for years.

6.4 In MAs lines of communication are shorter than at national level. Decision-making processes and planning are as a rule easier to accomplish. Authorities and other stakeholders - social partners and civil society, notably schooling at all levels, urban designers, estate planners and private investors - usually

act more purposefully. Successful examples show that purposefulness, common awareness, and even pride are special drivers for progress in MAs.

6.5 There are an increasing number of purposeful roadmaps, inspired by successful examples. In most cases these had the benefit of the leadership of visionary mayors and a broadly shared vision. A few examples are Greater Bilbao, Copenhagen-Malmö, Vienna, and Birmingham.

6.6 An Urban Agenda would be of mutual benefit: Europe 2020 can provide a helpful structure to such an agenda, whereas successful MAs will be beneficial for the realisation of Europe 2020 <sup>(11)</sup>. Building elements are the following.

6.6.1 Europe 2020 entails the need of a more effective coordination within the Commission in close cooperation with the Council. Policy-making and EU programmes should be streamlined. The EESC advocates clustering of projects within the Commission. An important side-effect will be a greater visibility of the Commission's actions and (European) coordination.

6.6.2 A well-defined overall approach must help to compensate inescapable financial savings that in the present economic downturn hit cities in all Member States.

6.6.3 Up till now the principle of subsidiarity has hampered the realisation of an Urban Agenda. In the EESC's view Europe 2020 requires closer coordination between EU and the Member States with a more flexible approach to subsidiarity with a less sharp distinction between EU competences and national ones.

6.6.4 It is crucial that such flexibility should pave the way to bring in regional, metropolitan and local authorities as responsible actors in the EU framework. For years multi-layer government has been broadly discussed without much tangible effect. The moment has come to switch from lip-service to multi-level governance and to enhance operational interactive commitments between public and private actors as well as civil society.

6.6.5 A Europe 2020 Urban Agenda would also require increased monitoring of the Commission concerning issues that are directly related to cities and MAs. This means that cities and MAs, including stakeholders and civil society, must be accepted as co-actors in implementing policies and EU programmes.

<sup>(10)</sup> See footnote 5.

<sup>(11)</sup> Some interesting comments in this respect are to be found in the *Report on European Urban Agenda and its future in Cohesion Policy*, European Parliament A7-0218/2011, rapporteur Oldřich Vlasák, adopted in June 2011.

6.6.6 Similarly, Europe 2020 recommends closer connection between individual Member States. In this field two important areas can be identified:

- Member States are supposed to look more closely to each other's practices and achievements;
- closer connection between Member States would be beneficial for border-regions and their potentialities as MAs. Bilateral and trilateral engagements of national governments would be most helpful to deepen cross-border cooperation.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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## Opinion of the European Economic and Social Committee on 'LEADER as a tool for local development' (own-initiative opinion)

(2011/C 376/03)

Rapporteur: **Roman HAKEN**

On 20 January 2011 the European Economic and Social Committee, under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*LEADER as a tool for local development*

(own-initiative opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 151 votes with 15 abstentions.

### 1. Conclusions and recommendations

1.1 The LEADER method has proved to be a viable solution over the past twenty years. The possibility should therefore be considered of expanding LEADER, as a tried and tested development instrument, while maintaining its key elements, namely the direct involvement of civil society through participation of its representatives in local partnerships and ongoing dialogue with local people on future development priorities.

1.2 With regard to the operational programmes for the period after 2013, we need to consider substantially strengthening partnership-based approaches (particularly local and regional cross-sectoral partnerships in rural as well as, separately, in urban areas), while carrying out the necessary harmonisation of processes and partnerships, and requiring that their projects meet high standards in terms of their added value, usefulness and effectiveness. Partnerships must always be based on a bottom-up approach.

1.3 The EESC subscribes to the LEADER approach and its extension in the form of bottom-up partnerships for funding from other EU funds for rural areas, and specifically recommends using this approach, under a different name, in urban areas for implementing development and investment strategies. Partnerships can help connect the activities of local authorities, businesses, not-for-profit organisations and citizens, based on principles of sustainability. However, this would mean abandoning the current "sector-based approach" between the EAFRD and the Structural Funds, limiting the trend towards strict separation between the different funds, while adopting similar rules so that the various funds can be used under a system of common controls and indicators.

1.4 For the period post-2013, the EESC proposes:

- a) an overarching approach to local development for rural regions combining resources from different funds in a single budget and based on the possibility of tapping the

European Agricultural Fund for Rural Development, European Regional Development Fund, Cohesion Fund, European Fisheries Fund and European Social Fund as well as other funds, using a simplified procedure and with no additional red tape;

- b) discussing and agreeing on a standard definition of rural areas, requiring that an integrated approach be used to create Local Development Strategies;
- c) using the LEADER approach as a suitable model for the creation and operation of bottom-up partnerships;
- d) making financial provision within all the funds for formulating and implementing integrated development strategies that harness the capacities and skills of local partnerships;
- e) clearly and carefully defining conflicts of interest for members of Local Action Groups, which would help allay most of the criticism about the implementation of LEADER; in order to increase transparency and improve public scrutiny and information, building up information on what Local Action Groups really represent and on their activities and tangible achievements in the different municipalities, etc. and, to this end, preparing conferences, seminars, publications and campaigns in the local media (radio, television, press, etc.).

1.5 One key concept in the Barca report <sup>(1)</sup> is "place-based development", which is intended to promote an integrated local or regional approach to addressing problems. This place-based policy aims to combat the persistent failure to fully harness local potential. It is completely in keeping with the spirit and objectives of the LEADER method: a bottom-up approach based

<sup>(1)</sup> [http://ec.europa.eu/regional\\_policy/policy/future/barca\\_en.htm](http://ec.europa.eu/regional_policy/policy/future/barca_en.htm).

on the specific nature of local problems, whereby local stakeholders join forces to make more effective use of their region's intrinsic potential. It is often said during discussions on this issue that the Lisbon treaty reinvigorated the concept of subsidiarity, in conjunction with the strengthened role of local and regional authorities.

1.6 The EESC recommends significantly reducing red tape, particularly for small-scale projects (e.g. by reducing the number of documents and reports that need to be provided), and including LEADER in the simplification drive, which will allow more flexibility and help encourage innovation in the regions. On the project front, the EESC recommends introducing a large-scale European financing through advance payments or a rolling financing system. This could significantly increase take-up capacity in the regions without affecting the cash-flow of small businesses, which are the initiators, beneficiaries and therefore managers of such projects. At the same time, the EESC recommends considering the possibility of replacing national co-financing with contributions in kind, e.g. in the form of voluntary work.

1.7 As regards shifting to a greater volume of resources, drawing on several funds at once and applying the approach to urban areas, the EESC recommends returning via the "learning process" stage to the point where the LEADER approach was considered a laboratory, and building on experience acquired over the past twenty years when the approach and the Community Initiatives started being implemented in rural areas, which was an unquestionably positive experience. The EESC recommends more flexibility in using this innovative process. This will enable regions to develop more rapidly.

## 2. Introduction

### 2.1 *The LEADER instrument and its origins – history, impact*

2.1.1 Launched as a Community Initiative in 1991, the LEADER approach was developed by the Commission in a number of different phases over a long period. If we consider LEADER I as an "experiment," then LEADER II represented the "laboratory stage", culminating in LEADER+, which reached "maturity" in 2006. During the period 2004-2006 the approach was implemented on an experimental basis in the new Member States. Since the beginning of the current programming period in 2007, LEADER has been one of the four axes of the CAP's second pillar and one of its main tools. Currently, LEADER is funded through the EAFRD as part of Member States' rural development programmes and co-funded by the Member States following the principle of shared management between the European Commission and the Member States. Since 1991, a total of EUR 9.75 billion has been allocated to the different LEADER Community Initiatives and the current Axis IV of the EAFRD. Currently, more than 2 200 Local Action Groups are operating in the EU. Over the past 20 years, the EU funding for LEADER has helped to establish a unique network of rural actors across all the 27 EU Member States.

2.1.2 This has produced a unique and innovative approach to partnership and cooperation that allows projects to be funded transparently, even in the most far-flung regions of the EU-27, giving them access to European funding.

### 2.2 *Current situation in the EU – local action groups*

2.2.1 LEADER is popular in rural areas both as a funding instrument and as an approach, not only among members of local action groups but also and above all among local authorities and other operators in rural areas. Local Action Groups have been set up in all 27 EU Member States, with the groups in Romania and Bulgaria about to become operational. LEADER plays an important role in the pre-accession strategies for candidate and potential candidate countries for EU accession.

2.2.2 A total of 2 192 Local Action Groups have been selected in the EU-27 so far, with a total EAFRD budget of around EUR 5.5 billion for the period 2007-2013.

2.2.3 LEADER underpins Axis IV of the EAFRD for the period 2007-2013. Total expenditure, which includes national government and private sector co-financing, amounted to EUR 13.9 billion in public funding and EUR 5 billion from private sources.

2.2.4 LEADER is used more widely in the EU's new Member States than in the EU-15. In certain Member States, Local Action Groups cover practically the whole country and are an effective policy instrument for rural areas and small rural towns. This is a structure which effectively complements local authority remits.

2.2.5 Local Action Groups have developed an administrative capacity that is capable of ensuring transparent distribution of EU funding at local level.

2.2.6 In the context of the current economic crisis, such local and flexible intermediate bodies can make an effective contribution to increasing employment at local level.

### 2.3 *Evaluation of LEADER+*

2.3.1 The implementation of the Community Initiative LEADER+ has been examined by the European Court of Auditors. The Court of Auditors made six fundamental recommendations to the European Commission and the Member States, summarising the weaknesses of the LEADER+ approach. The European Commission replied to these recommendations and the Court of Auditors' comments have been taken into account for the remainder of the current period and for the design of LEADER in the next programming period.

2.3.2 Some 893 Local Action Groups from the EU-15 took part in the LEADER+Community Initiative. A further 250 Local Action Groups from six new Member States started implementing LEADER-type measures in 2004. A total of EUR 2.1 billion has been allocated to the Community Initiative.

2.3.3 The LEADER approach has given rural regions the opportunity to start setting up public-private partnerships. Thanks to the LEADER approach, there has been a clear increase in the take-up capacity for EU funding.

2.3.4 LEADER+ prompted a further increase in the number of Local Action Groups in the current period, up to the current total of more than 2 200.

2.3.5 In spite of the criticism of the European Court of Auditors, the use of the LEADER approach brings concrete results and is fully consistent with EU policy, since it is effective, encourages positive change, is target-based, broad in scope and transparent. The LEADER approach therefore occupies a legitimate place in the European rural development policy and Member States' rural development programmes and deserves greater support, not just within the framework of the CAP. LEADER encourages the creation of local cross-sector partnerships and acts as a local financing instrument consistent with the subsidiarity principle, supporting projects where development takes place in accordance with the wishes of local people, while at the same time raising the standard of living in rural areas.

2.3.6 This opinion should lead to greater interest in the LEADER approach and facilitate systematic use of Local Action Groups, including for other funding instruments outside the rural development context. It should also help to justify the need to maintain at least the funding allocated to LEADER from the overall CAP budget and thus retain a prominent role for LEADER within the Common Agricultural Policy.

2.3.7 The LEADER approach may also be used for programmes linked to other EU funds. Moreover, in rural areas, the LEADER approach has enhanced the cohesion of rural communities.

### 3. Recommendations for rural areas

3.1 The LEADER approach has the potential to accelerate the development of rural areas and has proven to be such a success that it should, where possible, be extended to cover all rural areas in the EU. The EESC recommends that the LEADER approach be retained within the CAP and that this approach also permit access to funds in the sphere of cohesion policy and the environment. This would allow a comprehensive approach to rural development and more effective action to support integrated sustainable development of rural areas. It would also facilitate better urban-rural linkages and interactions<sup>(2)</sup>. In the

context of the EAFRD, the LEADER approach provides a useful link between rural and urban areas. Where urban areas are concerned, the principle underpinning this approach should be changed, in order to distinguish it from LEADER, for example by introducing a programme called "Links between the urban economy and development actions", or LEADEV.

3.2 The EESC proposes that more funding be deployed using the LEADER approach, and not just funding under the future rural development programmes. The approach is also being used within the framework of the European Fisheries Fund. The EESC suggests making it possible for all operational programmes that are implemented in rural areas and have potential beneficiaries there (e.g. small municipalities, rural schools, microbusinesses and small- and medium-sized enterprises, agricultural operations, not-for-profit organisations, etc.) to be included in the respective programme through the LEADER method, within the framework of the EAFRD, and that 5% to 25% of funding be earmarked for this purpose. This will help guarantee the required share of integrated and innovative projects that are carried out through coordinated community action in rural areas.

3.3 The EESC proposes that the LEADER method be considered as an innovative bottom-up approach, which should therefore be as free as possible from red tape and thematic requirements. Local people know what they need most; indeed this is a fundamental tenet of the subsidiarity principle. The principle of public control should be applied in partnerships based on initiatives of local citizens.

3.4 The clear added value of Local Action Groups and partnerships lies in the fact that they engage local people and encourage interaction between them. This benefit is not being sufficiently appreciated when assessing the implementation of the LEADER+ Community Initiative, and the EESC therefore recommends placing greater emphasis on the importance of the work carried out by members of Local Action Groups on the ground. This will ensure an open approach to the formulation of local development strategies, local level coordination and the involvement of all parties who want sustainable and diversified development that guarantees improved standards of living. In addition, the EESC recommends that voluntary partnerships between local authorities be able to join Local Action Groups and put forward ideas for projects. At the same time, it is clear that LEADER cannot be used as a means of making up for insufficient municipal revenues and financing public services at local level in the EU Member States.

3.5 Interterritorial and transnational cooperation between Local Action Groups are key factors in applying the LEADER approach. Over the past twenty years, the highly beneficial impact of this method to establish international and inter-regional (between different Local Action Groups) partnerships and cooperation has not received the recognition it deserves. In an EU whose Member States can vary significantly in terms of their standard of living and situation of their rural areas (even within individual countries themselves), this much-needed activity is absolutely vital for rural areas, as it can have a decisive impact on their development.

<sup>(2)</sup> [http://ec.europa.eu/regional\\_policy/newsroom/pdf/pawel\\_samecki\\_orientation\\_paper.pdf](http://ec.europa.eu/regional_policy/newsroom/pdf/pawel_samecki_orientation_paper.pdf) (p. 10).

#### 4. Recommendations for urban areas

4.1 If it is possible to use partnership approaches for all the EU funds, then the principle underpinning the LEADER method that is used in rural areas can also be applied separately in urban areas and communities to create “local partnerships”. Initially, for example, this might take place over a transitional period, which would be followed by an assessment. The EESC believes it would be helpful to use the term “urban development programme” for this partnership approach and recommends that this option be included in all the development funds managed by the various DGs. Integrating resources will increase their availability.

4.2 The EESC recommends using the principle underpinning the LEADER method for peri-urban areas as well, although separately and distinctly from LEADER. In such areas, towns and cities would contribute to this method, with a view to gradually closing the development gap between rural and urban areas.

4.3 The EESC recommends linking and integrating the activities of the former URBAN Community Initiative, the LIFE programme and other programmes using the principles underpinning the LEADER method, thereby increasing their combined added value.

4.4 When preparing and implementing projects, it is best if local authorities are either directly involved in an urban area partnership or if they are consulted on individual activities. This makes it possible to limit potential discrepancies between different projects and to achieve synergies between projects managed by the local authority and the local partnership, while securing support from partnership projects where feasible. The best way of creating synergies is to develop integrated plans for the development of specific towns, urban areas and urban agglomerations.

4.5 In urban areas, the LEADER approach could be applied by creating a partnership for a given sub-regional urban area, based on certain fixed criteria as is currently the case in rural areas.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on ‘The future of Europe’s young farmers’ (own-initiative opinion)**

(2011/C 376/04)

Rapporteur: **Pedro NARRO**

On 20 January 2011, the European Economic and Social Committee, acting under Article 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

*The future of Europe’s young farmers*

(own-initiative opinion).

The Section for Agriculture, Rural Development and the Environment, which was responsible for the Committee’s work on the subject, adopted its opinion on 21 June 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 22 September), the European Economic and Social Committee adopted the following opinion by 136 votes with 6 abstentions.

**1. Conclusions and recommendations**

1.1 The statistics clearly show that the number of young farmers is falling generally and that farming is being abandoned. In light of this unstoppable process, which is completely at odds with the need to deal with the food challenge, the EESC would like the policy to support young farmers to become a real priority of the European and national institutions.

1.2 The EESC recognises that rural areas offer fresh possibilities which can benefit rural youth. The work of farmers is becoming more and more complicated, technical and requires greater preparation. Young people are a step ahead in perceiving farming as a modern, business concept adapted to new technologies. Younger farmers, if they have the right tools at their disposal and the appropriate legal framework, are best qualified to deal with the challenge of food security by producing high-quality foods with rational use of natural resources.

1.3 The main problems facing young farmers are the difficulties in obtaining access to land and to credit. As a matter of urgency, new systems of access to land should be promoted and access to credit should be ensured through a European guarantee system.

1.4 The EESC proposes that a European observatory be set up to analyse and assess problems relating to setting up, transfer and more generally, all matters concerned with the next generation of farmers.

1.5 Support for young farmers cannot be confined exclusively to the area of rural development. Against the

current background of CAP reform, a new line of support should be established under the first pillar of the CAP, geared specifically towards young farmers. Under the second pillar of the CAP, support for setting-up should be converted into an obligatory measure throughout the European Union.

1.6 One outstanding task is to facilitate the transfer of farm ownership to young people. The EESC believes that the success of these policies depends in large part on improving pensions in order to allow the farmers to leave the profession with dignity.

1.7 Training and new technologies at the service of young farmers are the basis for the development of a business mentality. Outdated theoretical training is not adequate; young people deserve ongoing professional advice adapted to the real needs of their work. The EESC proposes that a new exchange programme for young farmers ‘Erasmus farmer’ be set up and that the Leonardo programme be adapted. Given that the sector is becoming older, the EESC also calls for new channels of participation within farming cooperatives and organisations. Special training and education, including summer camps and various activities, for the children from the rural areas should be promoted.

1.8 The European Union bears a major responsibility towards young farmers. It is however essential for the Member States to use their own powers to offer tax breaks, cut red tape, invest in public infrastructure and services in rural areas, promote low-food-mile systems, foster diversification and, finally, help make rural areas attractive places to live and work.

## 2. Young farmers in Europe

2.1 It has been ten years since the EESC drew up its last opinion on young farmers <sup>(1)</sup>. Unfortunately, the fears expressed in that opinion have proven to be founded; not only has the number of young farmers continued to plummet, those who are struggling to stay in the sector are facing, one decade later, a scenario with more dark than light at the end of the tunnel.

2.2 At European level, there is one farmer under 35 for every nine farmers over the age of 55. In certain Member States, such as Portugal, Spain, Italy, the United Kingdom or Bulgaria, the proportion of young farmer is very low (only one young farmer for every 20 over the age of 55.) However, countries such as Poland, Austria or Germany illustrate another side; one young farmer for every three over the age of 55. These differences are explained primarily by the existence in certain Member States of favourable legislative frameworks which have promoted the next generation of farmers in rural areas via incentives for the transfer of farm ownership.

2.3 Analysis of agricultural structures shows that, although with varying degrees of intensity, the number of farmers has fallen systematically and the ageing process is much more advanced than in other economic sectors. Since 2000, there has been a 9 % drop in the number of farmers, with 45 % fewer young farmers.

2.4 The loss of active farmers cannot be offset over the long term by raising productivity. Against the backdrop of widespread volatility in the price of raw materials, strategic concepts such as food security and sovereignty <sup>(2)</sup>, which have been addressed on various occasions in EESC opinions, are of particular relevance. The protection of the environment and other public goods are global interests which cannot be imported. The role of farmers is therefore much more than just an economic activity. The Europe 2020 Strategy, based on green, smart and sustainable growth, will be a mere utopia unless farmers are involved.

2.5 The strategic nature of farming is not called into question. However, the process of abandoning farming would appear to be ongoing and there is an urgent need, within the framework of the CAP reform, to launch an in-depth assessment of what policy is required to make farming more attractive and profitable. The situation is particularly acute in the livestock sector. If young people do not encounter favourable conditions to carry out the profession, all specific and well-intended measures on setting-up, training, transfer of ownership, taxation, etc. will be irrelevant.

<sup>(1)</sup> OJ C 36, 8.2.2002, p. 29-35, *New economy, knowledge society and rural development: what prospects for young farmers?*

<sup>(2)</sup> OJ C 54, 19.2.2011, p. 20-23, *Security of supply in agriculture and the food sector in the EU.*

## 3. The challenges facing young farmers in Europe

3.1 Farming in the EU is going through a process of change, and many people believe this represents a transition to a new agricultural model. Young farmers will be responsible for taking up the new challenges and steering their farming activities towards the agreed objectives. The absence of stable policies over the long term has generated such insecurity and instability in the sector that it has had an impact on farmers' economic planning.

3.2 Farmers are confronted with a paradoxical situation; they assume more risks, make more investments, face higher production costs, are better qualified and despite all this, they receive the lowest prices ever paid for their products. The debate on specific instruments and policies for young farmers cannot conceal the fact that farming will decrease in Europe unless farmers can be guaranteed a minimum profitability and a fair price for their products. To enable farmers to live on the fruits of their labours, the EESC recommends that regulation of agricultural markets be put in place, based on transparency in markets in agricultural produce, organisation of trade in food that permits food sovereignty, with the creation of large agricultural production and trade regions. Since WTO rules are unsuited to agriculture, dedicated bodies should be set up, as recommended by MOMAGRI (Movement for a World Agricultural Organisation) and others.

3.3 Imbalances in the food chain strongly discourage young people from taking up farming; major differences between the prices received by the farmer and the final price paid by consumers, the lack of transparency and unfair practices characterise the way in which the food chain operates <sup>(3)</sup>.

3.4 The EU is engaged in an ambitious process of trade liberalisation in the Mediterranean basin, Mercosur, Canada, etc. Young farmers are asking themselves how they will be able to reconcile production with higher quality, environmental and social standards with cheap imports of products far removed from the norms of Community production. This process promotes a concentration of production in the most competitive areas and condemns a very significant proportion of rural areas to abandonment <sup>(4)</sup>.

3.5 The reform of the CAP represents another opportunity to gear support towards the needs of young farmers and to focus it on production of agricultural goods. Supporting young people does not mean marginalising older people. It is about finding a coherent framework of support which makes farming viable.

<sup>(3)</sup> OJ C 48, 15.2.2011, p. 145-149, *A better functioning food supply chain in Europe.*

<sup>(4)</sup> OJ C 255, 22.9.2010, p. 1-9, *Trade and Food Security.*

3.6 Traditionally, measures relating to setting up in agriculture have been at the heart of efforts by the Community legislative authority to support young farmers. The moment has come to consider new measures which promote the farming activities of young people through the first and second pillars of the CAP. Setting priorities for granting support must form the basis of the new model.

3.7 The public authorities must play a major part in boosting and promoting farming. Despite the huge amount of European rules on labelling, quality and promotion, there is a high degree of ignorance about and growing indifference towards what it means to produce healthy, high-quality food<sup>(5)</sup>. European consumers spend only 14 % of their budgets on food. The EESC recognises the crucially important work carried out by professional agricultural organisations at national and European level publicising and promoting the work of the farmer and the strategic role of the food sector in an informative way.

3.8 The Community slogan 'from farm to fork', so-called 'traceability', should be conveyed to the consumer in a consistent way. The quality product strategy is very important for the enterprises' competitiveness and for the consumers' health; therefore it should be effectively extended to products imported into the EU from third countries, in order to combat and discourage unfair commercial practices.

3.9 Budget is always a key element of any strategy. That said, the EESC recognises that many of the measures to help make farming viable depend not on additional funds but rather the political willingness to commit to change and a coherent long-term strategy making rural areas more attractive<sup>(6)</sup>.

#### 4. Areas of action

##### *Rural development – setting-up*

4.1 Traditionally, the European debate on the future of young farmers and livestock farmers has focussed on the analysis of measures relating to setting up in agriculture. The statistics, although limited and partial, clearly show that the priorities and intensity of support for young peoples vary widely across Europe. Whereas countries such as France earmark some 10 % of their rural development budget to help young people set up in agriculture, other countries such as the Netherlands, Malta, Ireland and Slovakia, for various reasons do not have any such measures in place. Across the EU, 3 % of rural development funds will be dedicated to young people over the 2007-2013 financial period. The average age of young people setting up in agriculture is 28 years. The EESC believes that given the strategic nature of setting up in agriculture for the whole of the EU, it would be a good idea to make this measure mandatory in rural development plans and to establish a obligatory minimum percentage of support.

<sup>(5)</sup> OJ C 18, 19.1.2011, p. 5-10, *The Community agricultural model: production quality and communication with consumers as factors of competitiveness*.

<sup>(6)</sup> OJ C 132, 3.5.2011, p. 63-70, *The CAP towards 2020 - Meeting the food, natural resources and territorial challenges of the future*.

4.2 The EESC believes that the Community system relating to setting up in agriculture must be flexible with the aim of encouraging young people to enter the sector, primarily as far as deadlines are concerned. The complexity and vast bureaucracy of the system is an obstacle. In some cases, Member States should provide for different plans for setting-up of varying duration and thus with different financing arrangements. In many countries, the fact of having to commit oneself to setting up in agriculture for at least five years make it difficult for young people to take the decision to join the sector. Support for setting up in agriculture should be structured on different levels; in fact, it would be a good idea to differentiate between support for young people whose main activity is farming and those who do it on a part-time basis. In addition, in the new legislative framework the EU should take into consideration not only young people who set up in the sector after 2014 but also those who did so prior to this date.

##### *The role of young people in the 1st pillar of the CAP*

4.3 The reform of the CAP currently under way should pay special attention to the situation of young farmers within the framework of the new model of direct support. The Commission's new approach as regards direct payments should champion priority assistance for young people. This support could be provided by means of an additional percentage of assistance to certain priority farmers, including young farmers. Another option could be to create a specific payment for young people. This payment would not be based on the area, rather it would be modulated depending on criteria such as employment, type of farm and investment made. The EESC supports the current discussions on the concept of the active farmer as the recipient of assistance and points out the need to address the concept of active cooperation.

##### *The role of young farmers under the second pillar of the CAP*

4.4 The second pillar of the CAP, like the first, must make a crucial contribution to providing support and encouragement for young farmers in the pursuit of their activities.

4.4.1 Measures under the second pillar of the CAP can and must create the necessary conditions for young farmers to access those measures, ensuring that all applicants are taken into account in the event of a lack of budgetary resources.

4.4.2 The necessary support structures must be created for young farmers under the second pillar, including an advisory service and an service providing assistance to livestock farms. Since livestock requires care and work by farmers every single day, the relevant policy measures should be adopted and organisations created in the Member States to ensure that farmers have back-up during periods of illness and holidays. The existence of an assistance service for farms is a crucial factor when it comes to young people deciding whether or not to continue the family business. Young people today are no longer willing to take on the management of a farm in the knowledge that, throughout their lives, they will have to work 365 days a year with no holidays. Since many Member States do not yet have an assistance service of this nature, mandatory measures should be provided for under the second pillar of the

CAP enabling such a service to be used by livestock farmers during periods of illness (including maternity leave before and after birth) and on days off and/or periods of annual leave.

#### *Training - new technologies*

4.5 Training of future farmers is one of the basic elements in the success of farming. However, while there is adequate training in certain countries in others enormous gaps exist between the training offered by administrations and the real needs of farmers. Agricultural organisations must be taken into account in the process of training young people. It is a question of giving young people high-quality training, provided by highly qualified teachers using up-to-date syllabuses geared towards the needs of the young farmer. Sometimes training courses are a bureaucratic formality with the aim of obtaining assistance and are not promoted adequately. The lack of motivation that this generates is problematic, all the more so when the necessary conditions exist to make training a very useful tool in the hands of young farmers. Training plays a vital practical role; the Danish model has successfully integrated theoretical and practical training in farms. Three years and eight months are required to achieve a 'green card'.

4.6 The EU should support European training programmes for farmers or farms which for at least one year host young people who have completed their agricultural training in the previous two years. The recipient of support should commit him or herself to drawing up a training plan for the young person, who may eventually take over the farm, but for the duration of the training period could bring knowledge and a new more innovative mentality to the farm. In short, it is a question of supporting and covering needs, which are often complementary between younger and older people. At the same time, it would be a good idea for certain community programmes, such as Leonardo, the 7th research framework programme or the Youth on the Move programme, to develop specific lines for young farmers. The EESC believes that the Erasmus programme, which is geared towards students and young entrepreneurs, should be adapted so that young farmers can participate in it and complete their training in other arable and livestock farms in the EU.

4.7 Organic farming represents an interesting alternative for people setting up in the sector, but it is not the only one. Integrated production or conservation agriculture should also be promoted at European level. Training must be geared towards new systems of production which improve yields and sustainable management of natural resources. Biotechnology could also provide new opportunities for young farmers in Europe (7).

#### *Stronger together*

4.8 Involving young people actively in agricultural organisations and cooperatives is crucial in order to equip them with new ideas, innovation and a greater entrepreneurial spirit. Given that demand is concentrated in a handful of large retail chains, there is an urgent need to provide cooperatives with a fresh impetus to improve marketing. The EESC also proposes setting up central sales bodies run by farmers to balance the purchasing power of the large supermarket chains' central purchasing bodies. In this respect, it is vital to increase the number of young people in the management bodies of cooperatives and to involve them in the decision-making process, making the most of their training and business sense. France's main agricultural cooperative, Terrena, has various committees which initiate and train young people in the complex world of agricultural cooperatives.

#### *Other European policies*

4.9 The EU must use the funds of the various Community policies to first and foremost make farming attractive and secondly to consolidate the economic activities which, like agriculture, form the socio-economic backbone of rural areas. In this way, Community projects on the environment, research or business must create specific lines of support for young people in general and young farmers in particular. Certain positive experiences of the EU in this area must be revisited, representative examples being the PEJA exchange project, which enabled young farmers from across Europe to undertake a valuable period of training in other farms in the EU, and the Tellus educational programme (the product of cooperation between CEJA and the European Commission) with the aim of informing schoolchildren about the poorly-known work of the farmer. Ensuring the transition to the next generation in rural areas must be a visible objective of the EU. In this connection, the creation of a European observatory to analyse the situation of young farmers and their needs could form a sound basis on which to build new legislative initiatives. The aim is not to create new bureaucratic bodies but rather instruments which, through clear and specific functions, analyse and provide relevant information and statistics on the transition to the next generation in European rural areas.

#### *National initiatives*

4.10 European policies on young farmers must be accompanied by specific initiatives whose adoption falls within the national sphere. The main concerns of young people are inheritance, access to ownership and tax treatment. There is an urgent need to promote effective measures offering an incentive to take up farming. Generally speaking, however, it is fair to say that there is a complex bureaucracy in various EU countries which determines the success of many of the measures.

(7) OJ C 100, 30.4.2009, p. 44-52, *The European Union and the global food challenge*.

4.11 The Member States should concentrate their efforts on designing mechanisms which facilitate access to land for young farmers, bringing security to the major investments which are essential and represent one of the main obstacles to setting up. Some national initiatives represent particular courses of action; in France, the non-profit SAFER organisation has been tasked with limiting land consolidation and promoting access to land for young people.

Brussels, 22 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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## APPENDIX

## to the opinion of the European Economic and Social Committee

The following amendments, which received at least a quarter of the votes cast, were rejected in the debate:

**Point 3.2**

Amend as follows:

*'Farmers are confronted with a paradoxical situation; they assume more risks, make more investments, face higher production costs, are better qualified and despite all this, they receive the lowest prices ever paid for their products. The debate on specific instruments and policies for young farmers cannot conceal the fact that farming will decrease in Europe unless if farmers can be guaranteed have no prospect of a minimum profitability and a fair price for their products, proportional to production costs. To enable farmers to live on the fruits of their labours, the EESC recommends that regulation of agricultural markets be put in place, based on transparency in markets in agricultural produce, organisation of trade in food that permits food sovereignty, with the creation of large agricultural production and trade regions. Since WTO rules are unsuited to agriculture, dedicated bodies should be set up, as recommended by MOMAGRI (Movement for a World Agricultural Organisation) and others.'*

**Result of the vote**

For	36
Against	66
Abstentions	27

**Point 4.7**

Amend as follows:

*'Involving young people actively in agricultural organisations and cooperatives is crucial in order to equip them with new ideas, innovation and a greater entrepreneurial spirit. Given that demand is concentrated in a handful of large retail chains, there is an urgent need to provide cooperatives with a fresh impetus to improve marketing. The EESC also proposes setting up central sales bodies run by farmers to balance the purchasing power of the large supermarket chains' central purchasing bodies. In this respect, it is vital to increase the number of young people in the management bodies of cooperatives and to involve them in the decision-making process, making the most of their training and business sense. France's main agricultural cooperative, Terrena, has various committees which initiate and train young people in the complex world of agricultural cooperatives.'*

**Result of the vote**

For	47
Against	60
Abstentions	17

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**Opinion of the European Economic and Social Committee on 'Rural development and employment in the Western Balkans' (own-initiative opinion)**

(2011/C 376/05)

Rapporteur: **Cveto STANTIČ**

At its plenary session held on 19-20 January 2011, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*Rural development and employment in the Western Balkans.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2011.

At its 474th plenary session, held on 21-22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 166 votes to 1 with 4 abstentions.

## **1. Conclusions and recommendations**

1.1 Data on socio-economic characteristics of rural areas in the EU as well as in the Western Balkan countries <sup>(1)</sup> are inconsistent and not comparable, and this is partly due to the lack of a unified definition of rural areas. Therefore, the EESC supports the idea of *harmonising the criteria for defining rural areas* at EU level, which would allow better comparison of rural areas, as well as policies and measures applied.

1.2 Rural areas of the Western Balkans face numerous structural and socio-economic problems, to which solutions can be found in the framework of EU rural development policy and the common agricultural policy (CAP). The EESC strongly recommends that Western Balkan countries bring EU experience to bear in rural development policy-making, taking into account specific national problems and priorities.

1.3 Huge rural areas of the Western Balkans remain depopulated and their resources unutilised, while urban centres record a disproportionate concentration of population and economic activity. This trend is having a negative impact in economic, social, spatial and ecological terms. Thus, specific area-based measures should be designed and applied to trigger sustainable economic growth in those areas.

1.4 Prevalence of subsistence and semi-subsistence agriculture, a high unemployment rate, hidden unemployment and poor labour force mobility characterise the rural economies of the Western Balkans. The only competitive advantages of rural areas are low labour costs and high-quality natural resources. Development of entrepreneurship is

limited by factors such as underdeveloped infrastructure, lack of skilled labour, limited access to markets and to finance, lack of investment support and low entrepreneurial potential.

1.5 Extensive agriculture is still an essential driver of the rural economy and a major source of employment in rural areas in the Western Balkans. However, it needs to modernise and raise its productivity, which will lead to surpluses of agricultural labour. The solution lies in diversification of the rural economy in order to reduce the income risks of rural households.

1.6 Rural development policies which should assist the diversification of the rural economies are still inadequate and not in line with EU rural development policy. Even when certain national policies are in place, political instability and frequent changes of government prevent continuity and hamper implementation. Funds for rural development do exist in most of the countries but, in comparison with the EU, they are still low.

1.7 Pre-accession support for agriculture and rural development (IPARD) remains the major source of financial assistance in rural areas. Most of the countries have difficulties in adopting the current EU rural development model due to its complexity and demanding implementation procedures. Therefore, the EU should consider the possibility of simplifying the IPARD management and control principles and procedures to facilitate effective use of funds and measures available.

1.8 A major difficulty in accessing IPARD instruments appears to be inadequate administration and institution capacity at national and local levels, and low capacity of potential beneficiaries. The national governments are urged to put more efforts into institution-building and capacity-building of potential beneficiaries.

<sup>(1)</sup> Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Kosovo under UN Security Council Resolution 1244/99, Montenegro and Serbia.

1.9 The EESC would also recommend greater flexibility in the use of pre-accession aid for rural development, in particular by *abolishing differentiation between candidate and potential candidate countries* in accessing assistance in agriculture and rural development. As the situation differs from country to country, individual assessment of administration and absorption capacity should be given more weight.

1.10 To be more effective in combating *rural unemployment, poverty and exclusion*, better coordination between different policies and various funds available is needed. Regional policy can provide important complementary support for rural development policy if the two are properly combined and applied in a coherent manner.

1.11 National policies and measures that should be strengthened and better coordinated include:

- *policies for active inclusion*: better access to information and advice about public benefits;
- *labour market policies*: a higher employment rate and smaller regional disparities could be achieved by increasing active measures on the labour market;
- *education and training*: providing education at all levels, tackling early school leaving and strengthening young people's skills and qualifications, providing tailor-made training in order to reduce the mismatches between jobs and skills;
- *rural development policy*: more attention should be devoted to Axis II and Axis III, while Axis I measures already exist in most countries <sup>(2)</sup>.

1.12 Civil society does not play an important role in rural areas, due to lack of entrepreneurial and organisational skills, demographic problems and poor-quality social infrastructure compared to cities. A possible solution could be to create networks of local civil society organisations in order to reach a critical mass of population and area covered. In this respect the LEADER <sup>(3)</sup> approach is a potentially useful tool for improving the participation of civil society.

1.13 To improve the quality of life and encourage young people to remain in rural areas, a more diversified rural economy is required. The main challenges in achieving this goal continue to be investment in rural infrastructure,

knowledge-based agriculture integrated with the food industry, better human capital, a good environment for entrepreneurs and improved social services. Agri- and eco-tourism based on rich cultural, historical and natural heritage also appear to be a good opportunity.

## 2. Introduction and background

### 2.1 Definition of rural areas

2.1.1 One of the difficulties in dealing with the subject is the fact that there is no unified definition of rural areas at EU level. Individual countries have different official definitions that use diverse criteria such as population density, an agriculture-based economy, remoteness, lack of access to major services, etc. For the purpose of international comparisons, OECD's definition of rurality is frequently used. Recently, the Western Balkan countries have also been adapting their statistics to this methodology.

2.1.2 The EESC therefore supports the idea of harmonising the criteria for defining rural areas at EU level. This would allow better comparison and monitoring of the effectiveness of the various measures and policies applied.

### 2.2 Rural development in the EU as an important part of the common agricultural policy (CAP) and future CAP reform

2.2.1 Given that nearly 60 % of the EU population live in rural areas, which make up 90 % of the EU, rural development is a vitally important policy area for the EU. Rural development funding provides for a broad range of measures. The current EU model is based on four policy axes, leaving Member States and regional governments enough flexibility to adjust policies to their specific needs.

2.2.2 Balanced territorial development represents one of the main objectives of the future CAP reform. In this respect the EESC is convinced that if future European agricultural and rural development policies are geared to innovation and competitiveness, they can create new business opportunities, more jobs and income diversification in rural areas <sup>(4)</sup>.

### 2.3 Relevance of the rural development policies for national economies of the Western Balkans

2.3.1 Taking into account the size of rural areas, the percentage of the population living in them <sup>(5)</sup>, and high relevance of agriculture for national economies, it is clear that rural development must also become a vitally important policy area in the Western Balkans.

<sup>(2)</sup> Axis 1 – improving competitiveness of agriculture, Axis 2 – supporting the environment and land management, Axis 3 – encouraging diversification of economic activities and improving the quality of life in rural areas, and Axis 4 – LEADER approach.

<sup>(3)</sup> EU programme using a French acronym standing for *Liaison Entre Actions de Développement de l'Economie Rurale* – i.e. Links between rural economy development actions.

<sup>(4)</sup> EESC Opinion OJ C 132 of, p. 9., *The future of the CAP*, cf point 3.3.4.

<sup>(5)</sup> The total area of the Western Balkan countries is 264 462 km<sup>2</sup> (equivalent to 6 % of the EU). The population is 26.3 million, of which 50 % live in rural areas. The average population density of 89.2 persons per km<sup>2</sup> is much lower than that of the EU (114.4).

2.3.2 Rural areas of the Western Balkans face a number of specific structural and socio-economic challenges such as low income levels, lack of employment opportunities, deteriorating quality of life, depopulation processes, etc., which can be successfully tackled with an appropriate rural development policy, based on the complex EU rural development framework.

### **3. Some common characteristics of the rural areas of the Western Balkans - key determinants of their economic potential**

3.1 The Western Balkans, with its outstanding wealth of plants and animals, is one of the richest parts of Europe in terms of biodiversity. The Western Balkans encompass a great variety of natural habitats, ranging from coastal lagoons and wetlands to Mediterranean forests, mountain meadows and pastures, freshwater wetlands, and karst terrain.

3.2 A decline in the population, mainly in remote and less fertile areas, and population ageing (except in Albania and Kosovo), both have a strong negative impact on the rural labour market. A common trend in all countries of the region is migration from rural areas to urban and coastal areas as well as abroad. Those moving to rural areas are mainly retired or refugees.

3.3 The unfavourable education structure, poor qualifications and lack of knowledge and skills among the economically active population represent a serious constraint for the future rural economy. The labour market is characterised by poor labour force mobility, resulting in a lack of alternative employment and income opportunities.

3.4 Agriculture based on low-intensity grazing and farming remains the predominant activity in most rural areas. Agricultural employment shares are among the highest when compared to EU countries.

3.5 Rural households, particularly those with limited resources, have limited access to the agricultural markets, labour markets and financial markets, as well as limited access to information and knowledge. Therefore, their chances of overcoming the poverty risk are significantly reduced.

3.6 Poor diversification of economic activities and income and low employment in the private sector are major issues for rural areas. Economic services and social infrastructure are poor and underdeveloped. This affects the quality of life of rural people as well as the competitiveness and the social fabric of rural areas.

### **4. Agriculture is still an essential driver of the rural economy in the Western Balkans**

4.1 Although the share of agriculture in the economy has been decreasing since 2000, it is still far greater in the Western Balkans than in the EU on average, in terms of both added value and employment.

4.2 The small scale and fragmented nature of private farming remains a general characteristic of agriculture in most Western Balkan states, particularly in the south. The average farm size ranges from 1.2 ha in Albania to less than 4 ha in Serbia. Other factors hampering the development of agriculture are: poorly-developed market structures, inadequate infrastructure, low share of market production, lack of knowledge and skills and failure to meet food safety standards.

4.3 Agricultural production was in decline, owing to transition and even war in some countries, but since 2000 agricultural production has started to increase again, mainly due to investments in production technology. However, the output in most countries is still lower than in the pre-transition period. Despite some shortcomings, most of the Western Balkan countries have fairly high natural potential for agriculture (relatively inexpensive labour, land and water resources, and good climate and soil conditions for certain products such as tobacco, some fruits and vegetables, wine, cereals and meat).

4.4 There are also highly-productive agriculture regions with well integrated economies in the northern part of the Balkan Peninsula (Sava Basin, Danube Basin, Pannonia Plain). This area has favourable soil and climatic conditions for capital-intensive agricultural production. Moreover, it has adequate human capital, developed entrepreneurship, a sufficiently diversified industrial sector and a well developed infrastructure.

### **5. Meeting the rural development challenge beyond agriculture**

5.1 The high proportion of the labour force working in agriculture is not directly reflected in the contribution agriculture makes to GDP. Therefore, future rural economies should be able to absorb surplus agricultural labour into alternative employment opportunities.

5.2 The establishment of rural-based industries has often been very effective in creating new job opportunities and providing additional income. Furthermore, past experience has shown that on-farm investment, modernisation, training and environmental measures have a positive effect on increasing employment and reducing hidden unemployment on farms. Among the sectors with great potential for growth are: processing industries, products with Protected Geographical Indications, organic food products, rural tourism, crafts, wood products and renewable energy production as well as a wide range of health and social services.

5.3 For the rural sector to develop faster, more and better expenditure is required on public goods and services: better roads and irrigation infrastructure, improved business environment, and an efficient transfer of information, knowledge and technologies.

## 6. Agriculture and rural development policies in the light of EU accession

6.1 All the countries in the region have high aspirations to join the EU. In this respect they all face similar challenges in transforming and modernising their highly fragmented agri-food sectors to ensure they can be competitive in the EU market.

6.2 According to the last European Commission progress reports<sup>(6)</sup>, on agriculture and rural development, most of the Western Balkans countries need to make further efforts to ensure greater alignment with the EU agricultural *acquis* and EU rural development policy.

6.3 In comparison with the EU, national funds for supporting agriculture in the Western Balkans are still relatively low. A wide range of measures and support mechanisms are applied across the Western Balkans. In recent years, direct producer support has been the main element of agricultural budgetary transfers.

### 6.4 EU financial assistance

6.4.1 Pre-accession support for agriculture and rural development - IPARD<sup>(7)</sup> is the 5th component of IPA - the wider EU instrument for preparation and assistance for enlargement. Only countries with candidate status are eligible for IPARD funds (Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Turkey).

6.4.2 The EESC would like to draw attention to the particular obstacles that the Western Balkan countries are facing in implementing pre-accession assistance for rural development. Investment measures under IPARD are difficult to apply as they require full local structures to be in place for implementation and control (management and ownership of IPARD is fully decentralised, EU institutions are carrying out only *ex-post* control). This results in high project rejection rates and a need for significant investment in the preparatory phase, both by the country and the potential beneficiaries.

6.4.3 The IPARD management and control principles and procedures could be simplified in order to encourage the Western Balkan countries to make better use of measures which would have a direct impact on rural development, such as improving rural infrastructure, diversifying economic activities and training (Axis 3 of IPARD).

<sup>(6)</sup> European Commission Progress Reports, November 2010: [http://ec.europa.eu/enlargement/press\\_corner/key-documents/reports\\_nov\\_2010\\_en.htm](http://ec.europa.eu/enlargement/press_corner/key-documents/reports_nov_2010_en.htm).

<sup>(7)</sup> IPARD, Instrument for Pre-Accession – Rural Development, includes 9 measures under 3 priority axes: 1 – Improving market efficiency and implementation of EU standards, 2 – Preparatory actions for implementation of agri-environmental measures and LEADER, 3 – Development of the rural economy, with allocated funds for 2007-13 of around 1 billion EUR; total IPA funds are over 10 billion EUR in 2007-2013.

6.4.4 A major reason for the slow uptake of EU funds is also *poor administrative capacity and lack of appropriate institutions* at national and particularly local level, which is hampering the overall absorption capacity of pre-accession funds. Lack of adequate general services (acquiring of building permits, land registry, inadequate plant health and veterinary services, etc.) have also contributed to the low success rate of the latest calls for rural development projects.

6.4.5 An additional obstacle to better use of EU funds appears to be *low capacity of potential beneficiaries*. This could be overcome by developing more efficient extension and advisory services.

6.4.6 The situation differs from country to country and is not always related to the accession progress or candidate status. Therefore, the EESC would recommend greater flexibility in the use of pre-accession aid for rural development, in particular by *abolishing differentiation between candidate and potential candidate countries in accessing the assistance*, and allowing individual country assessment of administration and absorption capacity to have more weight.

## 7. Rural labour markets in the Western Balkans

7.1 Rural labour markets in most of the Western Balkan countries display the following common characteristics:

- employment is dominated by agricultural workers, while the share of employees in the service sector and self employees (except in agriculture) is well below the average;
- part time and seasonal work are very often the only source of income for most of the rural population;
- unfavourable education structure and lack of skills and knowledge are the result of population ageing and an increasing number of early school leavers;
- lack of employment opportunities outside agriculture lead to high dependence on seasonal employment and hidden unemployment;
- the most vulnerable groups which are in danger of being excluded from the labour market are young people, women, the elderly, ethnic minorities (Roma) and war refugees. Some of these categories are not always registered as unemployed ('hidden unemployment');
- rural workers are rarely involved in various employment programmes provided by governments. Better promotion and adequate advisory services for such programmes are needed.

## 8. Strategies and policies related to rural development and employment

8.1 The main characteristics of current national rural policies are: poor political awareness, poor understanding of the EU concept of rural development – no integrated approach or programming structures, absence of vertical and horizontal policy coordination and poor inter-ministerial cooperation in the field of rural development.

8.2 Certain key problems, as well as development opportunities, are not adequately considered in national rural development policies: there are no sufficient incentives for organic farms, genetic resources, forestry, tourism, etc. Less favoured areas and semi-subsistence farming are not tackled either.

8.3 Rural development policies, in combination with regional policies and appropriate sectoral operational programmes, can make a significant contribution to better employment and better social inclusion in rural areas. A good regional policy can provide important, complementary support, aimed at strengthening poorer rural regions.

8.4 Compared to the EU, national regional policy in most of the countries is even further behind than rural development policy. Therefore, a more coherent approach and better coordination between policies and funds available are needed, pulling different resources together (national funds, EU funds, funds from donors).

8.5 Due to political instability and frequent changes of government, most of the countries in the region are facing lack of continuity in implementation of different policies and measures for rural development.

## 9. The role of civil society organisations (CSOs) in rural development

9.1 The EESC's opinion on *Civil society in rural areas* <sup>(8)</sup> highlighted several problems and challenges in the development of civil society organisations in rural areas, particularly in new Member States. These challenges include barriers to accessing knowledge and information, lack of entrepreneurial skills, demographic problems, and lower quality of social infrastructure, compared to cities.

9.2 The status and role of civil society in the Western Balkans, together with the challenges facing civil society, are issues which have been tackled in a number of EESC opinions <sup>(9)</sup>. Although there are specific issues for individual countries regarding legislation, public financing and fiscal

status of CSOs, the level of civil and social dialogue, there are some common issues throughout the region, and particularly in rural areas:

- in general there is no strong tradition of civil society;
- public financing of CSOs is in most cases insufficient and not transparent enough;
- new EU-funded technical assistance to CSOs from the Western Balkans <sup>(10)</sup> is set up but is not yet producing the desired results;
- in general there is a need for capacity-building and development of specific knowledge and skills in various fields;
- at local and regional level, there is a general misunderstanding among local authorities of the advantages of working in partnership with civil society;
- the urban – rural gap: most CSOs are concentrated in either the capital city or in two or three other cities, leaving the countryside unaware of the role of civil society and its activities;
- most of the CSOs, including farmers organisations, are fragmented and suffer from counter-productive competition instead of cooperation. This prevents them from establishing powerful pressure groups.

9.3 Traditional forms of CSOs in rural areas of the Western Balkans are religious groups and associations of national minorities, firemen's, hunters' and fishermen's associations, cultural or artistic organisations, sports clubs, women's associations, and similar. Their geographical distribution is uneven, but the religious and ethnic minority groups are best organised and are protecting their interests well.

9.4 The possibility of more active involvement of these organisations in programmes to preserve intangible cultural heritage and the environment is not always adequately recognised by decision makers. Their influence on development initiatives is minor and does not extend beyond the narrow boundaries of the local community (village). Networking at a higher level does not exist.

9.5 Donor projects have created new forms of civil society organisations, mainly focused on the transfer of information and knowledge in the field of accession policy, agriculture, the environment, protection of human rights and similar. Cuts in donor funds caused many of these organisations to disappear.

<sup>(8)</sup> EESC Opinion OJ C 175, 28.7.2009 p. 37, *Civil society in rural areas*.

<sup>(9)</sup> Opinions OJ C 18, 19.1.2011 p. 11, OJ C 317, 23.12.2009, p. 15, OJ C 224, 30.8.2008, p. 130, OJ C 204, 9.8.2008, p. 120, OJ C 27, 3.2.2009, p. 140, OJ C 44, 16.2.2008, p. 121.

<sup>(10)</sup> Civil society facility.

9.6 **The role of farmers' organisations:** during the transition the old cooperative system from socialist times more or less fell apart. Later on, many donors' projects, aimed mainly at modernising agricultural production, favoured and even conditioned the association processes of farmers. At present, the real impact of various farmers' and producers' associations on agricultural and rural development policies is relatively low. Most of them however play a significant role in transfer of knowledge, various advisory services and promotion of agricultural products.

9.7 **The LEADER approach to rural development** shows how networking and promoting dialogue at local level can help improve participation of civil society in preparing and implementing local development strategies. Its bottom-up partnership approach, including various local stakeholders, has had encouraging results in many EU countries and is regarded as useful tool for boosting employment in rural areas.

## 10. Issues which need to be addressed to achieve a more diversified rural economy

### 10.1 *Diversified and knowledge-based agriculture*

10.1.1 Intensification and technological improvements in agriculture are opening up new opportunities for jobs in different accompanying activities such as transport, packaging, storage facilities, mechanical equipment sale and servicing, quality control, etc.

10.1.2 Diversification within the agricultural sector itself towards the added value of farm products (organic farming, quality food and meat production, products with Protected Geographical Indication status, home-processed traditional foods, etc.) can also bring new opportunities for future development and reducing hidden unemployment.

### 10.2 *Investment in rural infrastructure*

Quality infrastructure such as roads, water, electricity, information and telecommunication services can stimulate the development of both, farm and non-farm businesses. At the same time, quality infrastructure improves living standards in rural households by increasing mobility and access to social services, including health and education.

### 10.3 *Building human capital*

A more educated and adaptable rural labour force will have more chances of finding a job outside the agricultural sector. It is particularly important to ensure that vocational training programmes are in line with the needs of rural diversification

programmes. Programmes for lifelong learning, prequalification and strengthening of managerial knowledge and skills are particularly important.

### 10.4 *Creating a good environment for businesses*

10.4.1 Encouraging entrepreneurship and faster creation of small and medium-sized enterprises (SMEs) in rural areas would also help to diversify economic activities and prevent young people leaving. Unattractive tax systems inefficient business registration processes, combined with poor infrastructure and lack of educated young people, are all factors that create obstacles for new investment and new businesses.

10.4.2 Access to credit facilities tailored to the needs of rural people remains a particular problem. It is necessary to encourage banks and other financial institutions to facilitate lending to agriculture. This is important also in relation to the co-financing rules for IPARD funds.

### 10.5 *Building up efficient extension and advisory services*

The extension and advisory services should shift from providing technical advice to farmers toward a more innovative, demand-driven knowledge and information transfer. Modern extension services should meet the needs of a wider rural population (consumers, entrepreneurs, farmers, the poor, etc.) and also help rural people to adopt new policy principles and rules.

### 10.6 *Revival of cooperatives by improving the institutional framework and strengthening their human resources and the supporting programmes*

Cooperatives are traditional rural society organisations which have the potential to play a key role in developing social capital in rural areas. They can create new job opportunities, generate extra income and allow people to actively participate in the development of their communities.

Development of **social enterprises** can also bring opportunities for new jobs, particularly for women and young people, as the most vulnerable groups.

### 10.7 *Encouragement of bottom-up approaches (such as the Leader programme)*

Better connection and coordination of diverse rural actors, both in vertical terms (government bodies at different levels - national, regional and local) and in horizontal terms (entrepreneurs, professional associations, farmers, etc.) are needed. Local development policies should be implemented with more coordination between relevant institutions and with a bottom-up decision-making process.

### 10.8 *Tourism and agri-tourism*

10.8.1 Rural tourism can be a significant development challenge in rural areas. The Western Balkans region offers well-preserved natural, cultural and historical heritage, together with high-quality food and relative proximity to the EU tourist markets. Eco-tourism and new sustainable development trends, promoting healthy environment and lifestyle, (including 'green products' and organic food such as beef, medicinal plants, forest fruits, mushrooms, etc.), fit perfectly with region's cultural and natural heritage.

10.8.2 However, modern, active rural tourists demand high-quality services, comfortable accommodation and a variety of recreational and cultural activities. A number of obstacles are still hampering the development of rural tourism: poor infrastructure, underdeveloped brands of regional products

(souvenirs), low accommodation capacity and quality, poor tourist attraction signposting, lack of management of tourist destinations, etc.

10.9 **Cross-boarder projects** could also be a good vehicle for future better use of local development potential (common road infrastructure, energy networks, tourist facilities, local brands, etc.).

### 10.10 *Renewable energy - a potential source of employment and income*

Most of the new renewable energy plants will be located in rural areas: e.g. energy crops, biogas plants, bio-fuel production, pellet/briquette production, wind energy plants, etc. These plants will not just be built but will also need to be maintained and serviced throughout their operating period, ensuring additional employment and income.

Brussels, 21 September 2011.

*The President  
of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on 'Promoting representative civil societies in the Euromed region' (own-initiative opinion)**

(2011/C 376/06)

Rapporteur: **Mr DIMITRIADIS**

On 16 June 2011, the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

*Promoting representative civil societies in the Euromed region.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2011.

At its 474th plenary session, held on 21-22 September 2011 (meeting of 21 September 2011), the European Economic and Social Committee adopted the following opinion by 163 votes to 6 with 17 abstentions.

## **1. Summary and conclusions**

1.1 Since the end of 2010, the countries of Northern Africa and the Middle East have been experiencing an unprecedented and historic shift in their political systems in the wake of fierce popular uprisings in which all social strata and numerous civil society organisations were energetically involved.

1.2 In this context the EESC absolutely deplores the use of force against protesting peoples observed in certain countries of the southern and eastern Mediterranean (notably Syria and Libya), and calls on European and international organisations to take all appropriate measures to halt violations of human rights, including trade union rights.

1.3 EU policies before the Arab uprising lacked imagination and an understanding of the particularities of the local societies, and overlooked local mores, customs, traditions and conventions. EU bodies did not use the services of the EESC or CoR, which could have been an important route for exerting EU influence on local civil society organisations or local authorities.

1.4 The new society that has the potential to emerge in the Euromed region, as reflected in the vibrancy of its civil society, requires a diversified, flexible and intelligent response from the EU. In this context, the EESC welcomes the review and update of the European Neighbourhood Policy and in particular the emphasis that is now placed on the principles of conditionality and differentiation and on measures to support civil society <sup>(1)</sup>.

1.5 The EU, which is the biggest donor in the region, needs to insist not only on the inclusion in its bilateral agreements of clauses on the protection of democratic freedoms and individual rights, but crucially also on their implementation. In the past, EU policy in the latter regard has been inadequate. Furthermore, the EESC calls for benchmarks on the treatment of civil society (legislative framework, capacity building, dialogue etc.), human rights, as well as economic, social and cultural rights to be included in the assessment of a country's governance.

1.6 The EESC calls on the European Commission to support local legal institutions and develop training and educational programmes for judges and lawyers. The delivery of transparent justice is a condition for democracy.

1.7 The EESC regards as essential subregional development and development of south-south cooperation, supported by the EU. It therefore urges the Commission to initiate processes and make practical proposals without delay based on its experience in European countries or other parts of the world.

1.8 The EESC also endorses redefining the UfM's role and mission. The UfM regional body will only prove useful if, as was the original intention, it is given specific and transparent programmes destined for specific beneficiaries/recipients, including the participation of local civil societies, and is responsible for coordinating various regional European policies and funding in collaboration with the public and private sectors and financial institutions at the local level. It also needs to provide permanent mechanisms for civil society involvement in its initiative. The EESC calls for immediate decisions to be taken on the role, mission, organisation and funding of the UfM.

<sup>(1)</sup> Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A partnership for democracy and shared prosperity with the Southern Mediterranean (COM(2011) 200 final, 8.3.2011) and Joint Communication to the European Council, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new response to a changing Neighbourhood (COM(2011) 303 final, 25.5.2011).

1.9 Women and young people played a pivotal role in the processes that led to these historic transformations, effectively helping to energise and mobilise local societies using the latest social networking tools. It is important to keep up the momentum and ensure that both these groups not only enjoy full political, civil, economic and social rights, but also play a full role in all aspects of society.

1.10 The EESC calls for the effectiveness of EU-funded projects and EU assistance to be improved so that greater progress can be achieved in the future. The complexity of EU funding procedures leaves out of the loop many of the non-state actors that have the greatest potential but also the greatest need for support and currently lack the expertise needed to apply for funding. Helping organisations to obtain funds, for example through EU delegation training, should be one of the objectives of the initiative.

1.11 The EESC agrees in principle with the Commission's policies on immigration, asylum and free movement of people, but it believes that specific, rigorous measures are needed to combat illegal immigration and trafficking of people. These should include measures to promote regional development and social cohesion in the partner countries.

1.12 The EESC calls on the Member States to show solidarity with the EU Mediterranean countries which are facing migration pressures.

1.13 The EESC believes that the wave of immigration to EU countries can only be stemmed by providing practical help to the societies of North Africa and the Middle East, based on specific economic and social assistance programmes aimed at improving the competitiveness of their economies, supporting local SMEs and agriculture, regional development and social cohesion, and the opening up of remote regions.

1.14 The EESC also believes that within the southern partners' countries economies the agricultural sector – and rural development in general – play a pivotal role in delivering solutions for local development and generating employment for a young workforce. The sector is also key to resolving the existing food crisis in these countries and therefore should be targeted as a priority. The renewable energies sector meanwhile is an area of huge potential which can generate major benefits in terms of employment, social development and climate change mitigation on both shores of the Mediterranean.

1.15 The EESC believes that social dialogue between employers and workers in the Mediterranean region should be stepped up and that its Employers Group and Workers Group could contribute to the achievement of this objective. In addition, the EESC calls for structured social dialogue to be promoted through a Social Forum. The EESC will continue to cooperate closely with the ILO to promote social dialogue in the region.

1.16 The EESC welcomes the Commission's plan to provide additional resources of over EUR 1 billion until 2013 to address the urgent needs of the region. It also asks the Commission to bring funding together within a specific policy and social framework in the beneficiary countries which would promote democratic principles, political and trade union freedoms, development of education and lifelong learning, protection of the environment and broadening and deepening of political cooperation with the EU Mediterranean countries.

1.17 The EESC underlines that in this endeavour the social partners, civil society organisations and the Economic and Social Councils of the Member States have a vital role to play in terms of sharing experiences and knowledge, disseminating information, benchmarking, transfer of know-how, and administrative resources. The EESC is ready to take on specific projects to underpin and strengthen civil society in cooperation with the Commission and the HR/VP.

1.18 As the body representing civil society at EU level, the EESC can play an active role in the new European framework for cooperation with Mediterranean societies in particular by:

- documenting the situation of civil society in the region through an open, democratic and regular dialogue with a broad spectrum of players;
- helping to define specific criteria and processes for accepting an organisation as truly representative of a sector of society;
- supporting the capacity-building efforts of independent and representative civil society through its expertise in a wide range of fields including social dialogue and economic and social rights;
- helping local economic and social councils by providing expertise on participatory democracy;
- taking part in Commission programmes to strengthen socio-economic organisations.

1.19 The EESC believes it is essential to work together with the EU institutions in supporting emerging civil society organisations in the southern Mediterranean countries. The EESC will readjust its network of Euromed ESCs and similar institutions and will continue to promote regional cooperation through this network and in doing so adhere to the principles of conditionality and differentiation set out in the revised ENP.

## 2. Learning from the past

### 2.1 Critical analysis of previous European Union activities

2.1.1 The complete absence, with a few exceptions, of a democratic environment has obliged the EU, not always defensibly, to adapt its policies on pragmatic grounds and to accept as interlocutors figures that could by no means be described as democratic representatives of their peoples.

2.1.2 Constrained by formal European policies and positions taken by the other EU bodies vis-à-vis the sitting governments in North Africa and the Middle East, and by the policies and economic guidelines of the Barcelona Process, and with a very limited budget, the EESC took a pragmatic position and cooperated with economic and social councils and official civil society organisations that did not always have sufficient democratic legitimacy and did not adequately represent civil society.

2.1.3 During the whole Barcelona Process, the EU communicated and cooperated very little with civil society organisations that were not approved by governments, thus missing an opportunity to influence political and social developments. The EU nevertheless remains the only major power in which local societies have invested their hopes in relation to establishing peace, introducing and entrenching democratic freedoms, and support for local economies.

2.1.4 Before the Arab uprising, the views of policy-makers in the EU Member States on the countries of North Africa and the Middle East, while pragmatic, were fractured and divergent, and they were thus unable to understand the critical processes taking place at political, economic and social level and were taken completely by surprise at the intensity and scale of the events that led to these unforeseen changes.

2.1.5 In the wake of these events, the EU must talk to local societies, learn from the past, become familiar with local mores, customs and traditions, get to know the culture of the individual societies (each country's being very different) and cooperate with a view to supporting the governments that will emerge with genuine and free democratic procedures.

## 3. Current situation and outlook

3.1 The EESC believes that a number of issues - grievances of local societies that had been coming to a head for many years - need to be addressed urgently: the use of manufacturing infrastructure (means of production) in countries in North Africa and the Middle East by certain groups with interests and contacts in the previous regimes which did not have demographic legitimacy; the uneven or unequal distribution of wealth and prosperity; the explosion in prices of basic food staples, which eventually became unaffordable for ordinary people; the need to protect individual rights and social and trade union rights; and the demand for economic and social welfare and education.

3.2 The current political situation in most of the Mediterranean countries of North Africa and the Middle East is characterised by:

- i. a hope that free democratic states will be set up;
- ii. a need for assistance to restore economies;
- iii. the first indications that some free civil society organisations and socio-economic bodies - both established and new - are operating;
- iv. the need for coordinated and well-organised international support, both from the EU (which after the Lisbon treaty has the mechanisms it needs to pursue a common foreign policy), the High Representative and Commission Vice-President (HR/VP) and the European External Action Service (EEAS), as well as other international organisations (UN, ILO, IMF, EIB, etc.). Contacts with research institutions specialising in the Euromed region (for example IPAMED, FEMISE) would be very useful here.

The EESC believes that the EU must speak with one voice.

3.3 Common themes across the southern Mediterranean region are that democracy must be established and entrenched, economic and social progress stepped up, and training and jobs provided for the younger generations.

3.4 Most countries of North Africa and the Middle East face the challenge of having predominantly young populations, which means that they must urgently find a solution for this highly productive element of their societies by boosting employment. Adequate training and educational programmes should be boosted to this end, while enhancing civil rights and gender equality.

3.5 It will only be possible to establish democratic values and processes by adopting the principles of representative democracy founded on free elections and independent political parties and by supporting and strengthening civil society and socio-economic organisations that operate under secure, free and independent conditions.

3.6 The EESC calls on the Member States to show solidarity with the EU Mediterranean countries which are facing migration pressures:

- a) by cooperating through FRONTEX;
- b) by introducing special economic measures and backing these up;
- c) by helping the partner countries in the region to alleviate human suffering in targeted countries or regions.

3.7 The EESC welcomes the appointment by the EU's Council of Ministers of the Spanish diplomat Bernardino León Gross as the EU's Special Representative for the Southern Mediterranean in response to the events of the Arab uprising. His appointment is a clear sign that the EU wishes to maintain its initiative in the region. The EESC calls on the special representative to work closely with civil society, which is playing a crucial role in the region, and to use all available EU channels for that purpose.

#### 4. New European neighbourhood policies

4.1 The EESC welcomes the two Joint Communications of the Commission and the EEAS<sup>(2)</sup>, which evaluate progress made to date in Euro-Mediterranean relations and take a first look at the opportunities and prospects created after the Arab uprising. The EESC would like to make the following points in particular:

4.1.1 The EU should on no account remain a passive observer of events.

4.1.2 The EESC has studied in detail the Joint Communications of the European Commission and the HR, and endorses all the development measures proposed in that text, while also noting that the EU wasted a great deal of time, after the launch of the Barcelona Process in 1995, before evaluating and reprogramming these measures.

4.1.3 The EU should implement without delay the new 'partnership for democracy and shared prosperity' in the Mediterranean.

4.1.4 Within a new partnership, a different approach must be adopted for each country to reflect political and social developments. Countries that are further advanced should have access to more funding and be able to step up their political and economic cooperation with the EU. Relations with all countries should be founded on an explicit set of principles (democracy, protection of individual rights, etc.) and specific incentives linked to certain political goals (combating corruption, an independent judiciary, independent information media, etc.). Specific safeguards should also be put in place to reduce or suspend funding as appropriate in cases where commitments are not honoured or deadlines not met.

4.1.5 The holding of free and fair elections is a preliminary non-negotiable precondition for establishing partnership.

4.1.6 Grassroots support from civil society is a basic prerequisite for underpinning the new democratic governments and safeguarding economic and social rights, protecting the environment and for social and economic development. The EESC is ready to contribute to these efforts with the experience it has gained from its activities throughout the world as well as

the expertise of its members through specific assistance measures in cooperation with the Commission, the European Parliament and the Committee of the Regions.

4.1.7 The Arab uprising owes much to the key role played by young people and women in the uprisings, and therefore particular emphasis should be placed on guaranteeing their rights and enhancing their role in the new democratic states. To this end the EESC calls for all countries in the Euromed region to ratify the Convention on the Elimination of all Forms of Discrimination against women.

4.1.8 Open social dialogue between employers and workers, which is a prerequisite for maintaining economic and social stability, will play a very important role in entrenching democracy and safeguarding trade union rights.

4.1.9 Fighting corruption, ensuring good governance and creating an efficient public administration are fitting and necessary conditions for economic prosperity and to attract the absolutely essential Foreign Direct Investment (FDI) that will shore up the democratic governments and generate new jobs.

4.1.10 Establishing mobility and infrastructure partnerships in the Mediterranean countries in relation to borders, migration and asylum will enhance security in the region.

4.1.11 Setting up SMEs in the Mediterranean countries is an important prerequisite for economic growth and job creation within a healthy regulatory framework and constructive financial environment. The Facility for Euro-Mediterranean Investment and Partnership (FEMIP) and the European Investment Fund (EIF) are called upon to play a key role here.

4.1.12 Illiteracy is one of the most pressing social problems in the countries of North Africa and the Middle East, and strenuous efforts must be made to address it. The European Union can and must play a supportive role here. It should also provide support for business training and skills development.

4.1.13 The EESC backs the setting up of a European Endowment for Democracy that would use targeted measures to support democratic processes in the southern Mediterranean countries, promoting the creation of political parties and free mass media, and above all reinforcing civil society (associations of employers/employees, NGOs, farmers, women's organisations and other social partners). On the basis of its own experience, the EESC considers a special process to support civil society, such as the proposed ENPI civil society facility, to be indispensable, and calls for the funding to the facility to be increased. The EESC is very willing to be involved in the facility together with the other European bodies and to offer its expertise. The EESC also calls on the Commission to recognise the special role which the socio-professional

<sup>(2)</sup> See footnote 1 above.

organisations can play in the ENPI (European Neighbourhood and Partnership Instrument), particularly in the civil society facility that is to be set up.

4.1.14 The EESC agrees with the EU institutions that the Mediterranean region has for a very long time been in a state of constant tension owing to the Israel-Palestine conflict, which impedes every attempt at dialogue or joint action, and it calls on the HR/VP to continue her intensive efforts to find a mutually acceptable solution. The EU must speak with one voice on this highly sensitive issue.

4.1.15 The EESC backs the Commission's position on visa facilitation for selected partners in the Mediterranean and visa liberalisation in due course for those countries that can cooperate more closely with the EU on issues relating to mobility, asylum, return to country of origin and combating illegal immigration and people trafficking.

4.1.16 The EESC considers respect for both religious and civil freedoms to be basic human rights that should be fully protected in a region characterised by religious and political diversity, and calls on the countries that have not yet ratified the existing universal and regional conventions and agreements on political, civil and cultural freedoms, and on economic and social rights, which are based on the Universal Declaration of Human Rights, to do so without delay.

4.1.17 The media in the Euromed region play a key role in relaying and projecting the outcome of the transformations taking place. EU support needs to focus on initiatives to improve the professionalism and independence of existing media and foster the conditions in which media diversity and freedom can flourish.

## 5. Enhancing EU cooperation with civil society in the Mediterranean region

5.1 Following the Arab uprising, all European bodies caught unawares by the developments, and with no alternative immediate response strategies except to provide humanitarian assistance, accepted that in future the EU must focus in particular on civil society organisations and other independent social and professional bodies.

5.2 The two communications of the Commission and the HR/VP already contain specific chapters on measures to support civil society through the European Neighbourhood Policy (ENP) and the Union for the Mediterranean.

## 6. Role of the Commission

6.1 Help must be provided to the southern Mediterranean countries to set up and consolidate mechanisms that will

promote the proper organisation and functioning of civil society and socio-economic organisations (legislation, fixing rules of operation, strengthening institutions, requiring open and inclusive democratic dialogue, etc.).

6.2 Cooperation with the Member States is crucial, and it is necessary to redefine the role and mission of the Union for the Mediterranean<sup>(3)</sup> and organise active participation of recognised civil society organisations in its programmes.

## 7. Specific role of the EESC

7.1 As the body representing European civil society, the EESC can take an active part in the new European framework for cooperation with Mediterranean societies by taking the following measures:

- documenting the situation of civil society in the countries of the southern Mediterranean through an open, democratic and regular dialogue with a broad spectrum of players;
- assisting in the definition of specific criteria and processes for accepting an organisation as truly representative of a sector of society that operates democratically and independently while cooperating with other bodies;
- supporting the capacity-building efforts of independent and representative civil society through its expertise in fields such as social dialogue, economic and social rights, vocational training, good governance, equality in the labour market, sustainable development, social cohesion, consumer protection cooperatives, SMEs, advocacy capacity, migration, rural development and women's rights;
- helping local economic and social councils by providing expertise on participatory democracy;
- taking part in Commission programmes to strengthen socio-economic organisations.

7.2 The EESC believes that social dialogue between employers and workers in the Mediterranean region should be stepped up and that its Employers Group and Workers Group could contribute to the achievement of this objective by setting up a communications network with relevant stakeholders. In addition, the EESC calls for structured social dialogue to be promoted through a Social Forum.

<sup>(3)</sup> See Committee of the Regions resolution on *Dealing with the impact and consequences of revolutions in the Mediterranean* of 12 May 2011 (OJ C 192, 1.7.2011, pp. 1–3).

7.3 The EESC believes it is essential to work together with the EU institutions in supporting emerging civil society organisations in the southern Mediterranean countries, especially those directly involved in the uprisings at the origin of the revolutions, so that they get the political recognition and the financial support that they need in order to continue playing their role in the democratic processes.

7.4 The EESC has already initiated a series of missions to countries in the southern Mediterranean (Tunisia and Morocco) and is preparing to hold a symposium with Euromed NGOs (in September 2011), as well as its annual summit with broad civil society participation (November 2011 in Istanbul). It has formulated recommendations in its opinions and resolutions on Euro-Mediterranean cooperation<sup>(4)</sup> and in its final declaration at the Euromed Summit of Economic and Social Councils and Similar Institutions held in Rome in 2010. That

declaration contained a number of recommendations on subjects of topical interest to Euromed civil society, such as setting up an assembly of economic and social councils and similar institutions within the UfM structure. The other issues on the agenda were decent work and sustainable development in the Mediterranean region, professional training to drive competitiveness and job creation, establishing a more equitable society in the Euromed region and agricultural policy in the UfM countries. The EESC also works closely with the national economic and social councils of the EU Member States in the Mediterranean region.

7.5 The EESC will readjust its network of Euromed ESCs and similar institutions and will also continue to promote regional cooperation through this network, which can act as a forum for exchanges between civil society partners in the North and the South.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(4)</sup> See EESC resolution on *The situation in the southern Mediterranean countries* (OJ C 132, 3.5.2011 pp. 1-2); opinion on the *European Instrument for Democracy and Human Rights (IDHR)* (OJ C 182, 4.8.2009 pp. 13-18); and opinion on *Freedom of association in the Euromed partner countries* (OJ C 211, 19.8.2008 pp. 77-81).

**Opinion of the European Economic and Social Committee on the 'Single European Sky II'  
(own-initiative opinion)**

(2011/C 376/07)

Rapporteur: **Mr KRAWCZYK**

On 20 January 2011 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on the

*Single European Sky II.*

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 June 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 152 votes with one abstention.

**1. Conclusions and recommendations**

1.1 The European air traffic management (ATM) system has suffered from fragmentation and weaknesses for decades. By creating a Single European Sky (SES), safety can be enhanced and flight efficiency improved. This would significantly reduce CO<sub>2</sub> emissions per flight and greatly mitigate other environmental impacts (aviation-related CO<sub>2</sub> emissions could be reduced by 12 % per flight) while also generating considerable cost savings.

1.2 The creation of a Single European Sky is also essential to ensuring the competitiveness of the EU's aviation industry in the global market place. It is essential that the European Commission play a key role in the implementation of SES II. Only strong and unquestioned leadership by the Commission will enable the various obstacles and political problems faced in previous years to be successfully overcome.

1.3 Successful implementation of the performance scheme based on realistic, but ambitious targets for safety, cost efficiency, capacity/delays and flight efficiency is a crucial factor in achieving the Single European Sky. The EESC is concerned that the current level of commitment among EU Member States towards a Single European Sky is not sufficient.

1.4 Functional Airspace Blocks (FABs) need to be developed based on operational needs and bearing in mind safety, airspace capacity, cost efficiency improvement objectives and environmental improvements through increased flight efficiency. The European Commission should set and closely monitor the performance parameters that have to be achieved by the various FAB initiatives by making use of the SES II performance framework.

1.5 The EESC believes that Eurocontrol could play a role in strengthening European ATM network functions such as route network design, central flow management and the management of scarce resources, but only on condition that this is performed

under EU law, that the reform of the Eurocontrol agency is completed successfully and that Eurocontrol's cost base is further rationalised. The EESC welcomes the European Commission's decision to nominate Eurocontrol as Europe's 'Network Manager'.

1.6 The EESC believes that safety and performance objectives as well as interoperability with non-EU ATM systems (such as the US NextGen initiative) should remain the driving force for the Single European Sky ATM Research (SESAR) programme. The EESC therefore feels that the following challenges related to the deployment of SESAR need to be addressed:

- Ensure the synchronised deployment of airborne and ground infrastructure upgrades.
- Secure timely and adequate financial resources for SESAR deployment.
- Establish the right governance for the deployment of SESAR.

1.7 Safety goes beyond safety regulations. It also encompasses: human capabilities, a safety culture, competencies and training and team resource management. In this context, it is important to:

- recognise human performance in terms of managing safety risks proactively;
- ensure an adequate level of competence and training of professionals;
- promote the involvement of the social partners in the implementation of the Single European Sky at all levels; and
- build a sound safety culture integrating open reporting and 'just culture' as the basis for safety performance.

1.8 The EESC notes that the SES II package has extended the scope of the European Aviation Safety Agency's (EASA) system to ATM safety regulation at EU level, thereby ensuring an integrated approach for ATM safety regulation and oversight in the EU in a gate to gate concept.

## 2. Introduction

2.1 By creating a Single European Sky, safety can be enhanced and flight efficiency improved. This would significantly reduce CO<sub>2</sub> emissions per flight and greatly mitigate other environmental impacts (aviation related CO<sub>2</sub> emissions could be reduced by 12 % per flight) while also generating considerable cost-savings.

2.2 The creation of a Single European Sky is also essential to ensuring the competitiveness of the EU aviation industry in the global market place. Furthermore, the current ATM system will be unable to cope with the traffic demand forecast for the period between now and 2030 (according to the latest Euro-control long-term forecast, traffic will grow to 16.9 million flights by 2030 (1.8 times current traffic levels).

2.3 An initial EU Single European Sky (SES I) package came into force in 2004. At the time the greatest problem in air traffic management was congestion in the air and subsequent delays, hence this, together with safety, became the main focus of SES I.

2.4 Over the past years the ATM situation has changed somewhat and whilst safety and capacity are still major objectives, the picture has become more varied with a greater emphasis on the environment (flight efficiency) and cost efficiency. Additionally, the regulatory approach has been changed due to requests from Member States and stakeholders for a less prescriptive approach ('better regulation').

2.5 Although some of the SES objectives were achieved, the difficulties of the Member States to deliver some SES I objectives, together with updated objectives such as environment and performance have led to the launch of the Single European Sky II (SES II) package. It was adopted by the EU legislator in 2009 and published in the Official Journal of 14 November 2009. It provides for the essential tools, the legal framework and the building blocks to implement a Single European Sky from 2012 onwards.

2.6 In addition, the SESAR programme was kicked off as the technical and operational complement to the institutional reforms envisaged through SES II.

2.7 Substantial challenges, however, remain. To overcome these challenges major operational improvements are required,

along with continuous political action to ensure a swift implementation of the SES II package based on ambitious performance targets and with the ultimate goal of closing the performance gap between the EU's ATM system and non-EU ATM systems.

2.8 The EESC has previously highlighted the need for a Single European Sky in earlier opinions, in particular TEN 354-355 on improving the performance of the European aviation system through SES II. The present own-initiative opinion aims to provide a high-level vision for the implementation of the SES II package and for the deployment of SESAR, and addresses the following aspects:

- implementation of the SES II performance scheme with ambitious performance targets;
- implementation of FABs that are based on those ambitious performance targets;
- strengthening the ATM network functions based on a reformed Eurocontrol;
- reform of Eurocontrol in support of SES and with a reduced cost base;
- SESAR as the technical and operational element of SES with public funding to support the implementation phase;
- the European Aviation Safety Agency (EASA) as the single safety regulator with safety rules based on safety principles and building on the existing rules.

The human factors principle and the need for social dialogue with front-line staff and proper consultation with all stakeholders is a key element which should underpin all of those aspects.

## 3. Implementation of the SES II performance scheme with ambitious performance targets

3.1 Successful implementation of the performance scheme based on ambitious targets for safety, cost efficiency, capacity/delays and flight efficiency is a crucial factor in achieving the Single European Sky. Unwavering political commitment will be needed to ensure a swift delivery of its benefits. In this context, the EESC stresses the importance of the EU Member States honouring their commitment to accelerating the implementation of a Single European Sky, as decided at the EU Transport Council in May 2010. The EESC is concerned that the current level of commitment among EU Member States to a Single European Sky is low.

3.2 The EESC believes that it is essential to ensure consistency between the Community-wide performance targets and the national FAB targets. This will require the development of a system for resolving inconsistencies between those targets. In practice this means that the worst performers will need more ambitious targets than those who are better performers. The Eurocontrol Performance Review Commission's ATM performance benchmarking (ACE) reports should be used for setting the detailed targets for individual ATM providers. Safety metric targets should be developed and implemented to ensure a balanced approach in conjunction with the other performance targets. In this context, there should be no compromise of safety levels and safety should continue to be improved.

3.3 The EESC stresses the importance of safeguarding the independence of the National Supervisory Authorities (NSAs) from the Air Navigation Service Providers (ANSPs) as well as from political interference; this is essential for ensuring successful implementation. Therefore adequate resources for NSAs should be ensured. The European Commission should closely monitor the strict adherence to those principles by making use of the tools available within the SES II package. Moreover, the NSAs should better coordinate by making intensive use of the established NSA platform and, where appropriate, consolidation within the context of the FABs should be envisaged to ensure economies of scale and to prevent an increase in supervision costs. In this context, the role of the FAB coordinator could be enhanced.

3.4 The performance scheme should address both en-route and terminal charges. This is essential to ensure meaningful benefits for airlines and passengers, based on the gate-to-gate concept. If a clear roadmap is achieved, it will lead to a reduction in direct and indirect costs of the EU ATM system in the longer term and thus reduce Air Traffic Control (ATC) charges billed to airspace users, thus affecting passengers and freight customers.

3.5 The EESC considers that the SES II performance scheme should be linked to a well-developed incentive scheme. The biggest incentive will be the abolition of the full cost recovery system in ATM as already agreed through the SES II package, and its replacement with a fixed cost system.

3.6 Network functions such as Eurocontrol's Central Flow Management Unit (CFMU) and Central Route Charges Office (CRCO) should also be based on clear performance targets but should include safeguards to ensure that the EU Performance Review Body (PRB) is strictly independent from those network functions.

#### **4. Implementation of FABs based on these ambitious performance targets**

4.1 Converging to a minimum number of FABs mainly based on traffic flow requirements, capacity and cost efficiency,

remains an objective. The same safety measures and procedures should apply to all FABs. The FABs are an essential tool for enabling the individual ANSPs to meet the ambitious performance targets from 2012 onwards.

4.2 FABs need to be developed based on operational needs and bearing in mind safety, airspace capacity, cost efficiency improvement objectives and environmental improvements through increased flight efficiency. The achievement of this objective requires political commitment and monitoring at the highest level. The European Commission should set and closely monitor the performance parameters that have to be achieved by the various FAB initiatives by making use of the SES II performance framework.

4.3 FABs need to ensure the gradual technical integration of the fragmented European ATM system based on a roadmap with clear targets. To reach this target, clear coordination and cooperation between FABs is required.

4.4 In terms of changes to working practices, good industrial relations are essential. This can only be achieved by proper and ongoing consultation in the true meaning of the word. Going forward, good social dialogue is imperative if we wish to avoid these problems in the future. The workers in the industry are key assets, and changes to working practices can lead to industrial unrest unless they are handled considerately.

4.5 Under the SES Regulation, ANSPs are required to have contingency plans in place for all the services they provide where events result in a significant degradation or interruption of their services. ANSPs must focus on solutions which are more efficient and cost effective by first looking for fall-back options within existing national infrastructure (i.e. other Area Control Centres (ACCs) or military facilities) and must anticipate provisions in FAB developments for such contingencies.

4.6 Cooperation between civil and military service providers is crucial to ensuring the further development of SES and the elimination of the most important capacity bottle-necks in core Europe. The Member States and the European Commission must seek civil-military cooperation in the context of the FABs, which reconciles civil and military needs in a pragmatic and non-political manner. In view of the fact that non-EU States and the USA are also involved, closer coordination with NATO is essential. The reallocation of some military training areas, away from the main civil traffic streams, as envisaged by some FABs is welcomed by the EESC and should be actively pursued by all FAB initiatives. In addition, the implementation of an ATM night route network, as envisaged by some FABs,

should also be pursued by all FABs as a means of improving night-time flight efficiency when military training areas are not used.

4.7 The EESC also believes it essential to extend the FABs and the Single European Sky principle beyond EU borders, in particular towards countries adjacent to Europe. This will require further cooperation at international level.

4.8 Political commitment is essential to ensure that FABs deliver real benefits to end users. The EU Commission and EU FAB Coordinator should continue to remind Member States of their duty to deliver on the implementation of SES and FABs.

#### **5. Establishment of a European Network Manager to perform ATM network functions**

5.1 The EESC agrees that strengthening European ATM network functions such as route network design, central flow management and the management of scarce resources (frequencies and transponder codes) is an essential element of the SES II package.

5.2 The EESC believes that Eurocontrol could play a role in those functions but only on condition that this is performed under EU law, that the reform of the Eurocontrol agency is completed successfully and that Eurocontrol's cost base is further rationalised. This will require the full political commitment of all Eurocontrol Member States to push through the restructuring of the agency. The EESC welcomes the European Commission's decision to nominate Eurocontrol as Europe's 'Network Manager'.

5.3 The EESC therefore asks the European Commission to ensure strict adherence to this essential element when granting the mandate to Eurocontrol.

5.4 The EESC expresses concerns about the projected increase in ATC delays during summer 2011. The EESC encourages Eurocontrol, as the SES network manager, in cooperation with ANSPs and airspace users, to find short term solutions to mitigate the impact on air traffic and the travelling public.

5.5 Finally, the EESC would recall that the Eyjafjallajökull volcanic eruptions in Iceland in 2010 resulted in airspace closures that led to major disruptions for the airline industry and the travelling public. This has had a huge cost impact on the aviation industry and the EU economy as a whole. Following these events, it was agreed that Europe needed to review its procedures. In this context, the EESC stresses the

need for Europe to align its procedures with the best practices in place in other parts of the world such as in the USA. Specifically, Europe is the only region in the world where responsibility for dealing with the potential hazards of volcanic ash does not reside with the airlines. The recent volcanic ash exercise (April 2011) of the International Civil Aviation Organisation (ICAO) has highlighted that although some progress has been made, more solid guidance is needed to avoid another fragmented approach. The EESC urges EASA to provide clear guidance to all EU Member States in adopting a revised policy.

#### **6. Reform of Eurocontrol in support of SES and with a reduced cost base**

6.1 The EESC applauds the significant progress made by Eurocontrol, under the leadership of its Director-General, in restructuring itself as a leaner organisation in support of SES. This ongoing process should be accelerated and will require the full commitment of all Eurocontrol Member States.

6.2 The EESC congratulates Eurocontrol on the establishment of the SES pillar within its agency to provide technical support to SES. There is a need for full transparency on the different Eurocontrol functions, their required resourcing and the way they should be financed. Clearly airlines should not pay for governmental functions such as the SES pillar. This will require further work on establishing the right governance principles for Eurocontrol, making full adherence to SES objectives possible.

6.3 The EESC also stresses the importance of maintaining a pan-European approach that goes beyond the EU borders. The European Commission should therefore extend the European Common Aviation Area to all neighbouring countries of the European Union.

#### **7. SESAR as the technical and operational element of SES with public funding to support the implementation phase**

7.1 The SESAR programme has been established as the technical and operational complement to SES II. The European Commission expects SESAR to 'deliver a future European ATM system for 2020 and beyond which can, relative to today's performance:

— enable up to a threefold increase in air traffic movements whilst reducing delays;

— improve the safety performance by a factor of 10;

- enable a 10 % reduction in the effects aircraft have on the environment; and
- provide ATM services at a cost to the airspace users which is at least 50 % less’.

7.2 The EESC believe that these objectives as well as interoperability with non-EU ATM systems (such as the US NextGen initiative) should remain the driving force for the SESAR programme. The EESC welcomes the memorandum of cooperation that was signed between SESAR and NextGen in Budapest on 3 March 2011 as a step towards a better synchronisation of the two most important development projects in global ATM systems.

7.3 The EESC believes it essential to continue to involve front-line staff in the development of SESAR. In this context, the need to train staff for the use of new technology and new operational concepts is deemed essential.

7.4 The EESC would stress that despite the longer-term benefits for airspace users, EU citizens and the environment, SESAR faces many complex deployment challenges. A timely and effective implementation of SESAR is crucial. In addition to strong industry engagement, extensive political and financial support in a public-private partnership will be necessary. SESAR deployment should therefore be an integral part of the EU 2020 strategy to ensure strong economic governance based on a clear business model and mutual cooperation and harmonisation with the US NextGen system.

7.5 The EESC therefore feels that the following challenges related to the deployment of SESAR need to be addressed:

7.5.1 Ensure the synchronised deployment of airborne and ground infrastructure upgrades.

- Update the master plan defining a clear roadmap whereby the Commission, the Member States, ANSPs and airspace users commit to ensuring greater consistency with the SES framework including FABs. As a matter of urgency, the SESAR Joint Undertaking should prioritise the review of the work undertaken to date and identify how each main SES enabler will contribute to the EU, FAB and national performance targets.

- SESAR technologies should be deployed subject to a well-established positive business model that includes a credible safety case and positive and credible cost-benefit analysis on the basis of which the performance improvement needs are agreed and set. Where technologies cannot be proven to contribute to EU-wide targets (including those regarding safety) or to enable a safe and timely transition, the work should be discontinued.

- The realisation of the SESAR master plan will need the full commitment of all EU Member States.

7.5.2 Secure timely and adequate financial resources for SESAR deployment.

7.5.2.1 The implementation of SESAR will generate significant economic, environmental and strategic value for Europe as a whole. A 10 year delay in the implementation of SESAR represents a direct negative GDP impact of over EUR 150 billion for the EU-27 and a loss of energy efficiency of over 150 million tons of CO<sub>2</sub>.

7.5.2.2 However, SESAR deployment requires total investments exceeding EUR 30 billion and the early funding and equipage of SESAR equipment (airborne and land-based) is a major challenge to deliver the performance expected from the implementation of the new technologies as soon as possible.

7.5.2.3 Difficulties in the financing of the SESAR deployment arise from the partial disconnection between investments and benefits during the transition phase: an airline investing in a new airborne equipage will not see any benefit before the ANSPs have made the corresponding investment. On the other hand, for an ANSP (which will have to invest in a performance constrained environment in order to deliver benefits), the business case may not become positive until a significant number of aircraft are equipped. Finally, there may be some changes with an overall network benefit and a positive business case but requiring some stakeholders to invest whilst this will remain a net cost for them. In this case funding should be made available.

7.5.2.4 Funds made available by the EU for supporting deployment would therefore be used to bring about a synchronised and rapid adoption of the SESAR technology by the operators (ANSP airspace users, airports). Furthermore, in order to ensure the continued investments in R&D and innovation, additional funds in line with those available for the current R&D phase would be needed for the 2014–2020 period in the ATM field.

7.5.2.5 To achieve the pace that is necessary to meet the ATM performance targets, it is estimated that SESAR deployment would require EU funds of around EUR 3 billion, an amount that would be leveraged by combining different financial facilities that are under discussion at the moment, such as - but not limited to - own resources from industry, EU project bonds, guarantees, EIB loans, etc. For the period between 2014 and 2020 it can be concluded that:

without an effective allocation of EU resources to support SESAR it is unlikely that the programme will be implemented in time.

7.5.3 Establish the right governance for the deployment of SESAR.

- Establishment of an independent entity for the deployment of SESAR, integrating financing and deployment in a single unique management framework.

- This deployment entity should be industry-driven and have a governance structure that is composed of airspace users, airports and ANSPs as the major investment-risk takers. Other aviation stakeholders should be duly consulted.
- Throughout the implementation phase of SESAR, representatives of the employees in the air transport sector should be duly consulted.
- The role of the (equipment) manufacturers in the deployment phase is primarily to sell SESAR compliant equipment to airlines, airports and ANSPs. Unlike in the case of the current governance of the SESAR Joint Undertaking, manufacturers should therefore not be involved in the governance of the SESAR deployment in order to avoid conflicts of interest.
- Ensure coordination at European level for the synchronised deployment of SES technologies in compliance with binding network targets. In executing this task it could issue recommendations for funding purposes.

7.6 Finally, the EESC would like to point out that SESAR will only be able to deliver if the political and institutional problems referred to in the previous paragraphs are solved without further delay and if the required public funding is made available for implementation.

#### **8. Single EU safety regulator based on the EASA system**

8.1 The EESC notes that the SES II package has extended the scope of the European Aviation Safety Agency's (EASA) system to ATM safety regulation at EU level, thereby ensuring an integrated approach for ATM safety regulation and oversight in the EU in a gate to gate concept.

8.2 Robust oversight functions by the EASA - e.g. aiming at performance inspections of NSAs to ensure that ANSPs adhere to common requirements - will help deliver SES.

8.3 While supporting this concept, the EESC considers it essential to closely monitor the practical implementation of

these new EASA competences. It is important that the EASA ATM safety rules are built on the existing SES rules rather than EASA trying to reinvent the wheel through burdensome rules which would have no safety justification.

8.4 The EESC believes that in the short-term Eurocontrol's resources and expertise should be used as technical support to the EASA ATM safety regulation activities.

8.5 Finally, the EESC would like to reiterate the importance of a 'just culture' as already outlined in its opinion TEN/416 on the regulation on investigation and preventions of accidents and incidents in civil aviation. In the interests of aviation safety, it is essential to provide a legal framework under which all parties involved in accidents or incidents can share information and speak freely and in confidence. The EESC stresses that more action is required at EU level to ensure that all Member States amend their national criminal law systems ensuring a just culture. In particular the EESC stresses the importance of developing an EU charter on 'just culture'.

#### **9. Safety and human factors**

Safety goes beyond safety regulations. It also encompasses: human capabilities, a safety culture, competencies and training and team resource management.

In this context, it is important to:

- recognise human performance, notably the effects of fatigue, in terms of managing safety risks proactively;
- ensure the adequate level of competence and training of professionals;
- promote the involvement of the social partners in the implementation of the Single European Sky at all levels; and
- build a sound safety culture integrating open reporting and 'just culture' as the basis for safety performance.

Brussels, 21 September 2011.

*The President*  
of the European Economic and Social Committee  
Staffan NILSSON

## III

*(Preparatory acts)*

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

## 474TH PLENARY SESSION HELD ON 21 AND 22 SEPTEMBER 2011

**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 — Europe, the world’s No 1 tourist destination — a new political framework for tourism in Europe’**

COM(2010) 352 final

(2011/C 376/08)

Rapporteur: **Mr GKOFAS**

On 30 June 2010, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Europe, the world’s No 1 tourist destination — a new political framework for tourism in Europe*

COM(2010) 352 final.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 30 August 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 121 votes to 14 with eight abstentions.

**1. Conclusions and recommendations**

1.1 The EESC welcomes the Commission communication addressed to the European Parliament ‘Europe, the world’s No 1 tourist destination - a new political framework for tourism in Europe’, and notes that, despite certain significant shortcomings, it contains many positive proposals. The EESC would make the following recommendations for strengthening and fleshing out this initiative.

1.2 Given the range of operators (public authorities, organisations, social partners), levels (local, regional, national and European) and domains (transport, housing, ancillary products, etc.) in Europe’s tourism sector, all stakeholders must be involved in the planned initiatives. In this connection the EESC again points to the possibility of setting up a European Tourism Agency, which by effectively monitoring information relevant to supporting and promoting the measures outlined would bring together efforts which make real progress towards a global European tourism policy that takes into account the diversity and plurality of Europe’s identity as a tourist destination.

1.3 The EESC thinks that the following measures should be prioritised and adopted with the aim of meeting the challenges set in the Communication and realising the specific measures it provides for:

- encourage the setting up of a European gateway in all the EU languages where visitors can post their comments or impressions, for the purpose of ensuring better evaluation and promotion so as to attract tourists more effectively, as well as the opportunity to use new technologies (e-booking);
- be responsible for researching, organising and promoting implementation of specific aspects of the political framework and for managing priorities such as the promotion of intra-European tourism, services and facilities across Europe; encourage authorities and businesses to cooperate with a view to improving services and facilities (e.g. timetables);

- push for improvements to road, rail, air and coastal shipping connections and communications in the EU, and update and present information on the internet, while also dealing with unprofitable lines;
- encourage the promotion of health and wellbeing tourism (including spa tourism), educational tourism, cultural tourism, particularly regional festivals and performances (opera, theatre, dance, concerts, etc.) and cultural events such as exhibitions, congress tourism, wine and food tourism, historical and religious tourism, agri-tourism, and tourism capitalising on the maritime heritage, while promoting and conserving cultural and gastronomic traditions;
- enhance the quality of professional services through training and stable employment;
- encourage the governments of the Member States to support the development of small companies and micro-businesses in the tourism sector that reflect the social, environmental, historical and cultural traditions of their area or region, while improving the management of 'all-inclusive' packages;
- encourage the elderly and people who are disabled or have special needs to choose destinations in Europe, by improving infrastructure and services, and more effectively publicising the services available for such people in the EU;
- encourage a policy of subsidising the promotion of destinations in Europe by airline companies, so that consumer prices are not higher than for destinations outside Europe, as well as a policy to support destinations within Europe offered by major tour operators;
- promote and publicise the level of security already provided in the EU, as opposed to other destinations, in relation to travel, lodging, citizens' rights, medical and hospital care, as well as the legal framework;
- help to develop a more sound system of statistical monitoring and standardisation for tourism activities and relevant data without creating additional red tape for companies and citizens;
- call for a common EU advertising strategy;
- improve the quality of professional services through training and stable employment.

1.4 The impact of climate change on tourism needs to be analysed at Member State level and proper adaptation measures adopted in line with the competitiveness implications of climate change forecasts.

1.5 Specific areas of tourism need to be developed further, namely social and cultural tourism, gastronomic tourism and agri-tourism, sports tourism, health tourism, barrier-free tourism, congress tourism and travel for religious purposes, as part of an EU policy to diversify products and take account of new, emerging markets.

1.6 The EESC considers that EU-wide projects such as CALYPSO have demonstrated the effectiveness of cooperation between the European institutions and other levels of government, the social partners and players in the sector, with positive social and economic effects. The EESC urges the Commission and the European Parliament to maintain their commitment, in particular their budgetary commitment, to this type of initiative.

1.7 Whilst keeping in mind the need for security, visas can create problems for tourism originating from countries outside the Schengen agreement. This is sometimes the result of excessively bureaucratic procedures being applied by the individual Member States. The EESC calls on the Commission to take specific measures in order to overcome these obstacles.

1.8 The EESC calls on the national governments to introduce a European Vocational Certificate for tourism professions in the EU that is recognised by all the Member States. The EESC sees a need for the education provided for this industry not only to be recognised across the EU but also to be of a high level to truly build professionals in the industry, in line with European Commission and Cedefop guidelines, with particular emphasis on learning outcomes and accreditation, as well as upgrading of tourism studies at university level where feasible. The tourism sector should be included in the Europe 2020 strategy, with specific reference to the new skills needed for new jobs and to other planned initiatives, e.g. recognition of professional experience and informal and non-formal training, as well as the expected impact on the tourism sector of the Bruges Communiqué on vocational training adopted by the EU Ministers for Education and the social partners.

1.9 The EESC stresses that there is no 'one size fits all' in tourism and recognises that different destinations have different needs and attract different niche markets. Hence the tourism policy framework needs to take account of differences such as peripherality, mainland situation, coastal situation, rural situation, insularity, poor soil, etc.

1.10 The purpose is to draw up, realise and implement a strategic plan, at regional level, for a common European tourism policy so as to strengthen the sustainable competitiveness and quality of the sector and ensure a high level of consumer protection, by complementing the activities of the Member States. In addition, owing to the many differences between the Member States, it will be necessary to require each one to submit a strategic programme of its national tourism policy containing specific measures for implementation in each region, with a time horizon of at least ten years.

1.11 The EESC calls on national governments to adjust their municipal taxes and try to reduce VAT charged on tourism products of a social nature so as to make these products more attractive, with the further aim of developing and improving access to tourism services. Local infrastructure and services should be safeguarded so as to offer a high-quality

tourism product, which would improve both the quality of life of residents as well as conditions for tourists.

1.12 The EU needs a communication strategy to cultivate a positive image of Europe and its tourism industry, and the problem of negative publicity must be resolved.

1.13 Measures should be taken to avoid structural unemployment in tourism businesses, so as to improve both the quality and the stability of employment and the profitability of companies.

1.14 The Commission should step up its ongoing efforts to communicate the real meaning of high-quality tourism in all its dimensions, as an experience that includes both physical relaxation and mental stimulation through contact with cultural models. Planning should take place at regional level, and promotional and communication activities at regional, national and EU level.

1.15 The EESC notes the absence of a clear reference to a legal framework of consumer rights in the tourism sector and the lack of any justification for the unacceptable delay in the review of Directive 90/314/EEC of 13 June 1990, originally promised for the end of 2010 and then scheduled for the beginning of 2011 in the Commission's Work Programme, and to date not yet presented.

1.16 The EESC welcomes the impetus that the Commission, the European Parliament, and also European social partners, have given to framing a European tourism policy. By the same token, the EESC will continue to be a committed partner in relation to the objective and values it has been setting out in its opinions with a view to achieving a European tourism model.

## 2. Introduction

2.1 The new tourism policy identifies three main goals that constitute the backbone of the new framework. These are:

- competitiveness
- sustainability
- promotion of tourism

If these three pillars are strongly supported with adequate structures and resources, this will guarantee a proper foundation for a very sound and beneficial tourism policy.

2.2 The Commission outlines a number of challenges facing Europe's tourism industry, challenges which have emerged or

increased in the last few years. However the main challenges which have been constant over the years are: the seasonality affecting the industry; tourism not being an industry that in practical terms is considered an important growing industry; precarious working conditions for workers in tourism; structural unemployment in tourism; SMEs' lack of access to appropriate financing to adapt to the ever-changing and developing tourism industry; and innovation in the sector. It is imperative that the Commission address these challenges. The EESC has stressed in a number of its opinions the importance of addressing such challenges and the measures to be taken <sup>(1)</sup>.

2.3 Tourism is a key sector with a very positive effect on economic growth, sustainable development and employment in Europe. It plays an important role in European citizens' lives.

2.4 Demand for tourism services has suffered since 2008. If Europe wants to remain the world's No 1 destination and be able to capitalise on its wealth and diversity, it must draw up a common tourism policy.

2.5 If the European Commission intends to promote a new framework for action to increase the competitiveness of tourism in the EU and enhance the Union's capacity for sustainable growth, the EESC believes that the Commission's proposals must be fleshed out, while recognising that all countries have an interest in developing their own tourism model and potential. Given the trans-national nature of the tourism industry there is a clear need for an EU-wide tourism policy framework that still affords full flexibility to EU Member States to develop their own particular national policies. It should be realised that what may happen in one part of the EU can have an impact on tourism in another EU country.

2.6 For example, although the countries of southern Europe were not affected by the closure of European airspace in spring 2010 due to volcanic ash, they experienced a fall in tourist activity owing to gloomy reports that created a negative climate and discouraged people from choosing them as a destination.

2.7 The Committee believes that the political framework for European tourism must be based on a clear legal framework of rights and obligations of the various stakeholders, which is entirely absent from the communication and for which the review of Directive 90/314/EEC of 13 June 1990, originally promised for the end of 2010 and then scheduled for the beginning of 2011 in the Commission's Work Programme, is particularly important. The review has still not been presented, despite the Directive being entirely out of date. This delay leaves consumers seriously unprotected, undermines their confidence and hinders the development of tourism. The review is a crucial element of the legal framework required to give substance to the new EU competences in this field laid down in the Treaty.

<sup>(1)</sup> OJ C 32, 5.2.2004, p. 1.

### 3. Specific comments

3.1 The European Union must contribute to and encourage the framing of a dynamic policy to speed up growth and create the conditions for making tourism more attractive. The development of joint planning with specific actions should no longer be entrusted to the Commission but should be the responsibility of another body with an unambiguous policy that does not just recycle old ideas. The members of this body should represent all stakeholders in the tourism industry, including associations of tourism operators and private organisations associated with tourism professions, trade unions, regions and national tourist boards. A key role in supporting the European institutions could be played here by a European Tourism Agency, as proposed by the EESC in previous opinions.

3.2 It is considered essential that the Commission, as well as the other EU institutions enforce the principle of smart legislation and that all EU legislative proposals include a proper impact assessment of the proposed measures affecting the tourism industry. In the proposed action framework for tourism there is no reference to the need to carry out proper impact assessments to gauge the potential impact on the sector each time an EU legislative proposal is unveiled. This is particularly relevant in a number of cases, for example, the proposed food labelling, passenger and consumer rights legislation.

3.3 Tourism should not be seen as a stand-alone policy but rather as a cross-cutting area influenced by the various other policies adopted in the EU, especially transport, education, employment, research and innovation, climate change, internal market, security, consumer affairs, etc. Hence tourism policy is actually not a competence only of DG Enterprise but should be considered in all EU policies.

3.4 The way that tourist services are currently being promoted and developed throughout the EU is not adequately coordinated and organised, which creates problems for ordinary people who wish to travel. It is complicated to travel by public transport across the EU, requiring coordination between different timetables, trains, ferries, buses, etc., which also makes it impossible to ensure a safe trip.

3.5 The tourism industry faces ever-increasing competition from emerging and developing countries that are attracting ever greater numbers of tourists. Faced with this competition, Europe must offer a sustainable policy and **publicise its many advantages**, such as the security it provides in relation to:

- social and environmental factors
- transport
- accommodation, at all levels
- commercial and bank transactions
- health and healthcare rules

- medicine
- policing and security
- access and infrastructure for people with disabilities and special needs
- care in general
- quality
- professionalism and quality of direct and indirect personal services
- citizens' rights.

3.6 Tourists in the EU easily forget that they enjoy basic amenities, such as being able to drink the water everywhere and eat without getting food poisoning, and to walk along the street and travel unescorted. We must therefore promote these simple advantages that the EU offers tourists. The above-mentioned advantages in particular should be highlighted, as they offer tourists a sense of security and are practically unrivalled by any other leading world tourist destination, while representing a comparative advantage in terms of choice and promotion of destinations.

3.7 Europe must develop and improve its image in global markets and promote cooperation with China, Russia, India, Brazil, Japan and the United States, as well as the Mediterranean countries. But for this to happen, it is necessary to encourage entrepreneurship and innovation, and to enhance the quality of products offered so that the standard of services and facilities keeps up with that of our international competitors'. Seasonality and wide swings in demand must be contained, so as to strengthen and differentiate the supply of tourist services. The EU must enhance and consolidate professional skills with vocational training certificates that are mutually recognised across the EU by all those involved in the tourism industry, with particular emphasis on learning outcomes and their accreditation. Compulsory mutual recognition of qualifications would help both businesses and employees across the EU.

3.8 Current methods of collecting and analysing statistical data are inadequate. These shortcomings are resulting in deficient or wrong decisions when framing guidelines. In this regard, the document underlines the importance of improving statistics and analyses relating to tourism. The Commission considers this as essential, in order to have a better socio-economic knowledge base at European level for tourism. Systematic collection of statistical information will not only underpin knowledge and rational decision-making, but will also promote interdisciplinary research cooperation and exchanges of views and experience. It is essential to improve statistical methods and their impact, while bearing in mind that data collection must not burden companies with too much red tape.

3.9 More than half of EU members have in place a Tourism Satellite Account which has proved to be an extremely effective tool. The Commission should find ways of encouraging and helping the remaining countries to adopt this method, which will also serve the purpose of benchmarking detailed performances. This is crucial given the significant changes in trends and tourism behavioural patterns Europe is currently experiencing.

3.10 Diversification is the key factor for European tourism. Each country's specific experience is instrumental in attracting tourists to it as a destination. The variety in terms of cultural heritage, natural environment, gastronomy, wine and history means that each country gives its visitors a different experience. It is important to preserve these differences, which represent an important marketing advantage when promoting Europe in the rest of the world.

3.11 Given that small and medium-sized companies make up the bulk of tourism operators, their dynamism must be harnessed and they must be given financial support in developing their business activities, the golden rule being to help preserve cultural heritage and develop local communities. It is SMEs that absorb primary unemployment (economic migrants, unskilled workers, etc.), reducing it substantially by employing a significant part of the workforce, and also reducing social exclusion. The private sector must be involved in areas such as tourism marketing and support for employment, while also promoting networking between tourism businesses.

3.12 Tourism policy is characterised by its cross-cutting nature. It has a particular impact on transport policy (passenger rights and safety and transport quality), state aids, the internal market (freedom of establishment and freedom to provide tourism-related services, promotion of service quality, development of e-commerce) and taxation (often with negative consequences, e.g. tax obstacles to the smooth operation of the internal market, tax treatment of SMEs in the tourism sector, tax breaks). Tourism must therefore be promoted through a targeted funding policy, with tourism businesses for their part making investment commitments and promoting and increasing employment.

3.13 The EESC believes that a mechanism should be promoted for improving and strengthening tourism exchanges between Member States that will enable specific key groups such as young people (with improved coordination of school holidays) or the elderly, people with reduced mobility and low-income families to travel, particularly during the low season. Countries whose economies are not geared to tourism should support those whose economies are, by promoting European destinations with their citizens. European airlines must understand that they are not strengthening tourism or the single market when a ticket to Asia for people from northern Europe is often cheaper than one for south-eastern Europe.

3.14 In the EESC's view, a special ground-breaking common policy should be introduced and a tailor-made tourism product designed specifically for elderly and retired people, who are expected to represent 20 % of the population in 2020, and the disabled and people with special needs and reduced mobility recently estimated at 127 million people, with the aim of attracting these groups. Specialist training will be required to meet the needs of these specific categories. Since this population group also consists of individuals with purchasing power, cultural interests and leisure time and represents significant market potential, the common policy directed at them should be strongly promoted by the EU, with the aim of helping them acquire rights in the tourism sector so that they can enjoy tourist activities without being subject to any type of discrimination. This effort must however also be accompanied by efforts from the private sector to ensure that the right infrastructure is in place to cater for this market.

3.15 The EESC sees a need to encourage cooperation at international level and above all in markets that are important for the EU. The conditions must be created for simplifying the single European visa-issuing process so as to attract more visitors from countries outside the Schengen area. Tourists must be able to move between EU countries and regulations and directives must be simplified to this end.

3.16 Tourism must be given a higher profile at regional level by strengthening and promoting, as a European tourist product, cultural itineraries, contemporary culture, protected natural sites, promoting and protecting traditional buildings and traditional businesses, health and well-being (including spa tourism), educational, wine and food, historical or religious tourism, agri-tourism, or tourism capitalising on the maritime heritage, while promoting and conserving cultural and gastronomic traditions (traditional restaurants and businesses with a direct link to local history), and the sub-aquatic heritage. It is not always necessary to have more beds, but rather to invest in improving the quality of establishments' services and infrastructure, innovating with new products such as spas, well-being centres, etc. Nowhere in the Commission's proposal is it explained how these measures are to be implemented or according to what priorities or, of course, under which plan they would be put into practice in each Member State, while also taking the regions into account, so as to constitute a European tourism policy. Neither is there any provision for a joint approach to publicity, although this is necessary.

3.17 The EESC endorses the introduction of a 'European cultural heritage label' and also suggests that a 'gastronomic heritage label' be created, with eating establishments being rated, awarded stars under a common, harmonised scheme and accredited. This should be underpinned by appropriate use of various national and European programmes, in parallel with other instruments such as the European Heritage Days and the European Union prize for cultural heritage. The EESC also proposes that the system for awarding stars and accrediting EU hotels should be harmonised. The EESC urges the Commission

to continue holding the European Tourism Forum as an occasion when all tourism operators, national officials, local and regional authorities and social partners can meet and discuss issues, in order to promote a European tourism identity that reflects diversity and plurality.

3.18 The framework also proposes the development of a European quality tourism brand and a 'Quality Tourism' label, requiring an improvement in standards across the industry, which should be supported. However, quality labelling must also be supported by proper financing mechanisms for tourism operators to be able to improve their product range and invest in upgrading their properties and service standards, as well as in training and re-skilling of staff.

3.19 By linking gastronomy, the restaurant sector and tourism, a clear alternative can be offered of high-quality tourism where tourists directly experience the culinary culture of each Member State. In this way, they can appreciate the service provided. The number of tourists travelling within the EU who are interested in cuisine is continually rising. Cooking is becoming a means of promoting European basic produce and enjoyment of good food. Food and beverages, recipes and 'food and wine routes' must be promoted by supporting coordinated cooperative efforts to provide alternative forms of added value that strengthen the link between food and tourism.

3.20 **Training of employees in the tourism sector** certainly represents a massive investment for European tourism, especially for SMEs. The introduction of new technologies and working practices has made it necessary to recruit specialised staff. It is vital to extend EU education and training programmes to workers in the tourism sector, as is already the case for other sectors, as this will facilitate adaptation to the new technologies prevailing in the sector. A European vocational training certificate should be developed based on common 'tasks', representing learning outcomes. This could serve (with national or local accreditation procedures) as a discrete and independent certificate while still referring to existing national qualification frameworks. It should be compulsory to provide workers in the tourism sector with training leading to vocational qualifications. The EESC points to the importance, for training in the tourism sector, of the Bruges Communiqué on vocational training in the EU. Stable and good working conditions will make the tourism sector particularly attractive.

3.21 Training and interpersonal skills development should be planned so as to include compulsory foreign language learning for those employed in tourism, always taking account of cultural specificities, accompanied by the granting of vocational training certificates in accordance with EU and Cedefop guidelines. Particular attention should be paid to tourism professionals who are directly concerned with cultural heritage, for instance guides, who should be accredited and demonstrate their ability to highlight the quality of cultural assets, based on a certificate issued by the local authorities testifying to

their knowledge of the monuments in the area they are working, even if only on a temporary basis, and compulsory knowledge of the local language and the language of the people they are guiding, accredited by the CEN (CEN EN 13809, 2003) up to 1975, as well as Directive 1975/368/EC and Directive 1992/51/EC. An equivalent certificate must exist for all types of professionals (e.g. waiters, chefs, fitness instructors) who have contact with tourists.

3.22 The EESC believes that the 'all-inclusive' approach adopted by many companies in a large number of Member States must be seriously addressed, as it is having completely the opposite effect to the desired one. It is all too clear that the problems for SMEs in regions that are home to all-inclusive clubs and big hotel groups have been exacerbated.

3.23 The fierce climate of competition between major foreign tour operators, and between hotels that make sure to conclude packages with foreign tour operators so that their units are occupied, has triggered a decline in the quality of services provided, a fact that is also reflected in negative publicity abroad for certain tourist areas. Under such pressure, small businesses are obliged to operate at prices that are below cost, placing them in situations of financial distress and liquidation.

3.24 We should not have to resort to a blanket repudiation of the all-inclusive system, as it may serve and respond to the specific needs of a certain tourist market segment, but like other tourism products this must be on a legal footing and in fair competition with other products; it must also be subject to oversight and be self-funding, with no support from state aids. Revenues from tourism must be distributed as widely as possible so that development spreads in the vicinity of good-quality hotels. Visitors should be able to make spending choices that match their budget, in or outside the hotel. Nevertheless, this is one of the few market segments that registered growth despite a decline in traditional tour operator business over recent years. Whilst quality should never be compromised, it is important to appreciate that there are entire resorts that have been successful in developing this market over the years. What is required is to establish a clear definition of the 'all-inclusive market' that reflects a quality product, to wean out inferior products and services that are sold under the guise of all-inclusive brands.

3.25 **The seasonal nature of tourism**, caused by the excessive concentration of tourist demand in the months of July and August, limits its growth potential and the transfer of this potential to the wider economy, which has an impact on income flows and results in less than optimum use of existing infrastructure and personnel. Measures geared to employability and the cost-effectiveness of infrastructure in the low season will promote the development of a more dynamic and productive workforce, while coordination of infrastructure use by certain social groups or in schools, even during

'quiet' periods, will substantially lengthen the tourist season, with all the benefits that would entail. A significant contribution to reducing seasonality could be made by staggering the timing of employees' holidays, using appropriate incentives. Better use of existing tourist infrastructure and staff in the low season could enable businesses to capitalise on their infrastructure and improve their productivity, relying on a more stable and motivated workforce. The EESC is pleased that a first step in this direction has already been taken with the CALYPSO initiative, and urges the Commission and the European Parliament to encourage the development of this initiative, specifically by earmarking funding, on account of its social impact and benefits for European tourism.

3.26 The EESC considers tourism to be important for the environment and that the tourism sector has every reason to protect and promote the environment. Tourism does not destroy sites or use up resources, nor does it change natural processes; but it requires good planning and implementation of a proper tourism policy. Tourism has showcased and upgraded entire areas previously considered places to avoid, such as London's Docklands or Barcelona's beach area next to the port, at the same time giving work to millions of people in the EU.

3.27 In the longer term, the challenge of climate change is rightly recognised by the Commission as the driver behind a major restructuring of the travel and accommodation business models. Business operators already discern a paradigm shift in the way tourism products are developed, packaged and marketed, with a shift towards greener practices in the industry. At Member State level, the analysis of the impact of climate change on tourism needs to take off and proper adaptation measures in line with the competitiveness implications of climate change forecasts must be adopted.

3.28 The measures planned by the Commission for diversifying tourism products take into account the dynamics that shape tourism, as an industry that relates directly to people and their manifold requirements. Supporting alternative tourism by promoting it more consistently would automatically lead to better use of the natural features and comparative advantages of a given region.

3.29 The EU must also respond to concerns relating to social issues, as well as territorial cohesion and its preservation.

3.30 Lastly, **measures to support more extensive mobilisation of EU financing** for tourism development will release the potential of the sector, with priority being given to regions whose economies are experiencing de-industrialisation and where there are prospects for growth in tourist activity.

3.31 Maritime and coastal tourism is very important as a catalyst for economic development. Actions should be implemented to encourage its development as part of the EU's integrated maritime policy. Economic diversification into tourism represents a priority for many coastal areas, where the decline in economic activities linked to fisheries, shipbuilding, agriculture and mining in particular have led to a fall in incomes and increased unemployment. Tourism businesses, especially small and medium-sized companies, often operate close to beaches and similar tourist areas, and represent not just business and society, but also long periods of historical importance, often 50 years or more in certain EU countries, and at the same time cultural heritage for the people living in those areas. For this reason, while respecting EU rules and aiming to preserve the cultural heritage, quality and history of each area where these family businesses were set up, we can propose certain initiatives with the aim of maintaining them where they exist.

3.32 The EU must pay attention to what is published about its Member States, as this can generate a negative image and arouse uncertainty among possible visitors from outside the EU, with very damaging repercussions for tourism promotion. The EU should set up a dedicated European tourism crisis communication management team and require all the Member States to set up and operate similar teams.

3.33 European and national tourism policies need to take account of all structural changes, both by taking measures to avert structural unemployment and by ensuring effective distribution of tourism-related investment.

Brussels, 21 September 2011.

*The President  
of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Review of the “Small Business Act” for Europe’**

COM(2011) 78 final

(2011/C 376/09)

Rapporteur: **Ronny LANNOO**

On 23 February 2011, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Review of the ‘Small Business Act’ for Europe*

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The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2011.

At its 474th plenary session, held on 21 and 22 September (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 155 votes to three with 11 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the fact that the revised Small Business Act for Europe (SBA) includes many of the measures proposed by the EESC. It recognises that, for some years now, greater attention has been given to small and medium-sized enterprises (SMEs) and microenterprises<sup>(1)</sup> when framing EU legislation. The Committee is also aware of the European Parliament's and the Member States' support to ensure that the needs of these enterprises are addressed more effectively. The SBA constitutes an important turning-point in European mindsets because it has opted to develop a governance partnership that involves the public authorities, regions and cities, the economic and social partners, and organisations representing SMEs and microenterprises.

1.2 The revised SBA for Europe marks a decisive new stage in the political recognition of SMEs and above all of microenterprises. The EESC would first of all urge the Commission, the European Parliament and the Council, as well as the Member States and the regions, to place the SBA's 'Think Small First' principle at the heart of EU, national and regional decision-making. It also recommends that the Member States and the regions adopt this as the basis for their policies on SMEs and for their economic and industrial policies. Ultimately, the Committee believes that the SBA should take a more binding form, especially for the EU institutions.

1.3 The revised SBA reflects growing recognition of the importance of SMEs. However, implementation of the SBA and its 'Think Small First' principle is patchy or even non-existent in some Member States. The same is true within the EU legislative and decision-making process.

1.4 The EESC believes that the appointment of national SME Envoys should help the Member States to apply the SBA. The EESC also advocates appointing regional SME Envoys.

1.5 The EESC welcomes the draft multiannual financial framework's proposals to create an 'SME competitiveness' programme and include measures for SMEs in the most important post-2013 programmes. It notes, however, that the Commission, and DG Enterprise and Industry in particular, does not have sufficient human resources to ensure the SBA is applied effectively. The Committee calls on the EU institutions to adopt the 'SME competitiveness' programme, and to specifically target small and microenterprises. It also urges them to ensure the human and financial resources required.

1.6 All that remains is to move on to the 'act small first' stage. The SBA will not succeed unless a genuine '**multi-stakeholder and multilevel governance partnership**' is established. It is necessary to ensure that the economic and social partners and all representative public and private stakeholders are involved in political discussions and the legislative process from the very beginning. The EESC therefore calls for organisations representing the different categories of SMEs to be fully involved in the legislative and decision-making process at all levels.

1.7 Lastly, the EESC calls on the Commission to waste no time in launching a process of consultation with the European organisations representing the various SME categories, in order to pinpoint the operational measures that should be made a priority. The EESC sees the need to promote this type of consultation between the public authorities and the economic and social partners in the Member States and regions.

<sup>(1)</sup> Commission Recommendation 2003/361 concerning the definition of micro, small and medium-sized enterprises, OJ L 124, 20.5.2003, p. 36.

## 2. General comments

### 2.1 *Approach to SMEs' differing circumstances still too general*

2.1.1 The 'Think Small First' slogan is always taken to mean 'think SMEs first', while 92 % of businesses are microenterprises that operate on a highly diverse range of markets. Since they are major employers, they should be the main focus of the SBA and of EU policies in general. These microenterprises find it harder, however, to apply EU policies and legislative measures and consequently deserve more attention and a simplified approach that is tailored to their needs.

2.1.2 The measures that will result from the SBA must take into account the circumstances of small enterprises, such as their directors having to wear many hats, skills transfer and dependence upon a local environment. We must also take into account the fact that the compliance of SMEs with the multiplicity of EU rules depends on a very limited number of people, unlike large companies, which have many specialists in such matters among their employees.

2.1.3 The revised SBA states that the circumstances of the various SME categories must be taken into consideration, reflecting their size, specific characteristics and structure (production, trade, liberal profession, etc.) and their operating methods depending on the markets. The EESC feels that particular attention should be given to family businesses and sole traders at European, national and regional levels. It urges the Commission and the Member States to adopt specifically targeted regulatory, administrative, fiscal and training measures.

2.1.4 Nevertheless, as impact studies currently target SMEs in general, it is difficult to obtain precise information on the effects, constraints and benefits of EU policies for each of these categories. In order to fill these information gaps, targeted analyses and studies on these different categories should be prioritised in all EU programmes.

2.1.5 EU policies and programmes, including SBA measures, should contribute to developing the competitiveness of all businesses and not just those with high growth potential. Support is also required for the 95 % of small and microenterprises operating on local markets which, irrespective of their size, offer significant job creation opportunities at their level. Nonetheless, the current statistical methods, which are based on the turnover figure, undermine the social and cultural role of these small enterprises, particularly at regional and local level. The EESC calls on the Commission to take this into account in its assessment and to create the appropriate indicators required.

2.1.6 The EESC welcomes the SBA's reference to the international dimension of SMEs. Nevertheless, it would stress that

for most small businesses, internationalisation is more often a consequence of their growth than an end in itself. The European Union should lend them more active support in these activities, mainly by supporting initiatives in the Member States and relaunching the INTERPRISE cooperation programmes.

### 2.2 *Do the main EU policies really take the SBA into account?*

2.2.1 Despite references in specific texts, such as the Europe 2020 strategy and its flagship initiatives, the SBA and its principles are not really taken into account in the framing of major EU policies. Once again, small and microenterprises appear to have been ignored or under-estimated during the legislative process. This finding is supported by the following examples.

2.2.2 In the context of innovation policy, priority is given to businesses experiencing strong growth. This limited vision does not reflect the reality of innovation within small businesses, where the real need is to secure support services and tools geared to their specific characteristics.

This is also the case for energy policy. In its opinion on *Enhancing the effectiveness of European Union energy policy in favour of SMEs and particularly microenterprises* <sup>(2)</sup>, the EESC stressed that energy policy, essential for the future of the EU, had never looked at the issue of its implementation in small and microenterprises.

Lastly, impact studies concerning measures aimed at the completion of the internal market do not take sufficient account of the real situations experienced by small businesses and the problems they can encounter in cross-border trade or in their local and neighbourhood-based activities.

2.2.3 The EESC would ask that all policy proposals linked with the EU's priorities be based on the 'Think Small First' principle. It calls on the European institutions to give consideration to the interests of small and microenterprises when implementing the EU 2020 strategy's flagship initiatives and the priorities of the Single Market Act.

2.2.4 In this context, the EESC welcomes the fact that the Commission's Communication on twelve levers for stimulating the Single Market mentions, as its first key action, a series of measures for facilitating SMEs' access to venture capital as part of the solution to the most pressing problem facing SMEs, namely financing. The Committee stresses that this key action should not be considered in isolation but should be complemented by other measures outlined in the review of the SBA.

<sup>(2)</sup> OJ C 44, 11.2.2011, p. 118.

### 2.3 *Absent from the SBA: support for small enterprises and the role of business organisations*

2.3.1 The SBA touches on the need to support small enterprises. The EESC has often stressed the need to strengthen support and advisory measures for small enterprises, by means of tailored services provided in various forms by public or private organisations. The EESC also stresses the essential role that intermediary organisations play between policymakers and businesses by providing advice for businesses as well as policymakers.

2.3.2 The EESC believes that two key reasons for the competitiveness of small enterprises reside in the efforts of SME organisations to shore up this support and in improved dialogue between these organisations and policymakers at all levels. More often than not, these organisations are the only ones to deal directly with each business, in a targeted approach adapted to specific needs. It is thanks to their efforts that the smallest businesses are able to apply legislative measures; that businesses have access to funding, mainly from the EU; and that decision-makers can understand the real needs of small businesses and adapt their policies accordingly.

2.3.3 The EESC therefore urges that:

- EU programmes be more readily accessible to these SME organisations in order to carry out joint work;
- EU legislation set out technical assistance measures enabling them to conduct information, assistance and training initiatives; and that
- their function as 'one-stop shops' be assessed and strengthened, especially with regard to information, compliance and access to EU programmes.

2.3.4 Due to budgetary constraints and the need to concentrate resources on priorities, the EESC believes that it is a vital priority to support advisory, assistance, information and training services for SMEs, especially for small and microenterprises. The Committee calls for EU programmes to promote this assistance and provide intermediary organisations representing all categories of SMEs with all the support they need.

## 3. **Specific comments**

### 3.1 *Access to finance*

3.1.1 As the economic crisis has progressed, access to finance for small and medium-sized enterprises (SMEs) has become more and more difficult. Under such circumstances, organisations that provide SMEs with overdraft guarantees and counter-guarantees have become crucial. The EESC hopes that

the European Commission will acknowledge the important role played by these organisations as a fundamental tool for facilitating access to finance for micro-enterprises and SMEs.

3.1.2 EU financial instruments should be addressed to all SMEs, including the smallest. The EESC calls for 'guarantee' schemes to be strengthened, so that they continue to apply to all SME activities. These include, in particular, the tried and tested 'SME Guarantee Facility', which should be the first pillar in the post-2013 SME action programme. Lastly, the EESC calls for access to these financial instruments to be made easier for non-banking financial bodies, such as mutual guarantee funds.

3.1.3 The EESC believes that the measures adopted by the Basle Committee (Basle III) will bring about the required reform of bank practices. Nevertheless, the Committee is concerned about their impact, as they may make it difficult for small enterprises to access bank loans, thereby severely curtailing the financial resources of SMEs and of the real economy in general. The EESC calls on the EU institutions, especially in the context of the future Capital Requirements Directive (CRD IV), to take steps to ensure that the new requirements for banks do not impact on the financing of SMEs. The Committee calls for measures to enable banks - especially local banks, mutual banks and financial establishments offering bank guarantee services - to continue to fulfil their task of financing the real economy.

3.1.4 Various risk capital formulae may be useful for businesses, whether they are innovative or not, if adapted to their needs and specific circumstances. The European Union should facilitate a smooth-running risk capital market. Nevertheless, these formulae are no substitute for other instruments, such as guarantees. Small businesses should be able to choose the instrument most suited to their needs.

### 3.2 *Towards smart regulation*

3.2.1 The EESC wishes to emphasise the particularly positive development represented by the inclusion of SME tests in impact analyses, which now include social and environmental impacts in their assessments. The Committee urges the Commission to strengthen these tests by further integrating small and microenterprises. As well as pointing to the need for analyses and tests to be conducted by fully independent bodies, the EESC calls for SME organisations to be consulted during the preparation of these analyses and to be given a 'right to reply' before their final publication.

3.2.2 Hoping for a reduction in administrative burdens for SMEs, the EESC suggests that the 'only once' principle be combined with the 'one in one out' principle, according to which the introduction of new administrative burdens should go hand in hand with the removal of already existing ones. This principle should be applied both at European and local levels.

3.2.3 The renewed SBA's willingness to apply the 'Think Small First' and the 'only once' principles more effectively is to be applauded. The problem now lies in its effective application at national level and throughout the European Commission's DGs. This is why the EESC attaches considerable importance to:

- the implementation of independent high-quality impact analyses that acknowledge the diversity of SMEs; and
- the role of the Commission's SME Envoy, as an interface between the Commission and SMEs, which involves studying all policies affecting small businesses, promoting their views and, if necessary, opposing decisions that run counter to their interests.

3.2.4 When introducing measures, priority should be given to proportionality, so that small enterprises have only to complete formalities that are strictly necessary. If EU decision-makers applied to the letter the 'Think Small First' principle to which they have subscribed, there would be no need to envisage exemptions.

3.2.5 Recognising differences between microenterprises should not necessarily result in the systematic exemption of microenterprises from certain formalities. Should exemptions prove necessary, they should be negotiated with the representatives of the enterprises concerned. Otherwise, there is a risk that compliant businesses will be classified less favourably than those that do not respect the rules.

3.2.6 As a result, the EESC would recommend that:

- the 'Think Small First' and 'only once' principles be applied to all aspects of the Europe 2020 strategy;
- legislation be framed in partnership with representatives of the small businesses concerned from the outset;
- the principle of proportionality be applied systematically when this legislation is implemented;
- national and regional over-regulation be avoided when texts are transposed or applied; and that
- the Commission's SME Envoy be involved in the work of the Impact Assessment Board responsible for evaluating the quality of impact analyses.

### 3.3 Market access

3.3.1 The SBA acknowledges the need to ensure that SMEs can access public procurement contracts. Simplifying procedures

is not enough to encourage them to participate in public procurement, Member States also need to adopt SME-friendly policies. At present, only a few Member States do this.

3.3.2 The EESC sees an urgent need to fully implement the 'European code of best practices' <sup>(3)</sup> for public procurement. It calls on the Commission and the Member States to adopt policies that improve access by SMEs and microenterprises to public procurement contracts.

### 3.4 Entrepreneurship and job creation

3.4.1 Small businesses have a particular labour relations model within the company and a significant need for skilled staff. The EESC also recognises that employees play a vital role in the development of SMEs since they can be a source of innovation and have a share in achieving the company's goals. The Committee observes that small businesses are excellent providers of apprenticeships and vocational training. They play a central role in teaching new skills and enhancing knowledge.

3.4.2 The EESC regrets the fact that issues relating to the labour market, employment and the issue of the skills of employees and company directors, which also affect small and microenterprises, are all but missing from the SBA, despite the fact that these matters affect the capacity of such businesses to grow and their potential to create new jobs.

3.4.3 The EESC supports the Commission's efforts to strengthen women's entrepreneurship and recommends the sharing of good practice guides that include the actions undertaken by Member States as well as those conducted by SME organisations.

## 4. What can be done to ensure that the SBA and its priorities are taken into account?

### 4.1 Securing partnership-based governance: the multi-player and multi-level governance rule

4.1.1 The Communication is clear that strong governance is essential and that the SBA's main priority measures 'will only make an impact if based on strong SME governance'. EU policies, programmes and legislation will be effective only if they are designed and implemented with representative intermediary organisations at all levels. One of the revised SBA's main priorities must be to guarantee this partnership within the legislative and/or decision-making process at European, national and regional levels.

<sup>(3)</sup> [http://ec.europa.eu/internal\\_market/publicprocurement/docs/sme\\_code\\_of\\_best\\_practices\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/sme_code_of_best_practices_en.pdf)

4.1.2 The EESC takes the view that while the Enterprise Europe Network's revised SME panels may be excellent sources of information, they cannot replace the experience and skill of the bodies that represent SMEs. The proposal for an 'SME competitiveness' programme under the multiannual financial framework includes no provision for these bodies and places the emphasis exclusively on the Enterprise Europe Network: in a number of Member States, unfortunately, not all the organisations representing the various categories of SME are associated with the network. The network should be thoroughly assessed and its methods and operating rules improved so that organisations from the various categories of SME in the Member States can more readily participate in it.

#### 4.2 *The shift from 'Think Small First' to 'Act Small First'*

4.2.1 The EESC therefore calls on the EU institutions to:

- work together towards incorporating the SBA and its 'Think Small First' principle into their decisions in a more binding manner, which would encourage national, regional and local authorities to fall in line; and to
- establish a precautionary principle, under the authority of the European SME Envoy, using the American SBA's 'Office of Advocacy' system as a model. This system would ensure that none of the laws affecting small enterprises run counter to their interests.

#### 4.3 *By what means?*

4.3.1 The revised SBA's success and effectiveness will depend on the human and financial resources allocated for its implementation. The EESC welcomes the proposal for a new 'SME competitiveness' programme, which should have the following priorities:

- the monitoring and evaluation of the implementation of the principles of the SBA in all EU programmes and legislation and in the Member States;
- the implementation of an 'advocacy unit' system in order to bolster the effectiveness of impact analyses by studying the potential effects of future legislation on small and microenterprises;
- the establishment of instruments for competitiveness, standardisation, information and cooperation, developed in accordance with the 'Think Small First' principle;
- the availability of dedicated financial instruments for SME development, in particular the SME Guarantee Facility;
- the promotion of the support and advice activities of SME organisations and reinforcement of governance based on partnership with the representative organisations;

- a statistical and economic analysis of the different SME categories that takes their diversity into consideration, carrying out studies and research on them and disseminating the good practice of Member States and regions in their regard.

4.3.2 The EESC is concerned at the limited number of people currently working on SME issues and the SBA. The human resources deployed to implement and in particular to monitor this programme for SMEs, mainly within DG Enterprise, must be commensurate with the SBA's ambitions.

4.3.3 The EESC welcomes the introduction of national SME Envoys, who will be responsible for facilitating the implementation of the SBA's priorities in the Member States and ensuring that SMEs and microenterprises can have their say on national policies and laws. However, it feels that the effectiveness of this scheme will depend on the ability of the SME Envoy to influence political choices and national laws and on the quality of the cooperation with the various organisations for SMEs.

4.3.4 The EESC would stress the importance of the SBA Advisory Group as a consultation forum including the Commission, Member States and European SME organisations. This advisory group could become a forum for consultation on the legislative proposals and operational programmes of all the Commission DGs dealing with small and microenterprises. The EESC welcomes the fact that several regions have appointed regional SME Envoys and calls for such initiatives to be encouraged.

### 5. Policy measures

5.1 The EESC calls on the Commission to take stock of the situation on a yearly basis in order to:

- outline the implementation of the SBA within its services, the Member States and the regions;
- analyse the consideration given to SBA principles in the EU texts adopted by the European Parliament and the Council; and also to
- take stock of the situation and the progress achieved by the SBA Advisory Group.

This report should also be presented to the Council, the European Parliament and the Committee of the Regions.

5.2 Lastly, the EESC calls on the Council to establish a special annual Competitiveness Council for SMEs, microenterprises and the SBA.

5.3 Along the lines of the Tripartite Social Summit for Growth and Employment, which was established by a Council Decision of 6 March 2003, the EESC proposes that the Council set up a forum for economic dialogue which would take place twice a year in conjunction with the Competitiveness Council. This would bring together organisations representing European SMEs, the ministers for industry and SMEs of the troika countries, the Member States, the Commission and the EESC as the representative of civil society, with the aim of involving SME and political representatives at the highest level to help SMEs implement the Europe 2020 strategy.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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## APPENDIX

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

The following amendment, which received at least a quarter of the votes cast, was rejected in the course of discussions (Rule 54(3) of the Rules of Procedure):

**Point 1.7 (new)**

Add a new point following 1.6:

1.7 It further calls on the Commission and the Council to establish a precautionary principle as an 'Office of Advocacy' to ensure that European legislation affecting SMEs is not contrary to their interests and takes due account of their circumstances.

**Outcome of the vote on the amendment:**

Votes in favour: 57

Votes against: 66

Abstentions: 36

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Council Regulation temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands'**

COM(2011) 259 final — 2011/0111 (CNS)

(2011/C 376/10)

Rapporteur-General: **Mr HERNÁNDEZ-BATALLER**

On 16 June 2011 the Council decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Council Regulation temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products into the Canary Islands*

COM(2011) 259 final — 2011/0111 (CNS).

On 20 September 2011 the Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr HERNÁNDEZ BATALLER as rapporteur-general at its 474th plenary session, held on 21 and 22 September 2011 (meeting of 22 September), and adopted the following opinion by 132 votes to 5.

## 1. Conclusions and recommendations

1.1 The EESC supports the proposal, given its socio-economic importance and the fact that it is clearly legitimate for the Union to adopt it, in view of its exclusive competence regarding the customs field.

1.2 Moreover, the proposal only concerns a limited number of goods and products already given favourable tariff treatment under Council Regulation (EC) No 704/2002 of 25 March 2002, to which four more products are added (rubber and certain polymer derivatives).

1.3 The imposition of end-use checks, in accordance with the Community Customs Code and its implementing provisions, is an established procedure in this context and does not entail significant additional administrative burdens for regional and local authorities and economic operators.

1.4 Continuing tariff suspensions for the import of industrial products is deemed beneficial for the Canary Islands economy, which has been harder hit by the crisis than other parts of the Union and of Spain.

1.5 The EESC reiterates<sup>(1)</sup> that maintaining specific economic and tax arrangements is crucial for helping the outermost regions to overcome the structural difficulties they face.

## 2. Introduction

2.1 With a total area of around 7 542 km<sup>2</sup>, the Canary Islands form an archipelago in the Atlantic Ocean just over

1 000 kilometres from the nearest tip of the Iberian peninsula. Together with the archipelagos of the Azores, Madeira, the Savage islands and Cape Verde they make up the biogeographic region known as Macaronesia. They also form part of the EU regions termed 'outermost' because of their remoteness and their island nature; the EESC has issued several opinions on these regions<sup>(2)</sup>.

2.1.1 The current population stands at 2 118 519. The two most populous islands are Tenerife (906 854 inhabitants) and Gran Canaria (845 676)<sup>(3)</sup>, which together account for over 80 % of the total population. This high concentration creates certain social problems, with high unemployment rates and emigration.

2.1.2 The islands' remoteness means that economic operators face serious economic and commercial disadvantages which have an adverse impact on demographic trends, employment and the socio-economic situation. The industry sector, and construction and allied trades have been especially hard hit by the current economic crisis. This has led to rising unemployment, which exceeds the Spanish national average and could make the general economic situation more vulnerable because of the volatile nature of international tourism, on which the islands are increasingly dependent.

2.1.3 As the EESC has already noted<sup>(4)</sup>, the islands face permanent disadvantages which clearly distinguish them from mainland regions. These permanent disadvantages, with common characteristics although varying in intensity, include:

<sup>(2)</sup> OJ C 221 of 17.9.2002, p. 37.

<sup>(3)</sup> Figures from the Spanish National Statistics Institute.

<sup>(4)</sup> OJ C 268 of 19.9.2000, p. 32.

<sup>(1)</sup> OJ C 211 of 19.8.2008, p. 72.

isolation from the mainland; higher cost of sea and air transport, communications and infrastructure on account of natural and climate-related obstacles; restricted usable land area; limited fishery resources; restricted water supplies; restricted sources of energy; marine and coastal pollution; special difficulties in waste management; falling population, particularly of young people; coastal erosion; the shortage of a skilled workforce; the absence of a favourable economic climate for businesses; difficult access to education and health services.

2.1.4 An earlier EESC opinion<sup>(5)</sup> discussed the concept of the 'extra costs' faced by the outermost regions, and drew up an indicative list which included the higher cost of transporting goods, materials and passengers, higher warehousing costs, higher recruitment costs and higher installation costs.

2.1.5 The industry sector in the Canary Islands produces mainly for the local market and faces huge difficulties finding customers further afield. The problem is caused mainly by the limited means of transport and the high cost of buying and distributing goods. This pushes up manufacturing costs for end products, making those costs higher than those borne by similar businesses on the mainland.

### 3. The Canary Islands and the European Union

3.1 The Canary Islands became part of the European Union with the accession of Spain in 1986. The Act of Accession of Spain and Portugal acknowledged the special and difficult socio-economic situation in the archipelago. In recognition of the particular difficulties, initially the Canary Islands were excluded from the Community's customs territory, the common commercial policy, and the common agricultural and fisheries policies.

3.2 The European Union has recognised the specific unique problems facing the region and their implications for the islands' integration into the Union. In more recent years, measures have been introduced which, in a sympathetic manner and bearing in mind the region's remote situation and island nature, have reduced the scale and impact of these exemptions. The islands thus became part of the customs union from 31 December 2000, when the Common Customs Tariff became fully applicable there<sup>(6)</sup>.

3.3 Council Regulation (EC) No 1911/91 on the application of the provisions of Community law to the Canary Islands was therefore adopted<sup>(7)</sup>, and has undergone various modifications. Pursuant to the regulation, specific measures were put in place

under Council Decision 91/314/EC setting up a programme of options specific to the remote and insular nature of the Canary Islands (Poseican)<sup>(8)</sup>. The programme allowed adjustments to be made to certain common policies, together with the adoption of certain specific measures to help the islands.

3.4 Council Regulation (EC) No 704/2002 of 25 March 2002 temporarily suspended autonomous Common Customs Tariff (CCT) duties on imports of certain industrial products and opened and provided for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands. Under this regulation, the CCT duty suspension for certain capital goods for commercial or industrial use is to expire on 31 December 2011. The present proposal has thus been tabled in the run-up to the expiry of Regulation 704/2002.

3.5 Article 349 of the TFEU grants the Canary Islands the status of outermost region, takes account of the islands' structural social and economic situation, and recognises their remoteness, insularity, small size, difficult topography and climate, and dependence on few products. The permanence and combination of these factors severely restrain the islands' development. Accordingly, the Council may, on a proposal from the Commission, adopt specific measures concerning areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aid, and conditions of access to structural funds and to horizontal Union programmes.

### 4. The proposed Council regulation

4.1 The TFEU allows the establishment of special measures for the outermost regions to help them overcome the economic disadvantages caused by their geographic situation. The lengthy economic and financial crisis has aggravated the Canary Islands' job-creation problems and their dwindling competitiveness.

4.2 The Spanish Government has therefore requested that the current tariff suspensions on imports to the Canary Islands of certain industrial products be extended by means of a Council regulation. Tariff duties are also to be suspended for four new products.

4.3 The proposal is designed to be consistent with other EU policies, particularly in the field of international trade, competition, enterprise, development and external relations. This type of measure is used from time to time to help economic operators.

<sup>(5)</sup> OJ C 211 of 19.8.2008, p. 72.

<sup>(6)</sup> Protocol 2 of the Accession Act.

<sup>(7)</sup> OJ L171 of 29.6.1991, p. 1.

<sup>(8)</sup> OJ L171 of 29.6.1991, p. 5.

4.3.1 The proposal will allow the islands' economic operators to import a limited number of raw materials, parts, components and capital goods duty free, by temporarily suspending the tariff duties concerned.

4.3.1.1 Thus, from 1 January 2012 to 31 December 2021 the CCT duties applicable to imports into the Canary Islands of capital goods for commercial or industrial use listed in the regulation's Annex will be suspended in full.

4.3.1.2 These goods are to be used for a period of at least 24 months after their release into free circulation by economic operators located in the Canary Islands.

4.3.1.3 In addition, from 1 January 2012 to 31 December 2021, the CCT duties applicable to imports into the Canary Islands of raw materials, parts and components falling under the CN codes listed in the updated Annex II to the regulation and used for industrial processing or maintenance in the Canary Islands will be suspended in full.

4.3.2 Checks and cooperation mechanisms will be put in place in order to avoid any misuse or change in traditional trade flows: products benefitting from duty suspension are to be subject to checks on end-use.

4.3.3 Raw materials, parts and components must be used for industrial processing and maintenance in the Canary Islands in order to qualify for the duty suspension.

4.3.4 Additionally, capital goods must be used by local companies on the islands for a period of at least two years before they can be sold freely to companies in other parts of the customs territory of the EU.

4.3.4.1 In order to offer investors a long-term perspective and enable economic operators to attain a sufficient level of industrial and commercial activity, the suspension of the CCT duties for the goods listed in Annexes II and III of Regulation (EC) 704/2002 is to be extended for a further ten years.

4.3.4.2 So as to ensure that only economic operators located on the territory of the Canary Islands benefit from these tariff measures, the suspension should be made conditional on the end use of the products, in accordance with the Community Customs Code. In the event of a deflection of trade, the Commission is to be granted implementing powers to temporarily withdraw the suspension.

## 5. General comments

5.1 The EESC welcomes the proposed amendment to the existing Council regulation and considers that the special

measures it contains can be adopted without any risk of undermining the integrity and coherence of the Union legal order, including the internal market and common policies.

5.2 These legal and economic justifications are underscored by other circumstances such as the fact that the Commission's expert working group on economic tariff questions raised no objections to the future adoption of the measures, and that no impact assessment was necessary owing to the universal application of the proposed measures.

5.3 The Commission bases its proposal on Article 349 TFEU although the measures solely concern customs policy, which is an exclusive competence of the EU. Submitting it to national parliaments thus seems excessively formalistic: the idea may have been prompted by a liberal interpretation of the first paragraph of Article 2 of Protocol 1 appended to the TEU and TFEU (on the role of national parliaments in the European Union).

5.4 This is likely to slow the regulation's adoption, as it may give rise to the type of domestic disputes which often harm the Union's general interests or the proper achievement of specific objectives such as the protection of outermost regions and territories in view of their adverse economic conditions.

5.5 It would also be helpful to define, both qualitatively and quantitatively, the concept of 'deflection of trade', whereby the Commission could be empowered to adopt implementing acts withdrawing the tariff suspensions.

5.6 This is all the more important because assessing the quantitative aspect of these deflections will require complex economic market analyses to ascertain the effective balance between imports of the relevant products and the supply needs of the islands' businesses.

5.7 Similarly, clarification is needed as to the legal nature of the acts laying down a definitive decision to maintain or withdraw the interruption of the suspension at the end of the 12-month period stipulated in Article 4(1) of the proposed regulation.

5.8 As it is the Council which will use a special legislative procedure to adopt the temporary-suspension regulation, it would be logical for it too to adopt the abovementioned definitive decision, thus limiting the Commission's delegated powers to the possible implementing acts for the temporary (12-month maximum) withdrawal.

5.9 The EESC considers that the proposal will help to guarantee economic, social and territorial cohesion, and equal opportunities for competition across the European Union, making up for the permanent geographic, natural, economic, social and structural disadvantages faced by the Canary Islands.

5.10 The proposed tariff suspension complies with the proportionality principle because of the severity of the disadvantages faced by the Canary Islands, in terms of accessibility, demographic situation and, possibly, productivity. The EESC takes the view that the tariff suspensions are designed to offset the extra costs caused by the islands' situation and will not distort the market: indeed, they will improve market balance.

## 6. Specific comments

6.1 Given the difficulty of reducing the Canary Islands' inaccessibility vis-à-vis the European mainland, the establishment of special economic and tax arrangements has helped to dynamise the Canary economy and endeavoured to offset its structural disadvantages.

6.2 The small size of the local market and businesses has made it impossible to pursue synergies between the provision of raw materials for production processes, transport, domestic marketing and export capacity. Businesses have thus been unable to add value on a sustainable basis or to exploit economies of scale as a result of demand-related marginal costs.

6.3 All these factors relating to insularity and 'extra costs' make it harder for the industry sector to compete with other markets which, in an increasingly globalised world, are becoming more important, because of the possibility to relocate. For the Canary economy, this could mean the decline of a sector which provides more skilled, stable employment and in which there is more scope for developing innovative processes.

6.4 Fiscal and tariff mechanisms have endeavoured to offset the 'extra costs' facing the industry sector in this outermost region. A recent study estimated these additional costs for the Canary Islands at EUR 5 988 273 924, and 25 % of these costs is borne by industry.

6.5 The islands' industry sector considers that 32 % of the extra cost is due to idle production capacity: the extra cost generated by being unable to exploit economies of scale because the islands' businesses have a limited local market and find it difficult to access external markets, given that 25 % of the extra costs are transport-related and 28 % are due to the higher cost of energy.

Brussels, 22 September 2011

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on entrusting the Office for harmonisation in the Internal Market (Trade Marks and Designs) with certain tasks related to the protection of intellectual property rights, including the assembling of public and private sector representatives as a European Observatory on Counterfeiting and Piracy’**

COM(2011) 288 final — 2011/0135 (COD)

(2011/C 376/11)

Rapporteur: **Mr McDONOGH**

On 15 June 2011 and 7 June respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 114 and 118 (1) of the Treaty on the Functioning of the European Union, on the

*Proposal for a Regulation of the European Parliament and of the Council on entrusting the Office for harmonisation in the Internal Market (Trade Marks and Designs) with certain tasks related to the protection of intellectual property rights, including the assembling of public and private sector representatives as a European Observatory on Counterfeiting and Piracy*

COM(2011) 288 final — 2011/0135 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 152 votes to one with four abstentions.

## 1. Observations and recommendations

1.1 The Committee welcomes the Proposal from the Commission concerning the Regulation to reinforce the European Observatory on Counterfeiting and Piracy by entrusting its responsibilities to the Office for Harmonisation in the Internal Market (OHIM). The work of the Observatory is vital to Europe's system of Intellectual Property (IP) protection and it needs more resources to carry out its functions.

1.2 The Committee is preparing a separate opinion on the recent Communication from the Commission that proposes a strategy for a Single Market for Intellectual Property <sup>(1)</sup>. IPR is a key enabler of the technological and commercial innovation on which Europe will depend for economic recovery and future growth <sup>(2)</sup>. The nature of IPR governance is also crucial to the flourishing of European culture and the quality of life enjoyed by European citizens.

1.3 The Committee does not believe that the Europe 2020 Strategy for smart, sustainable and inclusive growth can be achieved without the creation of a genuine Single Market for

IP. For many years the Committee has been calling for the harmonisation of European and national rules to promote innovation, creativity and the welfare of citizens, while also supporting initiatives that bring works, goods and services within reach of the largest possible number of people <sup>(3)</sup>.

1.4 The Committee agrees in general with the proposed Regulation to entrust the OHIM with the tasks and activities relating to the management of the European Observatory on Counterfeiting and Piracy, including those concerning copyright, rights related to copyright and patents. The EESC agrees that the proposal to entrust the tasks to the OHIM, an existing EU agency, would allow the Observatory to benefit from the OHIM's existing IP expertise, resources and financing and to become operational quickly. The Committee is also pleased that in budgetary terms it would offer a cost-efficient solution.

1.5 The Committee agrees in principle with the proposal to extend the range of tasks that the OHIM should be carrying out in relation to the Observatory to include education of the public and enforcement agencies on the importance of IPR and how to

<sup>(1)</sup> COM(2011) 287 final ‘A Single Market for Intellectual Property Rights’.

<sup>(2)</sup> See: Europe 2020 Strategy (COM(2010) 2020 final), the Annual Growth Survey 2011 (COM(2011) 11 final), the Digital Agenda for Europe (COM(2010) 245 final), the Single Market Act (COM(2011) 206 final) and the Innovation Union (COM(2010) 546 final).

<sup>(3)</sup> OJ C 116, 28.4.1999, p. 35; OJ C 155, 29.5.2001, p. 80; OJ C 221, 7.8.2001, p. 20; OJ C 32, 2.2.2004, p. 15; OJ C 108, 30.4.2004, p. 23; OJ C 324, 30.12.2006, p. 7; OJ C 256, 27.10.2007, p. 3; OJ C 182, 4.8.2009, p. 36; OJ C 218, 11.9.2009, p. 8; OJ C 228, 22.9.2009, p. 52; OJ C 306, 16.12.2009, p. 7; OJ C 18, 19.1.2011, p. 105; OJ C 54, 19.2.2011, p. 58.

best to protect it, research on counterfeiting and IPR regulation, and the improvement of online information exchange to enhance enforcement.

1.6 However, the Committee feels strongly that it should be included in the list of organisations invited to Meetings of the Observatory stipulated in Article 4 of the Regulation.

1.7 The Committee strongly requests that it be mentioned in Article 8 of the Regulation, along with the Council and the Parliament, as a recipient of the evaluation report on the application of the Regulation.

1.8 The national intellectual property offices (NIPO) play a crucial role in the enforcement of IPR. The EESC welcomes the advice of the Commission that the NIPO are understood as being included by the phrase 'representatives from public administrations, bodies and organisations dealing with the protection of intellectual property rights' (listed in Article 4.1), who are invited to the Meetings of the Observatory.

1.9 Fast, equitable and consistent resolution of disputes involving charges of counterfeiting or piracy would increase confidence in IPR law and improve the climate for enforcement. Therefore, the Committee calls on the Commission to specifically task the OHIM in Article 2 with helping to improve the knowledge and understanding of best practice concerning IPR dispute resolution by including a focus on the relevant case law in Member States. Nevertheless recourse to the responsible courts shall not be hindered.

1.10 The Committee looks forward to commenting in due course more fully on collective rights management in the EU. However, the OHIM could make a significant contribution to improving the climate for copyright enforcement by gathering information on the diverse practices of the copyright collecting societies across the EU. The Committee calls on the Commission to consider such a focus in Article 2 of the Regulation.

## 2. Background

2.1 Intellectual property rights (IPR), which comprise patents, trademarks, designs and geographical indications, as well as copyright (authors' rights) and rights related to copyright (for performers, producers and broadcasters), is a cornerstone of the EU economy and a key driver for its further growth.

2.2 In 2009, the value of the top 10 brands in EU countries amounted to almost 9 % of GDP on average. Copyright-based creative industries such as software, book and newspaper publishing, music and film, contributed 3.3 % to EU GDP in

2006 and account for approximately 1.4 million SMEs, representing 8.5 million jobs. Employment in 'knowledge-economy' industries increased by 24 % between 1996 and 2006 compared to 6 % for other industries.

2.3 Various studies published by industry and international organisations confirm the steady growth of trade in counterfeit and pirated goods and conclude that it:

- significantly reduces investment in innovation and destroys jobs <sup>(4)</sup>;
- threatens the health and safety of European consumers <sup>(5)</sup>;
- creates serious problems for European SMEs <sup>(6)</sup>;
- results in tax loss revenues due to reductions in declared sales <sup>(7)</sup>;
- is attractive to organised crime <sup>(8)</sup>.

2.4 In 2009 the Council <sup>(9)</sup> and the Commission <sup>(10)</sup> set up a European Observatory on Counterfeiting and Piracy to improve understanding of intellectual property rights (IPR) infringements ('the Observatory').

2.5 The Observatory is a centre of expertise for gathering, monitoring and reporting information and data related to all IPR infringements, and as a platform for cooperation between representatives from national authorities and stakeholders to exchange ideas and expertise on best practices, to develop joint enforcement strategies and to make recommendations to policy-makers.

<sup>(4)</sup> TERA Consultants, Building a Digital Economy: March 2010, <http://www.iccwbo.org/bascap/id35360/index.html>.

<sup>(5)</sup> European Commission, Taxation and Customs Union Directorate General, 'Report on EU Customs enforcement of intellectual property rights – 2009', [http://ec.europa.eu/taxation\\_customs/resources/documents/customs/customs\\_controls/counterfeit\\_piracy/statistics/statistics\\_2009.pdf](http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/statistics_2009.pdf).

<sup>(6)</sup> Technopolis (2007), 'Effects of counterfeiting on EU SMEs', [http://ec.europa.eu/enterprise/enterprise\\_policy/industry/doc/Counterfeiting\\_Main%20Report\\_Final.pdf](http://ec.europa.eu/enterprise/enterprise_policy/industry/doc/Counterfeiting_Main%20Report_Final.pdf).

<sup>(7)</sup> Frontier Economics, (May 2009), 'The impact of counterfeiting on Governments and Consumers': <http://www.iccwbo.org/uploadedFiles/BASCAP/Pages/Impact%20of%20Counterfeiting%20on%20Governments%20and%20Consumers%20-%20final%20doc.pdf-%20Final%20doc.pdf>

<sup>(8)</sup> UNICRI, 'Counterfeiting: a global spread', 2008, <http://counterfeiting.unicri.it/report2008.php>.

<sup>(9)</sup> Council Resolution of 25.9.2008 (OJ C 253, 4.10.2008, p. 1).

<sup>(10)</sup> Commission Communication of 11 September 2009: 'Enhancing the enforcement of intellectual property rights in the internal market' - COM(2009) 467 final.

2.6 Although there is an increasing need for the Observatory to do more, there is no scope for expanding its remit and developing its operational activities, both of which require a sustainable infrastructure in terms of human resources, financing and IT equipment as well as access to the necessary expertise.

2.7 The Commission has proposed a comprehensive new IPR Strategy <sup>(11)</sup> as part of the overall agenda to foster sustainable growth and jobs in the Single Market and improve Europe's competitiveness on a global level. The Strategy is complementary to and an important element of the Europe 2020 Strategy, the Single Market Act <sup>(12)</sup> and the Digital Agenda for Europe.

2.8 In a recent communication, on which the Committee is drawing up a separate opinion, the Commission envisages the creation of a single market for intellectual property <sup>(13)</sup>. Among the first deliverables of this IPR strategy is the proposed Regulation to reinforce the European Observatory on Counterfeiting and Piracy by entrusting its tasks to the Office for Harmonisation in the Internal Market (OHIM). This will allow the Observatory to expand the scope of its activities and to benefit from OHIM's intellectual property expertise and strong record of delivery in trademarks and designs.

2.9 Article 2 of the proposed Regulation includes a comprehensive list of tasks and activities to be entrusted to the OHIM, which include strengthening enforcement capability across the Union, improving the public awareness of the impact of IPR infringements and fostering a general climate for effective enforcement.

2.10 The Commission carried-out an impact assessment of the various options for increasing the capacity of the Observatory to meet the needs of the new IPR strategy <sup>(14)</sup>. It concluded that transferring the Observatory to the OHIM would be the preferred option, given that the latter has appropriate financing and structures and will be capable of delivering on the Observatory's aims as soon as its basic Regulation has been amended.

### 3. Comments

3.1 The Committee unites the different economic and social interests in the EU, including all the civil society actors, and by synthesising the diverse perspectives and experience of its members this unique institution plays a crucial role in the consideration and formulation of policy. Furthermore, the

EESC cares deeply about the protection of IPR and has worked assiduously over the years to help shape European IPR policy. Therefore, the Committee is very surprised and disappointed to be excluded from the list of organisations invited to Meetings of the Observatory in the proposed Article 4 of the Regulation. This omission should be rectified to ensure that the EESC can contribute to the work of the Observatory and the knowledge that it develops.

3.2 The composition of the Observatory should include representatives from the various civil society organisations, including employers' organisations, trade unions, authors' organisations and consumer interests.

3.3 The Committee also feels strongly that it should be mentioned in Article 8 of the Regulation, along with the Council and the Parliament, as a recipient of the evaluation report on the application of the Regulation.

3.4 The damage done by weak IPR management and enforcement includes the funding of criminal and terrorist networks; money laundering and counterfeiting are criminal acts that must be vigorously combated. The Observatory needs to include studies on the nature and scale of criminal behaviour in its work.

3.5 Consistent IPR enforcement means enhancing and expanding genuine administrative cooperation to combat counterfeiting and piracy, establishing a real partnership to implement a border-free internal market. To this end, an efficient network of contact points across the European Union is necessary.

3.6 Citizens and businesses in every Member State need to know which organisation to contact for information and support in dealing with IPR enforcement. The national intellectual property offices (NIPO), should be promoted by the Observatory as a primary contact point on IPR enforcement in each Member State.

3.7 With due regard for the principle of subsidiarity, the NIPOs should be included by Member States in the organisations invited to meetings of the Observatory under the proposed Article 4.1 of the Regulation. Their involvement would strengthen the practical expertise of the Observatory and the enforcement capability across the EU.

3.8 An electronic network for rapid, effective information sharing on IPR infringements will need to be available to all enforcement agencies and national intellectual property offices. Getting this network in place should be a priority for the Observatory.

<sup>(11)</sup> COM(2011) 287 final 'A Single Market for Intellectual Property Rights'.

<sup>(12)</sup> COM(2011) 206 final 'Single Market Act -Twelve levers to boost growth and strengthen confidence "Working together to create new growth" '.

<sup>(13)</sup> COM(2011) 287 final.

<sup>(14)</sup> SEC(2011) 612 final 'Impact assessment accompanying the proposal for a regulation entrusting the Office for Harmonisation ...'.

3.9 Disputes about IP ownership and charges of counterfeiting and piracy are often difficult to resolve. Under Article 2.2 of the proposed regulation the OHIM could collate case law on IPR disputes and help improve dispute resolution across the EU without hindering recourse to the responsible courts.

3.10 The OHMI should particularly offer support specifically geared to SMEs and SMIs, who often fall victim to counterfeiting, in order to ensure that they are better informed of their rights. For the Europe 2020 Strategy to succeed we have to become more focused on nurturing start-ups and SMEs.

3.11 The Regulation on entrusting the OHIM with certain tasks relating to IPR includes the intent of improving the climate for IPR enforcement across the Union and to collect relevant information, including case law, which can help to achieve this goal. In this regard, it is important that information is collected by the OHIM on the practices of collecting societies, and relevant case law concerning copyright disputes, with a view to increasing understanding and awareness of the problems caused by inadequate regulation.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on certain permitted uses of orphan works’**

COM(2011) 289 final — 2011/0136 (COD)

(2011/C 376/12)

Rapporteur: **Mr McDONOGH**

On 15 June 2011 and 7 June 2011 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Directive of the European Parliament and of the Council on certain permitted uses of orphan works*

COM(2011) 289 final — 2011/0136 (COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 30 August 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 131 votes with three abstentions.

## 1. Observations and Recommendations

1.1 The Committee welcomes the Proposal from the Commission concerning the Directive on the use of orphan works. The successful completion of the initiative will boost the development of digital libraries like Europeana<sup>(1)</sup> and other public institutions performing public interest missions referred to in Article 1(1) of the proposed Directive, through which citizens can access the diversity and richness of Europe’s cultural heritage.

1.2 The Committee is preparing a separate opinion on the recent Communication from the Commission that proposes a strategy for a Single Market for Intellectual Property (IP)<sup>(2)</sup>. IPR is a key enabler of the technological and commercial innovation on which Europe will depend for economic recovery and future growth<sup>(3)</sup>. The nature of IPR governance is also crucial to the flourishing of European culture and the quality of life enjoyed by European citizens.

1.3 The Committee does not believe that the Europe 2020 Strategy for smart, sustainable and inclusive growth can be achieved without the creation of a true Single Market for IP.

<sup>(1)</sup> Europeana enables people to explore the digital resources of Europe’s museums, libraries, archives and audio-visual collections. The project is funded by the European Commission and was launched in 2008 with the goal of making Europe’s cultural and scientific heritage accessible to the public. See: [www.europeana.eu](http://www.europeana.eu).

<sup>(2)</sup> COM(2011) 287 final A Single Market for Intellectual Property Rights.

<sup>(3)</sup> See: Europe 2020 Strategy (COM(2010) 2020 final), the Annual Growth Survey 2011 (COM(2011) 11 final), the Digital Agenda for Europe (COM(2010) 245 final), the Single Market Act (COM(2011) 206 final) and the Innovation Union (COM(2010) 546 final).

For many years the Committee has been calling for the harmonisation of European and national rules to promote innovation, creativity and the welfare of citizens, while also supporting initiatives that bring works, goods and services within reach of the largest possible number of people<sup>(4)</sup>.

1.4 The Committee agrees in general with the proposed Directive for a legal framework to ensure the lawful, cross-border online access to orphan works<sup>(5)</sup>. In its Opinion on the Digital Agenda for Europe<sup>(6)</sup>, the EESC firmly endorsed actions like the implementation of this framework, which would tackle the problems of cultural and economic fragmentation in the Single Market.

1.5 The EESC strongly supports the digitisation and wide dissemination of Europe’s cultural heritage<sup>(7)</sup>. It believes that making this material available online is a key component of the development on the knowledge economy in Europe, and that it is essential to providing a rich and diverse cultural life for citizens. Therefore, the Committee is pleased that the Commission is proposing a Directive that will deal with the particular problem of orphan works.

<sup>(4)</sup> OJ C 116, 28.4.1999, p. 35; OJ C 155, 29.5.2001, p. 80; OJ C 221, 7.8.2001, p. 20; OJ C 32, 2.2.2004, p. 15; OJ C 108, 30.4.2004, p. 23; OJ C 324, 30.12.2006, p. 7; OJ C 256, 27.10.2007, p. 3; OJ C 182, 4.8.2009, p. 36; OJ C 218, 11.9.2009, p. 8; OJ C 228, 22.9.2009, p. 52; OJ C 306, 16.12.2009, p. 7; OJ C 18, 19.1.2011, p. 105; OJ C 54, 19.2.2011, p. 58.

<sup>(5)</sup> Orphan works are works like books, newspaper or magazine articles that are still protected by copyright but the copyright holders cannot be located to obtain copyright permissions. They include cinematographic or audiovisual works. Orphan works are found in the collections held by European libraries.

<sup>(6)</sup> OJ C 54, 19.2.2011, p. 58.

<sup>(7)</sup> OJ C 324, 30.12.2006, p. 7; OJ C 182, 4.8.2009, p. 36; OJ C 228, 22.9.2009, p. 52; OJ C 18, 19.1.2011, p. 105; OJ C 54, 19.2.2011, p. 58.

1.6 The Committee recognises that a Directive is necessary because very few Member States have implemented orphan works legislation, and any national legislation that exists limits access to citizens resident in their national territories.

1.7 The Committee agrees in principle with the four-pillar approach proposed in the Directive:

- Establishing the rules for identifying orphan works by means of a diligent search for the copywriter holder;
- Recognising an orphan work if the search does not establish a copyright holder;
- Establishing the uses that can be made of the orphan works, including their dissemination to all Member States;
- The mutual recognition of orphan work status across all Member States.

1.8 To facilitate the efficient search for copyright owners and the wide dissemination of orphan works, the availability of online databases and registries of rights, similar to the tool that exists in the book-publishing sector<sup>(8)</sup>, are essential for every sector. The Committee calls upon the Commission to facilitate the work of representative organisations in the development of these tools.

1.9 The EESC is of the opinion that Member States should maintain a register of databases in their country that are officially approved to record the results of diligent searches carried out in their territories, as necessitated by the terms of Article 3(4) of the Directive. Such registers would assist institutions in other EU countries to know that sources are officially trusted.

1.10 The Committee draws the attention of the Commission to the importance of traditional music, oral history, photographs and cinematographic works to the cultural heritage of the EU and requests that such recordings and images in the archives of any institution listed in Article 1(1) will receive equal treatment in the identification and publication of orphan works. The Committee notes that Article 11 of the Directive provides for the possible inclusion in the scope of the Directive of protected subject matter which are currently not included, notably phonograms and stand alone photographs, and it urges the Commission to proceed with their inclusion as soon as possible.

1.11 The Committee also welcomes the Commission's ambition to conclude a Memorandum of Understanding

amongst libraries, publishers, authors and collecting societies to facilitate licensing solutions to digitise and make available out-of-commerce books<sup>(9)</sup>.

## 2. Background

2.1 The Commission has proposed an IPR Strategy<sup>(10)</sup> as part of the overall agenda to foster sustainable growth and jobs in the Single Market and improve Europe's competitiveness on a global level. The Strategy is complementary to and an important element of the Europe 2020 Strategy, the Single Market Act<sup>(11)</sup> and the Digital Agenda for Europe.

2.2 In a recent communication, on which the Committee is drawing up a separate opinion, the Commission envisages the creation of a single market for intellectual property<sup>(12)</sup>. Among the first deliverables of this IPR strategy is the proposed Directive for an easier permission to use orphan works that will allow many cultural works to be accessible online, in every Member State. Thus facilitating the development of European digital libraries that preserve and disseminate Europe's rich cultural and intellectual heritage.

2.3 The digitisation and dissemination of orphan works pose a particular cultural and economic challenge. The absence of a known right holder means that users are unable to obtain the required authorisation, e.g. a book cannot be digitised. Orphan works represent a substantial part of the collections of Europe's cultural institutions; for example, the British Library estimates that 40 per cent of its copyrighted collections - 150 million in total - are orphan works.

2.4 The Commission is now proposing a Directive to provide common rules across all Member States on how to deal with such works, to facilitate the large-scale digitisation projects required by the Digital Agenda for Europe.

2.5 The Commission carried-out an impact assessment and considered six different options for tackling the orphan works initiative<sup>(13)</sup>. It concluded that the best approach should be based on mutual recognition by Member States of the orphan status of works. This allows libraries and other beneficiaries referred to in Article 1(1) of the proposed Directive to enjoy legal certainty as to the 'orphan status' of a particular work. Furthermore, mutual recognition ensures that the orphan works contained in a digital library would be available to citizens across Europe.

<sup>(8)</sup> ARROW: Accessible Registries of Rights Information and Orphan Works towards Europeana, is a project of a consortium of European national libraries, publishers and collective management organisations, also representing writers through their main European associations and national organisations, see: [www.arrow-net.eu](http://www.arrow-net.eu).

<sup>(9)</sup> See IP/11/630, Brussels 24 May 2011.

<sup>(10)</sup> COM(2011) 287 final A Single Market for Intellectual Property Rights.

<sup>(11)</sup> COM(2011) 206 final Single Market Act -Twelve levers to boost growth and strengthen confidence 'Working together to create new growth'.

<sup>(12)</sup> COM(2011) 287 final.

<sup>(13)</sup> SEC(2011) 615 final Impact assessment on the cross-border online access to orphan works.

2.6 The Directive rests on four pillars:

- i. First, in order to establish the 'orphan work' status, libraries, educational establishments, museums or archives, film heritage institutions and public service broadcasting organisations are required to carry out a prior diligent search, in line with the requirements specified in the proposed directive, in the Member State where the work was first published.
- ii. Once the diligent search establishes the 'orphan status' of a work, the work in question will be deemed an orphan work throughout the EU, obviating the need for multiple diligent searches.
- iii. On this basis, it will be possible to make orphan works available online for cultural and educational purposes without prior authorisation unless the owner of the work puts an end to the orphan status. When that happens right holders who come forward to claim their works should be remunerated and such remuneration should take account of the type of work and the use concerned.
- iv. The mutual recognition of orphan work status across all Member States.

### 3. Comments

3.1 The Committee believes that it is important for all IPR policy initiatives to balance the rights of creators and owners with the interests of users and final consumers so as to bring works within the reach of the largest number of people and in every Member State.

3.2 To facilitate a search for IPR, the Commission could publish and regularly update the list of institutions referred to in Article 1(1) of the Directive that are responsible for managing orphan works.

3.3 Furthermore, these institutions need to know that sources for records of diligent searches in another EU country are officially trusted. Therefore, Member States should maintain a register of databases in their country that are officially approved to record the results of diligent searches carried out in their territories, as necessitated by the terms of Article 3(4) of the Directive.

3.4 The Committee notes that Article 11 of the proposed Directive provides for the possible inclusion in the scope of the Directive of protected subject matter which are currently not included, notably phonograms and stand-alone photographs. Notwithstanding this review provision, the case needs to be made now for the early publication of these cultural artefacts.

3.4.1 Traditional music and oral history is very important to the cultural heritage of Europe and there is a rich archive of recorded material throughout the EU, not only in public service broadcast organisations but also in the other institutions listed in Article 1(1). All of this audio and audiovisual material should be subject to the same rules of search, classification and use as the other works listed in Article 1(2) of the Directive.

3.4.2 Similarly, photographic and cinematographic material provide a particularly rich information source for knowledge and understanding of European civilisation and where such works might be classified as orphan works, then every effort should be made to free this material from the hidden archives of public institutions.

Brussels, 21 September 2011.

*The President  
of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council on European Standardisation and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and of the Council'**

COM(2011) 315 final — 2011/0150 (COD)

(2011/C 376/13)

Rapporteur: **Mr PEZZINI**

On 24 June 2011 and 23 June 2011 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union (TFEU), on the

*Proposal for a Regulation of the European Parliament and of the Council on European Standardisation and amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC of the European Parliament and of the Council*

COM(2011) 315 final — 2011/0150(COD).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 August 2011.

At its 474th plenary session of 21 and 22 September 2011 (meeting of 21 September) the European Economic and Social Committee adopted the following opinion by 121 votes to two with five abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) supports the Commission's initiative aimed at reviewing the European standardisation system, preserving its many successful aspects, correcting its deficiencies and striking the right balance between the international, European and national dimensions, thus ensuring qualitative excellence at global level.

1.2 The Committee is in no doubt as to the need to create a flexible and dynamic EU legislative framework so as to optimise the added value of European technical standardisation, the purpose of which is to foster competitiveness, innovation and growth.

1.3 The Committee reiterates the importance of European standardisation for the functioning and consolidation of the single market, especially in the fields of health, safety, environmental protection, consumer protection and interoperability. All of these fields now make increasing use of information and communications technology (ICT).

1.4 The Committee considers it of fundamental importance to bring the pace of drawing up standards up to speed and extend the scope of action to the service and ICT sectors, with a particular focus on the aims of quality, safety and the rate at which standards are produced, by using internet consultation platforms and online information exchange.

1.5 In the EESC's view, specifications adopted by international industry forums and/or consortia, in the ICT sector,

should only be accepted after a process of approval by European standardisation organisations (ESOs), involving representatives of SMEs, consumers, environmental organisations, workers and organisations with strong social interests.

1.6 The EESC applauds the proposed simplification of the system, with an appropriate legal basis, of financing the ESOs, national standardisation bodies and other organisations responsible for cooperating in standardisation, as well as European stakeholder organisations.

1.7 The EESC calls for the preparation of a common foresight document so as to ensure coherence, coordination and correspondence with the future objectives of the market. In this context it would be useful for all stakeholders in annual programming to participate in preparing the work programmes of the ESOs, other bodies developing technical specifications in the ICT sector, the competent Commission services and national standardisation bodies.

1.8 The Committee also underscores the importance of having, in short order, updated technical standards in the service sector, which will continue to develop as an innovative pillar of the economy between now and 2020. At the same time, it points out that the specific character of services should be taken into account and that the model of standardisation of goods cannot be copied automatically. Further development of standards in the field of services must take the needs of the market and of society into consideration.

1.9 The EESC considers it important to ensure a stable framework of multiannual financial programming for the European standardisation system, and is concerned that the budget appropriations for this purpose are proposed by the Commission only for 2013.

1.10 The Committee calls for the greatest possible interaction between technical standardisation processes and European research and innovation programmes so as to ensure the rapid implementation of new technologies and the attendant competitive advantages to the European economy in the global market.

1.11 The Committee recommends close links between European Standardisation Organisations and the Patent Offices, which safeguard intellectual property rights (IPR).

1.12 The Committee asks that the new rules provide expressly for the strengthening of Europe's position in the context of international standardisation so as to facilitate trade and enhance Europe's competitiveness.

## 2. Introduction

2.1 The Committee has repeatedly stressed the essential role of technical standardisation in supporting:

- the quality of European products and services;
- their competitiveness in the internal and global market;
- consumer protection;
- improvements in social and environmental standards.

2.2 The Committee has always called for 'a more extensive use of European standardisation in EU policies and legislation in order to extend, in line with the needs of both society and businesses, the expansion of standardisation into new areas such as services, information and telecommunications technology, transport and consumer and environmental protection' <sup>(1)</sup>.

2.3 The Committee has also stressed that 'European standardisation is vital for the operation and consolidation of the internal market, particularly through the 'new approach' directives in the areas of [...] <sup>(2)</sup>.

2.4 In its recent opinion *Towards a Single Market Act*, the Committee reiterated that '[s]tandards are a major building block of the Single Market'. At the same time, the Committee stressed 'the importance of the greater involvement of consumers and SMEs while securing in a constant and sustainable way that the cost factors that limit their participation in this process are overcome. Standards should not be

dictated by specific players. The EU standards have to play a much bigger role in global trade and should be promoted in the forthcoming trade negotiations at bilateral and multilateral level' <sup>(3)</sup>.

2.5 Technical standardisation plays a key role in the operation of the single market and in the international competitiveness of goods and services by providing a guarantee of their quality. It also ensures the interoperability of networks and systems, a high level of consumer and environmental protection, and higher levels of innovation and social inclusion.

2.6 For this role to be fulfilled as effectively as possible, various conditions must be met:

- the process of European technical standardisation needs to be able to **respond quickly** to the requirements of the legislator – on the initiative of the Commission – and rapidly changing industries in which the lifespan and development cycles of products are ever shorter, thus requiring **greater speed and flexibility in responding to future challenges**;
- technical standards need to be able to keep up with the rapid pace of technological developments, failing which they will be useless, and to cover ever broader sectors – particularly information technology and services – by ensuring that the standards themselves are produced promptly and in sufficient quantity and quality, inter alia by means of internet consultation platforms;
- the process of drawing up and implementing standards needs to be able to **adapt to the requirements of small and medium-sized enterprises**, and not the other way round, by ensuring high levels of representation and participation in the standardisation process, particularly at European level, whilst maintaining a balance between national delegations, given that, in general, the relationship between SMEs and technical standards is difficult and complicated;
- **greater and broader legitimisation and consensus** needs to be secured through a process of voluntary, transparent and open cooperation, where industry, SMEs, public authorities and **other civil society stakeholders** can work together with equal opportunities for access: standards often impact on the safety and well-being of the public, the efficiency of networks, the environment and other sectors of public importance. Those sectors should therefore have appropriate representation and influence;
- the European standardisation system must be able to **respond to the need to ensure full interoperability and compatibility of applications and services** in information and communications technology (ICT) by means of approved European reference standards;

<sup>(1)</sup> See OJ C 110, 9 May 2006, p. 14.

<sup>(2)</sup> See footnote 1.

<sup>(3)</sup> See OJ C 132, 3 May 2011, p. 47.

- the European standardisation system needs to receive appropriate, **simplified funding** so as to ensure the full participation of all stakeholders in drawing up standards and the automatic inclusion of the standardisation dimension in public research and innovation programmes so as to support the development of the Europe 2020 strategy;
- once the **level of transparency, openness and balanced participation** of all stakeholders has been ensured, the standards produced by ICT forums and consortia that are recognised at world level and **verified by the European standardisation organisations** – CEN, CENELEC, ETSI<sup>(4)</sup> – should be included for reference purposes in European procurement legislation;
- the system for **exchanging information between all the standardisation organisations and bodies** in Europe needs to be appropriately strengthened and **fair access to standards** for all stakeholders **must be ensured**.

2.7 With regard to funding, it is worth recalling that Decision 1673/2006/EC – on which the Committee issued an opinion – establishes the rules concerning the EU's contribution to the financing of European standardisation so as to ensure that European standards and other products of European standardisation are drawn up and revised in a way that is in line with the objectives, legislation and policies of the Union: the same provisions should apply to those bodies which, whilst not recognised as European standardisation bodies in the proposed Regulation, have been entrusted with carrying out preliminary work in support of European standardisation.

2.8 In view of the very broad field of involvement of European standardisation in support of Union policies and legislation and the different types of standardisation activity, it is necessary to provide for a variety of financing arrangements.

### 3. Commission proposals

3.1 The requirements to be met by the proposal can be summarised as follows:

- to ensure that they have a significant impact in underpinning the single market in goods and services and preventing the creation of barriers to trade within the EU, the adoption of European standards by the ESOs should apply to both goods and services and continue to receive EU co-financing. The process of drawing up European standards should be speeded up and keep up with the ever-increasing pace of the development cycle of goods and services;
- as the standard is the result of the consensus reached by those participating in its drafting, the standardisation process should be given legitimacy by involving interested

civil society groups such as the social partners, small and medium-sized enterprises, consumers and environmentalists;

- to bring about standards that ensure the interoperability of services and applications in the information and communications technology sector, it should be possible to formally recognise ICT standards even if they are drawn up outside the ESOs by specialised forums and consortia.

3.2 To this end, the proposal provides – aside from the amendments to directives 89/686/EEC, 93/15/EEC, 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 2004/22/EC, 2007/23/EC, 2009/105/EC and 2009/23/EC – for the revision and merging, in particular, of directives and decisions.

3.3 The proposed new legislation – via the instrument of a regulation to ensure uniform application – aims at:

- greater transparency and cooperation between national standardisation bodies (NSBs), ESOs and the Commission;
- recognition of the use of ICT standards (hardware, software and information technology services) even if they are developed by other organisations, provided they are consistent with the TBT/WTO (Technical Barriers to Trade/World Trade Organisation) principles and the need for interoperability within Europe;
- annual planning of priorities for standardisation in the EU and mandates from the Commission;
- enhanced representation of SMEs, with financial support from the EU, but also of consumers, environmentalists and representatives of social interests, including for ancillary/preparatory activities;
- measures to speed up the drafting of European standards requested by the Commission with financial support for active consensus-seeking by ESOs;
- incentives that also include promoting European technical standards at international level and assistance and technical cooperation programmes with third countries;
- promoting European and international standardisation by facilitating translation into official EU languages for businesses, so as to improve cohesion and accessibility;
- boosting standardisation activities in services to foster a competitive single market, avoiding multiple national standards, mandated by the Commission;
- cutting red tape through the payment of fixed fees without checks on actual costs;

<sup>(4)</sup> ETSI: the European telecommunications standards institute (ETSI) is an independent non-profit EU standardisation organisation in the telecommunications industry.

- introduction of a performance system, based on agreed indicators and objectives (outputs and outcomes) to improve efficiency and speed of results and the process for achieving them;
- an annual report to the Commission from the ESOs, specifically on aspects relating to finance, transparency, speed, simplification, involvement capacity and quality of the process.

#### 4. General comments

4.1 The Committee supports the aims of the Commission's proposal, as a fast, efficient and inclusive European standardisation process represents not only a key pillar in the architecture of the single market, which is the fulcrum of European integration and the Europe 2020 strategy that seeks to achieve it, but also and above all one of the foundations of Europe's economic competitiveness and a driving force for innovation.

4.2 The EESC considers that standardisation bodies should be encouraged to assess, as part of their work programmes, their policies with regard to intellectual property rights (IPR), with a greater focus on promoting innovation and closer links with patent offices, especially the European one in Munich, so that matters of intellectual property can be considered from the outset, thus ensuring better quality both of patents and of standards.

4.3 The EESC therefore applauds the Commission's intention to review the European standardisation system, preserving its many successful aspects, correcting its deficiencies, striking the right balance between the European and national dimensions, and responding to the new requirements and expectations of businesses, consumers, social partners and European society as a whole.

4.4 The Committee considers it of fundamental importance to bring the pace of developing standards up to speed and extend the scope of action to the service and ICT sectors, on condition that these actions maintain the quality objectives of standards and that the extension to standardisation bodies other than ESOs happens with the same guarantees of transparency and participation by which these latter are bound.

4.4.1 To this end, the Committee considers it essential that the ESOs and the Commission carry out preliminary checks to ensure that specifications adopted by international industry forums and/or consortia, to be used as a reference for the purpose of public procurement, have been developed in a neutral, fair and transparent manner with appropriate involvement of representatives of small and medium-sized enterprises, consumers, environmentalists, workers and organisations representing important social interests.

4.4.2 The EESC recommends that this necessary increased participation should not complicate procedures and increase the time taken to draw up standards in a consensual manner. On the contrary, these processes should be significantly streamlined through the use of internet platforms for consultation, development and information exchange <sup>(5)</sup>.

4.5 Similarly, the Committee asks that the regulation provide for the development of multiannual foresight plans on standardisation in Europe so as to provide a more effective and coordinated response to the global policies needed to address the issues of climate change, the development of smart grids, renewable energy and its transmission, and the urgent environmental and social challenges.

4.6 The EESC considers that in order to enable all stakeholders, at both European and national level, to participate effectively in the standardisation process, training programmes should be promoted and the necessary measures taken to enable the weakest national standardisation bodies, which do not currently run technical committee secretariats, to take a more active role in the training process.

4.7 The establishment of annual work programmes by the ESOs, by other bodies developing technical specifications in the ICT sector, the relevant Commission services and national standardisation bodies could be an effective means of ensuring the production of quality standards at a sufficient pace, in a timely manner and in sufficient number, provided that a framework for consistency and coordination is established and that there is effective participation by all stakeholders in the annual programme.

4.8 The EESC applauds the proposed simplification of the system, with an appropriate legal basis, of financing the European standardisation organisations, national standardisation bodies and other organisations responsible for cooperating in standardisation, as well as European stakeholder organisations referred to in Annex III.

4.8.1 The EESC is concerned that the budget appropriations for this purpose are proposed by the Commission only for 2013 and considers it important to ensure a stable framework of multiannual financial programming, starting as soon as possible.

4.9 With regard to the production of harmonised European standards, which ensure that products meet the basic requirements set out in EU legislation, 'in the absence of harmonised standards, businesses cannot use the relevant standard to confer a presumption of conformity and must demonstrate compliance with the essential requirements in accordance with the conformity assessment module set out in the applicable EU legislation. In both cases, businesses are prevented from saving costs incurred due to fragmentation of the internal market or conformity assessment procedures'. <sup>(6)</sup>

<sup>(5)</sup> As already happens at the ISO and the IEC, technical specifications 'are deliverables for which the consensus was insufficient for the status of an international standard'.

<sup>(6)</sup> COM (2011) 315 Explanatory Memorandum, point 1 and recitals 18 and 36.

4.9.1 On this point the Committee considers that there should be greater incentives for their production and use on a voluntary basis so as to guarantee ever higher levels of product safety.

4.10 The Committee considers that the proposed regulation should contain provisions to encourage the transposition at international level of technical standards adopted by the European standardisation system and to strengthen the role of national standardisation bodies and ESOs in international standardisation bodies. This could be achieved by means of coordinated European initiatives to strengthen international competitiveness and innovation.

## 5. Specific comments

5.1 The Committee believes that it would be useful to list, in Annex I, recognised national standardisation bodies.

5.2 It is important to distinguish 'technical specifications' from formal standards: the EESC proposes to add 'relevant standards and technical specifications' to **recital 19** and to change the wording 'standards' to 'technical specifications' in **recitals 20 and 22**.

5.3 **In Article 2**, it would be helpful to state 'a technical specification, approved by a recognised standardisation body, for repeated ...' and to add a new point 9: (9) 'National standardisation body' – a body listed in Annex I.

5.4 **In Article 3**, the EESC considers that NSBs should be able to state objections even if they cannot object to the European work programmes and therefore proposes that point 5 be reworded as follows: 'National standardisation bodies may not object to a subject for standardisation included in their work programme being dealt with at European level in accordance with the standards laid down by European standardisation bodies, and shall not take any action that may prejudice a decision on the subject'.

5.4.1 The EESC also proposes that **a new point 6 be added, as follows**: 'Member States shall take all appropriate measures to ensure that, during the preparation of a European standard referred to in Article 7, their standardisation bodies do not take any action which could prejudice the harmonisation intended

and, in particular, that they do not publish in the field in question a new or revised national standard which is not completely in line with an existing European standard'.

5.5 **In Article 7**, the EESC proposes that a new point 3.1 be added after point 3, as follows: '3.1 In the case of a request for a harmonised standard, this must be formalised by an agreement between the Commission and the relevant European standardisation organisation'.

5.5.1 The EESC believes that the proposal to allow the ESOs only one month to respond to the Commission's request could potentially limit the consultation of stakeholders. The EESC recommends 3 months.

5.6 **In Article 9**, the EESC proposes that the subtitle be reworded: 'Recognition, for the purposes of public procurement, of technical specifications in the field of ICT' and that the following words be added at the beginning of the article: '... the Commission may, in the field of information and communications technology, decide ...'.

5.7 **In Article 16**, the EESC proposes that a point a1) be added as follows:

'a1) update the list of national standardisation bodies set out in Annex I on the basis of the information supplied by the Member States referred to in Article 21'

and that point b) be replaced with the following wording:

'b) adapt to technical developments the criteria for recognising technical specifications in the ICT sector for the purposes of public procurement'.

5.8 **In Article 17**, the EESC proposes adding to point 2:

'The delegation of power referred to in Article 16 shall be conferred on the Commission for an indeterminate period of time from 1 January 2013. The Commission shall produce a report on what has been done with regard to delegated powers and shall publish such report together with the one provided for under Article 19(3).'

Brussels, 21 September 2011.

The President  
of the European Economic and Social Committee  
Staffan NILSSON

**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission — Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union’**

COM(2010) 573 final

(2011/C 376/14)

Rapporteur: **Ms BISCHOFF**

Co-rapporteur: **Mr PÎRVULESCU**

On 19 October 2010 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission — Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union*

COM(2010) 573 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 August 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 158 votes to 3, with 4 abstentions.

## **1. Conclusions and recommendations**

The EESC:

1.1 considers that the Commission should strengthen the culture of fundamental rights at EU level, especially by monitoring to ensure that its legislative proposals and the whole legislative process, as well as all acts it adopts, comply with the charter and that they are observed in Member States. Given that there have been cases of serious violation of the charter, it is urgent to establish a strategy for monitoring and for rapid reaction,

1.2 highlights the legally binding obligation to promote fundamental rights, which has to become one of the most important elements of the implementation strategy, inter alia by means of new, targeted initiatives; also underlines the dynamic nature of fundamental rights, which are a cornerstone of our societies and a hallmark of the European Union, <sup>(1)</sup>

1.3 considers that fundamental social rights are ‘indivisible’ from civil and political rights and therefore require special strategic attention; believes that the content of the relevant clauses is already binding and must be upheld,

1.4 stresses the need to ensure equality, in particular between men and women, and to specifically address all vulnerable groups,

1.5 underlines that, at EU level, the charter’s obligations apply to all institutions, agencies and bodies,

1.6 urges Member States to build a protection- and promotion-oriented fundamental rights culture at all government levels and across all policy and legislative domains and to examine and identify the specific impact on fundamental rights during the transposition process,

1.7 is very concerned about the spread of certain political stances which can and in some cases effectively do lead to setbacks in the promotion and protection of fundamental rights,

1.8 strongly encourages the Commission to act effectively in its role as guardian of the Treaties and to use the infringement procedure without taking political considerations into account,

1.9 proposes further measures and promotional activities in order to boost the effectiveness of a fundamental rights implementation strategy,

1.10 calls on all EU institutions as well as agencies and bodies, and Member States involved in enacting fundamental rights, in particular the Commission, to give a major boost to the participatory aspect of civil society.

## **2. Presentation and background**

2.1 The Commission’s communication intends to set out its strategy for the implementation of the charter in the new legal environment that has been in place since the entry into force of the Lisbon Treaty. The objective of the Commission’s policy is to make the fundamental rights provided for in the charter as effective as possible.

<sup>(1)</sup> EESC opinion on Transatlantic relations and the international promotion of the European social model, OJ C 51, 17.2.2011, p. 20.

2.2 The first part of the communication focuses on the fact that the European Union is striving to be beyond reproach and exemplary in this respect and that the charter must therefore serve as a compass for the Union's policies and their implementation by the Member States at every stage of the procedure.

2.2.1 Firstly, the Commission must strengthen the culture of fundamental rights at the Commission, especially by monitoring to ensure that its legislative proposals and the acts it adopts comply with the charter. Secondly, the Commission must ensure that every single act in the legislative process observes the charter provisions. This means that any amendment made by one of the co-legislators, as well as inter-institutional dialogue, must also comply with the charter.

2.2.2 Lastly, there is a need to ensure that the Member States respect the charter when implementing Union law.

2.3 The second part of the communication discusses the need to provide the public with better information. In order to achieve this goal, targeted communication measures are needed, which are tailored to various specific situations.

2.4 The third section of the Commission document focuses on an annual report on the application of the charter, the first of which has just been adopted by the Commission<sup>(2)</sup>. The report has two objectives: on the one hand, to take stock of progress in a transparent, continuous and consistent manner, on the other, to provide an opportunity for an annual exchange of views with the European Parliament and the Council.

### 3. General comments

3.1 The EESC attaches the **greatest importance to fundamental rights**. It welcomes the fact that the Commission has published the Communication on the 'Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union'. The EESC considers this approach to be an important contribution to the concept of EU citizenship for everyone living in the EU.

3.1.1 The principles enshrined in the strategy are very important and the EESC draws specific attention to the principles of effectiveness, universality and indivisibility as well as visibility and predictability. The EESC nevertheless considers that a number of important aspects have been neglected or not discussed in sufficient detail and should, therefore, be improved.

3.1.2 Nevertheless, it is worth highlighting a number of other principles. As pointed out in previous opinions, 'the EESC seeks to ensure overall consistency and the protection of fundamental rights, together with equal treatment and non-discrimination, regardless of immigrant workers' occupational

category'<sup>(3)</sup>. Moreover, EU 'law must ... not constitute measures which would lessen the degree to which principles have already been put into effect'<sup>(4)</sup>. All possible measures should be envisaged for convincing the governments of Poland, the United Kingdom and the Czech Republic to withdraw from the 'opt-out' protocols and to 'opt in' for the general application of the charter.

3.1.3 The Committee welcomes the numerous additional elements contained in the strategy and relating to legislative acts. In particular, the EESC supports the 'exemplary' character of the EU in the area of fundamental rights, also in respect of its external - and in particular trade - policies. In general, the EU should be not only an example, but also an active promoter of democracy and human rights - civil, political, economic and social - and use its international leverage to advance this.

3.1.4 The EESC welcomes the commitment of the Commission and the other EU institutions to thoroughly revise their legislative and working procedures, in particular as regards impact assessment and the relevant bodies, so as to ensure that their output complies with the principles and specific content of the charter. However, if we are to ensure the effective protection and promotion of fundamental rights, it is vital to focus on implementation and proactive attitudes on the part of the Member States. As regards the horizontal social clause (Article 9 TFEU) and fundamental social rights, the impact assessment is explored in more detail in another EESC opinion<sup>(5)</sup>.

### 3.2 New dangers: the crisis and security lapses

3.2.1 The Commission's strategy does not respond to the threats to the effective implementation of fundamental rights arising from a variety of important new dangers. The strategy, therefore, needs to take these developments into account and develop a coherent and comprehensive response.

3.2.2 In this respect, the EESC has already stressed that 'in a financial and economic crisis, it is important to strengthen solidarity between States, economic agents and citizens, and to respect the dignity and rights of citizens'<sup>(6)</sup>. 'Furthermore, the EESC remains to be convinced, in this period of crisis, that the budgetary resources available to the Member States of the Union and the level of resources that they are prepared to disburse, both nationally and at European level, are sufficient to make the protection of human rights ... a reality'<sup>(7)</sup>.

<sup>(2)</sup> COM(2011) 160 final, adopted on 30.3.2011.

<sup>(3)</sup> EESC opinion on Fundamental rights in European immigration legislation, OJ C 128, 18.5.2010, p. 29, point 4.2.3.

<sup>(4)</sup> EESC opinion on Towards an EU Charter of Fundamental Rights, OJ C 367, 20.12.2000, p. 26, point 3.1.3.

<sup>(5)</sup> EESC opinion on Strengthening EU cohesion and EU social policy coordination, (not yet published in the OJ).

<sup>(6)</sup> EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80, point 4.2.4.2.

<sup>(7)</sup> EESC opinion on Fundamental rights in European immigration legislation, OJ C 128, 18.5.2010, p. 29, point 4.3.4.

3.2.3 The EESC in its recent opinion on the EU's counter-terrorism policy, a policy area where numerous fundamental rights are at stake (human dignity, protection from torture, data protection, non-refoulement) identified the practical difficulties of streamlining the principle of fundamental rights during the policy formulation and conception process. The EESC welcomes the fact that respect for fundamental rights has been made a horizontal priority in this very sensitive area. However, the Commission's commitment to respect for fundamental rights should be coupled with a similar commitment on the part of national governments, in particular when implementing EU law. Moreover, the protection of fundamental rights should not be limited to devising and drawing up instruments, but should also encompass their implementation <sup>(8)</sup>.

### 3.3 *A crucial new dimension: Legally binding obligation to promote fundamental rights*

3.3.1 The Commission now needs to work out not only how best to protect fundamental rights in the course of its activities but how best to promote fundamental rights by new targeted initiatives.

3.3.2 In Article 51(1), the charter also sets out the obligation to 'promote the application' of fundamental rights. This element is of the utmost importance for the EESC. The EESC notes that, while the Commission refers in some respects to the promotion of fundamental rights, it does not stress the strategic importance of this obligation. The strategy should attribute at least the same level of strategic orientation to this aspect as it does to the obligation to respect fundamental rights.

3.4 Fundamental **social rights** are 'indivisible' from civil and political rights and therefore require special strategic attention.

3.4.1 While recalling the importance of the indivisible nature of fundamental rights expressed in the Communication itself and highlighted in several opinions <sup>(9)</sup> the EESC notes the lack of a strategic approach in respect of fundamental social rights.

3.4.2 Given the outstanding importance of fundamental social rights <sup>(10)</sup> and the long history of developments within

the EU, we consider this to be unacceptable. The development of the legally binding charter, which began with the 'Charter of Fundamental Social Rights of Workers' (1989) and included contributions from the EESC <sup>(11)</sup> also took place with reference to the European Social Charter (ESC), which was incorporated by the Amsterdam Treaty into primary EU law <sup>(12)</sup>. This shows that fundamental social rights, particularly in their most 'innovative' form in the charter's 'Solidarity' title (solidarity being recognised as one of the values of the Union), require special and strategic attention.

3.4.3 The EESC has also already stressed the specific role of public services in ensuring the effective application of fundamental rights <sup>(13)</sup>. Furthermore, the Committee highlights the importance of 'third generation' rights and principles included in the charter, in particular environmental and consumer protection. These rights and principles should be consistently observed and promoted, also when designing and implementing the external and commercial policy.

3.4.4 Regarding the principle of the equal value of fundamental social rights vis-à-vis economic freedoms, the EESC is of the opinion that primary law in particular must ensure this approach. The EESC notes that the third recital of the preamble, and specifically Article 151, of the TFEU are intended to promote improved living and working conditions 'so as to make possible their harmonisation while the improvement is being maintained' and expressly calls for a 'Social Progress Protocol' to be included in the Treaties in order to enshrine the principle of the equal value of fundamental social rights and economic freedoms and thereby make it clear that neither economic freedoms nor competition rules should be allowed to take precedence over fundamental social rights, and also to clearly define the impact of the Union's objective of achieving social progress <sup>(14)</sup>.

3.5 **Equality**, in particular **between men and women**, must be ensured **and** all **vulnerable groups** specifically addressed.

3.5.1 Just as all fundamental (social) rights must be addressed individually, it is equally important to examine and ensure their application and promotion in respect of non-discrimination and equality. This is particularly important with regard to the issue of equality between men and women, already recognised in the objectives of the Union and in Article 23 of the charter. Furthermore, gender mainstreaming should be adopted in all activities.

<sup>(8)</sup> EESC opinion on The EU Counter-Terrorism Policy, OJ C 218, 23.7.2011, p. 91 - SOC/388, point 4.5.1-4.5.2.

<sup>(9)</sup> EESC opinion on Towards an EU Charter of Fundamental Rights, OJ C 367, 20.12.2000 p. 26, point 3.1.1; EESC opinion on Fundamental Rights Agency, OJ C 88, 11.4.2006 p. 37, point 2.1; EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80, point 3.5.

<sup>(10)</sup> EESC opinion on Towards an EU Charter of Fundamental Rights, OJ C 367, 20.12.2000 p. 26, point 3.1.3.

<sup>(11)</sup> EESC opinion on Basic Community social rights, OJ C 126, 23.5.1989, p. 4.

<sup>(12)</sup> 5th recital TEU and Article 151(1) TFEU.

<sup>(13)</sup> EESC opinion on Fundamental rights in European immigration legislation, OJ C 128, 18.5.2010, p. 29, point 4.3.4.

<sup>(14)</sup> EESC opinions on the social agenda, OJ C 182, 4.8.2009, p. 65, and the social dimension of the internal market, OJ C 44, 11.2.2011, p. 90.

3.5.2 The protection of fundamental rights should specifically address vulnerable groups. The EESC draws attention to its most recent opinion on this issue<sup>(15)</sup> and highlights the need to protect labour and social rights, in particular the right to strike<sup>(16)</sup>. Moreover, the Committee stresses the importance of the 'European Integration Forum'.

3.5.3 The EESC sees human rights as being universal and indivisible rights which must be protected and secured for all people, not only for EU citizens. A 'Europe of rights and justice' cannot only be restricted to people who have the nationality of an EU Member State, but must cover everyone living on EU territory. Otherwise, the personal scope of the EU's Area of freedom, security and justice would be incompatible with the values and principles, non-discrimination, equal treatment and solidarity on which the European Union was founded<sup>(17)</sup>. The EU must ensure that it is pro-active in safeguarding the fundamental rights of every individual, regardless of his or her nationality.

3.5.4 The dynamic nature of fundamental rights should be asserted and rights should be given new means of protection that reflect changes taking place in society. As it has already stated, the EESC considers, for example, that the digital society, while still falling under Article 8 of the European Human Rights Convention (ECHR) and Articles 7 and 8 of the charter, has specific protection needs that could be covered by new texts.<sup>(18)</sup>

3.5.5 Ethnic minorities, especially the Roma, are increasingly becoming the target of governmental and police action. The Commission's reaction to the measures of certain EU Member States, as highlighted in the 2010 Report, was prompt but was not effective in the end. Groups of Roma were expelled, whilst the charter expressly prohibits any collective expulsion. EU has to make sure that Member States stop pursuing these sorts of policies.

3.6 The strategic importance of **non-legislative acts** must be improved.

3.6.1 The Communication contains very few references to non-legislative acts. Given the extensive scope of the EU's political and financial activities, particularly in the case of the Commission, this important aspect requires a strategic approach in order to conform to the charter's obligations in these fields,

<sup>(15)</sup> EESC opinion on Fundamental rights in European immigration legislation, OJ C 128, 18.5.2010, p. 29.

<sup>(16)</sup> EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80, point 4.1.9.

<sup>(17)</sup> EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80, point 3.5.

<sup>(18)</sup> EESC opinion on Enhancing digital literacy, e-skills and e-inclusion, OJ C 318, 29.10.2011, p. 9, point 7.

including in sensitive policy areas such as trade involving third countries. The strategy should also cover possible omissions and (mis)conduct.

3.7 At **EU level**, the charter's obligations apply to all institutions, agencies and bodies, which each have their specific area of responsibility.

3.7.1 The EESC welcomes the fact that the Communication refers to the Union's institutions in several instances. Nevertheless, this aspect is not taken into account in any systematic way. It should be noted that the Union's institutional framework is defined in Article 13(1) TEU and that it 'shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions'. The Commission – as the guardian of the Treaties – must ensure a consistent and effective approach. On the other hand, the EESC considers its specific role in respect of protection of fundamental rights to be guardian of the Union's values.

3.7.2 It is in the Commission's remit to specifically supervise and ensure that all agencies and bodies that report to the Commission respect and promote fundamental rights. This is particularly the case for OLAF, FRONTEX etc. The EESC has expressed its concerns regarding the latter in its recent opinions. The Committee is concerned to note a series of practices by Member State governments and the FRONTEX agency regarding the expulsion of persons who may need international protection<sup>(19)</sup>. These operations, which have increased in frequency and scale, should be carried out in conditions of complete transparency and accountability. The Committee recommends that FRONTEX and the European Asylum Support Office work together to effectively prevent any violation of human rights. Expelling people to countries or areas where their safety is at risk is a clear infringement of the principle of *non-refoulement*. Moreover, the EESC has also suggested that FRONTEX staff undergo special training to ensure a higher standard of protection of fundamental rights<sup>(20)</sup>.

3.7.3 All the other institutions will still need to devote an important part of their activities to the development of a coherent and effective strategy for the respect and promotion of fundamental rights and to consider improving texts which have already been adopted<sup>(21)</sup> in line with this opinion. In particular, the Council has to take its specific role seriously as the Member States' platform for protecting and promoting fundamental rights.

<sup>(19)</sup> EESC opinion on The added value of a common European asylum system, OJ C 44, 11.2.2011 p. 17, point 4.19.

<sup>(20)</sup> EESC opinion on Minimum standards on procedures in Member States for granting and withdrawing international protection, OJ C 18, 19.1.2011 p. 85, point 4.2.1.9.

<sup>(21)</sup> European Parliament resolution of 15 December 2010; Council conclusions 24 and 25 February 2011.

### 3.8 At Member State level

3.8.1 Since fundamental rights are a prerequisite and core commitment for EU membership, Member States have an important role to play in making fundamental rights effective. Therefore, the EESC welcomes the Commission's intention to pursue a prevention strategy while ensuring that the Member States respect the charter when implementing Union law. It will be necessary to build a protection- and promotion-oriented fundamental rights culture at all government levels and across all policy and legislative domains and examine and identify the specific impact on fundamental rights during the transposition process. Nevertheless, in order to avoid creating false expectations, it should be stressed that Member States – although they also remain bound by major international agreements on the protection of rights that some of them have ratified – are obliged to protect and promote the charter's rights and principles only insofar as they implement EU law.

3.8.2 The EESC strongly encourages the Commission to act effectively in its role as guardian of the Treaties and to use the infringement procedure without taking political considerations into account. As far as the protection of fundamental rights is concerned, the current procedure is too slow and completely inadequate. Given the importance of the area and the possible risks to the life, security, wellbeing and dignity of individuals, EU action must be swift, timely and decisive, and employ any granted institutional powers without delay.

3.8.3 The EESC strongly advises the Commission to avoid giving priority in infringement proceedings to cases that raise issues of principle or which have a particularly far-reaching negative impact for EU citizens. All the rights contained within the charter, in particular social rights, are of equal importance and no institution, including the European Commission, has the right or capacity to prioritise certain rights.

3.8.4 In the EESC's opinion, individual opt-outs for Member States are unacceptable, as such exemptions can lead to situations where the protection of citizens' and workers' rights included in the Charter of EU Fundamental Rights or the enforcement of these rights within the European Union may be seriously affected. The Commission as well as all other EU institutions should examine the possibility of encouraging those countries which continue to opt-out of the charter to fully accept all the obligations arising from this instrument of fundamental rights and of reporting annually on the measures taken in this respect as well as the measures taken by the Member States concerned to effectively implement the fundamental rights as enshrined in the charter.

3.9 The role of other **international obligations** is underestimated

3.9.1 The Communication makes a number of references to other international obligations. Once again, this has not been done in a comprehensive manner. It therefore also needs a strategic approach. This is in particular required by Article 53 of the EU Charter as a minimum level of protection in respect of the UN Covenants, the (Revised) ESC and, last but not least, the ECHR as highlighted by Article 52(3). In principle, the same applies to the case law of other international bodies, in particular the ECHR, as a minimum level of protection.

### 3.10 Further measures

3.10.1 The EESC has highlighted the importance of effective enforcement measures <sup>(22)</sup>. The role of the Court of Justice of the European Union (CJEU) must be reinforced in respect of monitoring implementation of the charter's rights, also with regard to the relevant protocols. In particular, its case-law has to be made public, also in respect of the relevant protocols.

3.10.2 In order to ensure effective protection of human rights, all rule of law standards in all Member States should be fully applied, and they should be covered by regular reporting. In particular, this concerns the power of courts to refer legislation and government measures to a higher court to check for breaches of fundamental and human rights. Equally, citizens' rights should be guaranteed so that actions against violations of fundamental rights can be brought before the competent national and European courts.

3.10.3 All necessary resources need to be attributed to the relevant structures. This primarily concerns the EESC itself, the Commission and all other EU institutions. The Communication is not specific in terms of specific institutional capacity enhancing measures. The process under which EU action protects fundamental rights and strengthens the legislative and policy process requires time and significant resources (e.g. personnel training). The Communication shows that there is no concrete plan for the transition to this stage. The EESC draws attention to the fact that – without a clear and strong commitment for capacity building – most of the objectives of this policy will be severely undermined, at least in the short term. This is true for the Commission itself <sup>(23)</sup> as well as e.g. the Fundamental Rights Agency (FRA) <sup>(24)</sup>. Therefore, the FRA in particular should be strengthened and incorporated into all synergy measures. Furthermore, active involvement should be planned for National Committees of Human Rights, Ombudsmen and any other human rights defender.

<sup>(22)</sup> EESC opinion on Towards an EU Charter of Fundamental Rights, OJ C 367, 20.12.2000 p. 26, points 3.1.4 and 3.3.3.

<sup>(23)</sup> EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80 § 1.4; EESC opinion on Fundamental rights in European immigration legislation, OJ C 128, 18.5.2010, p. 29, point 2.15.

<sup>(24)</sup> EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80, point 3.7; EESC opinion on Fundamental Rights Agency, OJ C 88, 11.4.2006 p. 37.

### 3.11 Promotional activities

3.11.1 The Union should seek to reinforce the legal framework for fundamental social rights. This will require the EU's accession to the Revised ESC and its Protocols. Concerning the Member States, the Union should recommend the ratification of all relevant fundamental (social) rights instruments (including amending and additional/optional protocols). Where ratification by the EU does not seem possible, all means should be explored and employed to make their content legally binding.

3.11.2 Mainstreaming means that each administrative unit will not only be required to scrutinise regular (especially legislative) activities but will also be expected to put forward one or two concrete promotional measures per year. Furthermore, the Fundamental Rights 'Check-List' should be developed further, taking particular account of the 'promotion' obligation, gender mainstreaming, and sustainable development.

3.11.3 The Commission should initiate more projects. These projects should also cover the protection of defenders of human rights. Both internal and external cooperation should be improved. The EESC would refer to its opinion calling for economic, social and cultural rights to be given greater importance in the European Union's policies through the use of available geographical and thematic instruments, including the European Instrument for Democracy and Human Rights as a complementary instrument, which ensured that social dialogue was recognised as a priority<sup>(25)</sup>. Furthermore, the Commission should ask other international organisations for advice in respect of the protection and promotion of human rights.

3.11.4 The EESC is concerned about the low level of public awareness of the charter and fundamental rights. A major effort to boost visibility is required. The charter is a key document and its contents should be publicised and provide a reference point for the vast majority of Europeans. The EESC recommends that the Commission scales up its efforts to take on this challenge. In this respect, communication with the public should not focus on disseminating reports, but rather on taking active measures to ensure that the charter becomes a reference document for every citizen of the EU.

3.11.5 While the EESC welcomes all activities aimed at the specific training of all interested groups, in particular legal personnel - including those activities carried out by Member States - and at providing the public with better information, this is only one aspect of the necessary communication strategy.

<sup>(25)</sup> EESC opinion on European Instrument for Democracy and Human Rights (EIDHR) (own-initiative opinion), points 1.1 and 1.2.

It is vital to be able to communicate directly with the public. This is all the more true when one looks at the experiences of SOLVIT where the Commission actively searches for information, including from the relevant stakeholders. The same approach needs to be taken in respect of fundamental rights in general and social rights in particular.

### 3.12 The 'Stress check'

3.12.1 The effectiveness of fundamental rights must be demonstrated in practice, in particular in times of economic crisis or where there is strong political pressure. The EESC is most concerned with the spread of certain political stances which can and in some cases effectively do lead to serious violations as well as setbacks in the promotion and protection of fundamental rights.

3.12.2 The CJEU has already dealt with important fundamental rights issues by invalidating secondary legislation e.g. in respect of non-discrimination<sup>(26)</sup> and data protection<sup>(27)</sup> or precluding national legislation imposing a prison term on 'illegally staying third country-nationals'<sup>(28)</sup>.

3.12.3 Furthermore, the EESC notes with concern the mass expulsion of Roma people, the treatment of people from North Africa without papers, restrictions on freedom of expression, especially in the media, etc. All legislation allowing for exclusions or restrictions in respect of fundamental (social) rights (e.g. the right to a limit on maximum working hours) will have to be specifically addressed.

3.12.4 The financial and economic crisis is putting considerable pressure on fundamental social rights. All pacts, recovery plans and other EU and/or Member States measures must in no way violate fundamental (social) rights, such as the right to information and consultation, collective bargaining and collective action with the full autonomy of the social partners, as well as public and social services, but should rather respect and promote them.

<sup>(26)</sup> Judgment (Grand Chamber) 1 March 2011 - Case C-236/09 - Association belge des Consommateurs Test-Achats ASBL (sex as a factor in the assessment of insurance risks).

<sup>(27)</sup> Judgment (Grand Chamber) 9 November 2010 - Cases C-92/09 and C-93/09 - Volker und Markus Schecke (processing of personal data in respect of the publication of information on beneficiaries of agricultural aid).

<sup>(28)</sup> Judgment (First Chamber) 28 April 2011 - Case C-61/11 PPU - El Dridi (legislation which 'provides for a sentence of imprisonment to be imposed on an illegally staying third-country national on the sole ground that he remains, without valid grounds, on the territory of that State, contrary to an order to leave that territory within a given period').

3.13 **Civil society:** the participatory aspect should be strongly reinforced

3.13.1 Generally speaking, the strategy refers to the need to take account of the view of the interested parties. In many opinions, the EESC has stressed this important aspect in the area of fundamental rights<sup>(29)</sup>. The term 'interested parties' appears to be wide enough to include all entities. For the EESC it is, nevertheless, of the utmost importance that its role as an advisory body is explicitly taken into account. The same applies to the social partners at EU level (Article 152 TFEU).

3.13.2 Individuals in particular and civil society in general are most affected by the implementation of fundamental rights. Stakeholders must be given a visible role. Therefore they have to be regularly, fully and effectively involved in this process.

3.13.3 In particular, the EESC should be involved and consulted regularly and in good time, particularly in respect of the annual report to be drafted by the Commission. As guardian of the EU's values and representative of organised civil society, the Committee is best placed to liaise with civil society.

3.13.4 The EESC will draw up a yearly opinion on implementation of the Charter of Fundamental Rights (with particular regard to fundamental social rights), of the horizontal social clauses (Articles 8, 9 and 10 TFEU), of other social policy provisions of the Lisbon Treaty (in particular Articles 145-166 and 168 TFEU), of secondary legislation and of other legal and policy measures, with regard to compliance with and support for objectives and requirements. This opinion will analyse and evaluate the extent to which such implementation has contributed to developing the EU's fundamental rights and social policy. If appropriate, the opinion could include recommendations on specific measures to meet objectives and requirements more effectively.

A hearing will be held prior to adoption of the opinion, at which the social partners and representatives of various interest groups, together with other major representative civil society organisations in the social policy field, can contribute their own views and reports. This annual EESC opinion will be presented and explained to representatives of the EU institutions, in particular the European Council, the Council, the Commission, the Court of Justice and the ECB.

Conferences will also be held on monitoring effective implementation of the Charter. These conferences should also strengthen links to the Fundamental Rights Agency.

3.13.5 The Annual Report is a useful tool for evaluating policy progress. It should be made easily accessible. The EESC encourages the Commission and the FRA to take the opportunity to involve civil society in drafting the report, and to be open to independent reviews of the protection of fundamental rights at EU level and beyond the EU's borders. The Committee, as the representative of organised civil society, is ready to facilitate the process and contribute to the annual review. The Annual Report must take into consideration situations which, for various reasons, do not become the subject of petitions or court cases. In this respect, the report should welcome - and also be based on - input from various organisations working in the area of fundamental rights.

3.13.6 Although the EESC would acknowledge the importance of the Annual Report, it feels that the first annual report lacks a consistent focus across all the fundamental rights contained in the charter. The Report highlights a number of key areas in the section on 'Most important developments' but the selection criteria are unclear. This selective approach does not help to identify any gaps in implementation and even more worryingly may signal that some fundamental rights are being given more priority than others.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(29)</sup> EESC opinion on Towards an EU Charter of Fundamental Rights, OJ C 367, 20.12.2000 p. 26, point 3.4; EESC opinion on An area of freedom, security and justice serving the citizen, OJ C 128, 18.5.2010, p. 80, point 4.3.

**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 — European Disability Strategy 2010-2020: A renewed commitment to a barrier-free Europe’**

COM(2010) 636 final

(2011/C 376/15)

Rapporteur: **Mr VARDAKASTANIS**

On 13 January 2011 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe*

COM(2010) 636 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September 2011), the European Economic and Social Committee adopted the following opinion by 151 votes to none with five abstentions.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the European Disability Strategy 2010-2020 (EDS) as an active policy instrument to implement the UN Convention on the Rights of Persons with Disabilities (UN CRPD) and the commitments arising from the conclusion of the UN CRPD. It is a formal confirmation by the EU of the UN CRPD recognising its legally binding status. The EESC calls for the EU to take the next and equally important steps of ratifying the Optional Protocol and of ensuring that existing and future secondary legislation respect the UN CRPD. The EESC believes that the UN CRPD sets a clear framework that allows persons with disabilities to contribute to the realisation of their potential if participation and involvement are guaranteed.

1.2 The EESC proposes linking the implementation of the EDS to that of the Europe 2020 Strategy. Member States should include specific targets for persons with disabilities in their National Reform Programmes to measure poverty, employment rates and education.

1.3 The EESC welcomes the European Commission's initiative for an antidiscrimination directive<sup>(1)</sup> based on Article 19 of the TFEU<sup>(2)</sup>. It calls on Member States and the

European Parliament, provided articles on the grant of disability are amended to comply with the UN CRPD, to adopt a strong and appropriate EU legislation that extends the protection of the rights of persons with disabilities beyond the field of employment.

1.4 The EESC stresses the added value of consulting and actively involving disabled people's organisations when developing and implementing legislation and policies pursuant to Article 4(3) of the UN CRPD and Article 11 of the Treaty on European Union (TEU). The social partners can also play an important role and should further integrate disability considerations in their negotiations. The EESC calls for the implementation of the Framework Agreement on Inclusive Labour Markets, concluded by the European Social Partners on 25 March 2010, and asks that Member States should adopt specific financial measures to promote collective bargaining on disability issues. It points out that employment policies for people with disabilities must focus on life streaming as a whole, and in particular on lifelong learning (LLL), recruitment, employment continuity and re-employment, maintaining a positive application of State Aid legislation. It also welcomes and encourages the joint actions of trade unions and associations, such as the ETUC/EDF joint conference.

1.5 The EESC believes that a barrier-free Europe must be achieved by adopting a European Accessibility Act, i.e. strong and appropriate binding legislation to ensure persons with disabilities of their rights to freedom of movement and access to goods, services and the built environment. Appropriate and effective enforcement and monitoring mechanisms should be identified both at European and national level.

<sup>(1)</sup> COM(2008) 426 final.

<sup>(2)</sup> TFEU: Treaty on the Functioning of the European Union. Article 19(1) 'Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'.

1.6 The mainstreaming of accessibility will contribute to the EU's competitiveness and economic recovery by creating new markets for assistive goods and services and new jobs. The EESC welcomes the EDS proposal to ensure full accessibility of public sector websites and websites providing basic services to the public by 2015.

1.7 The EESC believes that a European Mobility Card would be a concrete and effective tool to promote the freedom of movement for persons with disabilities by enabling them to access services in the EU. The implementation of the EDS should lead to the adoption of the European Mobility Card to be used in all Member States.

1.8 The EESC calls for human dignity and equality to be respected when designing EU policies. It calls for awareness to be fostered throughout society, including at the family level, regarding persons with disabilities, respect for the rights and dignity of persons with disabilities and to fight stereotypes about persons with disabilities in employment, education and other areas. The EESC believes in the added value of EU action to overcome disparities in situations faced by people with disabilities in the Member States, including encouraging all media bodies to promote awareness of the capabilities and contributions of persons with disabilities. The EESC recommends developing disability indicators to collect consistent data in all areas of a person's life and to monitor the number of citizens with disabilities with a view to achieving the Europe 2020 targets of reducing school drop-out rates, poverty and unemployment.

1.9 The EESC believes that a European Disability Committee is needed to provide structured governance for the EDS and a stronger and more efficient mechanism to coordinate and monitor the European and national implementation of the Convention, pursuant to Article 33(1) of the UN CRPD. The EESC will also constantly evaluate and assess the implementation.

1.10 The EESC denounces the negative impact of the financial crisis on the lives of people with disabilities and their ability to access their rights. It urges support for persons with disabilities in times of crisis and warns against any cuts in social expenditure due to austerity measures. The European Structural Funds and other financial tools should be used to this end and to fund the implementation of the EDS and the UN CRPD. Additional mechanisms are needed, e.g. in relation to the Structural Funds, such as the direct allocation of funding (ringfencing) to actions targeting persons with disabilities and other vulnerable groups. The future cohesion policy must comply with the UN CRPD. Article 16 of the current regulation must be effectively implemented.

1.11 The EESC affirms that everyone, including persons with psychosocial disabilities, persons in need of more intensive support, children and women with disabilities should fully

enjoy all human rights and fundamental freedoms on an equal basis with others. It recognises and promotes the right to live independently and urges the need to support the transition from institutional to community-based care.

1.12 The EESC recommends that the future Multiannual Financial Framework (MFF) 2014-2020 acknowledge the legal status of the EDS and the UN CRPD in the EU and allow funding for its mainstreaming and implementation. The MFF must serve the overarching aims of promoting the fundamental rights and inclusion of persons with disabilities and should invest in promoting anti-discrimination and accessibility.

## 2. Introduction

2.1 The communication, adopted by the European Commission in November 2010, represents a fundamental policy instrument for persons with disabilities. The European Disability Strategy (EDS) identifies eight main domains: accessibility, participation, equality, employment, education and training, social protection, health, and external action. For each area, key actions are planned for the 2010-2015 period, after which new initiatives will be worked out and the strategy revised. The EDS seeks to foster implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) and determine the mechanisms for implementing the UN CRPD in EU policy, including within the EU institutions. It also identifies the support needed for funding, research, awareness-raising, statistics and data collection. The communication is accompanied by two important documents: the list of concrete actions planned for 2010-2015<sup>(3)</sup>; and a working document<sup>(4)</sup> explaining the strategy in the light of the UN CRPD.

2.2 The EESC calls for the effective implementation of the UN CRPD through the revision and development of European legislation.

2.3 The EESC believes EU policies should reflect the paradigm shift introduced by the UN CRPD from a medical to a human rights perspective and commits itself to applying the social model approach to disability.

2.4 The EESC recommends embracing the UN CRPD statement that persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others<sup>(5)</sup>.

<sup>(3)</sup> SEC(2010) 1324 final.

<sup>(4)</sup> SEC(2010) 1323 final.

<sup>(5)</sup> Art. 1 CRPD: <http://www.un.org/disabilities/default.asp?id=261>.

2.5 The EESC firmly believes that every human being has a right to life and emphasises that persons with disabilities share this right on an equal basis with others.

2.6 The EESC denounces the difficult circumstances of persons with disabilities, who are subject to multiple forms of discrimination on the basis of gender, race, colour, ethnic or social origin, genetic features, languages, religion or belief, political or other opinion, membership of a national minority, property, birth, age, sexual orientation or any other status.

2.7 The EESC acknowledges that people with disabilities represent around 16 % of the EU population, i.e. 80 million people. They also constitute one-sixth of the EU working population and 75 % of them, who might need intensive support, do not have access to employment. 38 % of persons with disabilities aged 16-34 earn 36 % less than non-disabled persons <sup>(6)</sup>.

2.8 The EESC renews its commitment to promote the equality and inclusion of persons with disabilities as demonstrated in past opinions <sup>(7)</sup>, both in implementing the EDS, the UN CRPD and in EU external actions.

2.9 The EESC calls for effective measures to fight early school leaving, considering that persons with disabilities are twice less likely to reach tertiary education than others.

2.10 The EESC urges the revision of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation in order to comply with the UN CRPD. In fact, according to the UN CRPD, in the application and transposition of the directive denial of reasonable accommodation should be considered as a form of discrimination. The EESC calls on the Member States to implement the directive correctly and on the European Commission to adequately monitor its application.

2.11 The EESC supports the use of Structural Funds to achieve economic recovery and build social cohesion <sup>(8)</sup>. Future regulation should maintain non-discrimination and accessibility as horizontal principles and recognise the added value of the participation of organisations of persons with disabilities at each stage of the process (design, implementation, management, evaluation and monitoring). Non-discrimination and accessibility provisions must be strengthened as criteria in the regulation. Article 16 of the current regulation must be strengthened and its implementation and enforcement ensured by the European Commission and the Member States.

2.12 Appropriate financial assistance mechanisms must also be examined <sup>(9)</sup>, such as the direct allocation of funding

(ringfencing) to measures targeting people with disabilities <sup>(10)</sup> and other vulnerable groups in order to focus cohesion policy on relevant priorities <sup>(11)</sup>. The EESC has already recommended that funds target specific objectives related to social inclusion <sup>(12)</sup>. Moreover, in order to ensure the assistance required to implement the principles of the UN CRPD and the EDS, the social inclusion of persons with disabilities should be included, as a whole, as an expenditure category.

2.13 The EESC affirms that children with disabilities should fully enjoy all human rights and fundamental freedoms on an equal basis with others and recalls the Convention on the Rights of the Child and the obligations that flow from it.

2.14 The EESC urges a transition from institutional to community-based care in order to respect the rights of persons with disabilities to live independently. European funds should not be used to build nor renovate institutions, but instead to finance the transition process from institutional to community-based care, including converting institutions into community-based services. It stresses the need to promote adequate standards of living and active ageing.

### 3. Evaluation of the European Disability Strategy 2010 – 2020

3.1 The EESC considers that the EDS partially reflects the ambitions of the UN CRPD and believes that the EDS's areas for actions are relevant and should be reinforced in the light of the UN CRPD.

3.2 The EESC regrets that gender equality is not a cross-cutting issue in the EDS. It calls for the disaggregation of disability-related data by gender, and gender statistics to also include women with disabilities. The EESC recommends gender budgeting in the EU financial instruments relating to disability. Gender mainstreaming should be guaranteed when implementing the EDS.

3.3 The EESC welcomes the fact that the EDS addresses the lack of disability-related data and calls for indicators to be developed to measure the employment and poverty rates of persons with disabilities and their access to education.

3.4 While acknowledging the importance of prevention, as addressed in the EDS under the section on health, the EESC notes that the EDS would do better to focus on affirming the rights of persons with disabilities rather than on mixing them with prevention.

<sup>(6)</sup> <http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/themes>.

<sup>(7)</sup> OJ C 354, 28.12.2010, p. 8–15.

<sup>(8)</sup> OJ C 132, 3.5.2011, p. 8–14.

<sup>(9)</sup> Idem.

<sup>(10)</sup> COM(2010) 636 final.

<sup>(11)</sup> OJ C 234, 22.9.2005, p. 27–31; OJ C 162, 25.6.2008, p. 92–95; OJ C 354, 28.12.2010, p. 8–15; COM(2010) 636 final.

<sup>(12)</sup> OJ C 120, 16.5.2008, p. 73–81; § 4.5.2.

3.5 The EESC welcomes the EDS's strong commitment to accessibility and its positive impact on society (e.g. older people and persons with reduced mobility). Accessible businesses will attract more customers (15 % of consumers). New products generate new markets and are a source of sustainable economic growth<sup>(13)</sup>. The EESC recalls the EU Council Resolution 'accessibility represents no less than a cornerstone of an inclusive society based on non-discrimination'<sup>(14)</sup>.

3.6 The EESC promotes the use of Structural Funds to provide adequate financial support for the EDS. In particular, it suggests making a more effective use of the European Social Fund (ESF) to promote labour market integration and of the European Regional Development Fund (ERDF) to acquire a high level of accessibility in Europe.

3.7 The EESC believes that the EDS should further promote independent living for people with disabilities via community-based care and de-institutionalisation. European funds should be invested to promote community-based care and ensure such care is of proper standard.

3.8 The EESC points out<sup>(15)</sup> that active inclusion must be linked to the labour market and provide an adequate level of income and access to high-quality social services, reflected in improved living conditions also for those who are far from the labour market<sup>(15)</sup>.

3.9 The EESC believes that the EU, being the world's largest donor of external aid, should lead by example and promote disability mainstreaming in its cooperation work.

3.10 The EESC promotes an inclusive single market and calls for compulsory social considerations in public procurement especially in fostering accessibility, through the adoption of an ambitious and legally binding European Accessibility Act, and promoting employment, non-discrimination and quality of social services. It welcomes the European 473 standardisation mandate<sup>(16)</sup> and calls for mandatory accessibility standards to support legislation in public purchasing, following the example of the American accessibility legislation<sup>(17)</sup>. The EESC recognises the importance of dialogue between institutions, industry and civil society in defining such standards<sup>(18)</sup>.

<sup>(13)</sup> OJ C 354, 28.12.2010, p. 8–15.

<sup>(14)</sup> Council Resolution (2008/C 75/01).

<sup>(15)</sup> EUROFOUND.

<sup>(16)</sup> M/473 – Standardisation mandate to CEN, CENELEC and ETSI to include 'Design for All' in relevant standardisation initiatives.

<sup>(17)</sup> OJ C 354, 28.12.2010, p. 8–15. The Americans with Disabilities Act (ADA) is a legislative framework prohibiting discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities. The ADA also establishes requirements for telecommunications relay services.

<sup>(18)</sup> See the standards already being implemented under mandates 376 and 420 as well as the links:  
<http://cms.horus.be/files/99909/MediaArchive/M420%20Mandate%20Access%20Built%20Environment.pdf>.

However, due to its limited success in practice, a legally binding and more structured mechanism is needed in the future.

3.11 The EESC encourages the European Parliament, European Council, and Committee of Regions to be ambitious in protecting the rights of persons with disabilities and to ensure proper implementation of the UN CRPD in the European Union.

#### 4. Implementation and governance

4.1 The EESC calls for the structured governance of the EDS via a European Disability Committee, as a concrete way of strengthening the existing Disability High-level Group (HLG) and to act as a coordination mechanism to implement and monitor the Convention pursuant to Article 33(1) of the UN CRPD.

4.2 The EESC believes that national disability committees are needed to ensure coordination of the EDS and UN CRPD at national level. The national committee should ensure the involvement of organisations of persons with disabilities in the coordination process and liaise with the national focal points and related European players.

4.3 The EESC believes that the composition of the European Disability Committee should ensure the participation of the representatives of persons with disabilities and consultation with the EESC and other relevant stakeholders and organisations of persons with disabilities.

4.4 The EESC commits itself to take a leading role in the promotion of the UN CRPD as the first international human right treaty ratified by the EU. It promotes the internal implementation of the EDS and UN CRPD. It will also raise awareness by organising events such as a high level conference in cooperation with the other EU institutions and representative organisations of persons with disabilities.

4.5 The EESC calls for due regard to Articles 33(1) and 33(2) of the UN CRPD, which should be implemented without unnecessary delay and in cooperation with the representative organisations of persons with disabilities. The EESC stresses the importance of placing the focal point under the direct responsibility of the Commission's Secretary-General and of ensuring the full independence and pluralism of the monitoring mechanism.

4.6 The EESC recalls the obligation to involve persons with disabilities and their representative organisations in implementing and monitoring the UN CRPD, including the EDS, pursuant to Article 33(3) of the UN CRPD and Article 11 of the TEU.

4.7 The EESC considers it important to monitor the implementation of national actions under the EDS to be achieved by 2015 by ensuring that Member States submit progress reports. The European Commission should also report on achievements at the European level. The implementation of the EDS should be linked to that of the Europe 2020 Strategy. Member States should include specific targets for persons with disabilities in their National Reform Programmes to measure poverty, employment rates and education.

4.8 Future funding programmes of the European Commission replacing PROGRESS should support the participation of DPOs representing both cross-disability and specific impairments. This will facilitate implementing the UN CRPD.

4.9 The EESC calls upon relevant stakeholders, e.g. trade unions, employers, service providers, social economy players and DPOs, to actively engage in the application of the EDS, within the remit of their responsibilities and roles.

4.10 The EESC believes that social economy players have a key role to play in the improvement of the life situation and opportunities of disadvantaged people in accessing employment and goods and services.

4.11 The EESC invites trade unions and employers to include disability-specific clauses in collective bargaining to promote inclusive labour markets and the implementation of the EDS. Member States should adopt specific financial measures to support the negotiations.

4.12 The EESC believes that the EDS should promote cooperation between national organisations of persons with disabilities and national economic and social councils to further disseminate the EDS nationally.

4.13 The EESC calls for the needs of persons who require intensive support and persons with psychosocial disability to be mainstreamed across all areas of the EDS.

## **5. Revision of the European Disability Strategy in 2015 and the new framework after 2020**

5.1 The EESC advocates a careful review of the EDS and an ambitious list of actions after 2015 to fight discrimination and ensure equality in the EU.

5.2 The EESC advocates reviewing existing EU legislation and systematically including UN CRPD principles in new EU legislation and policies.

5.3 The EESC promotes a comprehensive review by 2013 of the EDS to ensure compliance with the UN CRPD provisions and to cover, *inter alia*, areas such as the right to life and recognition before the law.

5.4 The EESC considers the key objectives of the EDS to be equality in employment, education, freedom of movement and other relevant areas of life of persons with disabilities.

5.5 The EESC reiterates that it needs to be consulted before the submission of the EU's implementation report to the UN Committee on the Rights of Persons with Disabilities.

5.6 The EESC recalls the importance of consistent data for policy developments and for an adequate evaluation of the EDS and urges the development of disability-specific indicators at EU level.

### *First Proposals for new list of EDS actions after 2015*

5.7 The EESC intends to closely monitor the implementation of the European Accessibility Act in the Member States following the adoption of the European Commission's legislative proposal by the European Parliament and the Council as binding legislation. The EESC calls for a concrete plan to make all EU institutions (infrastructures, recruitment procedures, meetings, websites and information) accessible to people with disabilities.

5.8 The EESC stresses the importance of amending the disability-related articles of the European Commission proposal for an antidiscrimination directive in order to comply with the UN CRPD and calls on Member States to consistently adopt strong European legislation that extends the protection of the rights of persons with disabilities beyond the field of employment.

5.9 The EESC believes that the new list of post-2015 actions should include measures to address the specific situation of persons with psychosocial disabilities, women and girls, children and older people with disabilities as well as persons who require intensive support.

5.10 The EESC stresses the need to ensure that persons with disabilities can fully benefit from freedom of movement. The EESC advocates the adoption of a European Mobility Card based on the mutual recognition of disability-related benefit-in-kind across EU countries as a tool to enabling persons with disabilities to freely move in the EU on an equal basis with other EU citizens. Following the example of the Parking Card, the Mobility Card should also aim to secure access to various benefits offered by many public and private institutions e.g. access to public transport, to museums, etc. The EESC expects concrete proposals to remove the barriers to the portability of disability allowances and specific support services e.g. public assistance and assistive technology.

5.11 The EESC proposes the creation of an Observatory on Disability to analyse the situation of persons with disabilities in the EU, exchange good practices and support policy developments.

5.12 The EESC calls for a legally binding European quality framework for community-based services to be developed and implemented in the Member States.

5.13 The EESC urges that mainstream education should be inclusive. It suggests teaching sign language in primary schools, hiring teachers qualified to use Braille and other appropriate modes to support pupils with disabilities.

5.14 The EESC calls for the development of a common European disability assessment system based on a human rights approach <sup>(19)</sup>.

5.15 The EESC suggests promoting equal recognition before the law for persons with disabilities. The European Court of

Justice and national courts must be accessible and take all appropriate measures to fight discrimination.

5.16 The EESC recalls that the right to vote is an inalienable human right recognised by the UN CRPD for all people with disabilities. It reminds all institutions concerned that age and citizenship requirements alone can determine the person's eligibility to vote and to stand for election. The EESC firmly and unequivocally rejects the idea of restricting the right to vote or to stand in elections on the basis of a disability, whether by a court order or other means. The EESC calls on the EU institutions and the Member States to abolish discriminatory guardianship laws to enable all persons with disabilities to exercise their political rights on an equal basis with others. It notes that reasonable accommodation in respect of voting procedures, facilities and materials is indispensable to guaranteeing the right to participate in national and European Parliament elections.

5.17 The EESC calls for evidence of the effectiveness of existing policy instruments for the improvement of the situation of persons with disabilities. It suggests doing so by funding EU projects, studies and research.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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<sup>(19)</sup> A common assessment system of disability based on the rights enshrining in the CRPD through the revision of ICF (International Classification of Functioning, Disability and Health).

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes’**

COM(2011) 126 final — 2011/0059 (CNS)

**and the ‘Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships’**

COM(2011) 127 final — 2011/0060 (CNS)

(2011/C 376/16)

Rapporteur: **Mr PEZZINI**

On 26 April 2011 the Council decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes*

COM(2011) 126 final - 2011/0059 (CNS)

and the

*Proposal for a Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships*

COM(2011) 127 final – 2011/0060 (CNS).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 August 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September 2011), the European Economic and Social Committee adopted the following opinion by 156 votes to 3 with 6 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC shares the Commission's view that legal uncertainty and discrimination regarding the property rights of international couples must be eliminated. It also considers it appropriate to adopt a legislative package made up of two separate regulations for the property regimes of married and registered couples.

1.2 The EESC believes that any legislation in this area must be founded on legal certainty, predictability, easy and ready access to the courts, fair solutions, affordable costs and short timeframes, allowing exceptions only for reasons of public policy.

1.3 The EESC considers it vital for any proposed legislation to set out clear and transparent safeguards not only for rights concerning the property regimes of married and registered couples but also for the interests and rights of third parties. In this context, the applicable law and jurisdiction should be decided at the time when the union is contracted.

1.4 The EESC thinks that this could be an area in which it might be possible to adopt an optional European alternative, i.e.

the so-called ‘28th regime’, which would provide the same safeguards for international couples with regard to property regimes and property consequences.

1.4.1 This would also make it easier to use arbitration, by validating out-of-court settlements.

1.5 The EESC stresses the importance of ensuring the immediate enforceability of decisions, without triggering further procedures, even simplified procedures, in order to cut costs and delays for citizens and reduce red tape for judicial systems.

1.6 The EESC recommends introducing an information and training system for the relevant court officials, legal practitioners and the public by setting up an interactive portal in all official EU languages and a system for sharing professional expertise and practices.

1.7 The EESC calls for a European network of free national technical legal assistance points to be set up under the authority of the Agency for Fundamental Rights to ensure that all couples can make informed use of their rights.

1.8 The EESC stresses the importance of bringing the various proceedings relating to succession, divorce, legal separation and liquidation of the matrimonial property regime before the same court.

1.9 Finally, the EESC strongly recommends ensuring total consistency between legislation already in force and legislation currently being amended or prepared, in order to ensure a homogeneous, simplified framework for property regimes, which all EU citizens can access.

## 2. The current legal framework

2.1 The Committee believes that it is vitally important for citizens to be able to move freely between Member States so that they can live, found families and acquire property within the EU without hindrance or uncertainty.

2.2 The treaties and the Charter of Fundamental Rights of the European Union recognise the right to freedom of movement and residence, to access justice and respect for fundamental rights, namely the right to property, equality before the law, the principle of non-discrimination, the right to private and family life, the right to marry and to found a family, in accordance with national laws, and the right to a fair trial.

2.3 The increased mobility of citizens within the EU has resulted in more 'international' marriages and partnerships between nationals of different Member States or living in a Member State of which they are not nationals.

2.4 The EESC recognises the importance of being able to exercise these rights fully within an area without internal borders, in the case of married or registered couples made up of nationals of different Member States, who may also live in a Member State of which they are not nationals. This situation may often result in the ownership of movable and/or immovable property in more than one EU country.

2.5 At present, there are about 16 million international couples in Europe. In 2007, 13 % (310 000) of the 2.4 million new marriages had an international dimension to them. Similarly, 41 000 of 211 000 registered partnerships in the EU concerned international couples.

2.6 Same-sex marriages are admitted in five countries (the Netherlands since 2001, Belgium since 2003, Spain since 2005, Sweden since 2009 and Portugal since 2010), while 'registered partnership' is a more recent legal institution recognised in 14 Member States<sup>(1)</sup>. All 14 countries admit same-sex registered partnerships but only Belgium, France, Luxembourg and the Netherlands admit both same-sex and opposite-sex registered partnerships.

<sup>(1)</sup> Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Luxembourg, the Netherlands, Slovenia, Sweden and the United Kingdom.

2.7 When consulted by the Commission in 2006 on the Green Paper on the rules on the conflict of laws in matters concerning matrimonial property regimes, the EESC broadly supported<sup>(2)</sup> the amendments to Regulation (EC) No 2201/2003, which extended jurisdiction and the rules concerning applicable law in matrimonial matters, and suggested that the amendments should supplement, on these points, a regulation on the recognition of legal decisions on matrimonial matters and the custody of children. The EESC had already issued a very detailed opinion on jurisdiction in matrimonial matters, to which it refers the reader<sup>(3)</sup>, when the Green Paper on Divorce was published.

2.8 The Committee also wondered whether it was advisable to deal separately with the issue of distribution of jointly-held assets (buildings, furniture and other property rights), by widening the scope *rationae personae* of this distribution to unmarried couples (which could also have children in common).

2.9 It might have been more logical to deal, on the one hand, with all the consequences of the dissolution of a marriage and, on the other hand, with all the consequences of the separation of an unmarried couple living under a registered partnership arrangement in a single regulatory framework.

2.10 That would doubtless have improved clarity and understanding of applicable law and facilitated the recognition of legal decisions which often regulate all the conditions and consequences of a divorce in a single, final judgment.

2.11 In view of the distinctive characteristics of marriages, registered partnerships, and the different legal consequences which these two types of union might have, the EESC agrees that there is a need for two separate legal instruments, i.e. one on jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes, and another on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships.

2.12 The EESC thinks that there may be a case for adopting an optional European alternative (the '28th regime')<sup>(4)</sup>, in the form of an integrated, standard instrument which married or registered couples could, entirely without discrimination, freely opt for if they wished. The agreement between France and Germany to set up a joint matrimonial property regime could offer some guidance in this respect<sup>(5)</sup>.

<sup>(2)</sup> OJ C 325, 30.12.2006, p. 71.

<sup>(3)</sup> OJ C 24, 31.1.2006, p. 20.

<sup>(4)</sup> OJ C 21, 21.2.2011, p. 26

<sup>(5)</sup> See: <http://www.gouvernement.fr/gouvernement/conseil-des-ministres> du 23 mars 2011 (French cabinet meeting of 23 March 2011)

2.12.1 The property aspects of marriages and registered partnerships are often settled on a 'non-contentious basis'. In such cases, the EESC believes that the 28th regime should include clauses recognising the validity of arbitrated out-of-court settlements <sup>(6)</sup>, with significant advantages for EU citizens.

2.13 The EESC believes that both instruments should ensure:

- the predictability and legal certainty of applicable law through clear and uniform rules;
- consistency in judicial cooperation in civil matters, especially family law;
- the automatic recognition of decisions and enforcement through a simplified uniform procedure, ensuring the circulation of judgments without *exequatur* in relation to the recognition and enforcement of decisions;
- the harmonisation of rules on jurisdiction and applicable law through a single judicial authority for all aspects of a couple's situation, and a requirement for couples to make a choice;
- definition of a consistent, structured and readily accessible legal framework unifying and harmonising the terminology used for all themes and concepts and the requirements regarding similar rules for all topics (e.g. *lis pendens* [parallel proceedings], jurisdiction clause, etc.).

### 3. The Commission proposals

3.1 In its *EU Citizenship Report 2010 - Dismantling the obstacles to EU citizens' rights* <sup>(7)</sup>, the Commission identified uncertainty surrounding the property rights of international couples as one of the main obstacles faced by EU citizens in their daily lives when they tried to exercise their rights.

3.2 The Commission's proposals are based on Article 81(3) of the Treaty on the Functioning of the European Union.

3.3 The Commission has presented two initiatives to the Council regarding applicable law in relation to the property rights of international couples. The first concerns jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes and the second covers the same issues in relation to the property consequences of registered partnerships.

3.4 The Commission's proposals seek to bridge the differences between the various legal systems in the EU and make life easier for international couples without harmonising or changing Member States' substantive law on matrimonial matters or registered partnerships. They aim to:

- enable married international couples to choose the law to be applied to their joint property following the death of one of the spouses, or a divorce;
- increase legal certainty for registered partnerships with an international dimension by applying – as a general rule – the law of the State of registration to the property of registered couples;
- increase legal certainty for international couples (whether married or registered) by establishing a set of consistent rules to decide legal jurisdiction and applicable law on the basis of objective criteria listed in order of precedence;
- improve predictability for international couples by simplifying procedures for the recognition of decisions and instruments throughout the EU by enabling citizens to have various procedures handled by the same court.

3.5 The Commission also proposes that the website of the European Judicial Network in civil and commercial matters should include a page on existing registers concerning matrimonial property regimes and national rules.

3.6 The proposals have to be unanimously approved by the EU Council of Ministers after consulting the European Parliament.

### 4. General comments

4.1 The EESC believes that the law applicable to married couples should be determined when the marriage is contracted in order to avoid a choice of law that has no legal connection with the marriage. Where existing marriages are concerned, in the absence of a choice, a list of objective criteria could be drawn up to determine applicable law, in accordance with the system adopted in the recent Rome III Regulation <sup>(8)</sup>.

4.1.1 The EESC believes that the introduction of rules giving married couples a limited choice of applicable law would increase legal certainty while giving the interested parties some latitude in the choice of law applied to their property and, at the same time, protecting the interests of third parties.

4.1.2 In the case of registered partnerships, the applicable law is the law of the State of registration.

4.1.3 The EESC emphasises the need for a clear and appropriate system of information on the choice of law mentioned in Council Regulation No 1259/2010 and the proposal set out in COM(2011) 126 final, in order to enable couples to get a good understanding of divorce laws and of the rules governing property relationships.

<sup>(6)</sup> Proposal from the Italian ministry of justice, as well as the European Court of Justice in the *West Tankers* judgment, Case C-185/07, point 26, on the validity of the arbitration clause

<sup>(7)</sup> Adopted on 27 October 2010.

<sup>(8)</sup> See Council Regulation (EU) No 1259/2010 of 20 December 2010, OJ L 343/10, 29.12.2010.

4.1.4 The EESC considers legal certainty to be a priority. It therefore raises concerns as to whether it will in fact be possible to respect a couple's choice of law to be applied to their property if they choose the law of a country other than the one where their property is actually situated.

4.1.4.1 The EESC believes that in order to ensure both legal certainty and the couple's right to safeguard the value of their personal and real property, it would be advisable to have a fair valuation of the property when the marriage is contracted and at the time of the separation or divorce.

4.1.4.2 The EESC calls for all acts referring to matrimonial property to specify the regime that applies to the couple. This is particularly important if there are stocks and shares, life insurance policies, pension funds or similar assets.

4.1.5 The EESC wonders what the repercussions might be for third parties when the choice of law applicable to property regimes does not correspond to the actual location of the property, which could also be outside the EU.

4.2 The EESC considers it important to eliminate problems associated with the recognition of decisions and instruments by making progress on cutting the cost and time it takes for decisions to be recognised and preventing the possibility of applications to courts in different Member States.

4.3 The rules on jurisdiction with regard to the liquidation of property regimes would extend the jurisdiction of the court dealing with a divorce or succession to matters also relating to the liquidation of the property regime. This would offer people greater legal certainty, as the jurisdiction handling the divorce or succession would also deal with the liquidation of the property regime.

4.3.1 The EESC is concerned about the time it will take the Member States to adapt their domestic law, and the date that the regulations on property regimes enter into force.

4.4 The EESC considers it essential to guarantee the free movement of decisions and instruments through their automatic recognition throughout the EU and their enforcement through simplified uniform procedures, ensuring the consistency required in judicial cooperation in civil matters.

4.5 The EESC believes that the overarching objective should be to establish a consistent, structured and readily accessible legal framework. It considers that in order to achieve this, it is necessary to harmonise the terminology used for all themes and concepts and the requirements regarding similar rules for all topics (e.g. *lis pendens* [parallel proceedings], jurisdiction clause, habitual residence etc.).

4.6 The EESC also considers it important to allow the recognition, enforcement and circulation of decisions without *exequatur* in the internal market, in accordance with the proposed amendments<sup>(9)</sup> to the rules on civil and commercial matters set out in Council Regulation (EC) No 44/2001, allowing exceptions only for reasons of public policy and compliance with the Charter of Fundamental Rights.

4.7 The EESC agrees that the various proceedings, i.e. divorce proceedings, legal separation and the liquidation of a couple's property regime, should be handled by the same court. The courts with jurisdiction are the same as the ones identified in the 'Brussels IIa Regulation'.

4.7.1 The EESC stresses the importance of preventing parallel proceedings and the application of different substantive laws to the property of married or registered couples.

4.8 The EESC also stresses the importance of EU action to provide training for the courts with jurisdiction and legal practitioners who will have to apply the new regulatory framework for the property regimes of married and registered couples.

4.9 Married couples and registered partners must be given appropriate information on the consequences of their choice of law for their property in cases when it is transferred, especially if the law chosen is different from the law of the country where the property is located.

4.10 The Justice and Home Affairs Council meeting of 24 and 25 February 2011 recognised in its conclusions '*that respect for fundamental rights should also be taken into account when drafting legal acts which are not subject to a legislative procedure*'<sup>(10)</sup>. The EESC believes that the Agency for Fundamental Rights could and should play an active part in providing technical legal assistance to guarantee couples the full exercise of their rights.

## 5. Specific comments

### 5.1 Proposed rules on matrimonial property regimes

5.1.1 The EESC agrees that the notion of matrimonial property regime should embrace considerations of both the spouses' daily management of their property and the liquidation of the property regime and should not affect the nature of rights *in rem* relating to property, the classification of property and of rights, nor the determination of the prerogatives of the holders of such rights, allowing exceptions only for reasons of public policy as set out in the legislation of Member States.

<sup>(9)</sup> See COM(2010) 748 final  
<sup>(10)</sup> [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/119464.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/119464.pdf) See Council conclusions on the role of the Council of the European Union in ensuring the effective implementation of the Charter of Fundamental Rights of the European Union, 24 and 25 February 2011

5.1.2 The EESC is concerned about the need to ensure consistency with respect to jurisdiction between the applicable rules under Council Regulation (EU) 1259/2010 (divorce and legal separation) and Council Regulation (EC) 2201/2003 (matrimonial matters) and the rules set out in the proposal for a regulation on matrimonial property regimes (see Chapter II, Articles 4 and 5 and Chapter III, Articles 15-18).

5.1.2.1 The EESC believes that a difference in rules in various cases - left entirely to the discretion of the parties - could result in undue complexities and lead to conflicts of jurisdiction and their consequences, with significant increases in costs and delays. The EESC thinks that jurisdiction should be decided when the marriage is contracted.

5.1.3 The principle of mutual recognition with respect to the free movement of decisions, authentic instruments and court transcriptions concerning matrimonial property regimes should exclude the possibility of further proceedings, such as those proposed. *Exequatur* proceedings of any type (see the Brussels I and Brussels II regulations) would increase costs and time-frames.

5.1.4 The EESC believes that Article 4 of both regulations should exclude the possibility of requiring the parties' agreement in order to be able to extend the jurisdiction of the court handling the dissolution or annulment to the property consequences of these proceedings.

## 5.2 Proposed rules for the property regimes of registered partners

5.2.1 The EESC believes that it is vital to bear in mind the features that distinguish registered partnerships in order to determine the legal consequences for registered partners with specific regard to the property aspects for the partners and vis-à-vis third parties.

5.2.2 The EESC is concerned that the provisions set out in Chapter III of the regulation proposed in COM(2011) 127 final (registered partnerships) may be incompatible with the laws of the country where the property is actually situated.

5.2.3 Given the differences between systems within the countries that admit registered partnerships, with a view to enhancing the guarantees of the rights of people in registered partnerships and those for third parties, it would be appropriate to harmonise information systems, publicity procedures and the enforceability of rights relating to property owned by such couples, especially if it is located in countries that do not recognise this form of partnership.

## 5.3 Access to information on property regimes in Member States

5.3.1 The EESC emphasises the importance of ensuring adequate access to information, primarily for married and registered couples but also for courts with jurisdiction and legal practitioners, by providing practical guides in the EU languages and developing a website in all official EU languages.

5.3.2 The EESC considers it absolutely essential to develop a training programme for court officials and practitioners and users of the law, alongside experience-sharing initiatives to widen professional expertise and familiarity with the relevant national legal systems.

5.3.3 The EESC calls for the establishment of a European network of national technical legal assistance points, under the authority of the Agency for Fundamental Rights, in order to ensure that married and registered couples do not need to pay in order to be able to make informed use of their rights.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European eGovernment Action Plan 2011-2015 — Harnessing ICT to promote smart, sustainable & innovative Government’**

COM(2010) 743 final

**and 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’**

COM(2010) 744 final

(2011/C 376/17)

Rapporteur: **Mr HENCKS**

On 15 and 16 December 2010, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, 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 The European eGovernment Action Plan 2011-2015 (Harnessing ICT to promote smart, sustainable & innovative Government)*

COM(2010) 743 final, and 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*

COM(2010) 744 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 September 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 21 September), the European Economic and Social Committee adopted the following opinion by 161 votes to 1, with 8 abstentions.

## **1. Conclusions and recommendations**

1.1 The action plan under review was originally called for at the 2009 ministerial eGovernment conference in Malmö, at which EU ministers undertook to promote more accessible, interactive and customised online cross-border public services. Further commitments were made under the Digital Agenda and the Europe 2020 strategy.

1.2 As the Commission's remit in this area is limited to proposing conditions and actions conducive to the harmonious development of cross-border eGovernment transactions in Europe, the Committee would like to highlight the fact that it will ultimately be up to the Member States to ensure that the Malmö commitments are kept.

1.3 To avoid confusion with a different type of service, the Committee proposes that the term ‘European cross-border eGovernment public services’ be used rather than ‘European public services’.

1.4 The Committee endorses the action plan put forward by the Commission towards a sustainable and innovative form of

eGovernment, which paves the way to more customised and interactive public services and takes better account of the needs and expectations of users, who are now being asked to play a more active role in the design of online public services.

1.5 The promotion of eGovernment should be accompanied by a reform of government and its relations with users, inter alia by helping people trying to complete eGovernment procedures.

1.6 The EU and the Member States should take all necessary measures to ensure that all sections of the community, including the disadvantaged, are included in the digital society, in line with the Europe 2020 strategy and Article 9 of the Treaty on the Functioning of the European Union.

1.7 As regards interoperability, eSignatures and eIdentification, the obstacles here often result from the lack of a cross-border legal basis, differences in national legislation and solutions adopted by Member States that are mutually incompatible. The systems involved require good and effective multi-lateral governance that is human-based and properly resourced.

1.8 Within a European Interoperability Framework, the Committee supports the development of a vision for common interface standards and advocates a platform for exchanging information, experiences and codes based on software that is free and open to enable corrections and modifications, and especially open data formats for interoperability. The experience acquired by certain administrations (e.g. customs) should be utilised to make provision for the technical, semantic and organisational interoperability of the systems before they are interconnected, because this would guarantee the implementation of agreements and functional stability, via the establishment of common rules and solid legal bases.

1.9 Interoperability is now essential, but only for the services where it is useful. Achieving interoperability is a very complex matter and requires the integration of a range of actions and technical measures to guarantee secure transactions for the public. It is also an evolving concept.

1.10 Before proceeding with data exchange, Member State administrations should be encouraged to screen the information so that only the data relevant to the transaction in question are put online; ensuring compliance with existing rules would be a good starting point.

1.11 The personal data of individuals, companies and associations must be protected and their 'right to be forgotten' respected. Data security should be guaranteed at EU level, beginning at transaction design and including with regard to servers, software, storage, exchanges, etc. Any reuse of data by third parties should be subject to the same rules and requirements.

## 2. Promoting eGovernment

2.1 Since 1993, the EU has undertaken to coordinate Member States' actions aimed at facilitating digital convergence and to respond to the challenges associated with the information society (IDA, IDAI, IDAII, IDABC, ISA programmes)<sup>(1)</sup>, in order to create a Single European Information Space offering affordable and secure high-bandwidth communications and rich and diverse content, adapted to users' needs.

2.2 The EU has thus adopted the corresponding policy guidelines set out in a number of communications and action plans, some of which being aimed at accelerating eGovernment; these are based on five priorities:

- access for all;
- increased efficiency;
- high-impact eGovernment services;
- putting key enablers in place; and

- increased participation in democratic decision-making.

2.3 The new action plan is an integral part of the digital agenda. The EU and the Member States should take all necessary measures to ensure that all sections of the community, including the disadvantaged, are included in the digital society, in line with the Europe 2020 strategy and Article 9 of the Treaty on the Functioning of the European Union.

## 3. The Commission's new initiatives

3.1 At the fifth ministerial eGovernment conference in Malmö in 2009, EU ministers undertook to boost Europe's competitiveness by harnessing the time and cost savings that could be generated by more accessible, interactive and customised online public services.

3.2 The Commission is therefore proposing a new eGovernment action plan which aims to provide a tangible response to the call made at the Malmö Conference and contribute to two key goals of the digital agenda for Europe, i.e. that the Member States should have aligned their national interoperability frameworks to the applicable European frameworks by 2013, and that public administrations should promote eGovernment so that by 2015 50 % of the general public and 80 % of businesses are using eGovernment services.

3.3 The 40 measures of the action plan for 2011-2015 cover four areas:

### A. User empowerment:

- services designed around users' needs;
- collaborative production of services using Web 2.0-type technologies, for example;
- re-use of public sector information;
- increased transparency; and
- involvement of individuals and businesses in policy-making processes.

### B. Internal market:

- seamless services for businesses; and
- EU-wide implementation of cross-border services.

### C. Efficiency and effectiveness of public administrations:

- improving organisational processes (electronic public procurement, faster processing of requests, etc.);
- reduction of administrative burdens; and

<sup>(1)</sup> OJ C 249, 13.9.1993, p. 6; OJ C 214, 10.7.1998, p. 33; OJ C 80, 3.4.2002, p. 21; OJ C 80, 30.3.2004, p. 83; OJ C 218, 11.9.2009, p. 36.

- green government (electronic archiving, using videoconferences to limit travel, etc.).

#### D. Pre-conditions for developing eGovernment:

- open specifications and interoperability (implementation of the European Interoperability Framework);
- creating key enablers (revision of the eSignature Directive, proposal for a decision to ensure pan-EU mutual recognition of eIdentification and eAuthentication).

#### 3.4 The action plan includes the following specific measures:

- implementing once-only secure registration of data with government (to avoid having to give the same information again and again to different parts of government);
- developing the EU-wide use of electronic identity systems ('eID') to smooth cross-border procedures such as starting a company abroad, moving home or work abroad, arranging your pension online if you retire to another country, or registering at a foreign school or university;
- allowing citizens and business to see in real time the state of progress of their transactions with government thanks to more transparency and openness;
- customising services to respond better to users' real needs, such as ensuring the safe and fast digital delivery of documents and information; and
- making data available for re-use by third parties so that new public services and applications can be developed.

#### 4. General comments

The Committee agrees that it is vital to promote sustainable and innovative eGovernment and unhindered cross-border interoperability.

4.1 The Committee thus points out that the Commission's primary task here is to create conditions that are more conducive to the development of eGovernment transactions and, in particular, the relevant pre-conditions, such as interoperability, eSignatures and eIdentification, and to coordinate Member States' actions, on the understanding that the Member State governments, which made a political commitment through the Malmö Declaration, are to play a central role in implementing the adopted measures.

4.2 The Committee would firstly like to highlight the fact that the term 'European public services' that the Commission uses in its Communication on interoperability is inappropriate and misleading. 'In its opinion entitled Services of general economic interest: how should responsibilities be divided up between the EU and the Member States?' <sup>(2)</sup>, the Committee referred to public services which cannot be reduced to the national or local levels and which could be categorised as Community services of general interest. Although they have a certain European dimension, insofar as they cross borders, cross-border eGovernment services are, however, totally different in nature from the services that could be labelled European public services.

4.3 The Committee supports the new strategy, which involves changing tack from the somewhat 'one-size-fits-all' approach to a more customised approach, paving the way to more interactive public services that better match users' expectations and needs. This approach builds on a new generation of open, flexible and seamless eGovernment services at local, regional, national and European levels.

4.4 The Committee commends the Commission for paving the way for users (individuals, companies, NGOs and formal dialogue forums recognised by the Commission), in time, to play a more active role in the design of online public services that are suited to their needs.

4.5 The Committee thus supports the new action plan presented by the Commission, which should enable all stakeholders to benefit from faster and better quality public services, and help public administrations to review their approach to service delivery and their internal procedures, so as to better meet the new requirements of speed, availability and simplicity.

4.6 The Committee has the impression, however, that too often users are not really a central concern of government, but rather that eGovernment is designed around the internal structure of government itself rather than the people being governed. For users, this brings accessibility problems, a lack of visibility and no consistency in visual design.

4.7 The Committee regrets that the issue of data protection and screening is not addressed by the Commission. The relevant regulation of 2001 should be fully implemented, and there should be no exchange of people's private data without an absolute guarantee of confidentiality, of the 'right to be forgotten', and the imposition of requirements to ensure compliance. The Committee expresses its reservations regarding the reuse of such data by third parties.

<sup>(2)</sup> OJ C 128, 18.5.10, p. 65

4.8 The importance of technical, IT matters should not be downplayed, as they are key to the success of interoperability and data security, in terms of technical, semantic and organisational interoperability. Moving towards eGovernment should lead to a reorganisation of government and its relations with users; it will only produce satisfactory results for all concerned if it is designed as a means of effecting change, involving training, individual and collective support and communication, and not as an end in itself. It should not, therefore, be about replacing people with computers, but rather about freeing up people's time for more rewarding tasks, including helping people get to grips with eGovernment and make more use of it <sup>(3)</sup>, particularly in view of the Commission's observation that there is still little use made of cross-border eGovernment services and that even where eGovernment services are offered, the majority of Europeans are reluctant to use them.

4.9 Promoting the use of eGovernment is inextricably linked to the issues of connectivity, skills and e-inclusion <sup>(3)</sup>.

4.10 While a large range of eGovernment services are indeed already available, and their quality has been improving over the years, the Committee would have reservations about the eGovernment Benchmark Measurement report presented by the Commission, which is based on the assessment of an insufficient number of services and could not be representative. Thus, the 100 % availability rate attributed to Portugal as regards online services by no means reflects the real situation. It should, however, be noted that not all eGovernment services will require cross-border interoperability.

4.11 It is important nonetheless to ensure that the digital divide does not develop into an administrative divide. Clearly, one of the reasons for people's reluctance to use eGovernment is distrust as regards data security and protection. The Committee thus deems it vital to introduce proper democratic oversight of the use of data and the methods employed, and to involve the European Data Protection Supervisor (EDPS). Failing this, it would be opposed to the reuse of data by third parties, as advocated by the Commission with a view to the emergence of new eGovernment services. The Committee feels that it is now essential to set up a consultative committee on eGovernment bringing together representatives of the EU, national administrations, the social partners and users.

4.12 The Committee thus stresses the vital need for a 'code' of digital user rights (in the sense of a set of binding rules), which should be negotiated with civil society representatives.

4.13 As regards procurement (which accounts for some 18 % of EU GDP in terms of goods, services and public works and is one of the twelve cornerstones of the Single

Market Act), the use of eProcurement across the EU has reached about 60 %, still far from the goal set in the first i2010 action plan of 100 % by 2010.

4.14 In its opinion <sup>(4)</sup> on the Green Paper on expanding the use of e-Procurement in the EU, the Committee recommended that an implementation monitoring mechanism be introduced to review progress, barriers, corrective action etc. upon the introduction of e-procurement within Member States.

4.15 The Committee went on to say in that opinion that with regard to e-procurement implementation, the Member States should be encouraged to seek innovative solutions to overcome business procedure and language issues, while the Commission, in tandem with assuming a leadership role, should act as a 'champion' by adopting e-procurement across its institutions.

4.16 Interoperability, eSignatures and eIdentification are an effective way of promoting the development of cross-border eGovernment services. However, the lack of a cross-border, cross-sectoral legal basis often hinders interoperability, and further obstacles are posed by differences in national legislation and the mutually incompatible solutions adopted by Member States.

4.17 To counteract the fragmented infrastructure and architecture and lack of common guidelines, which could lead to a proliferation of non-interoperable solutions, a vision and common standards need to be developed.

4.18 The Committee supports the Commission's activities on interoperability in the areas of trusted information exchange, interoperability architecture and assessment of the ICT implications of new EU legislation, all as part of its European Interoperability Strategy (EIS).

4.19 The Committee also endorses the idea of the European Interoperability Framework (EIF) bringing together organisations that want to provide joint delivery of online public services, with a view to defining common elements such as vocabulary, concepts, principles, guidelines, standards, specifications and practices. At the same time, multilingualism should be promoted and these elements must be updated on a day-to-day basis.

4.20 Public administrations, when establishing cross-border eGovernment services, should base interoperability agreements on existing formalised specifications, or, if they do not exist, cooperate with communities working in the same areas. Public administrations should use a structured, transparent and objective approach to assessing and selecting formalised specifications.

<sup>(3)</sup> OJ C 318 of 29.10.2011, p. 9.

<sup>(4)</sup> OJ C 318 of 29.10.2011, p. 99.

4.21 The Committee welcomes the Commission's intention to shortly publish a communication providing guidance to public authorities on the link between ICT standardisation and public procurement, which seems a good way of widening access to public contracts and easing the administrative formalities involved.

Brussels, 21 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council and the Committee of the Regions: A resource-efficient Europe — Flagship initiative under the Europe 2020 Strategy'**

COM(2011) 21 final

(2011/C 376/18)

Rapporteur: **Mr RIBBE**

On 26 January 2011 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A resource-efficient Europe — Flagship initiative under the Europe 2020 Strategy*

COM(2011) 21 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2011.

At its 474th plenary session, held on 21 and 22 September 2011 (meeting of 22 September), the European Economic and Social Committee adopted the following opinion by 120 votes to 13 with 10 abstentions.

## 1. Summary

1.1 The EESC welcomes the flagship initiative entitled *A resource-efficient Europe*, but considers it to be too vague. Given the global dimension of key environmental issues, the Committee refers to its proposals for the UN Conference on sustainable development in 2012 and to its work on the Low Carbon Roadmap 2050 <sup>(1)</sup>.

1.2 It expects the Commission to describe in precise detail within the 20 individual initiatives:

- what exactly is meant by 'resource efficiency';
- what can already be achieved simply through technical optimisation; and/or
- which sectors require the 'significant transition' it refers to, what this should look like in each case and what instruments are to be used to achieve this; and
- what specific behavioural changes on the part of producers and consumers are considered necessary and how these can be speeded up.

1.3 There is no doubt at all that the EU 2020 Strategy must pave the way for a sustainable - and thus also resource-efficient - economy. It would nonetheless be sensible to maintain a separation of tasks between the sustainability strategy and the EU 2020 Strategy.

1.4 The EESC does not understand why the resource efficiency strategy has been included in the EU 2020 Strategy. It considers the former to be a concrete expression of the sustainability strategy adopted in 2001 and revised in 2006, if nothing else because the timescale extends well beyond the year 2020. The EESC calls for the sustainability strategy, which it considers the Commission to have neglected, to be revived.

## 2. Preliminary remarks

2.1 Shortly before the Commission requested the EESC to draw up this opinion on the Flagship Initiative entitled *A resource-efficient Europe*, the Committee Bureau had decided to draw up an own-initiative opinion on the situation and current state of play of the EU's sustainability strategy.

2.2 The EESC's bodies decided to bring both topics together into this opinion.

## 3. A resource-efficient Europe – Flagship initiative under the Europe 2020 Strategy

3.1 The flagship initiative entitled *A resource-efficient Europe*, published by the Commission and commented on in this opinion, is one of seven new flagship initiatives that the Commission is including in the EU 2020 Strategy.

3.2 In its Communication, the Commission states – not for the first time – that the current intensive pace of resource use not only is putting excessive pressure on the planet's environment, but also constitutes a threat to security of supply, all the more so as emerging and developing countries aspire to a similar level of prosperity, one which is based on unsustainable patterns of production and consumption.

<sup>(1)</sup> EESC Opinion on 'Rio+20: towards the green economy and better governance - The contribution of European organised civil society' and EESC Opinion on 'A Roadmap for moving to a competitive low carbon economy in 2050' (see page 110 of this Official Journal).

3.3 Under this flagship initiative, a total of 20 individual initiatives aimed at building a resource-efficient Europe are to be published in the course of 2011. According to the Commission, this can be achieved only through 'technological improvements, **a significant transition in energy, industrial, agricultural and transport systems**, and changes in behaviour as producers and consumers'.

3.4 The Commission states that 'new products and services and ... new ways to reduce inputs' are needed and that, to this end, coordinated action must be taken and must have political support.

3.5 First, however, there must be 'a coherent analysis of the reasons why some resources are not used efficiently' in order to achieve a 'complex and interlocking approach that optimises synergies and addresses trade-offs between different areas and policies'.

3.6 The overarching aim of this flagship initiative is to forge 'an agreement on the long-term vision' that lasts until 2050 and sets out what a low-emission economy looks like, how energy and transport systems can be modernised and how 'economic growth can be decoupled from resource use'.

#### 4. General comments on the flagship initiative entitled *A resource-efficient Europe and on its relationship to the Sustainable Development Strategy*

4.1 The EESC welcomes the Commission's initiative, which it considers to be an important, indeed central **part of the sustainable development strategy** – but not a substitute for it.

4.2 It agrees with the Commission that the EU 2020 Strategy must pave the way for longer-term goals from now until 2050 and beyond. It wonders, however, why the Commission is coupling this flagship initiative with the EU 2020 Strategy, rather than putting it forward as a concrete expression of the sustainable development strategy, which would make much more sense. The mere fact that the Commission communication makes more references to the 2050 timeline than to the year 2020 demonstrates that this is a long-term issue.

4.3 The Commission's statement that technological improvements, a significant transition in energy, industrial, agricultural and transport systems, and changes in behaviour on the part of producers and consumers are all needed, is in keeping with the EESC's stance as set out in its exploratory opinion dated 28 April 2004 on *Assessing the EU sustainable development strategy*. However, even back then the EESC pointed out that, for a sustainability policy to succeed, it is essential to set out in the most concrete terms possible what changes are needed and how these are to be implemented.

4.4 This is precisely what is missing from the communication. It does make good reading but is too vague. The EESC therefore considers it vital that the forthcoming 20 individual initiatives describe very precisely what must change and

how; where exactly resistance to change is to be expected; and how, i.e. with what specific measures, such resistance is to be overcome.

4.5 That said, the EESC considers the structure adopted by the Commission, made up of

- technological improvements,
- significant transition, and
- changes in behaviour as producers and consumers

to be very useful. Accordingly, the Commission should make clear what can be achieved through technological improvements, where these reach their limits, and what makes significant transition necessary in certain areas of life and business.

4.6 First, however, the 'coherent analysis' referred to in the communication is needed to look at why some resources are still being used so inefficiently. It is precisely the lack of such an analysis which we consider to be a shortcoming of the communication.

4.7 The EESC agrees only to a very limited extent with Commission's theory that resource inefficiency is the result of no information being available as to its true cost to society. After all, for example, the costs of looming climate change and of biodiversity loss are described in impressive terms in the Stern Report and the TEEB Report respectively. Yet nothing has fundamentally changed.

4.8 The reasons for the current inefficiency are more likely to be:

- a) there is as yet no real consensus in society about the assessment of the current situation ('What is efficient/not efficient? How sustainable/unsustainable are we/certain sectors of the economy really at the moment?');
- b) there is a considerable lack of clarity as to what sustainable development, a 'green economy' or a 'resource-efficient economy' therefore means in practice. There is no clear, universally valid statement or definition of what this means for each individual policy area;
- c) there are – depending on one's interest-based standpoint – utterly divergent views as to what needs to change, both in quantitative and in qualitative terms, how things need to be done differently in the future compared to how they are done now, and how these changes will affect daily life and business.

4.9 The Commission is right to state in the communication that unsustainable economics at present leads to the prosperity that many people enjoy (and which is denied to others). The negative consequences of unsustainable economics will impact fully on future generations and have to be borne by them.

4.10 Recognising this and drawing the necessary consequences from it is something that politicians and business, as well as civil society, find difficult. The fact that few people can imagine how a 'new kind of prosperity' could be ensured whilst, for example, using only a tenth of the energy input, does not make it any easier. These uncertainties generate fears and unease that must be handled with great sensitivity (?).

*Technical optimisation, significant transition and changes in behaviour*

4.11 Compared to the new aims set out in the flagship initiative (80-95 % reduction in CO<sub>2</sub>), the quantitative targets so far set in the EU, e.g. reducing CO<sub>2</sub> emissions by 20 % by 2020, look pretty harmless. After all, a 20 % reduction in greenhouse gas emissions can be achieved relatively easily, given the technical inefficiency remaining in the current system and technical improvements brought in with new technologies. However, implementation of even the current, manifestly still inadequate target has met – and continues to meet – with many voices 'warning' that 'economic competitiveness' could be jeopardised even with the heralded technical measures and optimisation. The result: not even that which is to a great extent feasible through technical optimisation without cutting back on consumption is being implemented consistently. It is clear that the resistance to more far-reaching measures ('significant transition') will be even greater.

4.12 The EESC considers that it is worth pointing out very clearly that technical efficiency optimisations certainly have a very significant role to play in reaching targets. However, even the most resource-efficient technologies must not automatically be equated with 'sustainability'. Just one example: The German car industry, which succeeded in blocking the strict emission ceilings proposed by the Commission (120 g CO<sub>2</sub>/km), is proud of its new technical developments. Audi, for example, is trumpeting the fact that the new A7 (with a 2.7 litre engine and 180 PS output) consumes 'only' around 6.8 litres of diesel per 100 km (34.5 mpg) – and thus emits 180 g CO<sub>2</sub>/km. If one compares this with the values that were emitted in the past in the equivalent vehicle class, this certainly represents significant technical progress, but this has nothing to do with sustainability. An Audi A7 is neither sustainable nor resource-efficient! It is not an expression of a new 'green economy', but rather clear evidence that scarce raw materials can also be consumed by purportedly efficient technologies, and that an entirely new mobility policy for people and goods is needed.

4.13 The EESC regrets that, in the flagship initiative, the Commission makes only a brief, passing reference to the absolutely pivotal issue, namely that the current social prosperity model of the western world is too heavily based on the use of cheap energy and on a rising, often inefficient, input and turnover of materials.

4.14 The flagship initiative or, better still, a revitalised sustainable development strategy does need to address this

very issue much more forcefully. The Commission communication refers in some places to 'trade-offs' that hinder a resource-efficient approach, but these are neither clearly described nor is there any indication of what the policy proposes to do about them.

4.15 The difficulty of dealing with such trade-offs is nowadays clearly apparent in Germany, where it has been decided to undertake a fundamental overhaul of the energy sector without jeopardising the aim of CO<sub>2</sub> reduction.

*Significant transition*

4.16 The major task we now face is to describe, develop and implement the 'significant transition', this 'new' economy and consequently a new kind of economic competitiveness (even by global standards). The days of cheap energy and raw materials are, thanks to their overuse, drawing to an end. We have a duty to future generations to learn to share these now scarce environmental goods. Politicians therefore need to state much more clearly that, in reality, the competitiveness of an economy that is based on cheap energy and the over-exploitation of natural resources and, furthermore, can externalise environmental costs, is simply not viable in the long term. In socio-political terms, our aim cannot and must not be to maintain such an economy, but to transform it.

4.17 The flagship initiative on *A resource-efficient Europe* can make a significant contribution to this aim, but cannot achieve it on its own because the question of resource efficiency does not address other aspects of sustainability. That is why the sustainable development strategy was developed. This must describe and bring about Europe's gradual social and economic transition, linking it to issues of intergenerational justice and fairer distribution.

4.18 The flagship initiative does not even manage to define the concept of 'resource efficiency'. This is a further shortcoming that the EESC would like to point out. It would be welcome if the latest technologies deemed to be resource-efficient were described for each product, procedure and sector, in keeping with the top runner principle. Indeed, the Commission has already taken some initial steps in this direction, for example with the energy labelling of refrigerators.

4.19 There is no doubt that a variety of instruments are needed in order to bring about a transition to resource-efficient structures. One of these is product pricing, which, according to the Commission, will play an important role. Its statement that we 'must place greater emphasis on "getting prices right" and making them transparent to consumers ... so that prices reflect the full costs of resource use to society' is thus correct. However, this really is not a new discovery in the year 2011. Nor is it new that the EESC has repeatedly called for a corresponding 'internalisation of external costs'. The trouble is, far too little is happening. This is not solely the fault of the Commission and the Member States, but is also due to resistance from sectors of the economy that do not

(2) The EESC referred specifically to this in its Exploratory Opinion on 'Assessing the EU sustainable development strategy' (see OJ. C 117, 30.4.2004 pages 22-37 of this OJ), where it unsuccessfully asked the Commission to pay particular attention to this state of affairs.

see the benefit of it, but will, on the contrary, be 'negatively' affected by the necessary significant transition. Political leaders must overcome such resistance step by step.

4.20 In order to achieve this, it is indispensable to set out how it is proposed to 'get prices right' and 'make them more transparent'. However, there are no such indications in the strategy.

## **5. Interaction between politics and civil society, resource efficiency, Europe 2020 and sustainability. Or: good governance is required.**

5.1 If only slow progress is being made towards sustainable development, the establishment of a green economy and the transition to a resource-efficient economy, politicians would be well advised to think carefully about why this is. The EESC has already mentioned a few answers above.

5.2 Slowly, very slowly, the realisation is dawning that the changes to today's economic system really do need to be 'significant' if we are to be truly able to talk about sustainable development. The EESC welcomes the fact that the Commission communication mentions some specific figures in this connection: for example, that CO<sub>2</sub> emissions in the EU will need to be reduced by 80 % to 95 % by 2050. EU Commission President Barroso, when these targets were mentioned for the first time, spoke of a 'new industrial revolution' that stands before us or that we must bring about.

5.3 In the context of this debate, the EESC would point out once again that it considers a fundamental debate on the concept of growth to be overdue. The Commission and the Council will be aware of the relevant Committee opinions on *Beyond GDP*. These make clear that the old economic mantra 'growth is prosperity' no longer works.

5.4 Sadly, not enough is said about this either in the flagship initiative or in the EU 2020 Strategy. On the contrary: one could infer from their content that 'growth' in itself is a virtue.

5.5 The EU 2020 Strategy says that three priorities should be at 'the heart of Europe 2020':

- *Smart growth – developing an economy based on knowledge and innovation;*
- *Sustainable growth – promoting a more resource efficient, greener and more competitive economy;*
- *Inclusive growth – fostering a high-employment economy delivering economic, social and territorial cohesion.*

These three priorities are mutually reinforcing; they offer a vision of Europe's social market economy for the 21st century.

5.6 The EESC wonders what sort of signal the Commission and the Council want to send out with such statements. Is society to infer that there used to be growth that was not based on knowledge and innovation? Have not high employment and social and territorial cohesion always been

policy aims? And do these various 'growth philosophies' automatically lead to sustainable development? If so, why do the Commission and the Council no longer use the term 'sustainability'? Why is it that a vision of 'Europe's social market economy for the 21st century' is being set out, and not, for instance, one of a 'green social market economy'?

5.7 For example, the Commission knows perfectly well that coherent resource conservation can cause gross domestic product to fall, not rise. If all conventional incandescent light bulbs are, as a result of the ban on their sale, replaced with energy-saving bulbs, and if buildings are properly insulated and all energy saving measures implemented, then energy consumption, for example, will fall dramatically, and with it GDP. The EESC would therefore point out once again that:

- 'growth' needs to be redefined, and
- GDP is not a measure that provides information about happiness, prosperity, the state of the environment, health or social justice.

### *The new industrial 'revolution' - a revolution in responsibility*

5.8 When Commission President Barroso talks about a 'new industrial revolution', he is right only as regards the radical nature of possible changes. The future demands a new model of production and consumption. Barroso of course knows perfectly well that the concept of 'revolution' is, from a socio-political perspective, totally out of place and can kindle a great deal of fear. Revolutions are started by oppressed majorities who want to change an unacceptable situation quickly and permanently and so rise up against their 'rulers'.

5.9 However, no such situation arises in the debate about sustainable development or resource efficiency. Far from there being an oppressed majority that would rebel against despotic structures, the public mood tends more towards the idea that people live well in a society that, each year, consumes as much oil as was produced in around five million years and drives 10 000 times as many species to extinction as would disappear in the process of evolution.

5.10 The challenge and the question, then, is how to develop a collective sense of responsibility towards future generations amongst those alive today; in other words, how to build up pressure for real change that may involve sacrifices.

5.11 It is absolutely crucial that civil society and business are properly included in this process from the outset. Precisely this was and is the job of the EU sustainability strategy which was adopted in Gothenburg in 2001.

### *The EU Sustainable Development Strategy: where are we now?*

5.12 The EESC has for many years been attentively and actively following the EU sustainable development strategy adopted by the European Council in 2001. From the outset, the EESC has called for precisely this long-term strategy to be given the greatest possible attention.

5.13 The EESC has consistently (and frequently) called for the sustainable development strategy to provide the public, business and associations, but also politicians, with **clear guidelines** and thus **qualitative and quantitative targets**. These should form the basis for decisions to be taken in the short to medium term, and the target visions of the sustainable development strategy should guide all EU policy areas.

5.14 Equally often, however, the EESC has had to lament the fact that, in its view, the sustainable development strategy is not only far too vaguely worded, but also neglected at the political level.

5.15 The Committee also welcomed the fact that the European Council gave it a special role in the revised sustainable development strategy of 2006, namely asking it to prepare contributions specifically for the progress reports to be drafted every two years by the European Commission. Although such progress reports were published by the Commission in 2007 and 2009, and the Committee evaluated and commented on these **after the event**, the contributions the EESC was supposed to make were **not** requested by the Commission before these reports were drafted.

5.16 If the two-year cycle laid down by the European Council is to be maintained, the next progress report ought really to be published this year. However, everything indicates that this will not happen. No contributions from the EESC have yet been requested by the Commission.

5.17 In the Commission Work Programme 2011 <sup>(3)</sup> there is no indication that the Commission will produce such an interim report, nor indeed is the sustainable development strategy mentioned anywhere at all in the 51-page document. Reference is made to an incredible multitude of the most diverse EU strategies, but not to the Sustainable Development Strategy. The EESC finds this profoundly regrettable.

5.18 It has, then, all gone remarkably quiet on the sustainable development strategy front – too quiet, the EESC would say. Many of the political promises that were made as part of the sustainable development strategy, such as producing a list of environmentally-damaging subsidies, have not been kept. The day-to-day political agenda is concerned only with the EU 2020 Strategy, which for its part does not really refer to the sustainable development strategy.

5.19 The fact that there is now almost no political debate or communication on the sustainable development strategy sends a very bad signal to civil society. The EESC wonders why this is the case and what society should make of it. The Commission needs to realise that people are starting to get the impression

that the numerous crises <sup>(4)</sup> of recent months and years have demanded so much (undivided) attention from politicians that long-term policies have been put on the back burner as a consequence.

5.20 At the same time, more and more people are wondering – quite rightly, in the EESC's view – whether these crises that are accumulating across a range of very different policy areas a) are not interlinked or b) are a symptom and/or consequence of unsustainable economics.

5.21 Certainly, the Council presidency report entitled *Review of the EU Sustainable Development Strategy (2009)* <sup>(5)</sup> does suggest that at least the Council understands that this is indeed the case. The first sentence reads 'Current developments are in many respects not sustainable; limits on the carrying capacity of the earth are being exceeded and social and economic capital is under pressure. Although it has been stated repeatedly that change is necessary, results are limited.' At its heart, the report is a plea on behalf of the sustainable development strategy, which 'constitutes a long-term vision and an overarching policy framework providing guidance for all EU policies and strategies ... The challenge lies in ensuring that the SDS has a real influence on EU policies ... to ensure coherence between short and long-term objectives and between different sectors'.

5.22 However, the overarching policy framework which the EU sustainable development strategy is supposed to constitute, as called for by the EESC and also considered necessary by the Council, therefore now still exists – at best – only as a demand in old documents and a few speeches, but no longer in political reality. Neither the flagship initiative nor the EU 2020 Strategy can fill this gap.

5.23 The EESC sees that there is a serious risk that the public will be unable to keep up. Not only because in the meantime it has become utterly unclear which strategy is now in place and is binding, but also because the terms themselves are confusing. The EU 2020 Strategy goes on about many different kinds of growth, but the concepts 'sustainability' and 'sustainable development' are no longer anywhere to be seen.

5.24 The EESC therefore thinks that it is high time for the Commission to state very clearly how the Europe 2020 Strategy and the sustainability strategy tie in with each other. It once again calls for the sustainability strategy to be revived and for the EU 2020 Strategy to be considered as an extremely important building block in paving the way for transition in key sectors of the economy.

Brussels, 22 September 2011.

*The President  
of the European Economic and Social Committee*  
Staffan NILSSON

<sup>(3)</sup> COM(2010) 623, 27.10.2010.

<sup>(4)</sup> To name but a few: the financial/euro, energy, climate, biodiversity and hunger crises.

<sup>(5)</sup> Council document 16818/09, 1.12.2009.

**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: Rio+20: towards the green economy and better governance'**

COM(2011) 363 final

**The contribution of European organised civil society**

(2011/C 376/19)

Rapporteur: **Mr WILMS**

On 20 June 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Rio+20: towards the green economy and better governance*

COM(2011) 363 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2011.

At its 474<sup>th</sup> plenary session, held on 21 and 22 September 2011 (meeting of 22 September), the European Economic and Social Committee adopted the following opinion by 141 votes to 2 with 11 abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee believes that the Rio 2012 United Nations Conference on Sustainable Development must send out a clear signal to the world community, with specific proposals for the transition to an economic order based on qualitative economic growth that helps to eliminate poverty and social injustice whilst preserving natural resources for future generations.

1.2 The Committee welcomes the Commission Communication<sup>(1)</sup> as an important starting point for a shared analysis and positioning of the EU institutions in preparation for the Rio+20 conference. In this context the Committee refers to its work on the Resource efficiency flagship initiative and to the Low Carbon Roadmap 2050<sup>(2)</sup>. Against this background, the Committee would like to set the following priorities.

1.3 The EESC is convinced that the transition to a sustainable economy must be integrated into an overarching sustainable development strategy and handled fairly. The Committee welcomes the fact that the Commission, too, is now addressing the social dimension of sustainable development. The Committee would like to see more emphasis on this aspect. The fundamental preconditions for this are: social cohesion, equity, including intergenerational equity, fair redistribution and solutions to social problems such as growing inequality, lack of access to a whole range of resources, poverty and unemployment.

1.4 The Committee supports the policy recommendations of the ILO on Green Jobs and stresses the need for the social partners to be actively involved in greening the work environment. It also wholeheartedly endorses the Social

Protection Floor Initiative, which aims at providing for a basic set of social rights and transfers, as well as the supply of an essential level of goods and social services accessible to all.

1.5 The Committee welcomes the fact that the Commission communication has been published jointly by the Commissioners for the environment and for development. This clearly emphasises the connection between the environment, sustainable development and development aid. The Committee calls for the reappraisal of EU development aid policy to be driven by the concept of sustainable development and for this to be reflected in the structure of aid payments right down to the design of local development aid projects.

1.6 The EESC condemns in the strongest possible terms the fact that a billion human beings suffer from hunger in various parts of the world and particularly in developing countries – a situation wholly at odds with the aim of achieving the first of the Millennium Development Goals. The Committee is convinced that ensuring access to resources, food and energy should be amongst the priorities of the global sustainability agenda. For these goals to be achieved, the active participation of civil society in policymaking at local and national level is essential. The role of women in developing countries deserves particular emphasis.

1.7 The Committee is convinced that policy measures are needed at international, national, regional and local level using a broad spectrum of policy instruments to bring about a transition to a 'green economy'. These include measures to ensure that market prices adequately reflect environmental costs, together with a greening of fiscal policy that shifts taxation from work to resource consumption. Public spending programmes should be geared to encouraging investment in

<sup>(1)</sup> COM(2011) 363 final.

<sup>(2)</sup> See pp. 110 in this Official Journal.

sustainable technologies and projects. Environmentally damaging subsidies should be phased out, whilst taking due account of the social impact of doing this. Public procurement must be used to support environment-friendly products and services. Measures should be taken to improve complementarity between worldwide trade and sustainable development.

1.8 Clear indicators must be established to measure progress on the road to greater sustainability. Methods should be developed for measuring economic progress in terms not just of GDP, but also of improvements in human welfare and quality of life, with reference to the fight against poverty, the creation of decent working conditions and preservation of the natural environment. Keeping in mind its opinion *Beyond GDP - measurements for sustainable development*<sup>(3)</sup>, the EESC intends, even before the Rio+20 conference, to set out its position on how civil society should be involved in developing these indicators.

1.9 In this context, the Rio+20 conference should adopt a mandate for a 'green economy' that should be actively pursued by the United Nations. This mandate should encompass six main points:

- measuring progress towards a green economy;
- regulatory measures to encourage the transition to a green economy;
- education about sustainability to promote a green economy;
- fiscal policy instruments to promote a green economy;
- public spending and investment in a green economy;
- setting targets for a green economy.

1.10 The achievements of efforts under the above-mentioned mandate should be used to draw up action plans and strategies at national level for a transition to a green economy, taking account of the national circumstances of each country.

1.11 Governance at international and UN level in the field of sustainable development and the environment urgently needs to be strengthened and better integrated if the necessary steps by the world community to achieve sustainable development are to be taken. The Rio+20 conference must be used to create a solid institutional framework at UN level. UNEP should be beefed up

and further developed as an institution. The Committee also thinks that a Council for Sustainable Development made up of political leaders from UN member states and reporting directly to the General Assembly would help in meeting the challenges of the steps needed to ensure sustainable development and usher in a green economy.

1.12 A successful transition to a sustainable economy depends on it being accepted and supported by civil society. The Committee therefore explicitly calls for civil society representatives to be actively involved in the preparations for and follow-up to the Rio+20 conference and for them to be effectively heard during the negotiations at the conference and implementation of the results. Current forms of participation should be examined to see whether they do this job efficiently. The Committee is already actively supporting this process ahead of the Rio+20 conference by holding conferences with civil society and through consultations with representatives of European civil society and other regions of the world.

1.13 Governance for sustainable development should be strengthened at national, regional and local levels, and in the management of businesses. A precondition for this is effective, formal participation by civil society, through democratic processes and systems of dialogue, in issues and projects that are significant to the greening of the economy and to sustainable development. Europe should bring its positive experience with public participation in decision-making processes, access to environmental information and access to justice on the basis of the Aarhus Convention into the discussion at the Rio+20 summit and push for the establishment of similar structures at global level.

1.14 In order to ensure that the call for long-term sustainability is heeded more effectively and on a judicial basis, the Committee supports the initiative of the World Future Council to introduce ombudsmen for future generations at UN and national level.

1.15 The EU and its Member States should put their own house in order on all the challenges of sustainable development and moving to a green economy. The EESC is convinced that the EU's negotiating position at Rio+20 will be strengthened if it is true to its historical responsibility and sets itself ambitious targets for sustainable development. It has already done this in some areas, but in others much more needs to be done, and in some cases a start still has to be made. The Committee urges the Council, the Commission and the European Parliament to fully implement all existing emission reduction targets by 2020 and to consider whether the emissions reduction target set for 2020 should not be increased to 25 % so that future targets can be met cost-effectively and the way can be paved for further global agreements. In addition, all necessary measures to reach the objective of increasing energy efficiency by 20 % by 2020 should urgently be implemented by the Member States. In general, the EU should ensure that the policy implications of shifting towards a greener economy for more sustainable development are reflected in the definition of the new multiannual financial framework and the design of its major policies such

<sup>(3)</sup> OJ C 100, 30.4.2009, p. 53.

as agricultural cohesion, trade and development policies and further implementation of the Europe 2020 strategy. The EU should review its sustainability strategy after the Rio+20 conference.

## 2. Background

2.1 On 24 December 2009, the UN General Assembly adopted a resolution to hold a new UN Conference on Sustainable Development (UNCSD) in Rio in 2012.

2.2 In 2010, the EESC discussed the EU's approach to this important event, and it issued its first opinion on the subject in September 2010 <sup>(4)</sup>. Since then, preparatory meetings have been held in New York and elsewhere, and the European Commission has published a communication (COM(2011) 363 final) on possible EU guidelines for the negotiations at the Rio+20 summit. In this opinion, building on a wide-ranging discussion with representatives of civil society organisations, the EESC further develops its positions and pushes for a number of points to be taken up as cornerstones in an EU negotiation strategy for the Rio+20 summit.

2.3 The General Assembly resolution determined that the Conference should have three objectives:

- securing renewed political commitment for sustainable development;
- assessing progress to date and remaining gaps in implementation of the outcomes of the major summits on sustainable development;
- addressing new and emerging challenges.

2.4 **Current state of play:** Although there has been progress on some aspects of sustainable development over the past 20 years, the situation is deteriorating in many areas:

- poverty has increased in absolute terms, with 2.6 billion people living on less than 2 Euro a day;
- 1.5 billion workers, half the global total, work under insecure conditions. In 2010 the highest level of unemployment since records began was measured;
- carbon emissions and carbon levels in the atmosphere are continuing to increase and climate change is having an increasingly damaging impact on living conditions in many parts of the world;

— migration is on the increase globally, putting additional pressure on the environment and security of supply;

— current demographic trends mean that by 2050 the world's population will have grown to around 9 billion, further exacerbating these problems.

2.5 **New and emerging challenges:** The growing world population and continuing growth in expectations in relation to standards of living and material consumption are beginning to place strain on the world's supplies of food, energy and other natural resources. This is leading to higher prices and severe social and political problems.

2.6 Maintaining or achieving adequate food security, energy security, and resource security for all current and future generations in a world of increasing population and limited natural resources is one of the biggest new challenges facing the world in the century ahead. Ultimately, qualitative economic growth is needed that helps to eliminate poverty and social injustice whilst preserving natural resources for future generations. Establishing institutional structures for meeting this challenge should be a central issue for the 2012 summit.

2.7 The financial and economic crisis has preoccupied political leaders and finance and economics departments over the past three years. But these pressing short-term issues must not be allowed to distract attention from emerging problems in the real economy and the urgent need to transform the operation of the world's economies in a more sustainable, fairer and greener direction. This transition should itself be a major source of new investment and new jobs, and should create greater equity, cohesion, stability and resilience. It could help solve the current economic difficulties.

2.8 **Renewed political commitment:** Rio 2012 provides a crucial opportunity to build a framework for this transformation, and to establish the high-level political commitment to making this change a reality. It is essential that heads of government themselves take hold of the issues, attend the conference and guarantee that it is followed through. As global economic transition is the key theme of the conference, ministers for finance, the environment and development must also take part in it.

2.9 Sustainable development relies on civil society initiatives and participation. Civil society needs to be actively involved both in preparations for the summit and in its follow-up and implementation. Forums for dialogue should be established at national and international level to facilitate dialogue between civil society stakeholders, and between civil society and political decision-makers, on issues relating to the greening of the economy and sustainable development.

<sup>(4)</sup> Opinion of the European Economic and Social Committee *Towards a 2012 World Summit for Sustainable Development*, OJ C 48, 15.2.2011, p. 65.

2.10 The General Assembly resolution identifies two specific themes:

- a green economy in the context of sustainable development and poverty eradication;
- the institutional framework for sustainable development.

2.11 It will not be possible to reach agreement at a single summit meeting on everything that needs to be done in the world to green the global economy and promote sustainable development more effectively. We consider therefore that the main aim of the conference should be to establish a robust institutional framework within the UN system for implementing the conference decisions, a framework which would have ongoing responsibility for promoting sustainable development throughout the world and for driving an action programme to green the global economy over the coming years.

### 3. The institutional framework: a new Council for Sustainable Development

3.1 At international level the UN Commission for Sustainable Development (CSD) has had responsibility for monitoring progress on sustainable development in the world for the past 19 years. However, the CSD is no longer effective in its present form. It has produced some good analyses of problems, but it has not proved capable of following through with substantive action. A more powerful structure within the UN system is needed to tackle the big global sustainability issues more effectively.

3.2 Amongst the various options for strengthening the institutional structure within the United Nations, the EESC supports the emerging concept of a new top-level **Sustainable Development Council** that would report directly to the General Assembly and integrate and strengthen the work currently done separately in the UN ECOSOC and CSD.

3.3 All the countries of the world, represented by their political leaders, should belong to this council. It should be charged with driving forward global action on all aspects of sustainable development, promoting the transition to a greener economy, and initiating action on new and emerging issues such as food and energy security.

3.4 The new council should establish close links with the World Bank and the IMF, which should themselves be given a new mission: to put promotion of sustainable development at the heart of their work.

3.5 UNEP and UNDP should be strengthened so that they can together provide stronger inputs on the environmental and developmental dimensions of sustainable development.

3.6 **National governance:** At the same time as establishing effective UN bodies, political leaders need to use the opportunity of the Rio Summit to reinvigorate their own national machinery for sustainable growth.

3.7 National Sustainable Development Strategies need to be revived and refreshed with full engagement and support from business and all parts of civil society. Advisory bodies such as Councils for Sustainable Development need to be adequately resourced to play their full part in bringing forward new thinking and maintaining pressure for progress.

3.8 **Regional, city and local governance:** There are many excellent examples all over the world of what subnational authorities can achieve. The summit should showcase the best examples and commit national governments to mandating and supporting their regional and local governments in making further advances.

3.9 **The role of business and the social partners:** Building on best practice, the time is ripe for prescribing best business practice on sustainability more widely by drawing up a framework convention on corporate sustainability responsibility and a framework convention on accountability based on ISO 26000. Negotiations to this end should be launched at the summit and the social partners should be fully involved in this process.

3.10 **The role of civil society:** The transition to a sustainable economy can only succeed if civil society is actively involved in this process. This calls for democratic processes and forums for dialogue between civil society and political decision-makers. Information about the environment, progress towards a greener economy and other aspects of sustainable development needs to be made generally available in each country so that there can be an informed public debate about the key issues. In Europe the 1998 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention) has been successful in extending and entrenching public rights of access to information, and in promoting public participation and access to justice. The summit should encourage moves to establish similar conventions in all regions of the world and the new Council for Sustainable Development should be mandated to pursue this objective within a global framework.

3.11 **Ombudsmen for future generations:** The needs of future generations are a crucial element of sustainable development, but are not represented in the relevant decision-making processes. In order to put this right and ensure that long-term interests are heeded more effectively and on a judicial basis, the Committee supports the initiative of the World Future Council <sup>(5)</sup> to introduce ombudsmen for future generations at UN and national level.

<sup>(5)</sup> <http://www.futurejustice.org/action-the-campaign/?section=full#21>.

#### 4. The green economy

4.1 At present the global economy does not work in a way that will deliver sustainable development. On the environmental side it encourages over-consumption of natural resources, allows pollution of the environment, and fails to prevent climate change; on the social side it allows pervasive unemployment and widespread poverty, poor health and lack of education.

4.2 Greening the global economy means reorienting the way it operates so as to deliver more sustainable outcomes. Other economic objectives need to be reassessed in terms of their contribution to sustainable development. All the tools of economic management need to be reset so as to steer the economy in a more sustainable direction.

4.3 In economic development hitherto, economic growth has been an important prerequisite for raising the general standard of living. This must remain a central aim in future, particularly for developing countries, in which decent living conditions for all have yet to be created. A green economy is designed to decouple economic growth from negative environmental impact. It must be an element in a sustainable development strategy aimed at qualitative economic growth that helps to eliminate poverty and social injustice whilst preserving natural resources for future generations. The transition to a green economy must be compatible with the fundamental principles of justice, cooperation and shared but different responsibilities.

4.4 The EESC welcomes the fact that international climate change talks are now taking into account the social and decent work dimension of the transition towards a low-carbon economy, as stated in the shared vision for long-term global action of the Cancun Agreements. It supports the policy recommendations of the ILO on Green Jobs and stresses particularly the need for active cooperation between the social partners in greening the work environment.

4.5 Greening the economy is a major task that has to be carried through in many different arenas:

- at international, national and local levels of government;
- in many different sectors of the economy;
- involving businesses of all kinds, the social partners and many other economic actors;
- involving citizens and consumers.

4.6 The Rio conference should generate a new political commitment to promoting sustainable development and the transition to a green economy throughout the world.

Conference participants should set out principles for the transition to a greener economy. They should also give a mandate to the competent UN bodies to develop an action-oriented work programme on key issues for the advancement of sustainable development in the world.

4.7 **A ‘green economy’ mandate for the bodies of the United Nations:** The Committee suggests that six main pillars, or chapters, should be included in a mandate for the further work of UN bodies on sustainable development:

- measuring progress towards a green economy;
- regulatory measures to encourage the transition to a green economy;
- education about sustainability to promote a green economy;
- fiscal policy instruments to promote a green economy;
- public spending and investment in a green economy;
- setting targets for a green economy.

4.8 The EU and its Member States have gained a wealth of experience in using policy instruments to promote sustainability. The EU should therefore actively bring this experience to bear at international level.

4.9 **Measuring progress towards a greener economy:** Parameters need to be established that give a clear indication of the progress that is being made towards greater sustainability. Methods should be developed for measuring economic progress in terms of improvements in human welfare and quality of life, with reference to the fight against poverty, the creation of decent working conditions and preservation of the natural environment. In particular, methods must be agreed for measuring the use of various kinds of natural capital in the soil, water and different ecosystems that results from economic activity.

4.10 A timetable for establishing a system to measure progress towards a green economy should be agreed at the summit.

4.11 In its opinion *Beyond GDP - measurements for sustainable development* <sup>(6)</sup>, the EESC put forward ideas about the limitations of the GDP indicator, possible corrections and additions, and the need to develop new criteria on the basis of which additional indicators for welfare and (economic, social and ecological) sustainability could be established. The EESC intends, before the Rio+20 conference, to set out its position on how civil society should be involved in developing these indicators.

<sup>(6)</sup> OJ C 100, 30.4.2009, p. 53.

**4.12 Regulatory measures:** Within Europe, efficiency standards for many different products and processes (particularly energy efficiency standards) have been driven steadily upwards by progressive tightening of minimum standards over the years. Europe should propose similar machinery for driving the same process forward internationally. It might also be appropriate to develop new international initiatives for chemicals management and for regulating the impact of emerging technologies, such as nanotechnology.

**4.13 Education and information exchange:** There are several individual countries, regions, cities, businesses, etc. that already demonstrate the success of the sustainability transition in action.

**4.14** Europe has been active in promoting education about sustainability, and in spreading information about best practice and new initiatives in the sustainability field. The resulting experience should feed in to the international discussion of instruments for a green economy.

**4.15 Fiscal measures:** The summit should give a further impetus to national and international efforts to green the fiscal base by eliminating perverse subsidies and formulating taxation policy to facilitate job creation and inhibit pollution and the consumption of fossil fuels and other natural resources. The time is also ripe for launching a new initiative to tax financial transactions on a globally agreed basis, and to use the proceeds to fund sustainable development investments.

**4.16 Investing in research and development:** The competent bodies of the United Nations should be mandated to identify which areas of research and development of technologies and instruments for a green economy would benefit from consolidation of R&D efforts through international cooperation. It will be important that new greener technologies are taken up rapidly all around the world. The competent bodies of the United Nations should be specifically charged with identifying any barriers to the rapid transfer of such technologies and with developing ways to overcome them.

**4.17 Public procurement programmes** can be a powerful instrument for driving producers towards greener products and services. Europe has experience in using 'green' public procurement whilst observing the principles of free trade within Europe. The competent bodies of the United Nations should be specifically charged with promoting best practice in this area throughout the world.

**4.18 Investment flows – a new global deal:** Authoritative estimates of the global investment needed in the energy sector alone to move to a low carbon economy over the next 40 years run to trillions of euros. Other aspects of the sustainability transition will also need very large sums. The competent bodies of the United Nations should be tasked with providing a forum for monitoring the major global flows of investment, and identifying where they need to be increased or modified in order to support the sustainability transition.

**4.19** The capacity to make the sustainability transition varies considerably between countries in terms of natural, economic and human resources. A very important challenge for the 2012 summit is how to give more substance and scale to a global deal to mobilise public and private resources for capacity-building, technology transfer and sustainable investment programmes to help the Least Developed Countries (LDCs) and other developing countries keep pace with the sustainability transition in an equitable way. The competent UN bodies should be mandated to monitor progress on financial and other commitments to assist developing countries in the sustainability transition.

## 5. Targets in key sectors

**5.1** A greener economy will affect all the main economic sectors. In each sector it will be necessary to promote greater efficiency in the use of energy and all other natural resources, to reduce the impacts of pollution and waste production, to have greater regard for the natural environment and biodiversity, and to ensure equity and fairness.

**5.2** International development objectives are currently focused on implementation of the Millennium Development Goals. The Committee believes that at their review in 2015 a new set of international development goals should be set for the next period, with greater emphasis on sustainable development objectives. The Rio Summit should adopt this as a general objective and should mandate the new Council to follow it through with specific proposals in the key subject areas. The following paragraphs briefly review the priorities in some of the key sectors.

**5.3 Energy:** The greening of the energy sector is the single largest challenge within the whole greener economy project.

**5.4** The transition to a greener economy requires a radical transformation of the energy sector away from fossil fuels towards low- or zero-carbon sources of power such as renewables. At the same time, in order to manage this transition more economically and efficiently, there needs to be a major effort in all sectors to utilise energy more efficiently and thus to contain or reduce increases in total global energy demand.

**5.5** Access to clean, affordable and modern energy services is imperative to fostering lasting social and economic development and to achieving the Millennium Development Goals (MDGs). According to the International Energy Agency, worldwide more than 1.4 billion people have no access to electricity. A billion more have access only to unreliable electricity networks. Recently, the UN General Assembly designated 2012 as the 'International Year of Sustainable Energy for All' – providing a much-needed opportunity to focus increased international attention on energy poverty, as well as the affordable solutions and business models that already exist and can be

deployed on a global scale. The EESC has been actively involved in the debate on sustainable development and sustainable energy and will contribute further to this important topic.

5.6 Many people still live in energy poverty, i.e. they have insufficient access to energy. The transition to environmentally sustainable energy sources must have as one of its main aims the sufficient supply of energy at affordable prices to poorer sections of the population.

**5.7 Agriculture, biodiversity and the natural environment:** The EESC deplores in the strongest possible terms the fact that a billion human beings suffer from hunger in various parts of the world and particularly in developing countries – a situation wholly at odds with the aim of achieving the first of the Millennium Development Goals.

5.8 The EESC calls on the international community to recognise the right to food at international and national level, to strengthen the right to own land and the right of access to land and water, and to keep land-grabbing in check.

5.9 The agricultural sector in many parts of the world needs thorough review from the perspective of the green economy and maintaining food security for all, preserving the natural capital of the land and its biodiversity resources, and promoting resource efficiency. There is a particular need to manage and conserve water resources better. New targets are needed in these areas.

5.10 The EESC considers the key to sustainable agriculture to lie in maintaining – everywhere and on a sufficient scale – high-quality, regionally differentiated, ecologically sound food production that protects and cares for rural areas, safeguards the diversity and distinctiveness of the products concerned and fosters Europe's diverse, species-rich cultural landscapes and rural areas<sup>(7)</sup>. Even though we need greater biodiversity worldwide, the number of species continues to fall. Forestry, mining, industry and, not least, population growth also threaten biodiversity.

5.11 Effective measures for better, more transparent functioning of agricultural markets should be introduced. The volatility of and unacceptable increase in food prices must be combated. The use of renewable resources in energy production must not happen at the expense of global food supply. Security of food supply should be ensured by maintaining stocks at regional level. We should also aim to make more use of residual biomass from agriculture and food production.

5.12 Respect for agricultural workers' rights should be ensured by implementing existing ILO conventions. It is essential for civil society to be actively involved in the implementation of sustainability projects at local and national level. The role of women in developing countries deserves particular emphasis.

**5.13 Marine environment:** The marine environment is characterised by pollution, overfishing and overexploitation of other marine resources. Conference participants should mandate the competent UN bodies to initiate a new international process to strengthen and coordinate existing mechanisms for protecting the marine environment and to protect fish stocks and other marine resources more effectively than under existing arrangements.

## 6. Showing responsibility

6.1 In order to be credible, the EU first needs to put its own house in order on its approach to sustainability.

6.2 Member States and the EU must:

- collectively reconfirm their political commitment to sustainable development by placing responsibility for it at the centre of government, supported by economics and finance ministers as well as by environment and other ministries;
- reinvigorate their own sustainable development strategies and action programmes;
- engage fully with business and all parts of civil society in preparations for and follow-up to the conference and in promoting sustainable development and the green economy.

## Action Plan

The European Economic and Social Committee is committed to making an active contribution to the process leading up to the 2012 UN conference on sustainable development in Rio. Hearings took place on 23 March and 7 July 2011, while this opinion was being drawn up.

- Once this opinion is adopted, the rapporteur will actively seek to put forward the EESC's position in the interinstitutional dialogue aimed at establishing a common EU position.
- On the basis of the adopted opinion, the EESC will further develop dialogue with European organised civil society. There are plans for joint meetings with the Liaison Group, representatives of national Economic and Social Councils, as well as other civil society organisations and networks that are also in the process of establishing their positions for the Rio+20 conference. A large-scale EESC conference planned for early 2012 will represent a further milestone in this process of discussion with civil society.

<sup>(7)</sup> Opinion of the European Economic and Social Committee on *Reform of the common agricultural policy in 2013*, OJ C 354, 28.12.2010, p. 35.

- Beyond the dialogue within Europe, the EESC is dealing with the matter of the Rio+20 conference in the context of its relations with representatives of organised civil society in other parts of the world, in particular Brazil, which is hosting the conference, China and South Africa. The rapporteur will play an active role in this dialogue in order to establish joint priorities in the aims of organised civil society from different parts of the world and to bring these positions to bear in Rio de Janeiro in June 2012. The rapporteur will also represent the EESC in the Rio+20-discussion process inside the International Association of Economic and Social Councils and Similar Institutions (AICESIS). A series of meetings with our international partners is planned in Rio next year alongside the conference itself.

Brussels, 22 September 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a roadmap for moving to a competitive low carbon economy in 2050'**

COM(2011) 112 final

(2011/C 376/20)

Rapporteur: **Mr ADAMS**

Co-rapporteur: **Mr ZBOŘIL**

On 8 March 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, 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 Roadmap for moving to a competitive low carbon economy in 2050*

COM(2011) 112 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 September 2011.

At its 474th plenary session of 21 and 22 September 2011 (meeting of 22 September) the European Economic and Social Committee adopted the following opinion by 119 votes in favour, 3 votes against and 2 abstentions.

## 1. Conclusions and recommendations

1.1 The Committee welcomes the Commission's Low Carbon Roadmap 2050 as a vision for future strategy and urges all the European Institutions to take it fully into account as a guide to the actions and policy development needed to achieve the 2050 goals. In this context the Committee refers to its work on the Resource efficiency flagship initiative and to its proposals for the UN Conference on sustainable development in 2012 <sup>(1)</sup>.

1.2 The Committee urges Council, Commission and Parliament to ensure the full implementation of all existing carbon-related targets for 2020 and to reconsider tightening the 2020 GHG target to a 25 % reduction based on achieved progress of the COP 17 negotiations and expected Community economic development on the way to the agreed 80-95 % reduction by 2050.

1.3 The Committee urges the EU to adopt indicative targets for GHG reductions of 40 % by 2030 and 60 % by 2040 and to follow-up with legally binding policies that would deliver these reductions. Such long-term indicative targets are needed as benchmarks to give predictability and stability for investors and decision takers.

1.4 The Committee recommends the Commission to bring forward a comprehensive new package of measures to incentivise the massive new investment needed to deliver

these new targets. The package should include a strengthening of the ETS as a cost optimising instrument for guiding investment decisions as well as other measures to:

- promote energy efficiency in all sectors;
- increase consumer awareness and capacity to use their purchasing power to favour low carbon goods and services;
- support investment in the infrastructure that will be needed;
- promote training and capacity-building in the key sectors.

1.5 The Committee urges the need for an active industrial policy and co-ordinated R&D to support the transition to the low carbon economy. It supports the proposal for Roadmaps as strategic vision guiding the transition process, particularly in relation to power generation, transport, construction and housing, agriculture and waste management.

1.6 It is essential that civil society be fully involved through structured and permanent dialogue on the particular strategic plans.

## 2. The Roadmap

2.1 The Roadmap 2050 suggests action which could enable the EU to deliver greenhouse gas reductions in line with the 80 to 95 % reduction from 1990 levels reconfirmed by the Council as an EU objective in February 2011.

<sup>(1)</sup> EESC Opinions on 'A resource-efficient Europe – Flagship initiative under the Europe 2020 Strategy' and on 'Rio+20: towards the green economy and better governance – The contribution of European organised civil society' (see page 102 of this official journal).

2.2 In order to achieve this, the Roadmap proposes planning for an 80 % reduction in domestic GHG emissions by 2050, implying the higher 95 % target would come from purchasing offsets in the global carbon market. Domestic emission reductions of the order of 40 % and 60 % below 1990 levels would be the most cost-effective pathway by 2030 and 2040, and in this context, reductions of 25 % by 2020 are seen as part of the progression.

2.3 In the power sector the Roadmap proposes that low carbon technologies should meet nearly 100 % of electricity supply by 2050. This will require major investments in renewables and in developing new smart grid systems throughout Europe, mainly driven by a strengthened ETS system.

2.4 For transport a 60 % reduction in GHG emissions is envisaged by 2050. The Roadmap suggests that biofuels will need to be developed further, particularly for aviation and heavy duty vehicles. But it notes that food security and environmental problems have been linked with biofuel development and underlines the importance of developing more sustainable 2nd and 3rd generation biofuels.

2.5 For the built environment the Roadmap stresses the importance of rapid enforcement of near zero carbon emission standards for new build, and the challenge of upgrading the energy performance of existing stock.

2.6 For industry further increases in energy efficiency and a transition to less energy intensive modes of production are foreseen. There will need to be industry specific solutions and additional sector specific Roadmaps. It is important to ensure that carbon-reducing measures do not simply drive energy-intensive industries to relocate in less-regulated parts of the world (carbon leakage).

2.7 For the agricultural and forestry sector increased energy efficiency and practices that improve the capacity of managed land to sequester and retain carbon are needed. Biomass as a potentially sustainable source of energy is also noted, provided that all its impacts are properly assessed. In general we should be looking for solutions reconciling the growing demand for food or biomass with climate policy goals.

2.8 To achieve all these objectives will require additional public and private investment of around EUR 270 billion annually for the next 40 years. This represents 1.5 % of EU GDP or 8 % of current investment levels – significantly below levels already being achieved in some emerging economies that are seriously engaging with a low carbon economy.

2.9 Additional public resources to fund this investment could be raised from the proceeds of auctioning the next round of ETS emission allowances. All public investment programmes should also be used more systematically to leverage additional private sector funds.

2.10 Other benefits of transition to a low carbon economy include reducing reliance on fossil fuel imports, improving energy security, creating new jobs, and improving air quality and health.

2.11 The communication does not propose specific new policies and measures. It indicates a number of areas where new strategies or policy initiatives will be needed at EU and national level in order to deliver the transition needed over the next 40 years. The Roadmap 2050 shows an important change from new binding targets towards measures. It initiates a debate, with the EU member states deciding if we have new targets or not. There is a crucial political decision ahead: top-down targets or bottom-up technology innovation policy.

### 3. General comments

3.1 The Roadmap relies on particular economic models to demonstrate the most cost effective pathways to reach the 2050 targets for GHG reductions. In order to establish full confidence in the methodology more information needs to be made available about the construction of the models, the data that is used in them and the sensitivity tests that are applied. Nevertheless the methodology already appears sufficiently robust to support the main conclusion that investment levels need to rise substantially to deliver a low carbon economy by 2050.

3.2 In particular the Committee strongly supports the Roadmap's conclusion that early progress is vitally important for cost-effectiveness. Early progress can accelerate introduction of new technologies, lower their prices, avoid expensive and wasteful new investment in short-lived carbon-intensive plants and generate economic momentum for the changes needed.

3.3 A roadmap is only useful so far as it guides action. The key test for this Roadmap is how far it can be made an integral part of policy formation and decision taking by the key European players involved – in Governments, in the power sector and in other crucial industrial sectors and in the individual choices of consumers.

3.4 Political, economic and technological change in the future will require some flexibility in the precise path chosen, but this should not be taken as an excuse for indecision and delay. The Roadmap should build a consensus amongst all key players about the nature and pace of advance needed, and the required expansion in the scale of investment. Particular priority should be given to investments that will improve the security of energy supply in Europe, given the uncertainties about many of the existing sources of energy for Europe in the years ahead.

3.5 The Roadmap should also help to build awareness amongst the general public and consumers about the need for moving to a low carbon economy and the part that everyone will have to play. It is crucial that this should be a 'just transition' that is fair to everyone and helps everyone adjust to the changes that will be needed.

3.6 A number of other countries (including China, the USA, S. Korea etc.) are putting massive effort into the development and deployment of low carbon technologies to acquire technological leadership and competitive advantage in this new industrial growth sector. It is vital that the European Union matches this effort if it is not to fall behind in the highly competitive race for leadership in the field of greener and low carbon technology.

3.7 The existing 20-20-20 targets for expansion of renewable energy and energy efficiency and reduction of carbon emissions to be achieved by 2020 already set a goal for the EU in that year and it is vital that all of these targets be met. The Committee again urges the Council, the Parliament and the Commission to keep under urgent review the case for tightening the 2020 target at least to a 25 % GHG reduction by 2020 based on achieved progress of the COP 17 negotiations and expected Community economic development on the road to the 80 % reduction set for 2050.

3.8 Of course it would be welcome if such a move could be made in conjunction with progress towards general agreement on a new set of targets in the international climate change negotiation process. But absence of such a general agreement should not be taken as a reason for postponing further action on what the EU itself needs to do now in order to meet its own long-term 2020 goal, to improve its own energy security of supply and to maintain its own competitive position in the green technology race.

3.9 The Committee also urges the EU to move quickly to adopt indicative targets for GHG reductions of 40 % by 2030 and 60 % by 2040 so as to provide predictable guidelines for those making investment decisions in the energy sector and other key areas.

3.10 The EUR 270 billion per annum required for new investment is a large figure, but at only 1.5 % of EU GDP it is achievable – provided that the fiscal and other framework signals are positively set and maintained. The Committee

strongly endorses the need for stability and predictability in the framework to give adequate assurance for the type of investments that will be needed.

3.11 The Roadmap's targets will require both market pull (i.e. a competitive integrated EU energy market, the necessary grid infrastructure and carbon pricing) and 'technology push', (i.e. support for R&D, demonstration and early deployment, as outlined in the SET-Plan <sup>(2)</sup>). Support for early and widespread deployment of new, breakthrough, low carbon technologies is particularly important to accelerate the learning curve and the rate of take-up. Earlier budget commitments in this area must be maintained.

3.12 Bridge financing is particularly important to ensure that new technologies with high European added value and positive economic rates of return in the long term do not die off at early stages of development. The EU should:

- provide financial support to SET-Plan technologies through tailored combinations of grants and loans,
- bring procurement rules in line with the SET-Plan objectives,
- ensure that the Cohesion and Structural Funds also operate consistently to support low-carbon objectives in infrastructure and other projects.

3.13 The Roadmap places great emphasis on the European Carbon Trading System as a means of bringing about the changes and the investment needed. The ETS was intended to be a global trend-setter and become embedded in an international 'cap-and-trade' system that would set a steadily declining global carbon emission cap in line with the 2 °C target. The aim was to establish a global price for trading carbon emissions in a global market which once firmly established might by itself be a major instrument to bring about the necessary shift in investment towards the low carbon technologies of the future. Operating on its own, however, the present European trading system is failing to provide the necessary stimulus to a massive expansion of new greener investment even within Europe.

3.14 The Committee therefore proposes that the Commission should now consider bringing forward a comprehensive new package of measures to bring about the rapid shift in investment priorities that is required. The package should certainly include a reform and strengthening of the ETS (now to be conceived as a European measure rather than as a global precursor) with a particular objective of raising substantial funds to support R&D and deployment of new technology and supporting infrastructure. But it should also include a range of other fiscal, regulatory and consumer-oriented measures.

<sup>(2)</sup> Strategic Energy Technology Plan. See [http://ec.europa.eu/energy/technology/set\\_plan/set\\_plan\\_en.htm](http://ec.europa.eu/energy/technology/set_plan/set_plan_en.htm).

### 3.15 A Comprehensive Package

#### a) A strengthened ETS

The Committee recommends that a wide-ranging review of the ETS should be put in hand. Four areas are particularly important:

- ways need to be found to boost the system's capacity to support innovation and deployment of new low carbon technologies as described in the SET-Plan; using receipts from the auctioning of carbon allowances to support R and D, demonstration and early deployment;
- the potential problem of carbon leakage i.e. relocation of industry (particularly carbon intensive industries) outside the EU must be addressed. Given the failure to realise a global carbon market offsetting border price adjustments may now be justified. In the absence of a global carbon market, the Commission should take further steps to safeguard the competitiveness of enterprises that are actually affected by carbon leakage;
- sector coverage should be reviewed. (In earlier opinions the Committee welcomed the extension of the ETS to the aviation sector and urged further extension to the maritime sector);
- international offset mechanisms to promote cost-efficient emission reductions in developing countries, should be tightened and extended (without offering an excuse to reduce effort to achieve domestic reduction targets).

#### b) Regulatory Measures. Energy efficiency

Some sectors, such as energy efficiency, are not very sensitive to price signals. Tougher European measures are needed to impose and enforce higher energy efficiency standards for housing and other buildings, cars and other vehicles, consumer products of various kinds. We urge vigorous follow-up of the Energy Efficiency Directive (COM(2011) 109 final) after a thorough impact assessment.

#### c) Enhancing the role of consumers

Consumers must be motivated to proactively contribute to the creation of a low carbon society via purchasing environmentally-friendly goods and services especially by:

- Improving the credibility of green labelling initiatives and harmonising their standards
- Encouraging the availability of efficient and sustainable consumer products
- Enhancing the EU-wide internal energy market.

Consumers must be convinced of their role in a lower carbon future and cooperative partnerships with the public sector should be encouraged.

#### d) Infrastructure

Infrastructure to support new low carbon technologies and to ensure interoperability such as new smart power supply grids will need major investment on a Europe-wide basis to ensure consistency of technical specifications and optimal power-sharing. We recommend a follow-up study by the Commission on pathways for European-wide infrastructure development to support the transition to a low carbon economy, and related investment and institutional structures.

#### e) Capacity building and employment consequences

It is very important that the social impact of expansion and contraction across the sectors affected by the low carbon transition should be analysed and assessed in advance and that comprehensive sectoral tools and measures are put in place to build the necessary skills and capacities and to offer retraining or other assistance to those moving out of the older carbon economy, thus enabling a socially just restructuring.

#### f) Fiscal measures

Neutral fiscal reforms to increase the level of taxation on carbon fuels (and other natural resources) while encouraging employment and better social security have a crucial part to play in guiding the transition to a low carbon economy. The political climate is probably not yet ripe for reviving the earlier proposal for a Europe-wide carbon tax, but every effort should be made to encourage such reform at national level. The Committee also welcomes the recent proposal for a financial transactions tax and urges that proceeds should be directed towards encouraging investment in the low carbon economy.

### 4. Comments on specific sectors

**4.1 Power sector.** The cost of renewables has been coming down steadily over recent years. Investment now needs to be scaled up to bring the cost down to competitive and affordable levels. At the same time sufficient base load needs to be maintained or storage and distribution systems developed to overcome the problems of intermittence of wind and PV power supply.

**4.2 Development of the smart grid concept on a European scale** is also essential to allow for more extensive integration of renewables. The present capacity of the European power network to absorb intermittent renewables is limited and the system needs to retain adequate base load power supply from non-renewable sources (including nuclear). There will need to be extensive development of smart integrated grid systems (including industrial and domestic sector demand management), and large scale capacity for storing easily accessible power resource (batteries, hydro-storage etc.). If nuclear and fossil fuels with CCS are to be part of the solution, this needs to be addressed openly and resolved, probably on a case-by-case, or, country-by-country basis. We look to the forthcoming

Energy 2050 Roadmap to go into these choices in more detail and anticipate greater coordination of energy generation and transmission across Europe.

4.3 Investment in low carbon technologies may mean the acceleration of the rate of investment beyond what the market would judge profitable. This will require public money especially for demonstration and early deployment. Further development of the SET Plan is essential for the low-carbon economy.

4.4 **Transport Sector.** The Committee supports the communication's perspective on the transition needed in the transport sector. The carbon performance of all existing technologies needs to be optimised. New technologies such as the electrification of road transport need to be promoted, as do 3<sup>rd</sup> generation biofuels that reduce emissions from existing commercial vehicles and enable fossil-fuel-free HGV transport. Modal shift towards efficient public transport and non-motorised transport needs to be encouraged. The EU and member states need to deploy public expenditure, taxation policies and regulatory means to advance these changes. The EU needs to play a strong co-ordinating and incentivising role, and to set targets and timetables for some of the specific changes needed.

4.5 In relation to cars and other road vehicles emissions standards have been very effective in bringing down emissions. Legally binding emissions standards provide the highest possible certainty to the car industry and its suppliers. In earlier opinions the Committee has commented on the gradually increasing fuel efficiency standards for road vehicles, and urged faster progress on this <sup>(3)</sup>. We repeat those recommendations.

4.6 We note that there are physical limits to how far the efficiency of the internal combustion engine can be taken and suggest that the Commission should now be using the long-term perspective of the low carbon Roadmap and the absolute necessity of reducing emissions from the road vehicle sector to spearhead an accelerated drive towards the development and deployment of zero carbon vehicles using sustainably –produced hydrogen or more cleanly produced electricity.

4.7 The Committee has continuing reservations about the extent of reliance that could or should be placed on the expansion of biofuels and believes the Communication is right to envisage confining the use of biofuels to niches of the transport sector that are difficult to electrify and where they can be used to reduce emissions from the existing vehicle fleet. This also includes efforts to develop more carbon efficient 2nd and 3rd generation biofuels.

4.8 **The built environment.** Progress in promoting low carbon homes and other buildings has been too slow. There is a very low rate of replacement in the housing sector, so the key challenge in this sector is to identify and implement large

scale programmes for improving the energy performance of existing dwellings. The Committee recommends that the Commission should move as quickly as possible to:

- mandate zero carbon standards as soon as being feasible for all new building both public and private, and both for housing and for other building, differentiated for climatic variations;
- mandate quantified targets and programmes for upgrading the energy performance of existing buildings of all kinds so far as is feasible.

4.9 **Industry.** Here the Roadmap must provide clarity on the policy implications of the proposed trajectory for European industry, given potential impacts on competitiveness and employment. Current targets should be subject to a full assessment focussing on industry sector by sector. For some industrial processes (steel making, cement making etc.) the production of carbon emissions is an intrinsic part of the chemical processes involved so there may be fundamental limits to the amount of GHG reduction that is possible in these sectors unless large-scale substitution of new products or new methods of carbon capture are feasible. As a result the different industrial sectors will each need specific analysis and their own Roadmaps as to how they can reduce their GHG emissions further.

4.10 The Committee seeks clarification from the Commission as to whether a planned analysis and reduction in embedded (or outsourced) carbon is considered to be part of the Roadmap. Worldwide emissions from producing exported goods increased from 4.3Gt (gigatonnes) of CO<sub>2</sub> in 1990 (20 % of global emissions) to 7.8Gt of CO<sub>2</sub> in 2008 (26 %). Apparent carbon reductions in member states can be negated through the import of products previously manufactured in the EU. Any effective control in this area would involve a combination of border taxes or controls as well as a change in internal consumption patterns – both highly sensitive areas.

4.11 **Agriculture and Forestry.** The Committee agree that in the forthcoming review of the CAP attention should be paid to promoting energy efficient and low carbon farming practices, building on the 20 % reduction achieved (1990-2006) and that ways of promoting and incentivising land and forestry management to maximise carbon sequestration and retention should be promoted. Support should be provided for farmers who participate in short, locally-based supply chains. This sector offers strong potential for cutting CO<sub>2</sub> emissions from fossil fuels and non-renewable materials. However, in the agricultural sector there are clearly conflicting objectives, with on the one hand a need to step up production, and on the other the requirement to capture more carbon dioxide in soils and biomass. The solution to this conflict has yet to be found. In our view, growing international demand for carbon-intensive foodstuffs and wider use of biomass fundamentally contradict the concern with reducing fertiliser use, stepping up carbon sequestration and avoiding the ploughing up of grassland, and the proposed measures do not resolve this contradiction.

<sup>(3)</sup> O.J. C 44 of 16.2.2008; p. 53-56.

4.12 **Waste.** European waste disposal strategy continues to prioritise reduction of waste arisings, encouragement of reuse or recycling, and minimisation of pollution and land degradation. As well as assessing different methods of disposing of waste we suggest the Commission also focuses on the contribution waste management and treatment can make to a more sustainable and low carbon economy. In particular, the use of waste as a renewable fuel and the recovery of landfill gas (methane) to produce energy should be explored.

Brussels, 22 September 2011.

*The President  
of the Economic and Social Committee*  
Staffan NILSSON

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1927/2006 establishing the European Globalisation Adjustment Fund’**

COM(2011) 336 final — 2011/0147 (COD)

(2011/C 376/21)

On 14 and 19 July 2011 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 175, third paragraph of the Treaty on the Functioning of the European Union, on the

*Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1927/2006 establishing the European Globalisation Adjustment Fund*

COM(2011) 336 final — 2011/0147 (COD).

Since the proposal in question has no further purpose than to extend a temporary derogation brought about by Regulation (EC) No 546/2009, and since the Committee has already set out its views on the subject in its earlier opinion CESE 627/2009 <sup>(1)</sup>, adopted on 24 March 2009, it decided, at its 474th plenary session of 21 and 22 September 2011 (meeting of 21 September 2011), by 160 votes to 2 with 12 abstentions, not to draw up a new opinion on the subject, but to refer to the position it had taken in the above-mentioned document.

Brussels, 21 September 2011.

*The President  
of the Economic and Social Committee*  
Staffan NILSSON

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<sup>(1)</sup> EESC opinion on the *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1927/2006 on establishing the European Globalisation Adjustment Fund* COM(2008) 867 final – COD 2008/0267 – OJ C 228, 22.9.2009, p. 103.

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