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## I

(Resolutions, recommendations and opinions)

## OPINIONS

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

493RD PLENARY SESSION HELD ON 16 AND 17 OCTOBER 2013

**Opinion of the European Economic and Social Committee on 'The Involvement of the private sector in the post-2015 development framework' (exploratory opinion)**

(2014/C 67/01)

Rapporteur: **Mr VOLEŠ**

In a letter from Commissioner Šefčovič dated 19 April 2013, the European Commission asked the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, to draw up an exploratory opinion on:

*Involvement of the private sector in the post 2015 development framework.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 100 votes to 2 with 2 abstentions.

## 1. Conclusions and recommendations

### 1.1 *Strengthening the position of the private sector in development cooperation*

1.1.1 Assuming that internationally recognised principles of development cooperation are respected and that the jobs created are decent, in conformity with the ILO Decent Work Agenda, the private sector can play a key role in tackling global poverty, as it creates jobs, provides goods and services, generates income and profit and, by paying taxes, helps to fund public spending.

1.1.2 The Committee calls for far more marked involvement of the private sector in the post-2015 development framework and the new worldwide partnership. Its participation in setting goals to eradicate poverty and achieve sustainable development and quantitative and qualitative fair inclusive growth will lead to the private sector shouldering its share of responsibility for achieving these goals.

1.1.3 Civil society organisations draw attention not only to the benefits of private sector activity, but also the risks, and so support to the private sector in developing countries should be based on the principles of transparency, accessibility of public tenders, effectiveness, purposeful use of resources and the responsibility of public officials to all interested parties for implementing the adopted development strategy. The growing total share of official development aid (ODA) for private sector development should not come at the expense of the amount of ODA funding provided to the poorest developing countries.

### 1.2 *Steering the private sector towards meeting development goals*

1.2.1 In this opinion the private sector also includes the social sector and comprises the self-employed, micro-businesses, SMEs, large multinationals, cooperatives and other social economy businesses and covers employers in private companies and their trade unions and NGOs collaborating on

private projects. Support to – and collaboration with – the private sector should take into consideration the different nature of each stakeholder. Developing countries also have an enormous informal private sector and the development cooperation should help to combat informal employment and the circumstances that encourage it.

1.2.2 Civil society should be actively involved in establishing the role and setting the indicators measuring the contribution of the private sector. The creation of a broad platform at EU level bringing in all interested parties would help this process.

1.2.3 ODA should be used as a multiplying factor for matching private capital with investments in developing countries by using innovative financial instruments. The aid thus provided should be linked to clearly defined aims, such as the creation of more and better jobs, production quality improvement and transfer of management know-how to the private sector.

1.2.4 Public Private Partnerships could be an important instrument for implementing development strategies, assuming they are correctly calibrated and communicate with interested parties.

### 1.3 *Helping to create a favourable business environment*

1.3.1 If the private sector in developing countries is to fulfil its development role development, it needs a favourable business environment that includes respect of generally recognised democratic principles, facilitates the establishment and growth of companies, reduces rampant bureaucracy, increases transparency, reduces the ubiquitous corruption and encourages foreign and local investors.

1.3.2 Corporate social responsibility (CSR) should be understood as a voluntary initiative on the part of companies and an indication of their commitment to ethical business practice. A CSR framework of some kind should be proposed for the development sphere, in compliance with "OECD Guidelines for Multinational Enterprises" and other globally acknowledged principles.

1.3.3 In creating new jobs the private sector should respect basic economic and social rights, especially the core ILO conventions and the new jobs created should comply with the ILO Decent Work Agenda.

### 1.4 *Stimulating the innovation potential of business for development*

1.4.1 Institutional capacity building programmes for State administrations in developing countries should be crafted in close collaboration with the social partners and interested NGOs working in development aid. They should improve the conditions for doing business of SMEs in particular, who have the greatest potential for creating jobs and reducing poverty.

1.4.2 Business organisations in developing countries need to acquire the skills that will improve their ability to exercise a beneficial influence on the business environment. Partner organisations from the developed countries need to play an active part in helping to build up their capacities. European external aid programmes should therefore also fund the technical assistance that European business organisations provide to their partners in developing countries and boost their motivation.

1.4.3 Development aid should be used more to help innovative projects and business models that foster inclusion, including support for a barrier-free society, which would help to eradicate poverty among at-risk groups such as those with a disability, women and the elderly.

1.4.4 Collaboration between the private sector and NGOs should be supported, for example by using volunteers to transfer managerial and technical know-how to local companies. Successful businesses innovation projects merit broader, systematic publicity.

1.4.5 Developing the private sector necessitates wider support for education and the assimilation of know-how in key technologies, especially for low-skilled workers.

1.4.6 The Committee recommends extending the Erasmus programme for young entrepreneurs to interested candidates from developing countries, or putting together a programme that would serve the same purpose and allocating the necessary funding for it.

1.4.7 Particular attention must be paid to the mining and raw materials industry, where environmental protection standards, the social conditions for workers and the sustainability of the State's economic development need to be consistently promoted.

1.4.8 Developing countries do not usually have SME development strategies and development cooperation should help to better overcome this handicap. European experience with policy to support SMEs should be transferred in a targeted and relevant way to developing countries.

## 2. **Outline background to the opinion**

2.1 Commissioner Šefčovič wrote to the EESC president informing him that the Commission was drafting proposals for getting the private sector more effectively involved in the global partnership for development post 2015, and hence asking the Committee to produce an exploratory opinion on the role of the private sector in accelerating smart, sustainable and inclusive growth over this period – a matter which is now being debated in the UN.

2.2 In its opinion REX/372 <sup>(1)</sup> on the Commission's communication on "A decent life for all: Ending poverty and giving the world a sustainable future", the Committee made a series of recommendations for involving civil society in the development, implementation and monitoring of the sustainable development goals post 2015 worldwide.

2.3 The Committee has been addressing development and external cooperation in its opinions <sup>(2)</sup> very attentively over a long period and in drafting the present opinion has drawn on the considerable tangible experience and insights gained through its own work on issues concerning the ACP, Euromed, the Eastern Partnership, international trade negotiations and other domains with a development angle.

### 3. General comments

3.1 Assuming that internationally recognised principles of development cooperation are respected, the private sector can play a key role in tackling global poverty, as it creates jobs, provides goods and services, generates income and profit and, by paying taxes, helps to fund public spending. Even post 2015, official development assistance (ODA) will continue to be a major catalyst for development, but it will not be able to eradicate poverty on its own <sup>(3)</sup>.

3.2 The Millennium Development Goals for eradicating poverty lacked any very precise formula for how they were to be achieved. They were not interlinked and they neglected the role of the private sector in development <sup>(4)</sup>. The private sector should be far more prominently involved in the post-2015 development framework as a strategic partner and engine of sustainable growth in all its three pillars – economic, social and environmental – based not only on quantitative, but also qualitative indicators.

3.3 Civil society organisations <sup>(5)</sup> draw attention to both the benefits and risks of enlisting the private sector in development cooperation. To eliminate these risks, support to the private sector from development funding must respect the principles

of transparency, effectiveness, purposeful use of resources, open access to public tenders and the responsibility of public officials to all interested parties for implementing the adopted development strategy.

3.4 The private sector comprises self-employed people, micro-enterprises, SMEs, large multinational companies, cooperatives and other social economy enterprises, and financial institutions. Also part of this sector, more generally speaking, are employees of private companies, their trade unions, and NGOs taking part in private projects. Alongside legally operating private businesses, developing countries in particular also have an enormous informal private sector. When providing development aid, a distinction must be drawn between individual private entities and the impact of their activities on development depending on their size, sector and the country's level of development (least developed, moderately developed, developing and at risk).

3.5 The private sector should be actively involved, along with civil society representatives, in identifying development needs in each country and should take part in establishing new sustainable development goals post 2015 so that it can take on its share of responsibility for achieving them. These goals should follow on from the Millennium Development Goals, should be tangible and measurable, and should include the spheres of water, farming, food safety, energy, transport infrastructure, education, the health sector, the digital economy, and gender and social equality.

3.6 The private sector should be recognised as a key element in the new global partnership for development. It would be advisable to set up a platform for dialogue with representatives of European and financial institutions about involving the private sector in international development cooperation. It should include representatives of European entrepreneurs and employers and also be open to other interested parties, including civil society representatives.

3.7 The private sector in donor countries participates in development cooperation by providing the services and equipment paid for by ODA, by supplying development aid directly for philanthropic reasons or as part of joint projects with the public sector and non-governmental organisations, and by investing in projects that, as well as benefiting business, also have a significant impact on development. Support should go in the first place to innovative projects in the form of building innovation capacity, advisory services, business incubators and clusters in the beneficiary countries. Public tenders for development projects must be transparent and open.

3.8 The private sector's contribution to development should also include support for a barrier-free society, which would help to eradicate poverty among at-risk groups such as those with a disability, women, the elderly and those suffering temporary

<sup>(1)</sup> EESC opinion on "A decent life for all: Ending poverty and giving the world a sustainable future", OJ C 271, 19.9.2013, p. 144–150.

<sup>(2)</sup> For example: EESC opinions on the EU-Africa Strategy (2009), OJ C 77, 31.3.2009, p. 148–156, Trade and food security (2010) OJ C 255, 22.9.2010, p. 1–9, Proposal for a Regulation of the European Parliament and of the Council applying a scheme of generalised tariff preferences (2012) OJ C 43, 15.2.2012, p. 82–88, Increasing the impact of EU Development Policy: an Agenda for Change/The future approach to EU Budget Support to third countries (2012) OJ C 229, 31.7.2012, p. 133–139, Civil society involvement in the EU's development policies (2012) OJ C 181, 21.6.2012, p. 28–34 and Social protection in European Union development cooperation (2013) not yet published in the OJ.

<sup>(3)</sup> Only a few developed countries have reached or exceeded the agreed target of devoting 0,7 % of their gross national product (GNP) to ODA.

<sup>(4)</sup> Preliminary BIAC Perspectives for the Post-2015 Development Agenda, February 2013.

<sup>(5)</sup> ITUC: [www.ituc-csi.org](http://www.ituc-csi.org); Concord: [www.concordeurope.org](http://www.concordeurope.org); DCED (Donor Committee for Economic Development): [www.enterprise-development.org](http://www.enterprise-development.org).



injury. The framework agreement on inclusive labour markets concluded by the European social partners in March 2010 could provide inspiration for incorporating this requirement in the new development framework.

3.9 In order to play its part in development, the private sector in developing countries needs systematic assistance, which is why a growing proportion of ODA is going to private sector development (PSD). This trend must not, however, be at the expense of ODA to the least developed countries (LDCs), without which they would be unable to address some major problems.

3.10 Private investment with development benefits by large multinational companies provides opportunities to involve new or existing local SMEs in carrying out projects. This which will enable them to obtain technical know-how and to access appropriate advanced technology. Multinational companies must follow accepted principles drafted by the UN, the OECD and other international organisations <sup>(6)</sup>.

3.11 In developing countries, as elsewhere in the world, SMEs embody the main potential for development and micro-credits and preferential loans from European and international development financial institutions should help to liberate this potential. Remittances of savings and other funds from migrants are also a significant source of investment, and incentives can be used to shift them more towards the countries' development needs.

3.12 The Committee welcomes the issues raised by the Commission in its *Beyond 2015: towards a comprehensive and integrated approach to financing poverty eradication and sustainable development* <sup>(7)</sup> and calls for the private sector and organised civil society to be involved in the proposed discussion on an integral approach to funding.

3.13 ODA should be used as the main multiplying factor for enlisting private capital in investment in developing countries. This should entail the use of innovative financial instruments such as blending, various guarantee mechanisms and discounted interest rates. Calculations of ODA levels should take account of State guarantees for investment in developing countries. The aid thus provided to private capital should be linked to clearly defined aims and indicators that take account of sustainable development, environmental protection, the green economy, job creation, production quality improvement, transfer of management know-how to the private sector, and so on.

3.14 Investment should be more targeted to strengthening the services sector, such as banking, insurance, telecommunications, transport and other services to support business,

without which healthy development of industry and farming is impossible. Here the State must ensure that the competitive environment is respected and investments are properly protected.

3.15 Public-private partnerships could be an important instrument for implementing development strategies, given that they combine the grant mechanism of public funding with private investment initiatives to cover the development needs of final aid recipients. If these projects are to be successful, they require transparency in information and open communication with interested parties.

#### 4. Helping to create a favourable business environment

4.1 If the private sector in recipient developing countries is to play its role in development, it needs to have the basics for safeguarding its existence and operations. Development cooperation should therefore focus more on continuously improving the business environment, which would facilitate the establishment and growth of companies, rein in rampant bureaucracy, increase transparency and so reduce the ubiquitous corruption. Reinforcing the rule of law will encourage foreign and domestic investors and help to diversify local economies.

4.2 The creation of a healthy business environment must rest on market mechanisms, including competition, functioning financial markets, judicial independence, general enforcement of the law and commercial law in particular, and adherence to the rules of international trade and intellectual property rights. Local cultural customs should be respected as long as these are not inimical to competition and do not lead to corruption and the sharing out of funds without achieving any added value.

4.3 Corporate social responsibility (CSR) in development cooperation should be understood as a voluntary initiative on the part of companies and an indication of their commitment to ethical business practice. Companies themselves should select from a basic framework of globally acknowledged principles <sup>(8)</sup> the elements and methods acceptable for their economic activity. Establishing such a framework will ensure fair competition with other companies in the sector.

4.4 The private sector creates jobs and in this way can help eradicate poverty. In so doing, however, it must respect basic economic and social rights. Adherence to the core ILO conventions (freedom of association and the right to collective bargaining, prohibition of forced labour, abolition of child labour and prohibition of discrimination in respect of employment) must be rigorously promoted.

<sup>(6)</sup> UN Guiding Principles on Business and Human Rights; OECD Guidelines for Multinational Enterprises; The Extractive Industries Transparency Initiative; OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

<sup>(7)</sup> COM(2013) 531 final, 16 July 2013.

<sup>(8)</sup> For example: ISO 26000; the United Nations' Six Principles for Responsible Investment.

4.5 Newly created jobs should be in accord with the ILO Decent Work Agenda, which requires that workers are recruited voluntarily, social protection is in place, the fundamental rights of workers are respected and a social dialogue is established. It is important that all investors, especially those using public development aid, adhere strictly to these principles in projects and encourage their partners to do likewise.

4.6 Institutional capacity building programmes for State administrations in developing countries should strengthen the principles of the rule of law and so help to improve the conditions for doing business and increase the take-up capacity of local businesses. Such programmes should be drafted in close collaboration with the social partners and the NGOs concerned.

## 5. Involving the private sector effectively in development

5.1 Business organisations in the donor countries, such as chambers of commerce, sector associations, and employers' and social economy organisations should be actively involved throughout the project life cycle in programmes providing aid to the private sector in developing countries. A programme should be created to this end that would support local SME umbrella organisations and enable them to gain experience, especially in marketing, joining supplier chains, certification, logistics, and so on.

5.2 Business organisations in developing countries need to acquire the competences to improve the business environment, strengthen the democratic management of their organisations, attract more members and maintain communication with them. They should be given support for building their capacity, including with the active involvement of similar partner organisations in the EU. European external assistance programmes should therefore also fund the technical assistance that European business organisations give their partners.

5.3 Private sector development should feature training courses for entrepreneurs, including internships in developed

countries. The Committee recommends that consideration be given to extending the Erasmus programme for young entrepreneurs to interested candidates from developing countries, or putting together a programme that would serve the same purpose and allocating the necessary funding for it.

5.4 More extensive support should be provided for education and knowledge development in key technologies, especially for low-skilled workers. Apprenticeship programmes have been needed for a long time, but donor countries mostly offer grants for tertiary study. However, the private sector in industry and elsewhere requires the normal skills required in traditional apprenticeship fields and the work habits needed to work for a foreign investor or a joint venture.

5.5 Development aid should do more to support innovative projects and new business models that support inclusion, where there is large scope for private sector collaboration with NGOs. One example could be the posting of volunteer experts to help nurture entrepreneurship in developing countries<sup>(9)</sup>. Greater publicity for successful innovative business development projects would help the pooling of experience among Member States.

5.6 Particular attention must be paid to the mining and raw materials industry. Investment projects must take on board environmental protection, social conditions for workers and the sustainability of development. State and local authorities in recipient countries must establish and oversee enforcement of a proper framework, including payment of taxes, for the given sector. Support should contribute to the creation of this systematic approach and, at the same time, identify the best rules for curbing undue red tape and opportunities for corruption.

5.7 Development aid should support sustainable farming and the local processing industry in order to improve food and raw material processing. Support should be given to the creation of associations of farmers and small agricultural processors and their incorporation in supply chains.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(9)</sup> See, for example, the non-profit organisation Ex-Change: [www.ex-change.be](http://www.ex-change.be).

**Opinion of the European Economic and Social Committee on 'Sustainable change in transition societies' (exploratory opinion)**

(2014/C 67/02)

Rapporteur: **Mr ANDRIS GOBIŅŠ**

On 15 April 2013, the Lithuanian Presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

*Sustainable change in transition societies*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 September 2013.

At its 493rd plenary session, held on 16-17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 70 votes to 1 with 6 abstentions.

*The only constant is change – Heraclitus*

## **1. Recommendations**

1.1 The EU, its Member States and its civil society are an incredibly rich source of transition experience. This experience should be used better to achieve stability through change within Europe, in the EU's neighbouring countries, and throughout the world.

1.2 The EU is taking a leading role in the current UN debates on the post-2015 development agenda, and it must advocate concrete steps forward, based on solidarity and coherent policies. This and previous relevant EESC opinions must be taken into account <sup>(1)</sup>.

1.3 Transition experience available in and to the EU must be used in practice. The EU must better systematise its positive and negative transition experience, available support instruments and data on relevant players. An Action Plan on the use of transition experience in the programming process shall be designed. The European Transition Compendium and other suggestions from recent EU documents have to be operationalised without delay.

1.4 The external policy of the EU must become stronger, more participatory and open, effective and coherent. The policy should be geared towards promoting human rights, fundamental freedoms (including freedom of association and peaceful assembly), the rule of law and help to create an enabling and democratic environment allowing individuals and CSOs' to participate in policy formulation and monitoring of the implementation. Long-term approach is necessary.

1.5 Civil and political society of the EU and its partner countries must play a key role. Partnership agreements, support programmes and grants should not be approved without a structured dialogue with civil society, especially organised civil society, in line with the EU partnership principle. Particular emphasis should be placed on dialogue with, and inclusion of, different social groups in partner countries, including minorities and inhabitants of remote regions.

1.6 Currently, many potential promoters of sustainable development are banned from receiving EU support due to discriminatory administrative and other rules. Positive discrimination (not allowing any room for manipulation) and a requirement that partners with recent transition experience should be involved in development projects are needed to place players with backgrounds scoring lower in current evaluations on an equal footing. The quality of projects and results must come first.

1.7 New mechanisms for cooperation must be launched and existing ones broadened – see in particular points 3.3.4., 3.3.6., 3.3.7. and 3.3.8. e.g. global Twinning, Taiex, Erasmus+, new exchange platform etc.

1.8 Actors affiliated with authoritarian regimes and/or non-democratic practices (e.g. GoNGOs, Yellow Unions, etc.) should be excluded from support.

1.9 In general, a broad cross-section of society in the partner countries should receive comprehensive support.

<sup>(1)</sup> In particular, EESC opinion on *A Decent Life for All: Ending poverty and giving the world a sustainable future*, 23 May 2013, and other relevant opinions.



1.10 Democratic change, sustainable development, inclusive economic growth and a stable market, together with improved welfare and employment, can best be underpinned by good governance and a strong rights-based approach. Practice shows that a strong civil society, in particular when organised, is the best guarantee of success.

## 2. General context

2.1 The EESC endorses the broad view on sustainable development. As noted by the EU Council, this includes such aspects as "democratic governance, human rights and the rule of law, economic and social welfare, as well as peace and stability" <sup>(2)</sup>.

2.2 Transition can be briefly defined as stabilisation, support for democracy, institution- and capacity-building, sharing of best practices and consolidation of reforms to make change sustainable. It is based on solidarity and action from individuals, civil society organisations (CSOs), government and other actors.

2.3 Several aspects of cooperation with transition societies have already been on the agenda of the EESC <sup>(3)</sup>. The aim of this opinion is to go beyond the existing sources and also to reflect the special interests of the Lithuanian EU Council presidency and general interest on the part of European civil society (including as a contribution to the Vilnius Eastern Partnership Summit in November 2013 and to the European Development Days).

2.4 New developments in the EU's partner states are another reason to update existing policy. The EESC remains concerned about the sustainability of the developments in several of the EU's eastern neighbours, EuroMed and other partner states. Several positive changes can be observed in the Western-Balkan region (noting the importance of Croatia's EU accession).

## 3. Enabling the EU to better share its experience

A primary driver of sustainable development and democratic change can be internal motivation and demand, supported by a clear EU open door policy towards all states in Europe and other privileges for states and societies outside Europe.

### 3.1 Better coordination of EU policies for transition

3.1.1 To create sustainable change, different EU policies, programmes and activities targeting the same regions or policy areas should be better coordinated to create more synergies and maintain consistency. The external action capacity of the EU still needs to be developed further, to the point where common European values and goals can be supported efficiently on a truly European scale <sup>(4)</sup>.

3.1.2 "Policy coherence for development" (PCD) must be ensured and monitored more carefully. The obligation of PCD as enshrined in § 208 of the Treaty on the Functioning of the European Union (as amended by Lisbon Treaty), should be at the core of policy making and implementation in all the regulations of the external actions instruments and should therefore be explicitly applied in all EU policies, programmes and activities. Consistency of new EU initiatives must be assessed in 100 % of cases. All programmes (including their evaluation and budget lines) should reflect the EU's international commitments and obligations concerning human rights and development (including the UN Common Understanding on a Human Rights Based Approach) and should focus on the most marginalised and vulnerable. It is also important to monitor whether, in the process of transition and EU integration, positive developments in one policy area are not accompanied by negative developments in others.

3.1.3 A joint platform is needed to give a user-friendly overview of the existing instruments (such as grants, tenders and programmes, etc.), run by the EU or its Member States, that have a direct or indirect external impact. Some parallels/cooperation should be envisaged with the Your Europe portal. Efforts must be made to involve information for smaller (also sub-regional) organisations. Institutions in EU Member States and transition societies should be additional target groups. The platform should be supported by a newsletter or a Twitter feed, for example.

3.1.4 The EU should aspire to pool, coordinate and create synergies between the EU's and its Member States' activities in the partner countries, and to avoid excessive internal competition. Member States might consider sharing responsibilities in developing forms of joint external cooperation (transition coordinators, translation centres, legal assistance centres, educational establishments etc.) on their territory or in the partner countries.

### 3.2 Involvement of all stakeholders as the prerequisite for sustainability of change

3.2.1 The EU's external action mechanisms must be made as inclusive, transparent and participatory as possible to ensure joint ownership of development and cooperation. Currently shortcomings can be observed. The potential of the Partnership Principle to unite civil society and public authorities should be explored e.g. as a prerequisite for receiving grants.

3.2.2 Close, and preferably structured, involvement of civil and political society representatives is the prerequisite for long-term commitment to reforms. See also point 1.5. The engagement of CSOs, including social partners from both the EU and the partner countries, is necessary in the programming and realisation of all development and cooperation activities. Existing partnerships must be strengthened and new ones promoted.

<sup>(2)</sup> 3218th FAC Conclusions (31.1.2013), Art. 19.

<sup>(3)</sup> <http://www.eesc.europa.eu/?i=portal.en.eesc-opinions-highlights>.

<sup>(4)</sup> EESC opinion on *The EU's role and relationship with Central Asia and the contribution of civil society*, OJ C 248, 28.8.2011,

3.2.3 The EESC is keen to contribute, and its partners throughout the world are a valuable resource as might be existing regular forums.

3.2.4 The EU must step up its efforts to develop the capacity of both EU and partners' actors. This can be done through financial support, experience exchange, providing education/training and by other means or programmes.

3.2.5 Equality of opportunity for participation should be ensured for different government and non-government players – both in the EU and in the partner countries. Persistent direct and indirect discrimination of any kind should be eliminated, including excessively restrictive eligibility; project size and technical requirements; discrimination in administrative rules, including differences in remuneration and/or taxation of experts working on the same projects; requirements for co-financing (problems with acceptance of in-kind contributions); national lobbying leading to distorted outcomes, etc.<sup>(5)</sup>. See point 1.6.

3.2.6 Twenty-first century technological opportunities, including e-government, should be used and promoted to a greater extent for dialogue and involvement. A special Democracy Assistance 2.0 programme might be designed.

### 3.3 Additional suggestions for EU programmes and action

3.3.1 The current system of EU and EU-related funding and support opportunities is often criticised as unnecessarily complicated. The EESC welcomes plans to simplify and streamline the EU external funding instruments, including the European Neighbourhood Instrument, from 2014 onwards and supports the pooling of funds.

3.3.2 Quality first. Specific transition expertise and ability to understand and adapt to the partner country's needs should be made subject to objective assessment and should score higher than previous EU project implementation experience.

3.3.3 Existing EU transition experience must be used better when developing the EU's external (including development) policies<sup>(6)</sup>. Successes and lessons learned should be fully systematised and analysed in detail. The conclusions must be used, fully operationalised and incorporated into the programming cycle. A tangible follow-up is needed, inter alia, relying on this knowledge when designing operational programmes and assessing and allocating project grants and size etc.

3.3.4 A European Transition Compendium must be made operational, including for programming purposes, and expanded with a database of experts with transition experience, coming from both governmental and non-governmental sectors. It should be made attractive for partners to search for experts and it should be widely promoted, especially in partner countries. The European Commission and the EEAS should prepare a checklist for the EU delegations on how to use the Compendium in programming (Inter alia, it may be stipulated as a binding source of information for experts taking part in EU activities.).

3.3.5 The European Commission should prepare an **Action Plan on how to better apply EU's rich transition experience in programming**. It would help to ensure that the experience is used systematically in areas, where it is relevant. The European Commission should also devote sufficient administrative resources to the implementation of such plan.

3.3.6 Taking into account the already existing wide amount of tools related to the sharing of the transition experience, it would be advisable for the Commission to organise a cross-cutting management process for the purpose of collecting and presenting them in the same place e.g. by an **umbrella platform or structure**.

3.3.7 Further expansion of demand driven EU expert facilities, such as SOCIEUX or MIEUX should be considered. Such facilities are excellent tool for quick reaction to the needs of partner countries. The geographic area of existing needs-based mechanisms for experience exchange and other programmes, in particular TAIEX, Twinning and Erasmus+, must be opened up worldwide (in particular to ACP countries), while not reducing the planned funds for projects from current programme states.

3.3.8 An "NGO Twinning/Trioing" concept should be launched, involving at least one partner from the EU-15, one from the EU-13 and one from a developing or transition country<sup>(7)</sup>. Experience exchange among private sector representatives should also be supported.

3.3.9 The European Development Fund should be made friendlier to sharing recent EU Member State transition experience.

3.3.10 In order to transform their experience into efficient support for transition, the EU and its Member States have to ensure adequate funding and public support. Additionally, the EESC reiterates that transition and the role of individuals, civil society and the state must be one of the aspects of European Year of Development in 2015.

<sup>(5)</sup> The European Parliament study EXPO/B/AFET/2012/32 (2012), for example, is recommended.

<sup>(6)</sup> 3218th FAC Conclusions (31.1.2013), Art. 19.

<sup>(7)</sup> EESC opinion on A new response to a changing Neighbourhood, OJ C 43, 15.2.2012.

#### 4. Supporting sustainable democratic reforms and development

The EU Member States' recent and rich transition experience is gaining in importance and use beyond the EU neighbours, with growing use of a "demand based approach". Supporting democracy should be a priority for the EU.

##### 4.1 *The special role of the EU within the different phases of transition*

4.1.1 Sustainable development is conditional upon reaching the broadest possible consensus in the partner societies. Support for democracy, good governance, fundamental freedoms (including freedom of association and peaceful assembly, speech, independent media, etc.), civic education and non-formal and informal learning, justice and social justice in all spheres and at all levels is essential.

4.1.2 A stronger focus should be placed on the effectiveness and results of policy and projects. Projects must be accompanied by administrative and operational programmes and support measures for individuals. Effectiveness cannot be achieved without improved coordination in the partner countries. Support and consultancy for planning should be offered.

4.1.3 Non-discrimination, equal treatment and proactive engagement of the EU's partners and each member of their societies (including such groups as women, minorities etc.) is essential as a general principle and as a precondition for the EU's credibility. Policy differentiation depending on the requirements of the partner country is, of course, imperative and needs to be improved. At the same time, the EU should not be more lenient towards "strategically important" countries just because of a narrow set of interests unrelated to sustainable development. Respect for human rights is a field in which the EU and its partners have to work together.

4.1.4 EU representatives have to act as both "moderators/facilitators" (analysing local needs and supporting/promoting dialogue among local stakeholders) and "experts" (sharing their past experience and bringing home lessons learnt from transition work).

4.1.5 A broad cross-section of society in the partner countries should receive comprehensive support. At the moment, government institutions, and in some cases civil society organisations (including the social partners), young people and researchers, are seen as the key target groups for EU assistance. Sustainable development and democratic change requires comprehensive support and close cooperation with "ambassadors", "engines/managers" or "faces of lasting change" from civil society and its leaders and networks, but it also needs to go beyond this. Universal, broadly accessible and broadly visible support for partners and their societies is needed. EU integration and support to neighbouring countries should not be perceived as a gain for only a selected few. Visible improvements in such fields as education and science (including vocational education and training reforms, activities aimed at

children etc.<sup>(8)</sup>), low emissions economy, infrastructure and public and social services (including ICT, health, playgrounds etc.), decent work and quality employment opportunities, gender equality, support for socially and economically vulnerable and indigenous peoples, social movements and conditions enabling business development (including strengthening and involving social partners<sup>(9)</sup>), etc. will foster change and a greater consensus on pro-European orientation.

4.1.6 In states with a democratic deficit, it is possible that funding provided to or via official institutions is spent not on social goals but on supporting the regime, and that locally based CSOs which truly represent democratic values are not given a chance to apply. The establishment of the European Endowment for Democracy (EED) is, doubtless, an important and long-needed step. However, these wide-ranging problems cannot be solved by the EED alone. Part of the solution is "a comprehensive mapping of CSOs", and other aid recipients, in the region<sup>(10)</sup>. Grass-roots/informal civil society and initiatives must also be supported to a greater extent – several EU Member States have experience in flexible project financing. At the same time, the percentage of aid distributed through civil society must be increased, particularly in the case of authoritarian regimes.

4.1.7 Particular attention also needs to be given to the situations of transition in Southern and Eastern Mediterranean countries, where democracy, human rights and women's rights are seriously under threat, and to the need to ensure stronger EU support to civil society and women's organisations.

4.1.8 In general, the EU needs to carefully analyse and adapt to different absorption capacities and special traits among its partner countries.

4.1.9 The EU must share its experience on how to ensure sustained external and internal support for development, inter alia for civil society, after the first phases of transition have been passed and comparative welfare is achieved.

##### 4.2 *Inclusive growth – the role of business and jobs in transition societies*

4.2.1 Inclusive economic growth and a stable market, together with improved welfare and employment and smart economic liberalisation, must play a key role in the development of transition societies (in line with the concept of

<sup>(8)</sup> E.g. EESC opinion on *The EU's role and relationship with Central Asia and the contribution of civil society*, OJ C 248, 28.8.2011.

<sup>(9)</sup> EESC opinion on *A new response to a changing Neighbourhood*, OJ C 43, 15.2.2012.

<sup>(10)</sup> EESC opinion on *Proposals for Regulations of the European Parliament and of the Council on the Instrument for Pre-accession Assistance (IPA II) and for establishing a European Neighbourhood Instrument*, OJ C 11, 15.1.2013, p. 80; see also *Information Report on The role of civil society in the implementation of the Partnership for democracy and shared prosperity with the southern Mediterranean* (REX/356).

"economic transformation" in the post-2015 debates). A safe and welcoming environment for investment must be fostered and protected through international agreements, within the multilateral frameworks such as the WTO, OECD etc.

4.2.2 The key to sustainability is the rule of law, an independent legal system that cannot be subverted by corruption or dictatorship. Independent CSOs that do not suffer intimidation, access to information, social protection and opportunities for decent employment, scientific and technical cooperation, energy efficiency/independence, and environmental conservation are all vital.

4.2.3 Trade conditions must be improved, and use made where appropriate of Deep and Comprehensive FTAs, which aim to go "behind the borders" to encourage a steady approximation with the EU of rules, principles and standards in technical regulations – and in their implementation. The goal for the EU's partners should be strong and inclusive economies steadily reducing their dependence on outside aid, and this is yet another area where experience exchange is vital.

4.2.4 Dialogue with, and assistance to, independent enterprises (as well as trade unions and other civil society organisations) must be prioritised when dealing with authoritarian regimes. In all cases, SMEs should be assured of a more important role as agents for sustainability, rule of law and

development in the economy. Foreign investors' councils or other CSO partners can play an additional role.

#### *4.3 Additional notes on international partnerships for development*

4.3.1 The EESC and other bodies have already pointed to the need for close and efficient cooperation between the EU, the UN and other international bodies on the post-2015 development agenda.

4.3.2 The EU also has to take into account other recent developments, including the establishment of the Open Government Partnership (an initiative of particular relevance to the EESC and one that reflects the aforementioned partnership principle). The impact of the planned Transatlantic Trade and Investment Partnership, and other such agreements, must be carefully planned and monitored regarding their impact on development cooperation and transition.

4.3.3 The role and potential of global private business and foreign investors that share EU values should be better exploited and supported, and in terms of respect for fundamental economic and social rights.

4.3.4 A comprehensive study should be planned looking at the best practices of global foundations and CSOs and the tools they use in transition countries.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on 'The European Voluntary Humanitarian Aid Corps: enabling and encouraging citizens from across the Union's Member States to participate in EVHAC' (exploratory opinion requested by the Lithuanian presidency)**

(2014/C 67/03)

Rapporteur: **Giuseppe IULIANO**

On 15 April 2013, the Lithuanian presidency decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*European Voluntary Humanitarian Aid Corps: enabling and encouraging citizens from across the Union's Member States to participate in EVHAC*

(exploratory opinion requested by the Lithuanian presidency).

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 110 votes, with 2 abstentions.

## Introduction

Since its establishment, the European Economic and Social Committee has always paid special attention to voluntary work insofar as it is a practical expression of citizens working towards solidarity, social cohesion and the improvement of the communities where they carry out their activities. Voluntary work is said to be "a sign of a society's excess of goodwill" and it is a palpable reflection of the values underpinning the European Union.

The EESC has drawn up a number of opinions on aspects of national or cross-border volunteering within the EU. In fact, the EESC was the first EU institution to suggest holding a European Year of Volunteering. The EESC has also drawn up opinions on the role of civil society in EU external action and development cooperation.

Thus, since Article 214(5) of the Treaty on the Functioning of the European Union specifically mentions setting up a European Voluntary Humanitarian Aid Corps (EVHAC), later renamed the EU Aid Volunteers initiative, and the process for adopting a regulation in the near future to manage its implementation has been launched, it is appropriate for the EESC to set out a position that allows civil society's views to be incorporated in the regulation and its subsequent implementation.

## 1. Conclusions and recommendations

1.1 The EESC welcomes the establishment of a European Voluntary Humanitarian Aid Corps (EVHAC) or "Aid Volunteers" initiative because it believes that this will encourage EU citizens to participate in humanitarian activities, especially through civil society organisations such as specialised NGOs.

1.2 EVHAC should be used to facilitate the involvement of Member States with less experience in humanitarian activities. The EESC therefore suggests setting up specific actions to promote the participation of volunteers from these countries and foster their social and humanitarian organisations.

1.3 In order to promote public support for humanitarian action and recognition for the role of voluntary action, the EESC recommends also considering dissemination and awareness-raising activities for the general public on these issues.

1.4 The EESC endorses and supports the views expressed in the European Consensus on Humanitarian Aid regarding the objectives and assets of humanitarian action and would like to express its conviction that humanitarian aid includes protecting people affected by humanitarian crises, maintaining their dignity and respecting their rights.

1.5 The EESC emphasises this broad concept of humanitarian action, which goes beyond the mere provision of assistance, and recalls the need to respect the humanitarian principles of humanity, impartiality, neutrality and independence, and the essential nature of the laws that govern humanitarian action.

1.6 The EESC would like to emphasise the genuine nature of voluntary action and the risks of confusion with other types of action involving work. In times of economic crisis such as these, this aspect is particularly relevant, both within the EU and in its external action.



1.7 The EESC stresses that the existence of different laws on voluntary action in the various Member States could have a negative impact on the Aid Volunteers initiative.

1.8 Volunteer involvement must always be needs-based, following an analysis and assessment of the situation and the needs of populations affected by disasters or complex crises.

1.9 The proposal for a regulation <sup>(1)</sup> emphasises the need to establish standards for all stages in the process of volunteer participation. The EESC shares this concern and suggests basing these standards on good practices in the humanitarian sector and existing high-quality initiatives.

1.10 Volunteering is usually carried out through social organisations and, to a lesser extent, civilian public sector institutions. The quality of the institutions plays a key role in the success of the work. The EESC supports the need to develop certification mechanisms for organisations based on the humanitarian sector's experience and cumulative expertise. Certification criteria should also apply – albeit in an adapted form – to hosting organisations in the affected countries.

1.11 The EESC believes that the certification mechanism must be based on the sum of these experiences and that its implementation must incorporate the key criteria of transparency, free competition and equal opportunities, not to mention accountability. The initiative should enable NGOs from countries with less experience in this field to participate.

1.12 The EESC believes that in addition to technical vocational training – which is obviously important – there is a need to provide and prioritise training in values, respect for the affected populations, intercultural considerations, respect, and the psychosocial dimension of aid etc., in short, in many of the areas that make humanitarian action what it is, and go far beyond the merely technical.

1.13 The EESC believes that the participation of businesses that also have experience in corporate or other types of volunteering has to be studied carefully, also in order to enhance the role played by SMEs.

## 2. General aspects

2.1 Although volunteering and voluntary sector activities have become part of the EU *acquis*, and the EU institutions

have been launching such projects and programmes for decades, the Treaty on the Functioning of the European Union alone includes a specific reference to voluntary aid in Article 214(5) in the chapter on humanitarian aid, where it mentions setting up a European Voluntary Humanitarian Aid Corps (EVHAC) in order to involve young Europeans in humanitarian aid.

2.2 Setting aside the surprise generated by this inclusion for a variety of reasons, it is the only reference to volunteering in the Treaty. The humanitarian sector is one of the most professionalised areas of cooperation. There are no references to volunteering in other sectors where European experience exists, such as youth or social policy, etc. The fact is that following the Treaty of Lisbon's entry into force, the EU institutions have taken action to launch this initiative. As a result, the Commission has carried out a number of feasibility and impact studies on this initiative and has implemented a number of pilot projects to draw lessons and put them into practice <sup>(2)</sup>. The changes adopted include the decision to change its name to the Aid Volunteers initiative, and progress in discussions on a regulation to implement the initiative.

2.3 The EESC would like to recall that volunteering has always been part of what European social organisations do and this is why, in its work, the EESC has always given attention to its support, promotion, etc.

2.4 At the same time, the EESC has set out its positions in a range of opinions on different aspects of EU development cooperation and external action, placing special emphasis on areas connected with its mandate, including, *inter alia*, the role of civil society and labour and social standards.

2.5 Humanitarian aid is one aspect of EU external action and is, precisely, one of the areas where the participation and key role of European civil society is clearest. More than 47 % of the European Commission's humanitarian aid is channelled through NGOs <sup>(3)</sup> and this is similar to what happens in most Member States. Furthermore, it is among the EU policies that enjoy the greatest public support, as indicated in the Eurobarometers <sup>(4)</sup>.

<sup>(2)</sup> DG ECHO commissioned evaluations in 2006, 2010 and 2012: Review concerning the establishment of a European Voluntary Humanitarian Aid Corps» (2006); Review concerning the establishment of a European Voluntary Humanitarian Aid Corps - Final report - (2010); Impact Assessment on the establishment of a European Voluntary Humanitarian Aid Corps (2012), drawing various conclusions.

<sup>(3)</sup> Data from ECHO's 2012 report: [http://ec.europa.eu/echo/files/funding/figures/budget\\_implementation/AnnexV.pdf](http://ec.europa.eu/echo/files/funding/figures/budget_implementation/AnnexV.pdf).

<sup>(4)</sup> According to the March 2012 Eurobarometer survey on this issue, 88 % of EU citizens are in favour of EU humanitarian funding. [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_383-384\\_fact\\_es\\_es.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_383-384_fact_es_es.pdf).

<sup>(1)</sup> Proposal for a Regulation of the European Parliament and of the Council Establishing the European Voluntary Humanitarian Aid Corps EU (COM(2012) 514 final).

2.6 Since 1996, following the adoption of Regulation (EC) No 1275/1996, the European Commission has had a solid foundation for its humanitarian work, subsequently complemented by the adoption of the European Consensus on Humanitarian Aid, signed in 2007 by the three institutions (the Council, the Commission and the Parliament) and which sets out the general policy framework for humanitarian assistance. The document defines the common vision, policy objectives and principles of EU humanitarian aid and sets out an EU vision that responds to humanitarian needs with one voice, and more effectively. It also defines the role of the Member States and EU institutions. Finally, Article 214 of the Treaty on the Functioning of the European Union (TFEU) establishes humanitarian aid as an independent policy.

2.7 The EESC agrees with the European Consensus on Humanitarian Aid that "the objective of EU humanitarian aid is to provide a needs-based emergency response aimed at preserving life, preventing and alleviating human suffering and maintaining human dignity wherever the need arises if governments and local actors are overwhelmed, unable or unwilling to act. EU humanitarian aid encompasses assistance, relief and protection operations to save and preserve life in humanitarian crises or their immediate aftermath, but also actions aimed at facilitating or obtaining access to people in need and the free flow of assistance. EU humanitarian assistance is provided in response to anthropogenic (including complex emergencies) and natural disasters as needed" <sup>(5)</sup>. The EESC particularly welcomes the references to protecting victims and maintaining human dignity, believing that this takes aid beyond the concept of assistance.

2.8 As a result, the EESC emphasises that beyond international humanitarian law definitions, which define victims' rights, or the EU legal instruments cited above, some recognised humanitarian organisations, such as *Médecins Sans Frontières/Doctors without Borders* consider that: "Humanitarian action is an act of solidarity by civil society for civil society, from person to person, which seeks to preserve life and to alleviate suffering. Unlike other types of aid, it does not aim to transform a society but to help it through a critical period. It is committed to people, not States". Civil society plays a fundamental role in humanitarian action.

2.9 The EESC would like to point out that the concept of humanitarian aid has evolved in recent decades and includes preventative action, risk reduction, assistance, protection and post-disaster or post-conflict rehabilitation. The EU itself, through the European Consensus on Humanitarian Aid, has been a pioneer in this area. At the same time, humanitarian aid not only seeks to meet needs but also includes aspects that

have a "rights-based focus" and seeks to restore human dignity. Within this rights-based approach, the EESC can make its own unique contribution.

2.10 The EESC would also like to highlight that the European Consensus on Humanitarian Aid and the Aid Volunteers initiative can also help to involve Member States with less experience in humanitarian action but with considerable potential and capacity to contribute new insights, energy and volunteers. One of the contributions of the EU Aid Volunteers initiative should be to promote voluntary humanitarian action among citizens throughout the EU.

2.11 The EESC therefore welcomes the EU Aid Volunteers initiative and would like to contribute its own ideas to the preparation of a regulation on this initiative, with particular emphasis on the aspects most closely connected to its mission and experience as an EU civil society advisory body.

### 3. Volunteering in European aid

3.1 The EESC agrees with the definitions of volunteering set out in the proposal for a regulation, and which have been included in other opinions. The EESC would like to emphasise the genuine nature of voluntary action and the risks of confusion with other types of action involving work. In times of economic crisis such as these, this aspect is particularly relevant, both within the EU and in its external action. This is why the EESC suggests that in certain cases the possible economic impact of EU voluntary action on beneficiary countries should be evaluated.

3.2 The EESC would like to recall the need for consistency in legislative frameworks for volunteering in the EU, especially on the international activities of volunteers. The EESC stresses that the existence of different legal frameworks on voluntary action in the various Member States could have a negative impact on the EU Aid Volunteers initiative <sup>(6)</sup>.

3.3 At the same time, the EESC is convinced that this type of initiative should serve to promote the inclusion of Member States with less experience in humanitarian aid volunteering. The initiative should ensure that the participation of organisations from these countries is facilitated and should promote equal opportunities for the inclusion of both organisations and volunteers from across the EU. The EESC suggests carrying out specific actions to promote the participation of organisations and volunteers from Member States which so far have been less active in the humanitarian sector.

<sup>(5)</sup> Article 8 of the Consensus (OJ C 25, 30.1.2008, p. 1-12). The Consensus also mentions initiatives such as the Sphere Project, which set out the rights of people affected by humanitarian crises and their protection. Sphere 'Humanitarian Charter' and Minimum Standards.

<sup>(6)</sup> EESC opinion on the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on EU Policies and Volunteering: Recognising and Promoting Cross-border Voluntary Activities in the EU*. (COM(2011) 568 final), OJ C 181, 21.6.2012, pp. 150-153.

3.4 Although the Treaty on the Functioning of the European Union originally confined itself to humanitarian aid, in fact, the funded pilot projects and jobs assigned to volunteers have, for the most part, concerned development cooperation, disaster risk reduction, rehabilitation and reconstruction, mitigation, resilience, etc. The EESC considers this adjustment to be logical and suggests studying ways to develop future voluntary action in EU development cooperation.

3.5 Volunteering in European humanitarian aid and, more generally, in development cooperation must be consistent, complementary and integrated into other actions of the EU institutions. The EESC believes that volunteering can be useful in other areas of international development cooperation, but must be based on a cautious (do no harm) or precautionary approach that restricts the situations in which volunteers can be deployed.

3.6 This is why the EESC agrees with the European Parliament's decision to restrict the participation of volunteers in situations of conflict, insecurity or in complex emergencies. The safety of beneficiaries, volunteers and staff in general, especially in the sort of situations where humanitarian operations are conducted, must come first.

3.7 As a result, the EESC suggests further refining the definition of the types of projects that are best suited to volunteer participation or, at least, more stringently defining the types of operation from which volunteer involvement under the initiative would be excluded. Humanitarian action is wide-ranging and diverse and we need to identify which of its contexts are most suited to voluntary work.

3.8 At the same time, the EESC welcomes the fact that the concept of youth volunteering as set out in the Treaty has turned into something more realistic, which addresses the various types of volunteering, the skill-sets required, different values, etc. The EESC believes that an effort is needed to ensure an appropriate gender balance in the project.

#### **4. Challenges for the implementation of the EU Aid Volunteers initiative**

4.1 The EU institutions have taken a cautious approach to the practical implementation of the EU Aid Volunteers initiative. The evaluation of the pilot schemes and initiatives carried out so far should play a key role in setting and taking on a number of future challenges. The results of these evaluations should be shared with all interested parties and the lessons learnt should be discussed.

4.2 Volunteer involvement must always be based on needs and requests, following an analysis and assessment of the

situation and the needs of populations affected by disasters or complex crises. It is essential to link this with EU coordination mechanisms (the COHAF, DG ECHO instruments, etc.) and, internationally, with the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

4.3 Furthermore, clear mechanisms need to be established with specialised humanitarian networks (for the moment) such as, inter alia, the International Federation of Red Cross and Red Crescent Societies, VOICE (Voluntary Organisations in Cooperation in Emergencies) or ICVA (International Council of Voluntary Agencies).

4.4 The proposal for a regulation emphasises the need to establish standards for all stages of the deployment of volunteers to third countries. The EESC shares this concern and suggests basing these standards on good practices in the humanitarian sector and relevant existing high-quality initiatives <sup>(7)</sup>.

4.5 These standards must attach particular importance to safety and security and conditions that allow volunteers to carry out their activities and add value to humanitarian projects.

4.6 Volunteering is usually carried out through social organisations and, to a lesser extent, civilian public sector institutions. The quality of the institutions plays a key role in the success of operations. The EESC supports the need to develop certification mechanisms for organisations based on the humanitarian sector's experience and cumulative expertise. The EESC therefore advocates analysing and assessing the experience which DG ECHO has accumulated through the framework agreements establishing cooperation with NGOs and with the UN agencies <sup>(8)</sup>.

4.7 The EESC wishes to express its conviction that the certification mechanism must be based on the sum of these experiences and that its implementation must incorporate the key criteria of transparency, free movement and equal opportunities, not to mention accountability. The initiative should enable NGOs from countries with less experience in this field to participate. The EESC therefore advocates developing specific actions to disseminate the Aid Volunteers initiative and humanitarian action in general in those Member States.

<sup>(7)</sup> The EESC advocates specific monitoring with respect to the Joint Standards Initiative (JSI), set up by three of the most significant initiatives for improving humanitarian action, i.e. the Sphere Project, the HAP Initiative (Humanitarian Accountability Partnership Initiative) and the People in Aid Code of Good Practice.

<sup>(8)</sup> The recommendations of the Steering Committee for Humanitarian Response currently under discussion should also be followed up, while the accreditation mechanisms established in some Member States should be studied in order to seek consistent approaches and avoid duplication.

4.8 Certification criteria should also apply – albeit in an adapted form – to hosting organisations in the affected countries. The capacity building of hosting organisations must be a priority and should include technical, logistical, and financial support from the project. The initiative could be used to support partner organisations in the South and to strengthen hosting communities. The EESC has been particularly sensitive to this issue and has adopted a number of opinions on the subject <sup>(9)</sup>.

4.9 The EESC emphasises that the institutions sending and hosting volunteers must be civilian in nature, to ensure that due regard is shown for humanitarian principles and values and that they are accepted by the affected communities.

4.10 The EESC believes that the participation of businesses that also have experience in corporate or other types of volunteering has to be studied in depth so that mechanisms can be put forward for this type of participation. The EESC considers that in any case the role of SMEs has to be promoted and not, as has sometimes occurred, just the role of large corporations with corporate social responsibility (CSR) or similar departments.

4.11 The training of candidate EU Aid Volunteers is vital to ensure the smooth running of operations. The EESC would like to express its conviction that in addition to technical vocational training – which is obviously important – there is a need to provide and prioritise training in values, respect for the affected populations, intercultural considerations, respect, and the psychosocial dimension of aid, etc. in short, in many of the areas that make humanitarian action what it is, and go far beyond the merely technical. If there is one thing that distinguishes humanitarian action, it is this emphasis on principles and values, which must be an essential part of volunteer training.

4.12 This is why it is necessary to work with experienced bodies in the different Member States and with EU-wide training networks, not just university networks but also non-profit networks. The assessment of training activities included in pilot projects that have already been completed should be given particular attention. The EESC calls for good practices in this field to be gathered as soon as possible so that they can be used as benchmarks for future proposals.

4.13 The proposal for a regulation considers the establishment of a database of candidate volunteers to be deployed at a later stage by accredited organisations or, possibly, by the Commission's services. The EESC would like to point out that the placement of volunteers with organisations does not depend purely on technical requirements but also on a certain affinity in terms of shared values and an acceptance, *inter alia*, of the organisation's mandates and missions. As a result, whatever the final arrangements established by the Commission for the volunteer database, the EESC is convinced that this particular aspect must be taken into account.

4.14 The implementation of the EU Aid Volunteers initiative is an opportunity to broaden European public awareness and education campaigns about solidarity and the need to keep aid flowing even in times of crisis, and to promote universal values. Beyond the mere "high profile" of operations, the EESC would like to stress the need to strengthen relations with the general public, as it has done in other opinions. And civil society organisations, many of which are represented within the EESC, have a key role to play in this respect. The EESC believes that these public awareness activities should concentrate on Member States with less experience in the field of humanitarian action.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(9)</sup> EESC opinion on *Civil society involvement in the EU's development policies and in development cooperation*, OJ C 181, 21.06.2012, pp. 28-34,



## Opinion of the European Economic and Social Committee on 'A more inclusive citizenship open to immigrants' (own-initiative opinion)

(2014/C 67/04)

Rapporteur: **Mr PARIZA CASTAÑOS**

On 14 February 2013 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on

*A more inclusive citizenship open to immigrants*

(own-initiative opinion).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 176 votes to 10, with 14 abstentions.

### 1. Recommendations and proposals

1.1 The Committee notes that over the last ten years, very significant steps have been taken in the EU with the aim of ensuring equal rights, freedoms and guarantees linked to the status of European citizenship, strengthening the criterion of residence as opposed to nationality. European citizenship is developing into a citizenship of residence, linked to the Charter of Fundamental Rights and the values and principles enshrined in the Treaty (TFEU).

1.2 The Committee believes that the time has come for an evaluation and to identify the unfinished work and remaining obstacles to a more inclusive, participatory and civic European citizenship which is open to everybody residing on a stable basis.

1.3 The Europeans of the 21st century have to face up to a major challenge: broadening the base of our democracies, including new citizens with equal rights and obligations. In order to achieve this, the right to Member State nationality and European citizenship must include all people of immigrant origin, who bring great national, ethnic, religious and cultural diversity. The Committee considers European democracies to be free and open societies, which must be based on the inclusion of all citizens, whatever their origins and reference points.

1.4 The Committee proposes that a debate be launched on whether the current legislative and political bases of European immigration, citizenship and integration policy are sufficient for today's increasingly pluralist and highly diverse European societies.

1.5 The economic crisis has pushed the protection of fundamental rights, integration and the fight against discrimination off the political agenda. The EESC would warn of the risks of

increased intolerance, racism and xenophobia against immigrants and minorities. Politicians, social leaders and the media must act with a great sense of responsibility and set a great social and political example to combat these forms of behaviour and the EU's institutions must act decisively to protect fundamental rights.

1.6 The Committee wishes to send a clear message to those who, based on a form of nationalism which excludes others, define national and European identity in a way that deprives millions of people of citizenship rights, leaving them with a weak legal status, because of their national origin. The quality of democracy in Europe must be improved, extending access to Member State nationality and European citizenship.

#### *Recommendations for the Member States*

1.7 Given that many Member States have legislation that is restrictive as regards access to nationality, the Committee calls on them to adopt more flexible legislation and administrative procedures, in order to enable third-country nationals with long-term resident status <sup>(1)</sup> to acquire nationality.

1.8 The Committee urges the Member States to conclude agreements with immigrants' countries of origin to enable them to hold dual nationality.

1.9 Member States should sign and ratify the 1997 European Convention on Nationality and the 1992 Convention on the Participation of Foreigners in Public Life at Local Level and show due regard for the principles of proportionality, effective remedy and non-discrimination in their policies on acquisition and loss of nationality.

<sup>(1)</sup> Directive 2003/109.



1.10 The Committee notes that in a number of Member States, there remain barriers to political rights, such as the right to vote and the rights of association and political participation, and recommends that these Member States amend their legislation to ensure political rights for third-country nationals residing there on a stable basis.

#### *Proposal for Treaty reform*

1.11 The Committee proposes that, in future, when the EU undertakes a new reform of the Treaty (TFEU), it amends Article 20 so that third-country nationals who have stable, long-term resident status can also become EU citizens.

1.12 The criterion of people's residence should be used to obtain Union citizenship. As the Committee pointed out in an earlier opinion <sup>(2)</sup>, residence is already a criterion in European law for granting various economic, social, cultural and civil rights and freedoms to third-country nationals. Many of these rights are of a similar nature to European citizenship. However, certain political rights, such as voting, are currently excluded. The Committee reiterates that "legal stable residence must also be a route to achieving citizenship of the European Union" <sup>(3)</sup>.

#### *Proposal for the European Institutions*

1.13 The EU Charter of Fundamental Rights is binding in nature and creates a new framework for European policies on immigration, integration and citizenship. The Commission should analyse the way in which the Charter affects the status and rights of third-country nationals, with a view to launching new initiatives to adapt immigration law to the guarantees enshrined in the Charter.

1.14 The Charter provides the general basis for a new concept of civic citizenship (a common set of basic rights and obligations) for third-country nationals. The Committee suggests that developing this civic citizenship should be a priority of the new political programme that will follow on from the Stockholm Programme as of 2014.

1.15 The EU should adopt an **Immigration Code** to provide greater transparency and legal clarity regarding the rights and freedoms of third-country nationals residing in the EU. The Committee considers that European immigration law should guarantee equal treatment and the principle of non-discrimination.

1.16 The Commission should assess the on-going problems in Member States' practices with regard to protecting the fundamental rights of third-country nationals, especially in relation to social rights, mobility and access to effective remedy.

1.17 The Commission should investigate the barriers that in some Member States still hamper implementation of the long-term resident status and the Blue Card <sup>(4)</sup> and should bring infringement proceedings against those Member States that fail to comply with Community legislation.

1.18 In the context of the Agenda for Integration, the Commission should carry out an assessment of the procedures and barriers faced by Member States regarding the acquisition and loss of nationality, and the impact of these on EU citizenship.

1.19 The Committee calls on the European Commission to draw up a report on the state of play of discussions in the EU concerning the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families <sup>(5)</sup>. The Commission should ensure that the conditions for ratifying this convention are in place.

## **2. European citizenship**

2.1 2013 has been declared **European Year of Citizens**. Citizenship of the Union is one of the most effective instruments for forging a common identity for all Europeans. The Committee considers that the political philosophy which underpinned the founding of the EU remains extremely relevant: as Jean Monnet said, "We are not making a coalition of States, but are uniting people".

2.2 European citizenship is not a meaningless concept, but rather a specific legal and political status made up of rights and freedoms. Democracy, freedom, the rule of law, equality and human rights are the values underpinning the European Union, as enshrined in Article 2 of the Treaty on European Union.

2.3 The Committee believes that in these difficult times, with the serious economic, social and political crisis which is devastating Europe, innovative strategies need to be implemented to promote a more open and inclusive citizenship and boost the confidence of everyone living in the European Union.

2.4 The European Commission has published the second EU citizenship report, entitled EU citizens: your rights, your future, which examines some of the existing obstacles and problems. The Committee welcomes the Commission's report, but would point out the absence of political action regarding third-country nationals who have similar European rights and freedoms, but who do not have full citizenship.

<sup>(2)</sup> OJ 208 C, 3.9.2003, p 76.

<sup>(3)</sup> OJ C 208, 3.9.2003, p. 76, point 4.3.

<sup>(4)</sup> Directive 2009/50.

<sup>(5)</sup> United Nations General Assembly of 18.12.1990.

2.5 The Committee is launching a number of initiatives to promote more active European citizenship, but draws attention to the seriousness of the problem facing many young people who are second- or third-generation descendants of immigrants and who have to contend with serious situations of discrimination and exclusion, which has the effect, in particular, of diminishing their sense of belonging to a society that considers them "second class citizens".

### 3. The European integration agenda: involving immigrants in the democratic process

3.1 Ten years ago, the Committee proposed that integration should form an essential part of the common immigration policy and called for the implementation of a European agenda. In 2004 the Council adopted the Common Basic Principles for integration, which include the following: "access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration" and "the participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration".

3.2 The Commission, in cooperation with the EESC, is implementing the European integration agenda and promoting many activities to support the Member States. The EESC and the Commission have set up the European Integration <sup>(6)</sup> Forum to facilitate the participation of immigrants and civil society organisations.

3.3 The Committee has contributed to the integration agenda through various opinions <sup>(7)</sup>.

3.4 The Forum has analysed the importance to integration of immigrants' participation in the democratic process and consider that Member States which facilitate migrants' access to citizenship rights improve integration. The Committee therefore calls on Member States, within the framework of their domestic legislation, to adopt more flexible laws enabling third-country nationals who are long-term residents to acquire nationality.

3.5 The Committee considers that unions, employers and NGOs have an inclusive approach, and ease the participation of immigrants in the democratic life of their organisations. Civil society aims to support third-country nationals who are active members of organisations.

3.6 Integration is a two-way social process of mutual adaptation between immigrants and the host society, which should be supported through good governance in the EU, at the national, regional and local levels. A common European focus offers great added value, because it links integration to the values and principles set out in the Treaty, to equal treatment and non-discrimination, to the Charter of Fundamental Rights, the European Convention on Human Rights and the Europe 2020 agenda.

3.7 European legislation on immigration should ensure equal treatment and the principle of non-discrimination. In this connection, the issue of rights and possibilities relating to language and religion should be mentioned. The Committee considers it a very positive step that the Commission is proposing a Directive <sup>(8)</sup> to facilitate the exercise of rights conferred on workers in the context of freedom of movement.

3.8 However, the Committee has proposed that everybody residing in the EU should receive fair treatment, regardless of their migratory status or nationality. To that end, some of the current restrictions to EU citizenship status need to be overcome.

### 4. Nationality, residence and EU citizenship

4.1 The Committee wishes to renew the debate on the nature of European citizenship, in relation to third-country nationals residing legally and on a stable basis in the EU. There must be a return to the approach originally set out in the Conclusions of the Tampere Council <sup>(9)</sup>. Fair and equal treatment for European citizens and nationals of third countries, as laid down in Tampere <sup>(10)</sup>, is still a political priority, since the objectives have not been achieved after 14 years of the common immigration policy.

4.2 It falls to Member States to grant nationality on the basis of their own domestic law, as the Treaty does not confer on the EU powers to harmonise legislation: this is therefore a matter covered by national sovereignty.

<sup>(8)</sup> COM(2013) 236 final.

<sup>(9)</sup> Tampere European Council, Presidency conclusions, 15 and 16 October 1999.

<sup>(10)</sup> Paragraph 18 states that:

*The European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia.*

Paragraph 21 stipulates that:

*The legal status of third country nationals should be approximated to that of Member States' nationals. The European Council endorses the objective that long-term legally resident third country nationals be offered the opportunity to obtain the nationality of the Member State in which they are resident.*

<sup>(6)</sup> <http://ec.europa.eu/ewsi/en/policy/legal.cfm>

<sup>(7)</sup> OJ C 318, 29.10.2011, pp. 69–75; OJ C 48, 15.2.2011, pp. 6–13; OJ C 354, 28.12.2010, pp. 16–22; OJ C 347, 18.12.2010, pp. 19–27; OJ C 128, 18.5.2010, pp. 29–35; OJ C 27, 3.2.2009, pp. 95–98; OJ C 318, 23.12.2006, pp. 128–136; OJ C 125, 27.5.2002, pp. 112–122.

4.3 However, in all Member States, immigrant organisations, unions and NGOs are running initiatives and promoting debate with a view to speeding up naturalisation and nationality procedures for immigrants and making them more flexible, facilitating integration, since societies and states are not being inclusive if they deny equal treatment and rights of participation to people who reside there on a stable basis.

4.4 The concept of European citizenship is firmly anchored in the Treaties, in EU law and in the Charter of Fundamental Rights. Article 20 of the Treaty (TFEU) in particular states that "every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship". Nationality, as acquired and lost under the different national legislations, is thus the "master key" to EU citizenship <sup>(1)</sup>.

4.5 The close link between European citizenship status and nationality of a Member State has been the subject of many debates and criticisms since European citizenship was established in 1992 by the Maastricht Treaty. This connection means that third-country nationals residing legally in the EU are in principle formally excluded from Union citizenship, and these people have therefore remained "invisible" in European debates on citizenship and in participation in politics and in democratic life.

4.6 A restrictive interpretation of Union citizenship takes the view that there is a homogenous and clearly identifiable group of people known as European citizens and another of people classified as third-country nationals who are not considered citizens of Europe.

4.7 But who are these European "citizens"? Is it right to restrict Union citizenship to people with the nationality of a Member State? Do third-country nationals not have certain rights and freedoms similar and comparable to those of European citizens? What are the current limitations and challenges of Union citizenship? What role do political participation and the right to vote play in this context? Why are many young people of immigrant background still viewed as "second-class citizens"? If immigrants' participation in the democratic process helps them to integrate, why are they excluded?

4.8 So far, it has been the Member States who have decided indirectly which people are European citizens and which are not. This must change, so that Union citizenship can be at the heart of European integration.

## 5. "Civic" European citizenship

5.1 The Charter of Fundamental Rights provides the general bases for a new concept of civic, inclusive and participatory citizenship, which the Committee believes needs to be established.

5.2 The Commission has stated that the Charter of Fundamental Rights could provide a reference for the development of the concept of civic citizenship (comprising a common set of core rights and obligations) for third-country nationals.

5.3 The Charter of Fundamental Rights of the EU is binding, with a legal value similar to that of the Treaties. The Charter has transformed and consolidated the features of Union citizenship status. It applies both to European citizens and to third-country nationals. Title V is dedicated to "citizens' rights", but its Article 41 (right to good administration) and Article 45(2) (freedom of movement and of residence) also include nationals of third countries.

5.4 The EESC would point out that the other provisions of the Charter apply to everybody, regardless of nationality. The Charter restricts Member States' discretionary power regarding matters relating to security of residence, family reunification, expulsion, and acquisition and loss of nationality. One of the Charter's crucial features is Chapter VI on justice, which includes the right to effective justice and remedy if fundamental and citizenship rights are violated.

5.5 The Committee believes that, taken together, Union citizenship and the Charter can have profound effects in terms of extending the personal scope of European citizenship status. One of the greatest challenges is to guarantee access to effective remedy for third-country nationals whose fundamental rights and freedoms have been subjected to exemptions and violations by Member States and their authorities in relation to European law <sup>(12)</sup>.

5.6 During the preparatory work for the European Convention, the Committee adopted a Resolution in which it stated that "Policies for integrating immigrants need to be improved. The Committee calls on the Convention to examine the possibility of granting Union citizenship to third-country nationals with long-term resident status <sup>(13)</sup>."

<sup>(1)</sup> De Groot, G.R. (1998) The relationship between the nationality legislation of the Member States of the European Union and European Citizenship, Chapter VI, in M. La Torre (ed.), *European Citizenship: An Institutional Challenge*, The Hague: Kluwer International Law.

<sup>(12)</sup> S. Carrera, M. De Somer and B. Petkova (2012), *The Court of Justice of the European Union as a Fundamental Rights Tribunal: Challenges for the Effective Delivery of Fundamental Rights in the Area of Freedom, Security and Justice*, CEPS Policy Brief, Centre for European Policy Studies, Brussels.

<sup>(13)</sup> OJ C 61, 14.3.2003, p. 170, point 2.11.

5.7 In its Communication on Community immigration policy<sup>(14)</sup>, the Commission set the objective of developing a European legal framework for the admission and residence of third-country nationals and a common legal status based on the principle of providing sets of rights and responsibilities on a basis of equality with those of European citizens, but differentiated according to the length of stay.

5.8 Enabling migrants to acquire citizenship after a minimum period of five years might be a sufficient guarantee for many migrants to settle successfully into society or be a first step in the process of acquiring the nationality of the Member State concerned.

5.9 In its opinion on *Access to European Union citizenship*, the Committee pointed out that this broad definition corresponded to the one adopted by the Commission and termed "civic citizenship".

5.10 The Committee argued that "civic citizenship" at European level should be understood as "participatory and inclusive citizenship" for all persons who reside on a stable basis in the Union's territory, with equality for all before the law as one of its core principles. In its opinion on *Access to European Union citizenship*, the Committee pointed out that this would enshrine "the commitment to equal treatment for third party nationals in order to promote and facilitate the civic integration of third party nationals residing legally and on a stable basis in one of the Member States (equality before the law)" and make it possible to tackle the discrimination currently being suffered by third-country nationals.

## 6. Ten years on, there are still problems that need to be addressed

6.1 Over the last ten years, Europe has implemented policies, adopted legislation and laid down case law which is highly significant both in terms of Union citizenship and in terms of the status of third-country nationals. These processes have meant a gradual expansion of the rights, freedoms and guarantees of European citizenship, on the basis of residence. Nevertheless, the Committee believes that expansion to be incomplete, with too many limitations.

6.2 One of the most important legislative steps has been the adoption of the **Directive on citizenship (2004/38)**, which harmonised the previously dispersed and fragmented European legislative framework on free movement and residence in a single legal instrument. The EU has been particularly active in

recognising rights and anti-discrimination provisions for third-country nationals with family members who are European citizens. The Directive expressly recognises various rights and freedoms for family members who are third-country nationals which are of a very similar nature to those enjoyed by European citizens.

6.2.1 The Committee agrees with the Commission that one of the most important challenges is to make the rights laid down in the Directive accessible to everybody in their daily lives, eliminating certain national bad practices, and offering effective legal protection for those whose citizenship freedoms have been violated.

6.2.2 While these "citizenship rights" derive directly from the family relationship, they can only be accessed when European citizens and their families exercise their right of free movement or emigrate to a second Member State. The exercise of intra-EU mobility is still one of the conditions for granting family members the protection conferred by European citizenship<sup>(15)</sup>. The Directive also recognises a permanent right of residence for those family members after five years of residence.

6.2.3 However, the Committee believes that national authorities still have laws and practices which hinder free movement and residence for European citizens' family members. Furthermore, there are still situations of reverse discrimination suffered by foreign family members of European citizens, which must be resolved<sup>(16)</sup>.

6.3 **The Court of Justice of the EU** has been very active and has played a positive and proactive role in protecting and interpreting the rules and individual rights attached to European citizenship<sup>(17)</sup>. The Court of Justice has stated that Union citizenship is destined to be the fundamental status of European citizens<sup>(18)</sup>.

6.3.1 The Committee welcomes the Court of Justice's case law on citizenship, and would point out that the majority of that case law was incorporated with the adoption of the Directive, since it brought together all of the main judgments on matters relating to free movement and European citizenship up to 2004.

<sup>(15)</sup> Guild, E. (2004), *The Legal Elements of European Identity: EU Citizenship and Migration Law*, The Hague: Kluwer Law International, European Law Library.

<sup>(16)</sup> European Annual Report on the free movement of workers in Europe 2010-2011, K. Groenendijk et al., January 2012, European Commission, DG Employment. See <http://ec.europa.eu/social/main.jsp?catId=475&langId=en>.

<sup>(17)</sup> Kostakopoulou, T. (2007), *European Citizenship: Writing the Future*, European Law Journal, Special Issue on EU Citizenship, Vol. 13, Issue 5, pp. 623-646.

<sup>(18)</sup> C-184/99, Grzelczyk.

<sup>(14)</sup> COM(2000) 757 final.



6.3.2 The Court of Justice has also produced extensive case law on the general principles of European law<sup>(19)</sup>, such as those relating to proportionality and non-discrimination, which apply to everybody, regardless of their nationality or migration status, affected by Union actions or law. The case law has also related to the competences of the Member States regarding the acquisition and loss of nationality, and their implications for European citizenship and the rights connected to it.

6.3.3 The Court has stated on several occasions that in exercising powers on matters of nationality, the Member States are obliged to pay particular attention to the consequences of their legislation and decisions in the context of European law on citizenship and free movement, in particular the full exercise of the rights and freedoms attached to EU citizenship<sup>(20)</sup>.

6.4 **Since 2003, a package of European law on immigration has been in force**, with legal instruments relating to entry and residence conditions for third-country nationals. Some of the rights and guarantees provided by these are similar to those conferred by European citizenship. **Directive 2003/109 concerning the status of third-country nationals who are long-term residents**<sup>(21)</sup> established a common legal status for third-country nationals residing legally in the territory of a Member State for an uninterrupted period of five years.

6.4.1 The Committee would point out that the Directive's approach was to harmonise the status of European citizens and the status of third-country nationals who are long-term residents, and protect their security of residence in the Union. However, the common status does not yet offer these people equality and full citizenship, but rather "quasi-equality" or "third-class quasi-citizenship" subject to a number of conditions<sup>(22)</sup>. As the Commission pointed out in its report on the application of the Directive<sup>(23)</sup>, while Article 11 of the Directive provides for quasi-equality of treatment between long-term residents and nationals, there is a serious lack of information regarding the way it should be applied, hindering its effective implementation.

6.4.2 Furthermore, as one of the aspects of its added value, the Directive provides for the possibility of exercising "free movement" or mobility to a second Member State and also to be treated in a "quasi-equal" manner. The inclusion of an intra-EU mobility or free movement dimension brings to mind the same EU citizenship model followed by European citizenship law to promote mobility within the EU.

6.5 Other directives relating to European immigration law also include an "intra-EU mobility" dimension and approach similar to that of the long duration status, in order to increase the attractiveness of European labour markets, **such as Directive 2009/50 on the Blue Card for highly-skilled immigrants**.

6.6 However, the Committee believes that, due to shortcomings in implementation on the part of certain Member States, the conditions and criteria for enabling third-country nationals and their families to reside and work in a second Member State other than the one which granted them the European permit, are far from being equivalent to the cross-border freedom of movement of European citizens.

6.7 Furthermore, the fragmented and sectoral nature of the legislative framework regarding legal immigration does not favour equal treatment or a uniform framework of rights for third-country nationals residing in the EU and wishing to exercise free movement within it<sup>(24)</sup>.

## 7. Dialogue with countries of origin

7.1 The Committee has in other opinions proposed stepping up social and political dialogue with countries of origin of immigrants coming to Europe. The EESC welcomes the fact that a number of agreements have been signed.

7.2 This dialogue should also include rights of citizenship. The Committee considers that agreements between states that allow dual citizenship are a very positive step towards third country nationals being able to hold civil, social and political rights.

7.3 Some Member States, however, make political rights conditional on reciprocity. The Committee notes that while this can be a positive mechanism, in some cases it limits the rights of individuals when countries of origin do not support the reciprocity criterion.

<sup>(19)</sup> De Groot, G.R. (2005), Towards a European Nationality Law, in H. Schneider (ed.), *Migration, Integration and Citizenship: A Challenge for Europe's Future*, Vol. I, pp. 13-53.

<sup>(20)</sup> See for example the following cases: C-369/90, Micheletti, C-192/99, Kaur, C-135/08, Rottmann. See J. Shaw (ed.) (2012), *Has the European Court of Justice Challenged Member States Sovereignty in Nationality Law?* EUI Working Paper RSCAS 2011/62, EUDO Citizenship Observatory, Florence.

<sup>(21)</sup> For an analysis on the Directive and its origins, see S. Carrera (2009), *In Search of the Perfect Citizen? The intersection between integration, immigration and nationality in the EU*, Martinus Nijhoff Publishers, Leiden.

<sup>(22)</sup> See Article 11 of the Directive. Groenendijk, K. (2006), *The legal integration of potential citizens: Denizens in the EU in the final years before the implementation of the 2003 directive on long-term resident third country nationals*, in R. Bauböck, E. Ersboll, K. Groenendijk and H. Waldrauch (eds.), *Acquisition and Loss of Nationality, Volume I: Comparative Analyses: Policies and Trends in 15 European Countries*, Amsterdam: Amsterdam University Press, pp. 385-410.

<sup>(23)</sup> COM(2011) 585: Report on the application of Directive 2003/109/EC

<sup>(24)</sup> S. Carrera et al. (2011), *Labour Immigration Policy in the EU: A Renewed Agenda for Europe 2020*, CEPS Policy Brief, Centre for European Policy Studies, Brussels.



7.4 The EESC would like to see EU external policy fully committed to the drive for global governance of international migration, under the United Nations umbrella and on the basis of, among other applicable international legal instruments, the Universal Declaration of Human Rights, the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (which the Committee has proposed <sup>(25)</sup> that the EU ratify), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the ILO conventions.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(25)</sup> OJ C 302 de 7.12.2004, p. 49.

**Opinion of the European Economic and Social Committee on ‘Towards more sustainable consumption: industrial product lifetimes and restoring trust through consumer information’ (own-initiative opinion)**

(2014/C 67/05)

Co-rapporteur: **Thierry LIBAERT**

Co-rapporteur: **Jean-Pierre HABER**

On 14 February 2013 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

*Towards more sustainable consumption: industrial product lifetimes and restoring trust through consumer information* (own-initiative opinion).

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 17 October 2013), the European Economic and Social Committee adopted the following opinion by 178 votes to 1, with 5 abstentions.

## **1. Conclusions and recommendations**

1.1 Planned obsolescence is associated with a form of industrial production that relies on a minimum renewal rate for its products. Although product renewal may be necessary, certain abuses need to be addressed. The European Economic and Social Committee distinguishes between defects built-in deliberately and our accelerated consumption patterns. While we can question marketing practices that promote major innovations which often turn out to be marginal, our opinion advocates curbing the most flagrant cases and improving consumer guarantees. The purpose is to help improve confidence in our European businesses. The recommendations concern technology, business, regulation, and information. They form part of the strategic framework for a better production-distribution-consumption balance that is fair and appropriate.

1.2 The EESC would like to see a total ban on products with built-in defects designed to end the product's life. These rare but flagrant cases, such as the high profile case of printers designed to break down after being used a certain number of times, can only fuel consumers' distrust of businesses.

1.3 The EESC recommends that companies make their products easier to repair. This should be done in three ways: technical possibilities (e.g. tablets with batteries that are welded into the device so that they are impossible to repair and thus have to be replaced), and the possibility of replacing components within five years of purchasing the product. Finally, purchases should be accompanied by information on the possibilities of repair and how to have repairs carried out. More generally, through its opinion, the EESC urges strong support for the social dimension and the repairs sector. The

process of building trust between businesses and consumers must be considered more specifically in the light of options available for supporting its job-creating potential.

1.4 Setting aside the route of binding regulation, the EESC encourages voluntary certification measures. For example, in the white goods sector, 10-year or 20-year component warranties were a definite selling point. This guarantee could be standardised at the EU level for all products purchased in the 28 EU countries so as to avoid penalising European businesses. Similarly, manufacturers could undertake to publish figures for the most frequent breakdowns since they are aware of the most recurring issues. They could just keep a stock of those particular components or undertake to produce them on demand or find subcontractors in their supply network willing to produce them. This could constitute a strong commitment from certain businesses to ensure the reliability of their product and, beyond their relations with consumers, it would fit in with the idea of voluntary certification to provide the means to service their products and make them last.

1.5 The EESC encourages Member States to incorporate the parameters for combating planned obsolescence into their public procurement policies. Given the significance of public procurement contracts in EU countries (16 % of GDP), public authorities have an important role to play if they are also to set a good example.

1.6 The EESC believes that improving the quality and durability of manufactured products will create lasting jobs in Europe and should therefore be encouraged. If combined with appropriate training, these changes would help us out of the crisis, which has hit European workers extremely hard.

1.7 The EESC advocates providing information on a product's estimated life expectancy or number of use cycles so that consumers can make informed purchasing decisions. It recommends trying out ways of expressing prices in terms of estimated cost per annum, based on life expectancy, on a voluntary basis, to encourage people to buy long-lasting products. The stated life expectancy would have to be monitored to prevent abuses which would mislead consumers. The consumer could therefore buy products that are more expensive but will hold their value better over time. This would definitely give companies an incentive to produce more durable products. This information would have to focus on relevant information that consumers need and would have to vary depending on the categories of products in order to avoid over-information on certain types of packaging.

1.8 The EESC believes that it would be useful to establish a system that guarantees a minimum lifetime for purchased products. There are no current legal requirements for minimum product lifetimes, nor are there any EU standards for their measurement. Nevertheless, a number of initiatives are emerging in the context of environmental labelling. Companies that produce or market a product with a lifetime of less than five years must internalise the external costs of recycling, especially if the product contains environmentally hazardous substances.

1.9 The EESC suggests that warranties should include a minimum operating period, during which the cost of any repairs should be borne by the producer.

1.10 Consumers bear the brunt of the cost of shortened product lifecycles and the difficulties associated with insufficient scope for repairing them. Consumers bear the brunt of the policies of manufacturers and of some distributors, who sometimes try to sell warranty extensions after the first year even though two-year warranties are mandatory. It would seem that consumers are often ignorant of their rights. Better communication, mainly through websites and social networks could improve their awareness. A European Planned Obsolescence Observatory would give consumers a clearer overview of practices, enabling them to make informed choices.

1.11 The awareness of consumers is a prerequisite for proper and sustainable use of products. Additionally it is important to properly inform consumers about the minimal product lifetime which is relevant when making decision on product purchase. In this context, voluntary commercial and business initiatives and activities would be welcome.

1.12 Consumers are often shocked to discover the legal maze they have to deal with. Although there are a good few directives on planned obsolescence (commercial practices, waste, etc.), there seems to be very little coordination between the many texts on the subject, which would need to be brought together in a package of harmonised laws.

1.13 The EESC recommends that Member States encourage responsible consumption, especially during school years, to ensure that consumers assess the environmental impact of products in terms of their lifecycle, ecological footprint and quality. The Committee strongly recommends that Consumer representatives are to be more involved in the on-going debate, on this important and sensitive topic as their participation will ensure a more comprehensive approach.

1.14 The EESC recommends that the Commission should carry out studies on the issue to shed light on the large volume of frequently conflicting information in circulation. This would provide an objective picture of the impact of planned obsolescence, and in particular its economic and social impact, not only in terms of the benefits it is claimed to have for the sales rotation of products but also for employment and the trade balance.

1.15 The EESC intends to hold a major European round table in 2014 on this issue. This round table will bring together all the stakeholders: industry, the financial sector, distribution, trade unions, consumer associations, NGOs, standards agencies, experts. The round table will also have to be multi-sectoral in nature to ensure it does not focus on just a few industrial sectors. Finally, it should be flanked by an open forum for EU citizens, as part of an approach that encourages the widest possible public participation; social networks will be one of the channels promoted for this participation.

1.16 More generally, the EESC advocates stepping up research and development along three strands, which would serve to curb planned obsolescence.

- Product ecodesign, which ensures the sustainability of the resources used from the outset by giving attention to the environmental impact of products and their entire lifecycle.
- The circular or closed-loop economy, which takes a "cradle to cradle" approach, aiming to transform one company's waste into another's resources.
- The functional economy, aims at developing the idea of product use rather than ownership. In this approach, companies do not sell the product but a function of the product, which is billed according to use. Manufacturers would therefore see a benefit in developing durable products, which are easy to repair and maintain, and a suitable production chain and logistics, which will become central to their economic model.

1.17 The EESC is sending out this message at EU level to express its hope that Europe will enter a new phase of economic transition by transforming itself from a wasteful society into a sustainable one, where growth is geared to consumer needs, with a people-oriented approach, and is never an end in itself.

## 2. Introduction and content

2.1 There are several grounds for concern about planned obsolescence. By shortening consumer product lifetimes, it increases resource consumption and the volumes of end-of-life waste to be managed. It takes many forms and is used to push up sales and support economic growth by deliberately creating needs and consumer products that are designed not to be repaired.

2.2 As a result, the waste of resources and the harmful pollution generated have reached such proportions that civil society and a number of political representatives who are critical of these practices are taking steps to highlight and challenge the system's inconsistencies (class actions in the US against Apple, complaints lodged in Brazil and the tabling of legislative proposals in Belgium and France at the beginning of 2013).

2.3 It is common to distinguish between different types of "planned obsolescence", with one definition of obsolescence (*Le Petit Larousse* dictionary) being the depreciation of a material or piece of equipment before it wears out in that its depreciation or obsolescence has nothing to do with physical deterioration but with technological progress and changes in behaviour, fashion, etc.

2.4 Different types of obsolescence can be distinguished:

- Planned obsolescence, in its strict sense, consists of designing a product to have a shorter life, if necessary by designing it to run only for a limited number of operations.
- Indirect obsolescence generally occurs because the components required to repair the product are unobtainable or because it cannot be repaired (e.g. batteries welded into an electronic device).
- Incompatibility obsolescence occurs, for example, when software no longer works once an operating system is updated. This type of obsolescence is linked to after-sales obsolescence, which encourages consumers to replace rather than repair a product, partly due to the time and cost of repair.
- Style obsolescence occurs because marketing campaigns lead consumers to perceive existing products as out-of-date. It is pointless to make manufacturers produce tablets that last ten years if our consumption patterns make us want to replace them every two years. For example, mobile phones are replaced every 20 months on average (every 10 months in the 12-17 age group). Despite the importance of this issue, the opinion will only address the first three points. The fourth point warrants a separate approach relating to consumption patterns.

2.5 There is no definitive consensus on these different definitions. These shades of meaning demonstrate the need to find an overarching definition and to develop differentiated measures based on the objective aspects (technical) and subjective aspects (fashion, marketing of new products) of obsolescence. In some cases a product's ephemeral nature may have advantages for the environment. Furthermore, obsolescence also depends on consumer behaviour.

2.6 The EESC advocates a nuanced approach. The idea is not to increase the lifetimes of products uniformly across the board but to look at the issue in terms of the product's uses. Similarly, it prefers an approach that optimises these uses, even if this does not necessarily prolong the product's life. The EESC's intention is to contribute to a better perception of the reliability of the products of European companies.

2.7 There are many reasons why the EU should address the issue of built-in obsolescence. They are environmental, social, public health-related and cultural, but also economic in nature. In the view of the EESC, there are other, less tangible but equally important aspects that should also be considered. These are the symbolic and ethical aspects.

2.8 From the environmental perspective, given the current annual consumption rate for raw materials of around 60 billion tonnes, our consumption of natural resources has risen by some 50 % in the last 30 years. This means that Europeans consume 43 kg of resources per day, compared to 10 kg for Africans. The Organisation for Economic Cooperation and Development (OECD) estimates that, based on 1999 levels, at a growth rate in primary production of 2 % per year, the world's copper, lead, nickel, silver, tin and zinc reserves will all be depleted within 30 years, and aluminium and iron within 60 to 80 years. The age of scarcity will therefore apply to a growing number of materials. Furthermore, 10 million tonnes of waste electrical and electronic equipment (WEEE) are generated each year in Europe (2012 figures), and this figure is expected to reach 12 million in 2020. In addition to recycling and innovation policies, the recovery policies set out in the new EU directive, which came into force on 13 August 2012, must be supported alongside action against planned obsolescence.

2.9 From the social perspective, planned obsolescence presents three problems. First of all, in a crisis, the mindset created by the planned obsolescence of consumer goods has contributed to encouraging credit purchases and unprecedented levels of consumer indebtedness. The ones who suffer most are the socially disadvantaged groups who cannot afford expensive long-lasting products and often settle for poorer-quality bottom-end products. Then there are the employees of the entire repairs sector, who have to bear the detrimental effects of planned obsolescence. The figures from the 2007 ADEME report <sup>(1)</sup> confirm this trend. Only 44 % of broken appliances are

<sup>(1)</sup> Agence de l'Environnement et de la Maîtrise de l'Energie [the French Environment and Energy Management Agency].

repaired. Distributors estimate that only 20 % of out-of-warranty customer support results in repairs. The 2010 ADEME study also reveals a significant fall in repairs in France between 2006 and 2009, especially in the case of white goods. The repairs sector has the advantage that it cannot be relocated and mainly offers stable jobs.

2.10 It has considerable public health consequences, which take two forms. The first concerns the direct consequences of incineration for people living nearby, because electronic components are toxic; and the second is international. Indeed, infrastructure for IT waste processing is so lacking that many end-of-life products are exported illegally to regions with lower landfill charges ... but this has a severe impact on local residents (see the example of Ghana, where scrap iron is recovered from waste and sent to Dubai or China. Much of this waste ends up in southern countries where they cause health and environmental problems).

2.11 There are also cultural consequences. According to some studies, white goods have an average lifecycle of 6 to 8 years, whereas 20 years ago this would have been 10 to 12 years. Consumers are entitled to ask why products have a shorter lifecycle when innovation is being promoted all around them. European consumer trust in European industry has been built over time and is being eroded by obsolescence. At a time when almost all opinion polls reveal a huge gulf

between Europeans and European industry, the prospect of early or irreparable breakdowns is clearly not going to increase their enthusiasm for businesses. This helps to explain why 92 % of Europeans <sup>(2)</sup> would like information on product lifespans (or the estimated number of use cycles). The competitiveness of European businesses also relies on improving consumer trust in businesses.

2.12 Finally, there are economic consequences. The vast majority of offending companies are in the hi-tech sectors and their products are often imported into Europe. By tackling this issue, the European Union would be offering its companies a way to stand out from the rest by effectively putting sustainability into practice.

2.13 The EESC is also mindful of less tangible aspects, which might however be just as important. In symbolic terms, although all of our work based on Rio+20 demonstrates the importance we attach to sustainable development, the subject of planned obsolescence is the very definition of the sustainable development that we wish to promote. In terms of our understanding of the role that ethics plays in our societies, we consider it worrying that engineers might be employed to develop products with built-in accelerated ageing, or that advertisers might be launching campaigns to encourage consumers to make purchases that will not increase their level of satisfaction.

Brussels, 17 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(2)</sup> Eurobarometer survey: *Attitudes of Europeans towards building the single market for green products*, European Commission, Flash Eurobarometer 367, July 2013.



**Opinion of the European Economic and Social Committee on ‘Incentivising the growth potential of the European beer industry’ (own-initiative opinion)**

(2014/C 67/06)

Rapporteur: **Mr JÍROVEC**

Co-rapporteur: **Mr CALLEJA**

On 14 February 2013 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

*Incentivising the growth potential of the European beer industry.*

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 47 votes to 1 with 2 abstentions.

## 1. Conclusions and recommendations

1.1 Beer is a drink that has been enjoyed in communities across Europe for several thousand years. While the beer cultures across Europe vary significantly, with differing beer styles and consumption habits, beer plays an important role in every European Union country and forms an integral part of the culture, heritage and alimentation. The European Economic and Social Committee highlights the constant evolution of the sector and its adaptation and resilience even in the present challenging circumstances. It notes how the sector conforms to the Europe 2020 objectives in the different priority areas of employment, sustainability, innovation, education and social inclusion.

1.2 The European Economic and Social Committee draws the attention of the European Commission, the European Parliament, the Council and Member States to key policies that should be seriously considered if the European brewing sector is to realise its full growth potential. Specifically, the EESC wants the decision takers to:

- Achieve progress in building a balanced regulatory environment allowing Europe's brewers of all sizes to brew and market beer in Europe and beyond,
- Include beer as a priority area that requires positive reciprocal treatment in free trade agreements under discussion with other EU commercial partners,
- Encourage and give higher publicity for more participation of brewing companies and associations in the social responsibility, health and education programmes implemented at EU and national level,
- Take more into account the implications of the innovation, industrial and agricultural policy developments for the brewing industry.

1.3 The European Economic and Social Committee equally encourages action at Member States, regional or local level to:

- continue partnership development with the brewing industry and NGOs aimed at promoting responsible consumption and reducing alcohol-related harm, including cooperation to promote responsibility in, and prevent, irresponsible commercial communications and sales,
- support the brewing sector's initiatives towards environmental sustainability across the whole supply and delivery chain at European and local level,
- use the dynamics in the brewing sector to create employment by removing obstacles to further growth by ensuring a predictable and stable tax regime at Member States level for the sector and its delivery chain and by addressing distortions in the market brought about by fluctuations of tax rates. An improvement in this regard would be in the spirit of furthering the completion of the Single Market,
- further explore and develop the cooperation with local authorities in different aspects of community involvement projects and beer tourism opportunities.

1.4 In the opinion of the European Economic and Social Committee brewing companies should

- Engage in more active and responsible participation in various promotion activities of food products that encourage healthy eating habits within the EU and in third countries that are supported by Chambers of Commerce, regional authorities, Member States and the European Commission,

- Maintain efforts to make the brewing sector attractive to the younger generations as an area for stable and adequately paid employment, through the fostering of apprenticeship programmes and vocational training schemes,
- Continue to enhance their cooperation with research and education institutes, by participating more in EU innovation and R&D programmes with their partners, as well as in education and training programmes,
- Increase their participation in various activities developed through regional, structural and SME dedicated funds.
- Widen existing cooperation of a medium to long-term nature with local producers of hops, grains and other products essential for beer production.
- Encourage as wide a use as possible of life-cycle assessments in the brewing industry as a self-analysing tool, while taking into account the limitations of small family brewers due to capacity shortfalls.

## 2. The European brewing sector

2.1 The European Union is one of the major beer producing territories in the world. The production volume in 2011 was over 380 million hectolitres<sup>(1)</sup>, brewed by around 4 000 breweries spread all around Europe. Their products are distributed all around the world. In volume terms the EU is a key player, providing over one quarter of world's production, only recently superseded by China, but still ahead of the United States, Russia, Brazil and Mexico<sup>(2)</sup>.

2.2 The European beer industry is a very diverse sector in terms of structure. It is composed mainly of small and medium sized enterprises ranging from microbreweries, breweries operating at local, regional or national level and includes four Europe-based major brewers<sup>(3)</sup> which are global leaders in their field. The rise of new small and micro-breweries over the last decade is a remarkable sign of the innovation potential of the sector, and an asset for the goal of sustainability.

2.3 The supply chain linked to the brewing sector comprises local operators but also global leaders present among malting companies, equipment producers and technical services providers. Europe's brewing institutes also disseminate their knowledge worldwide. Events such as the European Brewery Convention congress or individual beer conferences attract visitors globally.

2.4 Beer is a key processed agricultural product, accounting for over EUR 2 billion value in exports<sup>(4)</sup>. It is also covered by

the EU agricultural product quality policy<sup>(5)</sup>, through its PDO/PGI<sup>(6)</sup> schemes, delivering over EUR 2,3 billion in sales value through 23 geographical indications<sup>(7)</sup>. Nevertheless, the geographical diversity of beers in those schemes is limited, as they are from less than 1/3 of EU countries.

2.5 The key components of beer are of natural origin and comprise water, cereals, hops and yeast. Water is the most important raw material used by the brewing sector, representing on average about 92 % of beer. The protection of ground-water is therefore a key concern. Due to the need of cereals (such as barley, wheat or other) which are an essential starch source for beer, the relationship with the agricultural community is essential for the brewers and maltsters.

2.6 The European Union is also the main player in the world market for hops that are produced by fourteen EU Member States<sup>(8)</sup>, accounting for about a third of the world's hop-growing area<sup>(9)</sup>, with the brewing sector being the main customer of Europe's hop growers. Competition among the hops producers as well as differentiated treatment within agricultural policies that are in place between EU Member States may need to be re-visited if they are to prevent market distortions which could have a detrimental impact on brewers in the long term.

2.7 Brewers' dependence on the agricultural sector for their raw materials has in recent years meant that the industry had to confront higher prices of agricultural materials needed for beer production, due to harvests of variable quality and price volatility. A sustainable and long term approach between raw materials providers and brewers, where possible and needed, should guide their relationship.

2.8 Total beer sales in 2010 amounted to 106 billion Euros, including VAT, which represents 0,42 % of the GDP of the EU. It is estimated that over 63 % of European beer production is purchased in supermarkets and other retail outlets (the "off-trade"). The other 37 % is consumed in the hospitality sector (e.g. bars, pubs, restaurants; the "on-trade").

## 3. Managing economic challenges of the 21st century

### *Market and structural trends*

3.1 The European beer market in the last 15 years has been subject to different developments in terms of technical advancement, investments, mergers, new companies setup and consumer attitude. The strong decline in consumption since 2007 is having a direct impact on brewers' activities. After

<sup>(1)</sup> The Brewers of Europe statistics, 2012 edition, October 2012.

<sup>(2)</sup> Canadean Global beer trends 2012.

<sup>(3)</sup> ABInbev, Carlsberg, Heineken, SABMiller (as in 2013).

<sup>(4)</sup> European Commission, DG Enterprise and Industry.

<sup>(5)</sup> [http://ec.europa.eu/agriculture/quality/index\\_en.htm](http://ec.europa.eu/agriculture/quality/index_en.htm).

<sup>(6)</sup> PDO (protected designation of origin), PGI (protected geographical indication).

<sup>(7)</sup> European Commission, DG Agriculture and Rural development.

<sup>(8)</sup> European Commission, DG Agriculture and Rural Development, December 2009; Pavlovic M., February 2012.

<sup>(9)</sup> European Commission, DG Agriculture and Rural development.

years of expansion in the European Union the production of beer has seen a sharp decrease from 420 mln hectolitres to 377 mln hectolitres in 2011. Nevertheless a recovery and potential for growth are expected in the coming years, if the economic and regulatory circumstances turn more favourable.

3.2 The economic crisis and decline in consumption has led to the restructuring of the sector in Europe, driven by a consolidation of activities on the continent and investment outside the EU by the larger international and national groups. Simultaneously, the number of breweries of smaller size has grown in all countries, developing the diversity of the offer to the consumer and confirming the entrepreneurial mindset of the brewers in line with the Entrepreneurship 2020 Action plan<sup>(10)</sup>. This is also a favourable development in the sustainability perspective, as there are typically spin-offs regarding regional tourism as well as often closer circles in production and consumption, which is environmentally beneficial.

3.3 The economic circumstances have also led to more beer being consumed at home instead of in bars or restaurants, the result being fewer jobs, less value added and lower government revenues being generated by each litre of beer consumed in the EU<sup>(11)</sup>. Stronger price pressures in the retail sector also influenced this trend.

3.4 The growing number of brewers and product innovation has also led to the appearance of new products, benefiting the consumer, society and the environment. Opportunities for brewers of all size appeared thanks to the diversification into low and non-alcoholic beers which led to increased sales, while availability of organic beers is steadily increasing.

#### *Taxation aspects*

3.5 The brewing sector provides substantial benefits to national governments in fiscal terms. Due to the production and sale of beer, governments receive significant amounts of revenues from excise, VAT, income-related taxes and social security contributions paid by workers and their employers in the brewing sector as well as in other related sectors where jobs can be indirectly attributed to activities in the beer sector. In 2010 these revenues amounted to approximately EUR 50,6 billion<sup>(12)</sup>.

3.6 The resilience of the brewing sector to the current economic difficulties has been challenged due to the increasing tax burden, mainly on excise duty, but also on VAT rates in particular on the hospitality sector. Those increases have intensified the uneasy economic situation of breweries in particular in countries such as Hungary, Finland, France, the Netherlands

and the United Kingdom<sup>(13)</sup>. The total value-added attributed to the production and sale of beer in the EU decreased in the period 2008-2010 by 10 %<sup>(14)</sup> and the total tax collected from the EU brewing sector fell by EUR 3,4 billion.

3.7 Excise duty system at EU and national level should recognise the unique characteristics of beer, including its generally low alcohol content, the brewing process and the brewing sector's local contribution to society, job creation and the wider economy. To that end, beer as a fermented beverage should be put on a level playing field, and thus, the zero euro minimum rate applicable to wine and other fermented beverages should also be enshrined in EU excise legislation for beer<sup>(15)</sup>.

3.8 Balanced excise policy at national level and better use of existing cooperation mechanisms within the fiscal administration may become an instrument to avoid tax-driven trade and related damaging practices thus helping to maintain the brewing sector's competitiveness in particular in border areas.

3.9 Due to the importance of the on-trade segment in beer sales<sup>(16)</sup>, taxation policy may also play a role as a growth enhancing measure for the on-trade and brewing sectors, with a positive impact for employment at local level.

#### *International trade*

3.10 In the face of adverse conditions the European beer industry continues to be resilient and competitive. Local brewers are still holding their own in markets beyond national and EU boundaries. Even if most of European beer production is traded within the EU Single Market, exports to different parts of the world have been steadily increasing since 2000, with a growth of 30 % since 2007. The largest export destinations include the United States, Canada, Angola, China, Switzerland, Taiwan, Russia and Australia<sup>(17)</sup>. Moreover, Europe's brewers are also large investors on all continents and participate in various cooperation initiatives with local brewers and distributors.

3.11 However, the potential of European beer to maintain and expand its presence in third countries may be jeopardised by local regulations constituting a trade barrier that hampers beer exports and investments. Besides tariffs, those barriers may take the form of legislation related measures such as definition of the product (e.g. Russia) or fiscal administrative procedures (e.g. Albania, Turkey). The European Commission and Member States, in cooperation with the brewing sector, have a key role in tackling these and other difficulties that arise from time to time in foreign markets.

<sup>(10)</sup> COM(2012) 795 final.

<sup>(11)</sup> Ernst Young, The Contribution made by Beer to the European Economy, September 2011.

<sup>(12)</sup> Ernst Young, September 2011.

<sup>(13)</sup> European Commission, Excise duty tables, 2013.

<sup>(14)</sup> Ernst Young, September 2011.

<sup>(15)</sup> OJ C 69, 21.7.2006, p. 10.

<sup>(16)</sup> Ernst Young, "The Hospitality Sector in Europe", September 2013.

<sup>(17)</sup> European Commission, DG Trade.

3.12 Whereas the European Union applies a zero Euro customs tariff for imports of beer in the respective trade agreements, several countries maintain customs duties as a means of discouraging competing imports from EU Member States. The ongoing negotiations on Free Trade Agreements also cover this aspect, and most recent agreements (e.g. EU-South Korea) foresee a progressive reduction of duties, a scheme that should be extended further.

3.13 The prospective presence of European beer brands in foreign markets is also enhanced through promotion events, such as exhibitions and fairs, and consultation schemes provided by the European Commission in third countries. Brewers' participation in the respective activities on-site has been so far rather low due to limited awareness of potential gains and insufficient publicity.

#### 4. Providing employment at all levels

4.1 The brewing sector goes beyond the beer production itself. It covers several activities beginning from the agricultural raw materials that lie at the very heart of the brewing process to the hospitality industry and the retail sector. Breweries in the European Union together provide more than 128 800 direct jobs. Moreover there are 2 million jobs that can be attributed to the production and sale of beer, representing about 1 % of all jobs in the EU alone <sup>(18)</sup>, in variable employment capacities.

4.2 The EU goals of a smart, sustainable and inclusive economy of the Europe 2020 growth strategy are reflected in the characteristics of the brewing sector. Brewers are present in all European countries, supporting over 2 million jobs due to high expenditure on goods and services and the significant turnover created in the hospitality and retail sector. Over 73 % of jobs created by beer are in the hospitality area.

4.3 Since the hospitality sector also plays a fundamental role in securing jobs and growth, not only directly within associated enterprises, but indirectly for large parts of the European economy, measures for its development are essential for employment, especially among young and unskilled workers, without resorting to precarious jobs or the use of low pay.

4.4 Such a unique variety combines heritage, culture and modernity, offering various possibilities for using labour skills within the breweries and around them. Besides work provided in the supply and delivery chain, the potential for gastronomy experiences and tourism should be further developed to increase employment through brewers' own activities, as well as EU and national funding schemes.

4.5 The brewing industry has felt the effects of the global economic situation with a decrease in direct employment of 9 % between 2008 and 2010 due to reduced consumption of the product. Despite the decrease in consumption due to Europe's strained economic circumstances, the total number of breweries (including microbreweries) in Europe was higher in 2010 (3 638) than in 2008 (3 071 breweries), and it is in continuous development, thus offering further employment potential. This potential shouldn't be threatened by sales-restrictive or detrimental fiscal measures and should be further enhanced via Vocational Education Training and even at higher levels to generate higher quality jobs in the sector.

#### 5. Contributing to environmental sustainability goals

5.1 The European beer industry has to respond to various objectives related to energy efficiency, CO<sub>2</sub>-emission reduction and resources use as part of its sustainability engagement. Investments made in recent years are leading to a reduced use of natural resources, producing less waste and consistently reusing secondary materials from the brewing process.

5.2 Brewers have shown commitment towards the environment by taking steps and investing thus resulting in reduced energy use and CO<sub>2</sub> emissions, reduced wastewater production and changes in packaging. The brewing sector has also developed guidelines for Best Available Techniques (BATs), which emphasise the role of sustainable management and which may serve as reference for commitments towards environmental objectives. The use of life-cycle assessments as a self-analysing tool should be encouraged to encompass the widest possible spectrum of the brewing industry, while taking into account limitations in this respect of small family brewers, due to capacity shortfalls.

5.3 Between 2008 and 2010 the brewing sector continued with its efforts in spite of a deteriorating business situation and results point towards a reduced water consumption of 4,5 % and a reduced energy usage of 3,8 % per hectolitre of beer produced. CO<sub>2</sub> emissions were also estimated to have been reduced by 7,1 % <sup>(19)</sup>.

5.4 Water quality and its use are important factors of the brewing process. Therefore proper water management by water suppliers and brewers is necessary to guarantee the sustainability of beer production. In this context, due precautions should be taken to ensure that shale-gas exploration does not contaminate the ground-water supply for consumers, including industrial users. Specifically in the brewing industry the EESC notes that Dutch and German brewers are already following developments in this area with deep concern.

<sup>(18)</sup> Ernst Young, September 2011.

<sup>(19)</sup> CampdenBRI / KWA, The Environmental Performance of the European Brewing Sector, May 2012.



5.5 There are several other valuable products (called secondary products) that are generated from brewing raw materials, as a result of the brewing process. They are much valued as inputs to other industrial processes or as materials for specific end uses, e.g. pharmaceuticals, health foods, renewable energy sources, industrial applications, animal feeds and agricultural products <sup>(20)</sup>, cosmetics or spa products. These materials meet rigorous quality standards and comply with stringent food/animal feed safety and other legislation. The importance and value of these secondary materials has led breweries to create long-established supply arrangements with merchants and end-users.

## 6. Being a responsible actor in the community

6.1 Over the years, brewing companies and associations in all European countries have taken initiatives designed to raise awareness about responsible consumption, to increase consumer knowledge, to ensure responsible advertising and marketing, to deliver prevention messages, and to deter consumers from irresponsible behaviour. Several of those local initiatives have been undertaken in partnership and were also recognised as an important input to society by national authorities and taken up at the European level in the framework of the European Alcohol and Health Forum <sup>(21)</sup>.

6.2 Building on these activities, governments, brewers, other economic operators and civil society groups should work together in campaigning to promote responsible beer consumption, which can be fully compatible with an adult's healthy lifestyle, and to discourage alcohol misuse.

6.3 Due to the local character of beer, European brewers are also well rooted in their local communities, supporting a wide range of activities. Over EUR 900 million is spent annually in the European Union by the brewing sector in supporting the community <sup>(22)</sup>, through a wide breadth of activities supported at local and regional level.

6.4 There is a strong commitment from the industry and the broader stakeholders to support the implementation of corporate and institutional responsibility initiatives to address adverse effects of harmful consumption. This engagement should be recognised in a balanced framework concerning the marketing and commercial communications conducted by brewers <sup>(23)</sup>.

6.5 Given the important role of beer in the fields of culture, heritage and consumption, an EU initiative should be considered to fund the organisation of specialised training for teachers and educators in schools at all levels, devoted to the health, social and cultural aspects of consumption of fermented beverages.

## 7. Maintaining a role in research, education and innovation

7.1 The role of education and research is an essential key for further maintaining the engagement of the sector. These are made through universities, brewing schools, food technology institutes and through other networks. The organisation of fora for knowledge exchange should be continued, in order to keep Europe as a leading centre for investigations developed by brewers, its partners, researchers and attracted individuals.

7.2 Research capacity and potential should be fostered, as brewers play an important role as an industrial partner in various fields related to food and brewing technologies, health aspects or environmental performance. Increased participation in the European Research Area, Horizon 2020 framework and other technological platforms would enhance existing potential <sup>(24)</sup>.

7.3 Support to the efforts by the brewing sector to promote excellence according to the highest scientific standards regarding the characteristics of beer and the effects thereof on health and behaviour can also contribute to enhance information and education in this important area. Enhanced participation in EU funding and cooperation schemes could be considered by all active parties.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

<sup>(20)</sup> Bamforth, C. (2009) "Contraception, Charcoal and Cows: The World of Brewery Co-Products" Brew. Guardian, 138(1), 24-27.

<sup>(21)</sup> The Brewers of Europe, European beer pledge: 1st year report, April 2013.

<sup>(22)</sup> Sponsorship ideas, "Supporting local communities: Assessing the contribution of local brewers", May 2011.

<sup>(23)</sup> OJ C 48, 21.2.2002, p. 130.

<sup>(24)</sup> OJ C 327, 12.11.2013, p. 82.



**Opinion of the European Economic and Social Committee on 'Irregular immigration by sea in the Euromed region' (own-initiative opinion)**

(2014/C 67/07)

Rapporteur: **Panagiotis GKOFAS**

Co-rapporteur: **Stefano MALLIA**

On 17 September 2012, 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

*Irregular immigration by sea 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 25 September 2013.

At its 493rd plenary session, held on 16-17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 183 votes to 3 with 11 abstentions.

## **1. Conclusions and proposals**

1.1 Irregular immigration is a subject that has been examined by the EESC on many occasions from a number of angles <sup>(1)</sup>. The phenomenon of irregular immigration is a very complex and multifaceted one which requires both short-term and long-term measures. The focus of this opinion will be on the points listed below:

1.2 In this context, the Committee is filled with profound sadness at the death of at least 311, and probably many more, African migrants off the coast of Lampedusa in two recent boat sinking incidents. Whilst there is no single cause to this tragedy, the Committee believes that these incidents are symptomatic of the wider problem of irregular immigration by sea into the EU, and that there is a causal link between these two incidents and the EU's apparent inability to establish satisfactory and coherent policies on irregular immigration based on solidarity, including policies on search and rescue and disembarkation. The Committee calls on the EU and its Member States to consider these incidents as a wake-up call and to act now on the recommendations in this opinion before another tragedy is allowed to occur. The tragedies of Lampedusa reinforce the absolute need for the EU to deal with irregular immigration and border supervision as a European issue.

1.3 **Human rights:** the Committee is concerned at rising intolerance, racism and xenophobia against immigrants, "the Other", in Europe, and fears that the social effects of the financial crisis will serve to nourish this. Politicians and others with influence in society, together with the media, must act with the utmost responsibility and set a clear political and social example in order to prevent such behaviour. The

human rights of irregular immigrants must be upheld at all times, when they are saved or detained, when they are granted the status of protection, are in an irregular situation "undocumented", or are repatriated to their country of origin.

1.4 **Saving lives at sea:** anyone in danger at sea, or at risk, including irregular immigrants, must be rescued.

1.5 **Disembarkation:** the EU must adopt a disembarkation policy that does not increase the burden on those Member States that are already facing disproportionate influxes. The issue of disembarkation needs to be resolved, on the basis of the principle of disembarkation in the nearest safe place only so long as the country in question fully adheres to all international conventions concerning human rights and is monitored by human rights organisations.

1.6 **The right to and granting of asylum:** the principle of non-refoulement at the border must be guaranteed, and all persons requiring international protection must be able to submit an application in the EU. Such applications must be processed by the competent national authorities. In this context there is a need to create a more efficient system of examination of asylum requests. The EESC supports cooperation with third countries in order to strengthen their asylum arrangements and increase their compliance with international standards.

1.7 **Repatriation of irregular immigrants** the Directive on Return <sup>(2)</sup> provides a European framework of legal and procedural guarantees <sup>(3)</sup> which the EESC appreciates, such as the effective remedy to appeal against decisions related to return

<sup>(1)</sup> COM(2011) 248, Mr Pariza Castaños, COM(2011) 743, Mr Pariza Castaños, Ms King, COM(2011) 750,751,752,753 Mr Pariza Castaños, COM(2008) 359 Mr Pariza Castaños, Ms Bontea.

<sup>(2)</sup> Directive 2008/115/EC.

<sup>(3)</sup> e.g. articles 12.1 and 12.2, 13.1 and 13.2, 13.3 and 13.4 and 14.1 and 14.2 of the Directive.

before a competent judicial or administrative authority or a competent independent body, as well as free legal representation and assistance, certain safeguards pending return and conditions of detention. The Committee proposes that European return policy should promote a voluntary approach and be based on the greatest possible regard for humanitarian values. The legitimacy and credibility of European immigration policy elsewhere in the world depends on this. Article 19 of the Charter of Fundamental Rights expressly prohibits collective expulsions and guarantees that no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment – the principle of non-refoulement (Articles 4 and 19 of the Charter).

**1.8 A comprehensive European policy on irregular immigration based on solidarity:** the EESC considers that in order to ensure respect for fundamental rights, EU solidarity with those Member States that, because of their geographical location, have to deal with large numbers of victims of criminal trafficking/smuggling networks who arrive by irregular means, should be enhanced. The EU's borders, including the sea borders of EU Member States in the Mediterranean, are the borders of all EU Member States and as such responsibility for guarding them properly should be shared among all Member States, in accordance with the Treaties. This is not only about showing solidarity, but also about Member States taking up their responsibilities by means of mechanisms to share burdens brought about by irregular immigration. Therefore, Solidarity and support should also be shown with Member States that are located on the external borders of the EU by means of burden sharing mechanisms enabling intra-EU resettlement of asylum seekers. The EESC strongly supports the implementation of a European Distribution Key as described in the European Parliament's report on Enhanced intra-EU solidarity in the field of asylum (2012/2032 INI).

**1.9 The drafting of agreements with third countries:** the main aim of the EU Migration and Mobility Dialogues with third countries must be to make it easier for migration to take place legally and in an orderly manner, guarantee the international right to asylum, reduce irregular immigration and combat the criminal networks engaged in human trafficking. Cooperation with third countries is often essential as a precondition for effective implementation of repatriation procedures. This cooperation must be stepped up in order to achieve better results. At the same time assistance should be given to certain transit countries in order to enable them to manage their borders better and enable them to build the capacity to grant protection to those who need it.

**1.10 The European borders agency - Frontex:** Frontex should continue to be restructured into a genuine European external borders agency, with a broader coordinating role vis à vis joint EU action on the external borders of its Member States. In this regard more work is needed to implement the concept of European Border Guard Teams, as underlined in the European Parliament's report on Frontex (A7-0278/2011). Its scope for action should also be expanded so that it can put more effort into the area of prevention. It is clear that more and not fewer resources are needed if this agency is to play a more

effective role. Joint operations coordinated by the Agency (and their repercussions on fundamental rights and administrative safeguards laid down in the Borders Code) must, however, be subject to democratic scrutiny by Parliament and the European Union's Fundamental Rights Agency (FRA).

**1.11 EASO:** the European Asylum Support Office began operating relatively recently. It is therefore expected to take up its duties at full capacity rapidly, with particular regard to its role in seeking sustainable solutions and being proactive on intra-EU solidarity, in line with its obligations in the EASO regulation. The EASO must be able to clearly identify the differences in asylum practices between the Member States, as well as the differences in their legislation, and to propose the necessary changes.

**1.12 Preventing and combating people smuggling:** the EESC also stresses that every possible effort must be made to combat organised crime vigorously. No resources should be spared in tracking down and bringing to justice the "facilitators" of people smuggling. In this regard it is essential that the assistance of third country governments be sought.

**1.13 Funding:** the EESC stresses that the issue as a whole of stemming and managing immigration flows is one for the European Union (EU), and that this fact must also be reflected in the distribution of the financial cost of the tools that are needed to apply an effective policy. The Committee has supported the Commission proposal for the Asylum and Migration Fund and the Internal Security Fund to be more flexibly managed as of 2014.

## 2. Introduction

**2.1** Common immigration policy must have a shared focus encompassing a range of aspects including the demographic situation and the labour markets; respect for human rights; equal treatment and non-discrimination; legislation on the admission of new immigrants; the situation of irregular immigrants; the reception and protection of asylum-seekers; measures against criminal people-trafficking networks; cooperation with third countries; European solidarity; and social policy and integration.

**2.2** Recent years have seen a series of events, declarations and political decisions that the Committee is noting with mounting concern, as an ancient and familiar disease among Europeans is again on the rise across Europe – xenophobia and a form of nationalism that excludes others. Minorities and immigrants are belittled, insulted and targeted by aggressive, discriminatory policies.

**2.3** The subject of irregular immigration is an especially serious and complex one, as demonstrated by the tables in the appendices at the end of the document. Furthermore, the issue as a whole is one for the EU and must be approached as such. Irregular immigrants that cross the southern borders invariably seek to settle in other countries of the EU.

2.4 Because there are no internal borders in the Schengen area, the issue of irregular immigration has implications for Europe as a whole and must be addressed by an effective, common European policy.

2.5 The EESC has studied the subject of irregular immigration thoroughly and has given its viewpoints in a series of opinions, adopted by broad majorities.

2.6 These opinions contain an analysis of the causes of irregular immigration to the EU, while noting the absence of a comprehensive EU policy on irregular immigration - that progress towards the EU achieving a common immigration and asylum policy and a high level of legislative harmonisation is very slow. Extensive reference is also made to the consequences of the problem and a series of solutions are proposed.

2.7 Thousands of the irregular immigrants enter the EU by sea. This means that the issue of irregular immigration by sea, which according to FRONTEX is centred mainly within the Euromed region, must be tackled specifically.

2.8 The main objective of the opinion is to examine the phenomenon of irregular immigration by sea, while also referring to some of the major issues associated with irregular immigration in general, so as to seek comprehensive solutions that will secure an immigration policy that is effective, humane and affordable.

### 3. Analysis of the problem

#### 3.1 Human rights

3.1.1 The human rights of irregular immigrants must be upheld at all times, from when they are saved or detained to when they are granted protection or repatriated to their country of origin. Irregular migration by sea often results in the loss of life. In this respect, the EESC stresses the importance of upholding fundamental human rights at all times. The EESC has proposed that the Fundamental Rights Agency should also monitor the border control activities and operations of FRONTEX. The Committee supports the activities of the FRONTEX Consultative Forum and highlights its interest in collaboration

#### 3.2 Saving lives at sea

3.2.1 Member States and private vessels are obliged to rescue anyone who is in danger at sea. This would include immigrants or traffickers/smugglers who have taken deliberate risks. In many cases, the criminal networks trafficking/smuggling asylum seekers or irregular immigrants expose these people to

great risks. Agencies and NGOs have pointed out that thousands of people die in such circumstances in the Mediterranean every year and that, in some cases, they have not received help from or been rescued by vessels passing close by.

#### 3.3 Disembarkation

3.3.1 Some legal and political controversies have arisen in recent years over rescues taking place in international waters in the Mediterranean which have put the lives of many at risk unnecessarily. The EESC stresses that the issue of disembarkation needs to be resolved on the basis of disembarkation at the nearest place of safety *on the condition that the country in question adheres to all international conventions concerning human rights and is monitored by human rights organisations*. In the case of Frontex missions, the EESC strongly disagrees that migrants should always be taken to the Member States hosting the missions. Such a policy gives rise to at least two problems: (i) it focuses even more migratory pressure on Member States that are already facing heavy burdens, to the extent that it would no longer be viable for Member States that need Frontex most to host a Frontex mission; (ii) it is harmful to the people saved, as they would have to be transported all the way to the country hosting the Frontex mission, rather than to the place that would be most appropriate in the circumstances (usually the nearest place of safety).

#### 3.4 The right to and granting of asylum

3.4.1 The EESC urges the EU to continue adopting a common asylum system with a high level of legislative harmonisation. The Dublin Regulation establishes the responsibility of each Member State charged with examining asylum applications. The Committee has already pointed out that this system causes many problems. Each applicant should be asked which Member State he or she would like to examine their application. In its opinion on the Green Paper<sup>(4)</sup>, the Committee proposed that "asylum seekers should be free to choose in which country to submit their asylum applications and that, for this reason, Member States should apply forthwith the humanitarian clause set out in Article 15(1) of the Regulation".

3.4.2 In the area of cooperation between Member States, a series of activities have begun which are carried out by EURASIL, a group of national experts over which the Commission presides. A financial solidarity instrument has also been set up, with the creation of the European Refugee Fund. The Immigration and Asylum Fund will enjoy additional funding and greater flexibility for emergencies as of 2014.

3.4.3 Asylum seekers' requests for protection must be examined against European legislation on asylum and granting of international protection. Those genuinely in need of protection should receive it.

<sup>(4)</sup> See EESC opinion of 12.3.2008 on the "Green Paper on the future Common European Asylum System" (rapporteur: Ms Le Nouail-Marlière), OJ C 204, 9.8.2008, p. 77-84.

3.4.4 The EESC notes again that the treatment and guarantees given to asylum-seekers at borders must be the same as those given to asylum seekers presenting a request on the territory of a Member State.

3.4.5 The Committee calls on the EU to demonstrate greater commitment in the fight against criminal networks trafficking in human beings, but considers that some policies to "combat irregular immigration" are producing a serious asylum crisis in Europe. The EESC has said in several opinions <sup>(5)</sup> that the fight against illegal immigration should not create new problems in relation to asylum, and that officials responsible for border control should receive appropriate training so as to guarantee the right to asylum.

3.4.6 The EESC supports the proposals made by UNCHR to set up teams of asylum experts to help in all border control operations in the EU.

3.4.7 It is especially important to point out that more than thousands of those entering the EU do not request asylum because they are economic migrants, and their main reason for entering the EU is to continue towards other European countries, rather than stay in the country where they first arrive.

3.4.8 The mobility partnerships should not mean that the partner countries must bear the full cost of asylum procedures for persons passing through their territory. The EU should show its support via the Asylum Fund. This fund should contribute to the establishment of mechanisms and structures to enable asylum applications to be examined and decided upon within reasonable timeframes in the framework of international legal guarantees.

3.4.9 The EESC urges the EU to continue adopting a common asylum system with a high level of legislative harmonisation. Asylum requests should be examined not only in the countries of entry, but also by the other Member States. Each applicant should be asked which Member State he or she would

like to examine their application. In its opinion on the Green Paper <sup>(6)</sup>, the Committee proposed that "asylum seekers should be free to choose in which country to submit their asylum applications and that, for this reason, Member States should apply forthwith the humanitarian clause set out in Article 15(1) of the Regulation" thus speeding up the examination of claims and relieving bureaucratic congestion in the countries of entry. The EESC is in favour of the EU working together with third countries to improve their asylum systems and bring them into line with international standards. In the external dimension of asylum, progress has been made in fields such as supporting third countries which have large numbers of refugees (the Regional Protection Programmes are particularly important) or resettling refugees in the EU.

### 3.5 Repatriation of irregular immigrants

3.5.1 The return of migrants that have entered the EU in an irregular manner must be handled very carefully. In this regard return agreements with third countries are crucial in ensuring that the rights of returning migrants are fully respected.

3.5.2 The mobility partnerships should provide for return procedures based primarily on voluntary return with support systems put in place <sup>(7)</sup>. When forced return procedures are implemented, they must be conducted with the utmost respect for the human rights of the people being repatriated, in the light of the Council of Europe's recommendations <sup>(8)</sup>.

3.5.3 The Committee calls for greater transparency concerning detention centres within and outside the EU, for the UNHCR to be kept informed of the situation of persons detained in them, and for such persons to be afforded appropriate assistance by NGOs. The EESC believes that pregnant women and minors should receive special protection and placed in appropriate facilities which should be set up with financial support from the EU.

### 3.6 A comprehensive European policy on irregular immigration based on "solidarity"

3.6.1 The EESC stresses that the problem is a European one and not just that of the Mediterranean countries; not least since the existence of the Schengen Agreement means that immigration in the Mediterranean region has to be addressed by a common European effort. This is not only about showing community solidarity but about all the EU's Member States taking up their responsibilities, by means of a common European policy that should be proposed by the Commission and approved by the Council and the Parliament.

<sup>(5)</sup> See the EESC opinions of:

- 25.4.2002 on the "Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration" rapporteur: Mr Pariza Castaños (OJ C 221, 17.9.2002),
- 29.1.2004 on the "Proposal for a Council Regulation establishing a European Agency for the Management of Operational Co-operation at the External Borders" rapporteur general: Mr Pariza Castaños (OJ C 108, 30.4.2004),
- 27.10.2004 on the "Proposal for a Council decision amending Decision No 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)" rapporteur: Mr Pariza Castaños (OJ C 120, 20.5.2005),
- 12.3.2008 on the "Green Paper on the future Common European Asylum System", rapporteur: Ms Le Nouail-Marlière (OJ C 204, 9.8.2008).

<sup>(6)</sup> See EESC opinion of 12.3.2008 on the "Green Paper on the future Common European Asylum System" (rapporteur: Ms Le Nouail-Marlière), OJ C 204, 9.8.2008, p. 77–84.

<sup>(7)</sup> In cooperation with the International Organization for Migration.

<sup>(8)</sup> "Twenty Guidelines on Forced Return", CM(2005) 40.



3.6.2 The borders of the Member States of the European Union, and this includes the sea borders of EU Member States located on the shores of the Mediterranean, are the borders of all the EU's Member States, and all the Member States should share responsibility for managing them properly.

3.6.3 In this regard all Member States should assist with and participate in: (i) provision of resources required for effective sea rescue and border control, (ii) the examination of asylum applications, within the framework of their responsibilities, (iii) extraordinary situations, the implementation of repatriation and expulsion procedures, (iv) intra-EU relocation of migrants from small Mediterranean Member States, and (v) the fight against organised crime and trafficking.

3.6.4 Relocation should be carried out on the basis of a permanent, established mechanism. In this context the Commission should submit a legislative proposal for a permanent and effective intra-EU Relocation Mechanism, on the basis of an EU Distribution Key for the relocation of asylum seekers, as described in the European Parliament report on enhanced intra-EU solidarity in the field of asylum (2012/2032 INI). In order to ensure that the mechanism is as effective as possible, this legislative proposal should also take into account the practical experience gained with the EUREMA Pilot Project for Malta <sup>(9)</sup>.

### 3.7 Drawing up agreements with third countries bordering the EU

3.7.1 The European Union should exercise all its political and economic influence, particularly in countries that benefit from significant EU funding, to convince them to cooperate on immigration issues. The Committee considers that MPs should incorporate the four pillars of the Global Approach: organising and facilitating legal migration and mobility; preventing and reducing irregular migration and trafficking in human beings; promoting international protection and enhancing the external dimension of asylum policy; and maximising the development impact of migration and mobility.

3.7.2 The solution to the problem must look beyond policing measures to preventive action to be taken in the third countries, placing greater emphasis on the development of cooperation programmes to support arable and livestock farming, SMEs, etc. The EU must demonstrate that it has the political leverage to work together with the countries which it is supposed to be cooperating and that receive high levels of funding to work together on the issues of security, organised crime and irregular immigration. The EESC welcomes the recent

agreement with the Kingdom of Morocco and the initiative to establish Mobility Partnerships between the EU and Tunisia, Egypt and Libya. An independent study into the effectiveness and impact of existing Mobility Partnerships should, however, be carried out. The EESC supports the Commission's initiative to ensure that the Mobility Partnerships are equipped with an efficient evaluation mechanism. In addition, the Mobility Partnerships, which are joint policy declarations that are not legally binding upon the partner countries, should be converted into international agreements. The Committee believes that the EU and the Member States should conclude new agreements with other countries of the region. Given the EU's special relationship with Turkey, migration matters should be strengthened between both parties, particularly in relation to the fight against criminal networks.

3.7.3 To ensure that the administrative and legal procedures operate smoothly, it is crucial that the EU request the countries of origin of irregular migrants to provide the travel documents swiftly.

3.7.4 This matter should also be addressed within the framework of the Euro-Mediterranean conference, as a considerable number of the irregular immigrants enter the EU via third countries on the Mediterranean coast.

3.7.5 Assistance should be given to certain transit countries in order to enable them to manage their borders better, set up asylum structures and also enable them to build the capacity to grant protection themselves to those who need it.

### 3.8 The European borders agency - Frontex

3.8.1 Frontex should continue to be restructured into a genuine European external borders agency, with a broader mandate for coordination and prevention. To this end, it must be bolstered with adequate financial resources which will allow it to provide the required assistance to the southern Member States that are struggling to cope with immigration flows. At the same time, the number of staff (including border guards) must be increased and electronic monitoring and recording resources stepped up. In this regard more should be done to strengthen implementation of the concept of European Border Guard Teams as underlined in the European Parliament's report on Frontex (A7-0278/2011). Furthermore, serious consideration should now be given to Frontex using its new capacities (such as that of purchasing equipment).

3.8.2 The European Patrols Network providing regional border security should be reinforced, enabling the coordination of national resources and European measures, and bolstering cooperation at national and European levels.

<sup>(9)</sup> EUREMA is an EU Pilot Project for the relocation of beneficiaries of international protection from Malta, endorsed in the European Council Conclusions of 18-19 June 2009 (doc. 11225/2/09 CONCL 2).



### 3.9 EASO

3.9.1 The EASO must be able to clearly identify the differences in asylum practices between the Member States, as well as the differences in their legislation, and to propose the necessary changes. It must also have the authority to draw up joint guidelines on the interpretation and application of the various procedural and substantial facets of the EU asylum acquis, as the Commission proposed in its Green Paper.

3.9.2 The Office could become an important centre for exchanging good practice, and for developing training activities on asylum, in particular for border officials. It could also be a centre for monitoring and analysing the results of the new measures that the EU is developing in relation to asylum. And it could be a place from where the joint teams of asylum experts could be set up and managed.

3.9.3 The EASO will have to practise networking, collaborate with EURASIL and maintain close ties with UNHCR and specialised NGOs.

3.9.4 The European Asylum Support Office began operating relatively recently. It is expected to take up its tasks at full capacity without further delay, with particular regard to its role in seeking sustainable solutions and ensuring that costs are distributed between the Member States, as described in the EASO regulation. At the same time EASO must also be proactive on intra-EU solidarity in line with its obligations in the EASO regulation.

### 3.10 Preventing and combating people smuggling and organised crime

3.10.1 Irregular immigration by sea is dangerous and puts people's lives at risk. Thousands of people have lost their lives while crossing the Mediterranean on unseaworthy vessels. These dangerous journeys are organised by criminal networks that cram hundreds of people (including women and children), without the appropriate equipment or supplies (not even life-saving equipment), into boats, the vast majority of which are not seaworthy. The resolution passed by the Parliamentary Assembly of the Council of Europe (Resolution 1872 (2012)) entitled "Lives lost in the Mediterranean Sea - Who is responsible?" describes the role played by migrant smugglers in organising dangerous crossings of the Mediterranean in a very detailed manner and should be taken into consideration for the purposes of understanding the gravity of the matter.

3.10.2 Criminal proceedings and sentencing for human traffickers and smugglers established by the Member States should be of the toughest kind with penalties including life imprisonment. Those exploited by traffickers should always be considered as innocent victims.

3.10.3 People smuggling fuels crime as the criminal networks organising the journeys collect fares for each person travelling, often through extortion and using inhumane means. The EESC underlines that the EU cooperate with the countries of departure and transit countries, with the aim of dismantling the criminal networks involved. The EESC also stresses that the EU must act in the most forceful way possible to stop people smugglers from operating and putting lives in danger.

3.10.4 The EU should also consider securing agreements with third countries on the creation of migrant reception centres and providing financial support for their establishment and running. The centres set up in these countries may operate in conjunction with other reception centres for the purposes of identification and care. The IOM, the UNHCR, the Fundamental Rights Agency and the specialised NGOs should monitor how these centres operate.

3.10.5 Furthermore, the EU must engage in information initiatives whereby potential irregular immigrants are dissuaded from entering the EU illegally by making them aware of the dangers and difficulties inherent in illegal immigration. Potential irregular immigrants must also be made aware of the enormous difficulties they will face in finding a job in Europe when entering without papers.

3.10.6 Organisations that work to raise public awareness in the countries of departure about the abovementioned issues, so as to dissuade potential migrants from attempting dangerous journeys, should be given moral and financial support.

3.10.7 The EESC would also call for attention to be given to addressing the deeper causes of the problem, which are related to living standards in the countries of departure. Specific programmes should be launched to this end. The subject as a whole should be on the agenda of the Euro-Mediterranean conference.

### 3.11 Financing

3.11.1 Financing is needed to prevent and stem irregular immigration flows. Care must be taken when planning detention centres to ensure that irregular migrants are kept separate from refugees who are seeking asylum. Separate accommodation must also be provided for minors and vulnerable people within 15 days. According to an Italian study supplied by FRONTEX, the daily cost of an irregular immigrant is on average EUR 48. If that figure is multiplied by 100 000 for the number of immigrants that arrive every year (according to FRONTEX<sup>(10)</sup>) and by 365 for every day, the total cost is over EUR 1.752 billion for every year that passes.

<sup>(10)</sup> See tables below.

3.11.2 The EESC welcomes the Commission's efforts to simplify the financial instruments through the creation of two funds – the Asylum and Migration Fund <sup>(11)</sup> and the Internal Security Fund <sup>(12)</sup> – accompanied by a horizontal regulation laying down common rules on programming, information, financial management, control and evaluation <sup>(13)</sup>. The EESC supports the Commission's proposal to set a basic amount and another variable or flexible amount when distributing financial resources amongst the Member States. With regard to the flexible amount, the EESC considers it crucial for each Member State to draw up their annual programme in line with the EU's priorities and including cooperation with other Member States. The Committee supports the fact that, as of 2014, the Immigration and Asylum Fund will enjoy additional funding and greater flexibility for emergencies.

3.11.3 The planned changes will overcome the current problems because EU migration flow management and detention centre establishment programmes are run on an

annual basis. The same applies to funding and measures. It is however almost impossible to complete installations for reception and residence on the basis of an annual schedule. For this reason such programmes should be organised more flexibly.

3.11.4 Third countries situated along the migration route from the country of initial departure should be given funding to establish reception and residence centres.

Taking the above financial example into account, the EU budget should earmark funding for bolstering monitoring and prevention measures (patrol boats, coast guard stations, helicopters) and should see that Frontex and EASO have adequate annual budgets to deliver their tasks to the full. Funding must be secured to enable the countries of entry to effectively combat the criminal networks involved whilst also providing the right conditions for entering migrants.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(11)</sup> COM(2011) 751 final.

<sup>(12)</sup> COM(2011) 750 final; COM(2011) 753 final.

<sup>(13)</sup> COM(2011) 752 final.

## Appendix

YEAR	Irregular immigrants arrested for irregular entry and residence by police authorities and the coastguard	Deported	Refoulements (across the northern borders of our country)	Smugglers arrested by Police authorities and the coastguard
<b>2002</b>	58 230	11 778	37 220	612
<b>2003</b>	51 031	14 993	31 067	525
<b>2004</b>	44 987	15 720	25 831	679
<b>2005</b>	66 351	21 238	40 284	799
<b>2006</b>	95 239	17 650	42 041	994
<b>2007</b>	112 364	17 077	51 114	1 421
<b>2008</b>	146 337	20 555	48 252	2 211
<b>2009</b>	126 145	20 342	43 977	1 716
<b>2010</b>	132 524	17 340	35 127	1 150
<b>2011</b>	99 368	11 357	5 922	848
<b>2012</b>	76 878	17 358	4 759	726
<b>4 MONTHS 2013</b>	11 874	6 370	1 858	248

Source: Ministry of Public Order. Hellenic Police Statistics

## IMMIGRANTS ARRESTED

2011 Main Nationalities			2012 Main Nationalities		
1.	Afghanistan	28 528	1.	Afghanistan	16 584
2.	Pakistan	19 975	2.	Pakistan	11 136
3.	Albania	11 733	3.	Albania	10 602
4.	Bangladesh	5 416	4.	Syria	7 927
5.	Algeria	5 398	5.	Bangladesh	7 863
6.	Morocco	3 405	6.	Algeria	4 606
7.	Iraq	2 863	7.	Iraq	2 212
8.	Somalia	2 238	8.	Morocco	2 207
9.	Palestine	2 065	9.	Somalia	1 765
10.	Congo	1 855	10.	Palestine	1 718

Source: Ministry of Public Order. Hellenic Police Statistics

## DETENTION CENTRES' CAPACITY IN RELATION TO THE NUMBER OF DETAINED IMMIGRANTS

PRE-REMOVAL CENTRES	CAPACITY	DETAINED IMMIGRANTS	COMPLETENESS PERCENTAGE
<b>AMIGDALEZA</b>	<b>2 000</b>	<b>1 787</b>	<b>89 %</b>
<b>KOMOTINI</b>	<b>540</b>	<b>422</b>	<b>78 %</b>
<b>XANTHI</b>	<b>480</b>	<b>428</b>	<b>89 %</b>
<b>DRAMA (PARANESTI)</b>	<b>557</b>	<b>296</b>	<b>53 %</b>
<b>KORINTHOS</b>	<b>374</b>	<b>1 016</b>	<b>99 %</b>
DETENTION CENTRES	CAPACITY	DETAINED IMMIGRANTS	COMPLETENESS PERCENTAGE
<b>ORESTIADA (FILAKIO)</b>	<b>374</b>	<b>273</b>	<b>73 %</b>
<b>SAMOS</b>	<b>285</b>	<b>100</b>	<b>35 %</b>
<b>HIOS</b>	<b>108</b>	<b>95</b>	<b>88 %</b>
<b>TOTAL DETAINED</b>	<b>5 368</b>	<b>4 417</b>	<b>82 %</b>

Source: Ministry of Public Order. Hellenic Police Statistics

## HELLENIC READMISSION REQUESTS TO TURKEY

YEAR	READMISSION REQUESTS	NUMBER OF IRREGULAR IMMIGRANTS	ACCEPTED	DELIVERED
<b>2006</b>	239	2 251	456	127
<b>2007</b>	491	7 728	1 452	423
<b>2008</b>	1 527	26 516	3 020	230
<b>2009</b>	879	16 123	974	283
<b>2010</b>	295	10 198	1 457	501
<b>2011</b>	276	18 758	1 552	730
<b>2012</b>	292	20 464	823	113
<b>2013</b>	44	795	84	8
<b>TOTAL</b>	<b>5 706</b>	<b>122 796</b>	<b>12 332</b>	<b>3 805</b>

Source: Ministry of Public Order. Hellenic Police Statistics

Results of 2012 from FRONTEX:

- In total, during the joint maritime operations 258 suspected facilitators were apprehended.
- Across all the sea operations in 2012, there were 169 SAR cases and 5 757 migrants in distress were saved.
- In addition, 382 suspected drug smugglers were apprehended. The amount of drugs seized was over 46 tonnes, worth EUR 72,6 million. The predominant part of this was hashish – almost 44 tonnes of drugs worth EUR 68 million.

— Beside this, 38 cases of smuggled cigarettes/tobacco were detected during sea operations. The 2,4 million packets of contraband cigarettes intercepted were worth EUR 5,6 million.

ALL BELOW source: FRONTEX ANNUAL RISK ANALYSIS

#### Indicator 1A — Detections of illegal border-crossing between border-crossing points:

The number of third -country nationals detected by Member State authorities when illegally entering or attempting to enter the territory **between border-crossing points (BCPs)** at external borders only. Detections during hot pursuits at the immediate vicinity of the border are included. This indicator should not include EU or Schengen Associated Country (SAC) nationals.

#### Detections of illegal border-crossing between BCPs

Routes	2010	2011	2012	Share of total	% change on prev. year
<b>Eastern Mediterranean route (Greece, Bulgaria and Cyprus)</b>	<b>55 688</b>	<b>57 025</b>	<b>37 224</b>	<b>51</b>	<b>– 35</b>
<b>Land</b>	<b>49 513</b>	<b>55 558</b>	<b>32 854</b>		<b>– 41</b>
Afghanistan	21 389	19 308	7 973		– 59
Syria	495	1 216	6 216		411
Bangladesh	<b>1 496</b>	<b>3 541</b>	<b>4 598</b>		<b>30</b>
<b>Sea</b>	<b>6 175</b>	<b>1 467</b>	<b>4 370</b>		<b>198</b>
Afghanistan	1 373	310	1 593		414
Syria	139	76	906		1 092
Palestine	1 500	128	408		219
<b>Central Mediterranean route (Italy and Malta)</b>	<b>1 662</b>	<b>59 002</b>	<b>10 379</b>	<b>14</b>	<b>– 82</b>
Somalia	82	1 400	3 394		142
Tunisia	650	27 964	2 244		– 92
Eritrea	55	641	1 889		195
<b>Western Mediterranean route</b>	<b>5 003</b>	<b>8 448</b>	<b>6 397</b>	<b>8,8</b>	<b>– 24</b>
<b>Sea</b>	<b>3 436</b>	<b>5 103</b>	<b>3 558</b>		<b>– 30</b>
Algeria	1 242	1 037	1 048		1,1
Morocco	300	775	364		– 53
Chad	46	230	262		14
<b>Land</b>	<b>1 567</b>	<b>3 345</b>	<b>2 839</b>		<b>– 15</b>
Not specified	1 108	2 610	1 410		– 46
Algeria	459	735	967		32
Morocco	0	0	144		n.a.
<b>Western Balkan route</b>	<b>2 371</b>	<b>4 658</b>	<b>6 391</b>	<b>8,8</b>	<b>37</b>
Afghanistan	469	983	1 665		69
Kosovo (*)	372	498	942		89
Pakistan	39	604	861		43
<b>Circular route from Albania to Greece</b>	<b>35 297</b>	<b>5 269</b>	<b>5 502</b>	<b>7,6</b>	<b>4,4</b>
Albania	32 451	5 022	5 398		7,5



Routes	2010	2011	2012	Share of total	% change on prev. year
fyROM	49	23	36		57
Kosovo (*)	21	37	34		- 8,1
<b>Apulia and Calabria (Italy)</b>	<b>2 788</b>	<b>5 259</b>	<b>4 772</b>	<b>6,6</b>	<b>- 9,3</b>
Afghanistan	1 664	2 274	1 705		- 25
Pakistan	52	992	1 156		17
Bangladesh	12	209	497		138
<b>Eastern borders route</b>	<b>1 052</b>	<b>1 049</b>	<b>1 597</b>	<b>2,2</b>	<b>52</b>
Georgia	144	209	328		57
Somalia	48	120	263		119
Afghanistan	132	105	200		90
<b>Western African route</b>	<b>196</b>	<b>340</b>	<b>174</b>	<b>0,2</b>	<b>- 49</b>
Morocco	179	321	104		- 68
Gambia	1	2	39		1 850
Senegal	2	4	15		275
<b>Other</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
Iran	0	0	1		n.a
Russian Federation	2	0	0		n.a
Somalia	0	1	0		- 100
<b>Total</b>	<b>104 060</b>	<b>141 051</b>	<b>72 437</b>		<b>- 49</b>

(\*) This designation is without prejudice to positions on status, and is in line with UNSCR1244 and the ICJ Opinion on the Kosovo declaration of independence.

### Illegal border-crossing between BCPs

Detections by border type and top ten nationalities at the external borders

	2009	2010	2012	2012	Share of total	% change on prev. year
<b>All Borders</b>						
Afghanistan	14 539	25 918	22 994	13 169	18	- 43
Syria	613	861	1 616	7 903	11	389
Albania	38 905	33 260	5 138	5 651	7,8	10
Algeria	4 487	8 763	6 157	5 479	7,6	- 11
Bangladesh	551	1 647	4 923	5 417	7,5	10
Somalia	9 115	4 619	3 011	5 038	7,0	67
Pakistan	1 592	3 878	15 375	4 877	6,7	- 68
Tunisia	1 701	1 498	28 829	2 717	3,8	- 91
Eritrea	2 228	1 439	1 572	2 604	3,6	66

	2009	2010	2012	2012	Share of total	% change on prev. year
Morocco	1 710	1 959	3 780	2 122	2,9	– 44
Others	29 158	20 218	47 656	17 460	24	– 63
<b>Total all borders</b>	<b>104 599</b>	<b>104 060</b>	<b>141 051</b>	<b>72 437</b>		<b>– 49</b>
<b>Land Border</b>						
Afghanistan	2 410	22 844	20 396	9 838	20	– 52
Syria	389	530	1 254	6 416	13	412
Albania	38 088	32 592	5 076	5 460	11	7,6
Bangladesh	305	1 506	3 575	4 751	9,7	33
Algeria	676	6 961	4 671	4 081	8,3	– 13
Pakistan	1 328	3 675	13 781	3 344	6,8	– 76
Not specified	565	1 304	2 747	1 817	3,7	– 34
Somalia	259	4 102	1 498	1 558	3,2	4,0
Morocco	737	1 319	2 236	1 422	2,9	– 36
Palestine	2 791	2 661	652	1 195	2,4	83
Others	9 892	12 306	13 993	9 301	19	– 34
<b>Total land borders</b>	<b>57 440</b>	<b>89 800</b>	<b>69 879</b>	<b>49 183</b>		<b>– 30</b>
<b>Sea Border</b>						
Somalia	8 856	517	1 513	3 480	15	130
Afghanistan	12 129	3 074	2 598	3 331	14	28
Tunisia	1 643	711	28 013	2 283	9,8	– 92
Eritrea	2 195	507	680	1 942	8,4	186
Pakistan	264	203	1 594	1 533	6,6	– 3,8
Syria	224	331	362	1 487	6,4	311
Algeria	3 811	1 802	1 486	1 398	6,0	– 5,9
Egypt	545	713	1 948	1 283	5,5	– 34
Morocco	973	640	1 544	700	3,0	– 55
Bangladesh	246	141	1 348	666	2,9	– 51
Others	16 273	5 621	30 086	5 151	22	– 83
<b>Total sea borders</b>	<b>47 159</b>	<b>14 260</b>	<b>71 172</b>	<b>23 254</b>	<b>100</b>	<b>– 67</b>

**Indicator 1B — Detections of illegal border-crossing at border-crossing points:**

The number of third-country nationals detected by Member State authorities when entering clandestinely or attempting to enter illegally (such as hiding in transport means or in another physical way to avoid border checks at BCPs) the territory **at border-crossing points (BCPs)** at external borders only, whether they result in a refusal of entry or not. This indicator should not include EU or Schengen Associated Country (SAC) nationals.

**Clandestine entries at BCPs**

Detections reported by Member State and top ten nationalities at the external borders

	2009	2010	2011	2012	Share of total	% change on prev. year
<b>Border Type</b>						
Land	137	168	159	486	81	208
Sea	159	74	123	115	19	– 6,5
<b>Top Ten Nationalities</b>						
Afghanistan	18	8	58	190	31	228
Algeria	30	35	55	61	10	11
Turkey	73	93	24	41	6,8	71
Syria	2	3	6	36	6,0	500
Albania	3	7	9	35	5,8	289
Morocco	20	14	15	24	4,0	60
Pakistan	2	12	10	24	4,0	140
Palestine	14	4	17	24	4,0	41
Serbia	4	2	4	23	3,8	475
Philippines	0	8	1	17	2,8	1 600
Others	130	56	83	126	21	62
<b>Total</b>	<b>296</b>	<b>242</b>	<b>282</b>	<b>601</b>		<b>115</b>

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**Indicator 2 — Detections of facilitators:**

The number of facilitators intercepted by Member State authorities who have intentionally assisted third-country nationals in the illegal entry to, or exit from, the territory across external borders. The indicator concerns detections of facilitators at the following locations: (1) at the external border (both at and between BCPs, for land air and sea) and (2) inside the territory and at internal borders between two Schengen Member States provided that the activities concerned the facilitation of third-country nationals for illegal entry or exit at external borders. This indicator should include third-country nationals as well as EU and/or Schengen Associated Country (SAC) nationals.

**Facilitators**

Detections reported by Member State, place of detection and top ten nationalities <sup>(8)</sup>

	2009	2010	2011	2012	Share of total	% change on prev. year
<b>Border Type</b>						
Inland	5 901	5 918	5 146	5 186	67	0,8
Land	1 160	1 171	625	887	11	42
Land Intra EU	618	616	365	498	6,5	36
Sea	997	503	324	471	6,1	45
Air	277	300	367	358	4,6	– 2,5
Not specified	218	121	130	320	4,1	146

	2009	2010	2011	2012	Share of total	% change on prev. year
<b>Top Ten Nationalities</b>						
Italy	875	1 367	568	543	7,0	– 4,4
Spain	286	285	320	498	6,5	56
Not specified	322	261	255	479	6,2	88
Morocco	475	413	390	461	6,0	18
Romania	292	398	268	364	4,7	36
France	230	365	404	352	4,6	– 13
China	731	554	375	316	4,1	– 16
Pakistan	245	245	237	286	3,7	21
Albania	670	430	221	243	3,1	10
Turkey	405	305	204	238	3,1	17
Others	4 640	4 006	3 715	3 940	51	6,1
<b>Total</b>	<b>9 171</b>	<b>8 629</b>	<b>6 957</b>	<b>7 720</b>		<b>11</b>

\* Italy does not distinguish between facilitators of illegal border-crossing and facilitators of illegal stay.

### Indicator 3 — Detections of illegal stay:

The number of third-country nationals detected by Member State authorities while not fulfilling, or no longer fulfilling, the conditions for stay or residence in the Member State during the reference month, irrespective of whether they were detected inland or while trying to exit the territory. The category should include third-country nationals who are not in the possession of a valid visa, residence permit, travel document, etc or in breach of a decision to leave the country. It also includes third-country nationals who initially entered legally but then overstayed their permission to stay. This indicator should not include EU or Schengen Associated Country (SAC) nationals.

#### Illegal stay

Detections reported by Member State, place of detection and top ten nationalities

	2009	2010	2011	2012	Share of total	% change on prev. year
<b>Place of Detection</b>						
Inland	340 180	295 274	283 308	278 438	81	– 1,7
Air	28 624	29 322	33 126	35 410	10	6,9
Land	6 351	7 011	17 640	19 883	5,8	13
Land Intra EU	17 594	12 996	9 230	5 832	1,7	– 37
Sea	19 156	7 232	6 593	4 585	1,3	– 30
Between BCPs	198	1 233	1 049	724	0,2	– 31
Not specified	22	9	2	56		2 700
<b>Top Ten Nationalities</b>						
Afghanistan	38 637	21 104	25 296	24 395	7,1	– 3,6
Morocco	25 816	22 183	21 887	21 268	6,2	– 2,8
Pakistan	9 058	10 508	12 621	18 334	5,3	45
Algeria	12 286	14 261	15 398	15 776	4,6	2,5

	2009	2010	2011	2012	Share of total	% change on prev. year
Tunisia	10 569	8 350	22 864	15 211	4,4	– 33
Albania	28 810	20 862	10 207	13 264	3,8	30
Ukraine	10 021	8 835	12 847	13 081	3,8	1,8
Syria	3 838	3 160	3 746	11 967	3,5	219
Serbia	7 028	12 477	10 397	11 503	3,3	11
Russian Federation	9 526	9 471	10 314	11 486	3,3	11
Others	256 536	221 866	205 371	188 643	55	– 8,1
<b>Total</b>	<b>412 125</b>	<b>353 077</b>	<b>350 948</b>	<b>344 928</b>		<b>– 1,7</b>



**Opinion of the European Economic and Social Committee on 'Securing essential imports for the EU — through current EU trade and related policies'**

(2014/C 67/08)

Rapporteur: **Mr PEEL**

At its plenary session held on 16 and 17 January 2013 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

*Securing essential imports for the EU — through current EU trade and related policies.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 105 votes to 1 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 EU competitiveness, if not the maintenance of our overall standard of living and quality of life, depends on a secure, regular supply of key, essential imports. "Few economies are self-reliant when it comes to raw material supplies due to the large scope of inputs required by most countries" states DG Trade's second Activity Report <sup>(1)</sup>, pointing out that "interdependence is real and unavoidable for all economies". Accessing these materials at affordable prices is essential for the sustainable functioning of the EU economy and of modern society as a whole.

1.1.1 These key world natural resources, namely agricultural land/food, water, energy and certain metals and key minerals, are in finite and potentially increasingly short supply, yet the demand for these has never been greater nor growing faster than at present. An inadequate response to climate change could exacerbate matters further. The EU benefits from a relatively beneficial, temperate climate for food, water and agriculture, yet is not self-sufficient in either energy or in many key strategic metals and minerals.

1.2 Therefore it is essential that the EU places greatest emphasis on gaining maximum resource rationalisation and efficiency, innovation and substitution, especially through sustainable use, re-use and recycling of energy and key strategic metals, minerals and other natural resources. The Committee particularly welcomes the emphasis placed on this by the European Innovation Partnership (EIP) and by the recent Commission review of its Raw Materials Initiative (RMI) <sup>(2)</sup>. Civil society must also be fully and actively engaged, not least as stakeholders and consumers have a central and responsible role to play in ensuring maximum rates of reuse and recycling, and the minimisation of waste.

1.3 However the purpose of this Opinion is to look at the securing of essential imports through trade and related policies.

1.4 The EU approach to sustainable trade is more advanced than any of its main competitors, but sustainability has to be fundamental to any EU strategy for sourcing essential imports. This strategy must also tie fully in with the EU Development programme, with particular reference to ACP, least developed countries, the development of GSP and GSP+, and the outstanding Economic Partnership Agreement (EPA) negotiations, as the Commission fully recognises.

1.5 As the Committee has regularly stated, it is essential to ensure coherence between the preservation of natural resources, the fight against poverty, sustainable production and consumption. Full participatory processes involving civil society must also be established, as that and social dialogue are key factors in ensuring good governance and in combatting corruption.

1.6 The Committee welcomes the identification of "managing natural resource assets sustainably" as one of the 12 "Illustrative Goals" by the UN High Level Panel of Eminent Persons report, dated 30 May 2013. The Commission in turn has issued its important Communication "A Decent Life For All" <sup>(3)</sup>, covering this UN initiative to link progress on the Millennium Development Goals with the outcome of "Rio+20", with the aim of setting new Sustainable Development Goals (SDGs) from 2015. As this Communication reminds us, "two of the most pressing challenges facing the world are eradicating poverty and ensuring that prosperity and well-being are sustainable". These goals will however be far harder to achieve if the world is faced with critical shortages of key strategic resources.

<sup>(1)</sup> EU Trade Policy for Raw Materials – Second Activity Report, May 2012.

<sup>(2)</sup> COM(2008) 699 final and COM(2013) 442 final.

<sup>(3)</sup> Commission Communication *A Decent Life For All: Ending poverty and giving the world a sustainable future* (COM(2013) 92 final, 27 February 2013; OJ C 271, 19.9.2013, p. 144-150).

1.6.1 The Communication also underlines "that two thirds of the services provided by nature – including fertile land, clean water and air – are in decline and climate change and biodiversity loss are close to the limits beyond which there are irreversible effects on human society and the natural environment". The Committee in turn describes this Communication as "an important milestone", emphasising that "given the finite physical limits of ... many natural resources ... the SDGs need to include goals for using these resources more efficiently and sharing them more fairly".

1.7 The Committee welcomes the progress made by the Commission's RMI. Nevertheless effective management of key world resources has to be primarily tackled at a global level. As the Commission has recognised, "to ensure a sustainable supply of raw materials the development of an EU or even international coordinated response is required ... to promote a better international framework and closer cooperation" <sup>(4)</sup>. The problems are currently more geopolitical than geological, yet the Committee is disappointed that the EU response gives the impression of being more a patchwork of specific initiatives rather than an overall global strategy. Nevertheless, the Committee welcomes the close co-operation the EU has established with the US and Japan, the key strategic partnership referred to in the 2011 Commission Communication *Tackling the Challenges in Commodity Markets and on Raw Materials* <sup>(5)</sup>, and with the countries mentioned in the RMI review. This rightly stresses the importance of co-operation with the African Union Commission and with Africa in general.

1.7.1 The Committee encourages the active pursuit of an EU "Raw Materials Diplomacy". Above all it considers that a stronger, more coordinated effort needs to be made globally, primarily through the G20 (which includes many of the key "demandeurs" for strategic imports), where the issue has been discussed less productively so far, but also through the OECD and the UN and its agencies. A "race to the bottom" will help no one.

1.7.2 The main drawback to any integrated global approach is the lack of effective enforcement mechanisms. The Committee therefore recommends that, as part of the overdue review of the WTO, which has a base in international law, a specific competence be added to cover energy and raw materials and their sustainable use. Greater emphasis should also be placed on the annual UNCTAD Global Commodities Forum. A key question here is the vulnerability of developing countries. For commodity dependent countries, commodities sectors are often the most important source of earnings and employment. However, their inability to translate commodities-led growth into more durable, broad-based economic growth and better benefits for the poor calls into question their development model. Fundamental consideration, fully involving civil society, urgently needs to be given as to what changes are needed to their policies, institutions and infrastructure to link commodities revenues with the achievement of development outcomes, including MDGs and future SDGs.

1.8 The role of the private sector is also critically important: most mineral and energy extraction is now a market transaction. As extraction and processing are hugely capital intensive, this relies heavily on large multinational concerns. Therefore it is essential that the core ILO Conventions, the OECD "Guidelines for Multinational Enterprises" and the specific OECD Guidance for Responsible Supply Chains <sup>(6)</sup> are fully implemented and observed, including the active cooperation of the social partners. As the Commission states in "Global Europe" it is essential to ensure that the benefits of trade liberalisation "are passed on to citizens. As we pursue social justice and cohesion at home we should also seek to promote our values, including social and environmental standards and cultural diversity around the world" <sup>(7)</sup>.

1.9 EU energy and raw material imports amount to one third of all EU imports (EUR 528 bn in 2010) <sup>(8)</sup>. The EU currently tackles barriers to such imports, such as export bans, new restrictions, extra export duties or dual pricing, through its trade negotiations (FTAs, EPAs, PCAs and WTO accession negotiations), with ultimate resort to a Disputes Mechanism.

1.9.1 However, the Committee expresses deep concern that these are tactical trade policy instruments and do not amount to an overall strategy, nor would they be effective in a crisis. Dispute mechanisms take time to operate and, as seen over rare earths, are subject to prolongation. We call for a clear EU emergency or crisis response procedure in the event that an important import suddenly becomes unavailable, for whatever reason.

1.10 Turning specifically to energy matters, Russia, Norway and Algeria between them account for 85 % of EU natural gas imports and almost 50 % of crude oil. Until recently major energy producers have been slow to join the WTO, which as a rules based organisation emphasises greater stability and predictability. The Committee therefore urges the EU to seize the opportunity offered by Russia's 2012 WTO accession to inject urgent new dynamism into the negotiations for a new EU-Russia trade and investment agreement and develop a deeper, more workmanlike relationship.

1.10.1 Equally the Committee calls on the Commission to do its utmost to encourage both the finalisation of Kazakh WTO entry as well as the recent momentum gained by both Algeria and Azerbaijan in their WTO entry negotiations. New momentum also needs to be given to EU accession negotiations with Turkey, a critical energy hub and transit country.

<sup>(4)</sup> See footnote 1.

<sup>(5)</sup> COM(2011) 25 final.

<sup>(6)</sup> OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition 2012.

<sup>(7)</sup> COM(2006) 567 final, 4 October 2006, point 3.1.iii.

<sup>(8)</sup> See footnote 1.

1.11 The Committee also urges the Commission to do its utmost to help secure the proposed "early harvest" WTO agreement, at its forthcoming Ministerial meeting, on Trade Facilitation and other issues related to agriculture that cannot be readily covered in bilateral agreements. With the impasse in the Doha negotiations, even these efforts are making very slow progress. Failure to achieve even this limited objective could reflect very seriously on the WTO's overall negotiating role: final failure at multilateral level could potentially have dire consequences for overall global food security.

1.12 The Committee strongly supports the Commission's initiative for the responsible sourcing of "conflict minerals" (those coming from conflict-affected and other high risk areas), and other options "to assist resource-rich developing countries (and to focus on) the transparency of the supply chain of minerals". We remain concerned however that, with traceability often impossible to determine fully, either trade will be "diverted" to neighbouring countries or that companies might withdraw rather than face unwanted accusations. A voluntary approach based on the OECD guidelines for multinational corporations should also be considered, whilst initiatives, such as EITI<sup>(9)</sup>, which deals with the transparency of payments, should be encouraged and fully supported. Here again it is essential to ensure that a full participatory process involving civil society is set up.

## 2. Key essential imports - background

2.1 Many factors are combining to create an exponential demand for natural resources. These include a projected world population of 9bn, rapid industrialisation and urbanisation with more than half of the world's population for the first time now living in towns and cities, and by 2030 up to 2 billion more "middle class" people demanding (and able to pay for) a far greater diversity and choice in the things they wish to consume. No country can have a priority claim on these resources: there is already an exponential rise in mobile phone use around the world.

2.1.1 The problem is often exacerbated by the fact that many key minerals are to be found in conflict zones, whilst key energy sources are often located in countries where there are other political problems. It is therefore essential that global preventative action is taken, before demand so outstrips supply for key raw materials, against either an exponential increase in prices, which alone could have a devastating effect on the ready availability of these materials (not to mention the effect on poverty), or recourse to war and conflict.

## 2.2 Energy

2.2.1 Energy is a fundamental, strategic factor in any consideration of essential imports for the EU as a basic

component in maintaining both our standard of living and our quality of life. Yet the international energy market is highly competitive and volatile. Whereas imports comprise 55 % of the EU energy mix<sup>(10)</sup>, the EU as a whole imports 60 % of its gas and over 80 % of its oil<sup>(11)</sup>, with fast growing competing demand from elsewhere, notably emerging economies.

2.2.2 Global energy demand could increase by 40 % within 20 years whilst an inadequate response to climate change may complicate matters further. A secure and reliable supply of energy is crucial, yet many Member States are only able to rely on a limited number of energy suppliers and are therefore vulnerable to bottlenecks and price volatility, especially for gas and oil. Diversification of energy supply is of particular urgency for the three Baltic States.

2.2.3 Energy is an area of shared competency between the EU and Member States, complicated by issues of commercial confidentiality and national sovereignty. The Commission response has been twofold. First an information exchange mechanism is being set up to cover intergovernmental energy agreements between Member States and third countries. This the Committee has welcomed as "an appropriate step towards effectively implementing a common EU external energy policy" in line with the EU Energy 2020 Strategy, pointing out that "it is essential that Europe should act with a united voice in securing an adequate, stable and secure supply of energy in the foreseeable future".

2.2.3.1 Hitherto no one in the EU could have an overall picture opposite any specific trading partner, but those trading partners certainly do so. There are some 30 intergovernmental agreements between Member States and third countries on oil, some 60 on gas but fewer on electricity.

2.2.4 The second arm of the Commission's strategy is its Energy Roadmap 2050, which the Committee has also welcomed. This emphasises the urgent need to develop energy strategies beyond 2020 and looks at a number of scenarios including very firm energy efficiency measures, carbon pricing, the development of renewable energy, carbon capture and nuclear.

<sup>(10)</sup> 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 — Energy Roadmap 2050*, COM(2011) 885 final, OJ C 229, 31.7.2012, p. 126–132.

<sup>(11)</sup> Commission Communication COM(2011) 540 final as quoted in Committee Opinion *Intergovernmental agreements between Member States and third countries in the field of energy* – OJ C 68, 6.3.2012, p. 65–69.

<sup>(9)</sup> Extractive Industries Transparency Initiative.

2.2.5 In terms of securing essential imports, the Committee has called for a comprehensive EU external energy strategy<sup>(12)</sup> and for a common EU foreign policy on energy to be rapidly and progressively stepped up<sup>(13)</sup>. These concerns remain. However, from a specific trade policy viewpoint, the key is both in identifying potential supply and infrastructure bottlenecks and in widening WTO membership amongst our key energy suppliers, not least to encourage greater stability and predictability.

### 2.3 Food, land and water

2.3.1 The second key area of natural resources involved in maintaining a decent standard and quality of life covers agricultural land, food and water, likewise under threat from an inadequate response to climate change.

2.3.2 The EU enjoys a temperate climate despite its high population density and only one eighth of its land area being suitable for arable production. Increased aridity is a threat faced by southernmost Member States but any import of water would inevitably come from within the EU.

2.3.3 The Committee has already looked at food security<sup>(14)</sup>, notably the wider, global problem and as one of the key drivers for CAP reform.

2.3.4 The EU imports more food from least developed countries than the US, Canada, Japan and Australia combined. Although Copa-Cogeca point to negative trade in agriculture, the Commission shows an overall EU surplus in 2012 of EUR 12,6bn by including food processing. The key EU agricultural import is soya for animal feed, without which meat and dairy production would be at serious risk (GM thresholds are relevant here). Other products only produced in sufficient amounts elsewhere include certain oilseeds, fruit, coffee, cocoa and tea.

2.3.5 With no real threat of restricted imports to the EU, the key trade issues here are differing social and environmental standards, including traceability, SPS (health) and animal welfare, and Intellectual Property concerns. For many developing countries, agricultural products are a key – if not main – export for which the EU is seen as a prime market, where many believe access is unduly restricted through EU food safety and other standards.

2.3.6 Agriculture forms a key part of the WTO Doha negotiations – indeed the negotiations were previously mandated to

start in 1999, before Doha was launched – but these have reached impasse. The Committee is most concerned that failure even to secure an "early harvest" agreement on Trade Facilitation and other agriculture related issues at the next WTO Ministerial meeting could have very serious consequences for the WTO, but even worse for overall global food security.

### 2.4 Key strategic minerals and raw materials

2.4.1 Access to key strategic minerals and raw materials is the third fundamental, strategic area in considering essential imports for the EU.

2.4.2 These key raw materials include metallic and industrial minerals, construction materials, and base metals, such as cobalt, gallium, indium and a range of rare earths. Their use impacts everyday life in many different ways, most notably in cars, planes and IT appliances. In its 2011 Communication the Commission lists 14 key "critical raw materials", with recycling and substitution rates, which it is currently updating to cover market, technological and other developments. Some basic components will of course already be part of many pre-manufactured imports, and other strategic materials are not currently critical, yet IT and other key equipment can quickly become obsolete and then be readily discarded.

2.4.3 The London Metal Exchange estimates that some 7 % of total consumption of copper comes in the automotive sector, but cars also include steel, aluminium, platinum (60 % of total use), palladium, rhodium, lead, tin, cobalt and zinc. Equally, a mobile phone or an I-pad contains copper, silver, gold, palladium and platinum. Regular replacement of these items, every two years or so, is already a major concern, but the growth in use globally is exponential, with an estimated 2 billion mobile phones already in use in China and India alone. It is estimated that China's share of global copper consumption alone has risen from 12 % to 40 % in 10 years.

2.4.4 Due to technological advances, some of today's most crucial, sought after minerals will often no longer be essential tomorrow, but others, such as rare earths (which now for example form a key part of the latest mobile phones), suddenly come into critical demand. For example, China, with an estimated 97 % of rare earth deposits, imposed export restrictions where as yet no recycling or substitution is possible, but the EU had to launch a second WTO Dispute Panel, despite China losing the first.

## 3. The strategic, sustainability challenge for the EU

3.1 The securing of strategic raw materials has been a key foreign policy objective throughout history for states and empires – and now for major companies and corporations as well. As mentioned, no economy is self-reliant when it comes to raw material supplies.

<sup>(12)</sup> EESC's opinion on *The External dimension of the EU's energy policy*, OJ C 182, 4.8.2009, p. 8-12.

<sup>(13)</sup> EESC's opinion on *Energy supply – what kind of neighbourhood policy do we need to ensure security of supply to the EU* – OJ C 132 3.5.2011, p. 15-21.

<sup>(14)</sup> EESC's opinion on *Trade and food security*, OJ C 255, 22.9.2010, p. 1-9.



3.2 The ever-present danger remains for unforeseen, short-term shocks, whether price driven or through other causes, from failure of transport or infrastructure, to deliberate blockades, environmental or other crises such as occurred at Fukushima. Recent examples include (in 2006 and 2009) major energy shortages due to disruption of supply from Russia, and the earlier 1970s oil shortages.

3.2.1 Most of the remedies available to the Commission deal with the long-term. The Commission has indeed recognised the issue over many years. It tackles barriers through its trade negotiations and, whilst the Committee is assured that provision is included in each case, there appears to be little emphasis on securing essential imports in an emergency.

3.3 Competence here is among the many challenges facing the EU. The EU has competence in trade matters, but it cannot, unlike the US, individual Member States, military organisations or even individual companies, itself stockpile strategic reserves of oil or other key raw materials. As the RMI review points out, "no Member State would support a stockpiling scheme as a policy option".

3.3.1 The EU can only use "soft" power. Its challenge has to be to develop an over-arching strategic framework. Here the EU is well positioned to take a lead in three key areas: promoting a global framework, promoting sustainability and ensuring the full and active engagement of civil society. With many of the Recommendations covering these, it is not necessary to repeat the arguments here, but the Committee welcomes that twice <sup>(15)</sup> the Commission has stressed that sustainable mining "can and should contribute to sustainable development". Sustainability has to be fundamental to any EU strategy for sourcing essential imports.

3.4 The role of the private sector is critically important: most mineral extraction is now a market transaction. This is clearly seen in the more open parts of the world, including the EU, US, Australia, South Africa, Brazil and India and to some degree with the major Russian energy companies. Here the Committee particularly welcomes the commitment of the EU Industrial Minerals Association to "work actively towards continuous improvement in economic, environmental and social performance".

3.4.1 As the 2011 Communication states: "Securing supplies of raw materials is essentially the task of companies", adding that the role of public authorities "is to ensure the right framework conditions to allow companies to carry out this task".

3.5 In contrast is a centrally planned economy like China's, with most economic levers and players under various degrees of centralised control. China has a clearer, more complete strategic approach to secure its key future needs in food and feed, water, minerals and energy than any other country, which with

particular regard to Africa has led to widespread concern. As the Committee has pointed out, "in its search for new sources of raw materials and outward investment China has adopted partnerships in several African countries that concentrate on investment as business, rather than as aid for development" <sup>(16)</sup>.

3.5.1 Yet others say that China has made "bad" deals and is significantly overpaying for its raw materials, and that by dealing with countries which would cause political difficulties for others it is actually broadening the availability of such minerals.

3.6 For many developing resource poor countries, securing access to raw materials is difficult. Even resource-rich, exporting countries need to eradicate poverty. They need to gain more value-added input from processing, as well as establish a working partnership with the private sector.

3.6.1 The concerns on "conflict minerals" have been mentioned. This EC initiative only relates to conflict or post war zones, but as is stated, "the extraction, handling, trading and processing of minerals have been associated with the misuse of revenues, economic setbacks, political conflict and state fragility" underlined by misuse of revenues by belligerents, the so-called "Resource Curse".

3.6.2 Initiatives, such as EITI must be encouraged and fully supported, and full participatory processes involving civil society must be established. That and social dialogue are key factors in ensuring good governance and in combatting corruption. The monitoring role established for civil society in recent EU trade agreements offers an excellent precedent here, but civil society should also be fully and actively engaged, with due regard for transparency, at each stage of the negotiations for FTAs, EPAs and PCAs, before these are concluded. As the private sector plays a key role the voice of the social partners is also critical.

#### **4. Current Commission strategic minerals and raw materials policy**

4.1 The Commission (DG Enterprise) launched its "Raw Materials Initiative" in 2008. This has three pillars based on first a level playing field in access to resources in third countries, secondly fostering a sustainable supply from European resources and thirdly through boosting resource efficiency/recycling.

4.1.1 These latter pillars are of fundamental importance but fall outside the scope of this Opinion. However, the Committee would challenge why so large a percentage of the EU's recyclable metals waste is exported outside the EU, when recycled scrap metal is often considerably more valuable and cheaper than the original raw material: we are effectively subsidising China.

<sup>(15)</sup> See footnotes 2, 5.

<sup>(16)</sup> EESC's opinion *Towards a comprehensive European international investment policy*, OJ C 318, 29.10.2011.



4.2 The Commission's 2011 Communication adopted the report of its Ad-hoc Working Group on defining critical raw materials. This the Committee covered in its Opinion Tackling Challenges in *Commodity Markets and on Raw Materials* <sup>(17)</sup> which also looked at the role of financial markets.

4.2.1 As mentioned, the Communication listed 14 key critical raw materials, with their recycling and substitution rates. The Committee welcomes that the current revision is in full consultation with stakeholders, despite not examining policy options that, in countries such as the US or the UK, would be expected to play an integral part.

4.2.2 The Committee welcomes the overall, very thorough methodology used. Amongst other factors, this looks at minerals (and by-products) that are of significant economic importance (whilst comparing minerals with very different properties and used by a very wide range of sectors), those that have a high supply risk, and those with a lack of ready substitutes. Using World Bank indicators, source countries are identified with poor governance or a high risk of disruptive events (from the arbitrary imposition of export quotas to civil war), or where there are low environmental standards. Potential recycling rates are also examined, as are ore grade quality, price volatility and continuing geographic availability. This detailed work remains essential.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(17)</sup> OJ C 318, 29.10.2011 p. 76-81.

**Opinion of the European Economic and Social Committee on 'The Single Market Act — identifying missing measures' (additional opinion)**

(2014/C 67/09)

Rapporteur: **Ms FEDERSPIEL**

Co-rapporteurs: **Mr SIECKER and Mr VOLEŠ**

On 14 February 2013, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on

*The Single Market Act — identifying missing measures*

(additional opinion).

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 2 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 119 votes to 4 with 13 abstentions.

## 1. Introduction

1.1 The European Economic and Social Committee (EESC) has been following the Commission's initiatives to relaunch the Single Market from the outset in 2010. In its opinion on the Single Market Act I <sup>(1)</sup>, it listed a number of measures which it thought were missing from the Commission proposals <sup>(2)</sup>. The comments and conclusions of the "EU Citizenship Report 2010 – Dismantling the obstacles to EU citizens' rights" <sup>(3)</sup> should be taken into consideration. The EESC draws the Commission's attention to the fact that there are more obstacles to the Single Market today than when it was established <sup>(4)</sup>.

1.2 The EESC is one of the major partners in the organisation of the Single Market Month. The contribution of civil society organisations is crucial for properly focusing the measures that are required to relaunch the Single Market, as these organisations are affected by them.

1.3 The EU's economic line needs to be redirected after some 30 years and an end put to the belief that the free market always has the ability to correct dysfunctional market behaviour. The recent economic and financial crisis has had a heavy impact on citizens: their sacrifices must result in new perspectives or support for European integration will diminish further. In this respect, the adoption and implementation of the Single Market Act I and II initiatives are considered to be too slow.

1.4 Concrete measures must be taken to combat any kind of poverty, e.g. energy, consumption, over indebtedness etc., caused by the financial crisis and undermining growth and achievement of the Single Market.

1.5 The EESC has repeatedly insisted on Member State ownership through proper implementation and enforcement to achieve a properly functioning Single Market. Enforcement must have a new cross-border dimension involving cooperation. A future-proof Single Market must be built on a sustainable, highly competitive economy based on sustainable processes and products, a decent working environment and on innovation. It is important that the Commission puts the EU 500 million citizens at the heart of the Single Market. They represent an important economic strength whose spendings account for 56 % of EU GDP, as expressed in Commission's Consumer Agenda <sup>(5)</sup>.

1.6 The Single Market must be an instrument with tangible results, in line with the social and environmental *acquis*. Initiatives under the SMA I and II must be coordinated with the measures and steps undertaken to strengthen EMU (Fiscal Pact, ESM, Euro plus, etc.).

1.7 Negotiations on free trade agreements should be used to enforce the level playing field, for instance reciprocity of tariffs, while maintaining high standards of consumer, environmental and social protection. When competing with global players, the EU must secure elements which will enhance its competitiveness, such as accessible energy resources, a skilled labour force and a flexible labour market.

<sup>(1)</sup> OJ C 24, 28.1.2012, p. 99.

<sup>(2)</sup> OJ C 132, 3.5.2011, p. 47; OJ C 24, 28.1.2012, p. 99; OJ C 299, 4.10.2012, p. 165.

<sup>(3)</sup> COM(2010) 603 final.

<sup>(4)</sup> See the *Catalogue of Obstacles to the Single Market* published by the Single Market Observatory: <http://www.eesc.europa.eu/?i=portal.en.publications.24626>.

<sup>(5)</sup> OJ C 11, 15.1.2013, p. 54.

## 2. The digital Single Market

2.1 The recently adopted Regulation on selective distribution has maintained the discrimination between off- and on-line distribution channels by allowing that certain distributors can be required to have a physical (brick and mortar) shop office before engaging into on-line sales. The new regulation will not prevent selective distribution of everyday products which can be detrimental to competition and consumer choice.

2.2 The European Commission should stand firm and confirm the search neutrality principle, according to which search engines should not manipulate the natural results for their own commercial interests. Remedies based on labelling of search results are not sufficient to restore competition, stop anti-competitive behaviour and foster consumer welfare.

### 2.3 Data protection

2.3.1 Once the revised Data Protection Regulation is adopted, it will be important to provide Member States with guidelines for specific provisions, thereby ensuring that they are implemented coherently.

2.3.2 Specific attention should be given to the development of standard privacy notices. The new regulation includes a provision that requires privacy policies to be transparent and understandable to consumers. The development of standard privacy notices will help ensure that consumers are properly informed about the processing of their personal information and that privacy policies are no longer complex legal texts. It should be ensured that businesses, especially SMEs, do not incur disproportionate administrative burden and costs.

### 2.4 Copyright

2.4.1 Following the recommendations of former Commissioner Vitorino, the European Commission must adopt follow-up action to ensure that current copyright levies systems are progressively phased out. In the short term, the current system should be reformed and it should be clarified that digital content subject to licensing agreements shall not be levied further by virtue of being uploaded to the cloud or stored in the cloud by a service provider. It is also important to make the copyright levy visible to the end-user, and to calculate levies on the basis of economic harm caused by private copying.

2.4.2 The 2001 Copyright Directive has failed to achieve the objective of harmonising the copyright laws of the EU Member States. Significant differences exist with regard to exceptions and limitations, which create legal uncertainty for both consumers and creators. A revision of this directive should be a priority.

2.4.3 The current system for the distribution of audio-visual content, based on platform and territorial release windows, needs to be adapted to the digital environment and respond

to consumers' expectations. The chronological release of films on different media (cinemas, DVD, Video on Demand) and territories should be reduced and allow for a certain degree of flexibility. There is space for experimentation with innovative business models that would allow for a single date of release of audiovisual content in countries with common cultural and linguistic traditions.

### 2.5 Digital products

2.5.1 It is necessary to continue the harmonisation process initiated with the 2011 Consumer Rights Directive by revising and updating the 1999 Consumer Sales Directive to meet the challenges of the digital economy: remedies in case of defective digital content products are urgently needed.

2.5.2 The Commission should draw up guidelines for the application of the legislation on unfair contract terms (Directive 1993/13/EEC) to consumer contracts for the supply of digital content.

## 3. Goods and services

3.1 In September 2013 the European Commission proposed a legislative package for completing the Single Market for Telecommunications. The EESC regrets that the proposal misses the opportunity to further reduce roaming charges and thus to improve the Single Market for European citizens. The EESC welcomes the proposed rules to facilitate switching of operators, to ensure fairer contract terms and commercial practices as well as better enforcement and access to redress. The rules on net-neutrality are a step in the right direction but need to be further enhanced.

3.2 The ratio of harmonised to non-harmonised sectors meets the basic needs of the economy. Any further move to harmonise other goods sectors must be based on a thorough analysis. For non-harmonised sectors covered by the principles of mutual recognition, the Commission should issue guidelines about the role and legal status of private testing bodies that do not accept certificates issued by testing bodies from other countries. The bilingual list of non-harmonised products on the European Commission website should be completed.

3.3 There is still no Single Market for retail financial services for consumers. Because of business and commercial obstacles, it is basically impossible for consumers to buy financial services abroad. Current big differences in terms of quality and price between bank accounts, savings accounts and mortgages, etc. between Member States could make it interesting for consumers to obtain financial products from other countries. The EESC calls on the European Commission to analyse this situation and propose initiatives. Consumers often do not obtain objective and independent recommendations/advice as regards their major financial decisions, linked to savings for retirements, other investments or long term credits. Independent and affordable financial advice models should be promoted across Europe.

3.4 Enforcement in relation to financial services is still not satisfactory: some Member States have no public body in charge of consumer protection. If they exist, their legal powers are often too limited. Also the European Supervision Authorities (EBA - the European Banking Authority, the ESMA - European Securities and Markets Authority and EIOPA - the European Insurance and Occupational Pensions Authority) established two years ago, do not have a strong enough remit in the area of consumer protection. Their competences in this respect should be expanded, and the authorities must be able to coordinate with national authorities.

3.5 The Single Market for Services, including network infrastructure services (telecommunications, electricity, gas, transport and insurance), has the greatest potential for further improvement. Improving the performance of Single points of contact in all Member States is a prerequisite for the directive to contribute to growth and job creation. The Commission should issue regulatory recommendations for the removal of obstacles revealed by the peer-to-peer review of the implementation of the directive<sup>(6)</sup>. The EESC calls for a complete database of all permission regimes to identify regulatory best practices and pinpoint useless and unacceptable requirements by issuing authorities.

#### 4. Free movement of workers

4.1 The EESC supports steps to improve free movement of labour, including the elimination of barriers such as the recognition of qualifications. It is especially necessary to modernise and liberalise this system, increase coordination in the healthcare sector in order to prevent labour shortages in sending countries, deepen coordination of social security systems and create a one-stop-shop to facilitate registration procedures<sup>(7)</sup>.

4.2 The general framework directive, associated directives and the permanent monitoring via multiannual strategy plans have resulted in the convergence of safety rules (including minimum requirements) which are recognised by workers, including those in (temporary and mobile) cross-border situations. Since 1978 this process has been carried out continuously by successive Action Plans. When the last one ended in December 2012 the Commission did not start a new Action Plan. To continue this convergence process, the European Commission should urgently adopt a new EU Strategy Action Plan to promote high safety standards (as underlined by the Advisory Committee on Safety and Health at Work) in close cooperation with the social partners.

4.3 The withdrawal of the Monti II regulation does not solve the problems created by the European Court of Justice in its

judgments that are based on inadequate EU legislation on the posting of workers<sup>(8)</sup> and its implementation. European social partners have not been able to reach an agreement on this. Nevertheless, the Commission should consider a proposal to Member States to attach a social progress protocol to the European Treaties stating that social rights are not subordinate to economic freedoms. This could clarify that the Single Market is not an end in itself, but was also established in order to achieve social progress and prosperity for all EU citizens<sup>(9)</sup>.

4.4 Where substantive EU rights are infringed, workers, consumers and businesses must be able to enforce the rights granted to them by EU legislation. However, in this context the EU only refers to the rights of consumers and businesses. It is necessary that workers have the same possibility to enforce rights from EU legislation in cross-border labour conflicts. Although it is often claimed that workers have access to justice and can seek redress, respect for working conditions and legal provisions through local courts in the host countries, in practice, they are directed to the courts in their home country<sup>(10)</sup>.

#### 5. Transposition, implementation and enforcement

5.1 A new challenge for enforcement of consumer rights comes from big international companies or associations who apply Europe-wide marketing strategies which can no longer be tackled by national enforcement concepts. Better cooperation between national enforcement authorities and a more prominent role for the European Commission in jointly coordinating these actions should be aimed at. Synergies between public and private enforcement players, such as consumer organisations, should be better exploited.

5.2 The cooperation between national enforcement authorities has become a key issue but has not been very successful to date. The European Commission should have a stronger role in coordinating national enforcement activities in cases with a Europe-wide dimension of infringement of consumer law. Furthermore, giving the European Commission powers for the enforcement of EU consumer law (as in competition law)<sup>(11)</sup> should be further debated.

#### 6. Specific consumer issues

6.1 The EESC regrets that only a non-binding initiative on collective redress has been proposed after all these years and in spite of the four consultations conducted. In addition, the principles enshrined in the European Commission's recommendation do not meet consumers' needs and fall short of the status quo in some Member States.

<sup>(6)</sup> The EESC's Single Market Observatory will assess the impact of the Services Directive on the construction sector in a number of Member States from the civil society perspective.

<sup>(7)</sup> C. Dhéret; A. Lazarowicz; F. Nicoli; Y. Pascouau; F. Zuleeg. *Making progress towards the completion of the Single European Labour Market*. EPC Study No 75, May 2013.

<sup>(8)</sup> See EESC opinion, OJ C 76, 14.3.2013, p. 24.

<sup>(9)</sup> Art. 3.3. TEU.

<sup>(10)</sup> [http://www.uva-aiaa.net/uploaded\\_files/publications/WP118-Cremers,Bulla.pdf](http://www.uva-aiaa.net/uploaded_files/publications/WP118-Cremers,Bulla.pdf).

<sup>(11)</sup> [http://europa.eu/rapid/press-release\\_IP-13-228\\_en.htm](http://europa.eu/rapid/press-release_IP-13-228_en.htm).

## 6.2 Unfair commercial practices

6.2.1 Better enforcement of the Unfair Commercial Practices Directive should be aimed at, particularly in the digital environment: notably in e-commerce (e.g. practices that mislead consumers on their legal guarantee rights, non-transparent and unfair contract terms) and in the air transport sector regarding online bookings, etc.

## 6.3 Standardisation of pre-contractual information for consumer contracts

6.3.1 The EESC welcomes the initiative proposed in the 2012 Consumer Agenda on the standardisation of pre-contractual information, set out in Articles 5 and 6 of the Consumer Rights Directive. This should help make pre-contractual information comprehensive, transparent and easy to access and read. This exercise would require the help and support of consumer associations and take into account research on consumer behaviour towards information load (e.g. SWD(2012) 235 final, 19 July).

## 6.4 E-commerce and cross-border delivery

6.4.1 It is necessary to address the problems of high(er) prices for cross-border delivery compared to domestic delivery and to create more competitive online markets. The price of cross-border delivery is often so high that shopping abroad is not a real advantage for consumers, even if the goods are cheaper. Study done for European Commission in 2011<sup>(12)</sup> confirmed that published cross-border prices for parcels are on average twice as high as domestic benchmark prices.

## 6.5 Consumer information

6.5.1 Large parts of European, as well as national law are based on the idea that informed consumers are empowered consumers who are able to choose the best possible products and services. Consumer information is still one of the prime regulatory tools but its limits are well known, as consumers often do not read or understand contract information, which is written and presented in an incomprehensible manner. The Commission should study and follow up with policy measures designed to improve consumer information and involve business, regulators and consumer organisations.

6.5.2 The work started by the Commission on principles for comparison tools, such as independence and impartiality, should urgently yield concrete policy measures, including guidelines for regulators and businesses.

## 6.6 Sustainable products

6.6.1 Sustainability and product safety on the one hand and consumer confidence on the other are two sides of the same

coin. Planned obsolescence of products (built-in limitation of durability) as a commercial strategy is in contradiction with sustainable production and consumption principles. The European Commission should examine a possible need to link consumer expectations regarding the durability of a product with the legal guarantee period. The Committee stresses that measures on durability and service life, after-sales service and spares inventories would promote sustainable consumption and production<sup>(13)</sup>.

## 7. Business environment

7.1 The EESC calls for a reduction in the administrative burden, especially for SMEs, while stressing the need to apply Smart regulation at EU and national level<sup>(14)</sup>. Member States should display the transposition of EU legislation online and in real time, involving civil society in the transposition process and raising awareness about new rules.

7.2 Committee invites the Commission to take into account the specific characteristics of the small and micro companies within the SME group when preparing impact assessments and drawing up legislative texts; and that micro, small and medium businesses should be treated as three separate groups and not as one group defined as SMEs<sup>(15)</sup>.

7.3 Access to finance is crucial, particularly for SMEs. The EU must support the shift from (largely prevailing) bank financing to other capital products such as venture capital and capital markets. To make this work, investors have to feel that there is a stable investment environment with long-term strategies.

7.4 The EESC recommends evaluating the possibility of establishing a European guaranteed financial fund to provide SMEs matching certain basic criteria with financial means through a system that would allow the qualified company to easily access credit without involving collateral or other conditions usually required by banks. The management of this system should involve representative business organisations in charge of the qualified business<sup>(16)</sup>.

7.5 Increasing transparency and accountability should have highest priority so that the Single Market effectively contributes to developing a legal environment that respects the legitimate interests of all stakeholders. Initiatives on corporate social responsibility should cover possible abuse of subcontracting and outsourcing, notably related to cross-border service provision and/or labour recruitment. An EU legal instrument must be considered to fight abuse by and of letterbox

<sup>(13)</sup> OJ C 66, p. 5, 3.3.1997, p. 5.

<sup>(14)</sup> A possible option could be the UK's "one-in/one-out" principle (basically, if a new regulation is introduced, another one must be removed).

<sup>(15)</sup> EESC opinion on "Smart regulation - Responding to the needs of small and medium-sized enterprises" OJ C 327, 12.11.2013, p. 33.

<sup>(16)</sup> See the experience with the so-called "Seczenyi card" in Hungary.

<sup>(12)</sup> Intracommunity cross-border parcel delivery – Study for European Commission, FTI Consulting, London 2011.



companies that cause distortion of competition for SMEs, circumvention of labour standards and avoidance of statutory payments. Legal action against EU-wide active non-genuine undertakings has to be facilitated not only in the country of origin but also in the other Member States.

## 8. Taxation

8.1 Better cooperation between Member States and at global level on transparency and information regarding bank accounts in the EU is required to fight tax evasion, which amounts to one trillion euros in the EU. The EESC calls for a quick agreement on the EU Savings Directive and on mandates to negotiate stronger tax agreements with Switzerland and other countries.

## 9. Networks

### 9.1 Energy

9.1.1 The Commission's Communication "Making the Internal Market Work" of November 2012 is an important step towards creating an internal energy market by 2014. More progress should be made by taking into account the realities facing European energy consumers. Switching energy suppliers needs to be facilitated and consumers must get independent advice so they can decide what is best for them. Proactive national regulators, sufficiently empowered to monitor billing, switching and consumer complaints, are key for the Single Market.

9.1.2 The EU must diversify its sources of energy imports, find alternatives and create networks. Support to some renewable energy sources may lead to the distortion of the market therefore this type of support should be gradually

decreased. One-stop-shops should be set up to make procedures for granting permits faster, more transparent and simple. This would significantly cut the burden on promoters willing to invest in energy infrastructure.

### 9.2 Transport

9.2.1 The proliferation of unfair terms in air transport contracts is an issue of growing concern throughout the EU. In recent years, several consumer organisations have pursued legal action against major European airlines resulting in national courts declaring many terms and conditions commonly used by airlines to be unfair. The European Commission has missed the opportunity to address this issue in its review of the 261/2004 regulation on air passenger rights. The European Commission should establish a binding list of unfair clauses for air passenger contracts.

9.2.2 For better functioning of the SM there is a need to promote **rail goods services** and multimodal transport<sup>(17)</sup>. More efforts must be deployed to adopt the Technical Specifications for Interoperability<sup>(18)</sup>.

9.2.3 Transporters of goods by road are still restricted in their cross-border operations. Conditions are not in place to allow further opening of the EU haulage market. Changes to the EU rules on access to the transport market (including cabotage) should be linked with harmonisation in enforcement and in social and fiscal areas. Without these preconditions, changes to the cabotage rules risk having a negative impact on fair competition and sustainability of the sector. Meanwhile, the existing rules must be enforced<sup>(19)</sup>.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(17)</sup> See EESC opinions, OJ C 143, 22.5.2012, p. 130 and OJ C 24, 28.1.2012, p. 146.

<sup>(18)</sup> COM(2013) 32 final: Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the progress made towards achieving interoperability of the rail system.

<sup>(19)</sup> As agreed by the social partners in sectoral social dialogue, <http://www.iru.org/cms-file-system-action/Webnews2012/CabotageStatement.E.pdf>.

## III

(Preparatory acts)

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

493RD PLENARY SESSION HELD ON 16 AND 17 OCTOBER 2013

**Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council'**

COM(2013) 520 final — 2013/0253 (COD)

(2014/C 67/10)

Rapporteur: **Mr DANIEL MAREELS**

On 3 September 2013 and 10 September 2013, 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 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council*

COM(2013) 520 final — 2013/0253 (COD).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 17 October 2013), the European Economic and Social Committee adopted the following opinion by 157 votes to 1 with 7 abstentions.

## 1. Conclusions and recommendations

1.1 The **EESC welcomes** the proposals to set up a Single Resolution Mechanism (SRM) and associated financing mechanism, which, alongside the proposals on the Single Supervisory Mechanism (SSM), the European Stability Mechanism (ESM) and the recovery and resolution of banks (BRRD), forms an **important new building block** in developing the **banking union**.

For euro area countries and other countries that wish to join voluntarily, the SRM provides a **resolution mechanism** at European level to enable the authorities to restructure and

resolve failing banks properly without jeopardising economic stability. The associated **resolution fund** should have sufficient own resources to ensure that this process does not need to be financed by government funds and taxpayers are not burdened.

1.2 Since the crisis, and in response to it, the option has been raised of transitioning to a **stronger Economic and Monetary Union** based on integrated frameworks for the financial sector, budgetary matters and economic policy. An integrated financial framework, or "banking union", is thus a vital part of policy measures to put Europe back on the path of **economic recovery and growth**.

1.3 The EESC sees **banking union** as a **vitaly important priority**, due to the contribution it can make to **restoring much-needed confidence** among businesses and the public, and in the interests of **proper financing for the economy**. It reduces the current fragmentation of the internal market and thus helps to level the playing field within the EU, while at the same time strengthening the European banking system and reducing the risk of contagion.

1.4 The Committee feels that **work needs to be done** on the **various components** (SSM, ESM, BRRD, SRM) of banking union, and that the **logical sequence and internal consistency of the proposals** needs to be respected when **implementing** them. It would also draw attention to the rules – currently under review – to protect small savers by means of the **deposit guarantee scheme**.

1.5 The present proposals on the **SRM** must be seen in the **context** of the earlier proposals on the recovery and resolution of banks (the BRRD) and the agreement recently reached in the Council in that regard, which has already been taken into account. The **BRRD** will in fact form a **rulebook** for the resolution of banks throughout the internal market, and the SRM is therefore heavily based on it. The Committee calls for the **two mechanisms** to be **geared to one another** as closely as possible, so as to provide the **broadest possible level playing field** across the EU in this regard. Indeed, the SRM should be supported by and embedded in a fully harmonised framework for the recovery and resolution of banks.

1.6 The Committee welcomes the fact that the **SRM** goes further than the BRRD and provides for the establishment of a (resolution) **body and fund at European level**. It means that, following on from **supervision** of the banks (SSM), their **resolution**, too, will now be handled at the **same level of authority**, allowing for a **uniform and consistent approach**. Similarly, the Committee welcomes the fact that the SRM provides for **funding raised at EU level**.

1.7 The resolution procedures set out in the **SRM** will, in any event, need to be **efficient and effective**, and the proposed instruments will need to be mobilised with the **required speed** at both national and cross-border level should the need arise, particularly in emergencies. It must be ensured that they form a **comprehensive and effective package** with the **BRRD** measures and that the rules are **applied consistently** where needed. Where possible, the aim should be for **simplicity**, and all legal issues and other questions should be answered appropriately.

1.8 With regard to the **Single Resolution Board** that plays a key role in the SRM, it is vitally important for its members to have the **greatest possible independence and expertise** and

for **democratic scrutiny** of its decisions to be built in. Its members should be chosen very carefully, and its powers should be clear and well defined.

1.9 The Committee welcomes the proposed **Single Bank Resolution Fund**, the primary objectives of which are to ensure **financial stability** and the **effectiveness of resolution actions** and to **sever the link between governments and the banking sector**. The Committee would like the legal basis of the fund to be clarified as soon as possible and all the challenges involved in setting up such a fund (e.g. moral hazard) to be dealt with in advance in order to avoid undesirable consequences.

1.10 While it is true that the **resolution fund** is not intended to be used until a later stage in the procedure, and that it can only be used for specific purposes – ensuring the effectiveness of resolution actions – the Committee nonetheless considers it important to ensure that it has the **financial resources it needs** to fulfil its role properly. When setting the **target level** for the fund, fed by contributions from the banks, the various **financial sector recovery measures** in different areas should be **taken into account**. In this regard, the Committee would also reiterate the position it took on the BRRD, i.e. that there must be the option to review the criteria for the banks' ex-ante contributions at regular intervals. Attention should be paid to the potential for double costs due to the combination of national and EU systems.

## 2. Background

2.1 The Commission's proposal to **establish a single resolution mechanism (SRM) and a single bank resolution fund** <sup>(1)</sup> forms **part** of moves to develop a European economic and monetary union, including a **banking union**. The proposal is based on TFEU Article 114, which allows for the adoption of measures which have as their object the establishment and functioning of the internal market.

2.2 This banking union, covering all euro area countries and any non-euro area countries that wish to join, will be **completed** in a number of **steps**:

2.2.1 First, the remaining ongoing legislative procedures to **set up the Single Supervisory Mechanism (SSM)** conferring powers on the ECB to supervise Euro Area banks should be concluded.

2.2.2 Second, there is the **European Stability Mechanism (ESM)** which, following the establishment of the SSM and a review of bank balance sheets including the definition of "legacy assets", could recapitalise banks directly <sup>(2)</sup>.

<sup>(1)</sup> COM(2013) 520 final.

<sup>(2)</sup> See ECOFIN, 21 June 2013, and European Council, 27 June 2013.

2.2.3 Then there are the proposals, adopted by the Commission on 6 June 2012, for a **Directive** establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD). The Council has now agreed on a general approach to these proposals, which has formed the basis for the present proposal for an SRM Regulation.

The proposals establish an effective policy framework to manage bank failures in an orderly way and to avoid contagion to other institutions, by equipping the relevant authorities with effective tools and powers to address banking crises proactively, safeguarding financial stability and minimising taxpayers' exposure to losses <sup>(3)</sup>.

2.2.4 The final element in the proposals is the proposal published on 10 July 2013 for a **Regulation** establishing an **SRM**, together with appropriate and effective backstop arrangements.

2.3 The Committee would also draw attention to the Commission's proposals from 2010 on the harmonisation of national deposit guarantee schemes (DGS). The aim of the DGS is to neutralise the impact of a bank failure on small savers, for the first EUR 100 000 of deposits.

2.4 The SRM would **work** as follows:

2.4.1 The ECB, as the supervisor, would **signal** when a bank was in severe financial difficulties and needed to be resolved.

2.4.2 A **Single Resolution Board**, consisting of representatives from the ECB, the European Commission and the relevant national authorities, would **prepare** the resolution of a bank.

2.4.3 On the basis of the Single Resolution Board's recommendation, or on its own initiative, the **Commission** would **decide** whether and when to place a bank into **resolution** and would **set out** a **framework** for the use of resolution tools and the fund.

These resolution tools, set out in the BRRD and reiterated in the SRM, comprise:

— sale of the business

— a bridge institution

— separation of assets

— private sector bail-in.

2.4.4 Under the supervision of the Single Resolution Board, **national resolution authorities** would be in charge of **executing** the resolution plan. If a national resolution authority failed to comply with the board's decision, it could address a number of administrative measures directly to the bank in question.

2.5 The proposed **Single Bank Resolution Fund** would be under the control of the Single Resolution Board, and would ensure the availability of funding support while the bank was being restructured.

2.5.1 It would be common to all the countries involved in the SRM, and would be funded by all the financial institutions in the participating countries, which would pay an annual contribution on an ex ante basis, irrespective of any resolution action.

2.5.2 The primary objective of the fund is to ensure **financial stability**, rather than to absorb losses or provide capital to an institution under resolution, and it should therefore not be seen as a bailout fund. Neither is it a deposit guarantee fund or a replacement for such a fund. It is, instead, intended to ensure the effectiveness of the resolution actions.

### 3. General comments

3.1 As was repeatedly stated in 2012, an integrated financial framework, or "**banking union**", is a vital part of policy measures to put Europe back on the path of economic recovery and growth <sup>(4)</sup>. Other measures such as more extensive economic coordination would also have to contribute to this.

3.2 The **Committee** has previously highlighted the importance of a banking union, and pointed out that it is impossible to maintain an area with a single currency and 17 financial and debt markets in the long term, especially since the crisis has accentuated national segmentation. Banking union is therefore seen as an **indispensable and priority aspect** for the reciprocity of risk, to protect depositors (including through "winding-up procedures"), restore confidence in the system, and put credit for businesses back in circulation in all countries <sup>(5)</sup>.

<sup>(3)</sup> OJ C 44, 15.2.2013, p. 68.

<sup>(4)</sup> This includes, in particular, the communication from the Commission to the European Parliament and the Council on "A roadmap towards a banking union", the Commission communication on "A blueprint for a deep and genuine Economic and Monetary Union: launching a European debate", and the Four Presidents' report "Towards a genuine economic and monetary union".

<sup>(5)</sup> OJ C 271, 19.9.2013, p. 8.

3.3 Similarly, the EESC has previously urged the Commission to put forward a **timetable and details for the SRM as soon as possible**, as well as for any other relevant stages that need to be accomplished, such as the management of possible crisis situations in shared supervision plans. The banking union would thus gain credibility and serve as a common foundation for the entire single market.

It has since become clear that the SSM and CRD IV/CRR should come into effect in 2014, and the BRRD and SRM in 2015. The Council therefore needs to adopt the entire package in good time.

3.4 The Committee also expressed its conviction that the SRM could subsequently take on additional coordination tasks in the management of crisis situations. Supervision and resolution must however go hand-in-hand in order to prevent a) possible decisions to wind up a bank at European level, and b) the cost of paying deposits, becoming the responsibility of the Member State <sup>(6)</sup>.

3.5 The draft **BRRD** published in mid-2012 sets out a framework for preventing banking crises in **Member States**, safeguarding financial stability and relieving pressure on public finances.

3.6 Once it enters into force, the BRRD will provide a **degree of harmonisation** between national legislation on the resolution of banks and cooperation between resolution authorities when dealing with the failure of banks, particularly cross-border banks.

3.7 The **SRM** takes this further: unlike the BRRD, it provides for **uniform resolution decisions** and the use of **funding raised at EU level** for euro area countries and non-euro countries that choose to join.

3.8 The **Committee welcomes** the fact that the SRM provides for the establishment of a **European body and fund**, which are a positive and logical extension of the BRRD and SSM. Supervision and resolution will thus both be handled at the **same level of authority**.

3.9 The **BRRD** will form a **rulebook** for the resolution of banks throughout the internal market, and the **Regulation** is therefore heavily based on it. Given that the Regulation is an extension of the BRRD, there is a need for **coherence** between the two texts, and **inconsistencies should be avoided**.

3.10 The Committee also considers it vital to completion of the internal market for the **BRRD and the SRM Regulation to be aligned as closely as possible**. Efforts should therefore be made to harmonise the BRRD as far as possible. In the interests of providing the broadest possible level playing field and enforcing the rules consistently, **implementation** of the BRRD **should be uniform** across the various Member States. The subsequent implementation of the SRM should therefore take the greatest possible account of the outcome of the negotiations on the BRRD.

3.11 Inasmuch as the proposals for the SRM Regulation are in line with the draft BRRD, the Committee would reiterate the questions it raised with regard to the latter, not least its request for **additional clarity** regarding certain new tools that have not been tested in systemic crises <sup>(7)</sup>. Attention should also be paid to consistency between the Regulation and existing legislation, so as to safeguard **legal certainty**.

#### 4. Specific comments regarding the resolution mechanism

4.1 It would be beneficial to make rapid progress on the general framework for banking union, so as to overcome the current fragmentation of the financial markets and help sever the existing link between public finances and the banking sector.

4.2 The Committee would reiterate that the **harmonised framework** for the **recovery and resolution of banks** must be developed as soon as possible. This framework must include robust cross-border rules in order to safeguard the integrity of the single market. The **SRM is an essential complement** to this, and the current texts are similarly welcome.

4.3 **Implementation of the SRM**, for its part, should be supported by and embedded in a **fully harmonised framework for the recovery and resolution of banks**, forming the basic framework for resolving banks throughout the EU.

4.4 As well as providing a common framework for resolving failing banks in the banking union, and thus contributing to a level playing field in this domain, the SRM should also form an **efficient and effective instrument** that is as **simple** as possible and **can be implemented with the greatest haste**, at both national and cross-border level, should the need arise.

4.5 With regard to the **Single Resolution Board**, the key factors are, in particular, independence, expertise and democratic scrutiny. The Board should have a **strong legal basis**, and should also be required to provide justifications for its

<sup>(6)</sup> OJ C 11, 15.1.2013, p. 34.

<sup>(7)</sup> OJ C 44, 15.2.2013, p. 68.



decisions, in order to ensure transparency and **democratic scrutiny** and to protect the rights of the EU's institutions. There should be a **clear division of powers** with the supervisory authorities, and the **make-up** of the Board should strike a careful balance between representatives of national participants and European stakeholders. The Board and its members must have the necessary experience in the fields it covers.

4.6 The **creation** of this Board could be seen as a **crucial step** in the development of the banking union and the SRM. However, the broader framework of the SSM and BRRD must not be overlooked, and it would probably be preferable not to pre-empt developments in that regard.

## 5. Specific comments regarding financing arrangements

5.1 The **Single Bank Resolution Fund** should ensure the availability of funding support while the bank is restructured. The Committee reiterates its support for the Commission's efforts to set up a European system of financing arrangements, including the SRM, which should ensure that all institutions in the Member States are subject to equally effective resolution funding rules. Ensuring that resolution is financed under equal conditions across all Member States is in the best interest of each Member State as well as the single financial market, as it contributes to stability and a level playing field for competition<sup>(8)</sup>. Similarly, the protection of small savers via the DGS is probably worthy of attention.

5.2 The Committee therefore welcomes the fact that the **single resolution mechanism** is **backed up** by a specific financing arrangement. If initial financing for resolution is to come from the bail-in tool (so that shareholders and other creditors absorb the initial losses) and other tools provided in the Regulation, the single resolution mechanism should be accompanied by a **single fund** with the aim of severing the existing link between governments and the banking sector.

5.3 The Committee would like the **legal basis** of the fund to be **clarified as soon as possible**, including whether or not the Treaties will need to be amended.

5.4 The **process of setting up** the fund should be started as soon as the necessary details have been clarified, though without pre-empting the development and implementation of the SSM and BRRD.

5.5 The introduction of a common system also poses **significant challenges**, and efforts must be made right from the start to prevent or minimise undesirable consequences and to resolve any problems in advance. One example of this is moral hazard.

5.6 Even though the fund will not be used until a later stage, between two tools and, in particular, following bail-in measures, and even though the funding can only be used for specific purposes, it is nonetheless important for the **fund to be large enough** and for **all financial institutions** to be required to **contribute** to it.

5.7 When setting the **target level** for the fund, **account** should be taken of the existing **strengthened prudential framework**, the preventative measures and the role of recovery and resolution plans for avoiding crises, increased capital buffers, the new resolution mechanisms, including the bail-in tool, and **other recovery measures for the financial sector**. These measures and instruments already aim to reduce the likelihood of a bank failing. The Committee therefore reiterates the position it took on the BRRD with regard to the SRM, particularly that it must be possible to revise the **criteria for ex ante contributions** at regular intervals<sup>(9)</sup>.

5.8 For the same reasons, and to avoid negative consequences for businesses and the public, proper attention should be paid to the **potential for banks incurring double costs** due to the dual structure of national resolution authorities and a European resolution authority.

Brussels, 17 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

<sup>(8)</sup> OJ C 44, 15.2.2013, p. 68.

<sup>(9)</sup> OJ C 44, 15.2.2013, p. 68.

**Opinion of the European Economic and Social Committee on the 'Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the added value of macro-regional strategies'**

COM(2013) 468 final

(2014/C 67/11)

Rapporteur: **Etele BARÁTH**

Co-rapporteur: **Stefano MALLIA**

On 3 July 2013 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

*Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions concerning the added value of macro-regional strategies*

COM(2013) 468 final.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion unanimously.

## 1. Introduction

1.1 In April 2011 the Council requested the European Commission to clarify the principles underpinning the framing of EU strategies for the Baltic Sea and Danube regions (hereinafter referred to as the EUSBSR and EUSDR), to evaluate the added value offered by these strategies and to report back by June 2013 to the Council and the Parliament. In December 2012 the European Council invited the European Commission to present an EU Strategy for the Adriatic and Ionian Region by the end of 2014 subject to the results of this evaluation.

1.2 In response to the European Commission's request, the European Economic and Social Committee has drawn up an opinion in line with the above, discussing the report on the added value of macro-regional strategies.

1.3 For obvious reasons, development of macro-regional strategies for the Atlantic coast<sup>(1)</sup> and the Mediterranean region<sup>(2)</sup> and Committee proposals on the subject are outside the scope of this opinion.

## 2. Comments and conclusions

2.1 The EESC agrees with the main comments set out in the report.

2.1.1 A macro-regional approach, which is based on the bottom-up principle, can genuinely address challenges faced by regions. The principles underpinning Europe's two macro-regional experiments to date have proved successful, functioning as effective instruments to boost social, economic and territorial cohesion and convergence.

2.1.2 Politically, environmentally, and socio-economically, the macro-regional approach could be a useful instrument for strengthening cooperation between European states/regions, mitigating nationalist tendencies through greater social consensus, mutual respect and acceptance and helping to achieve EU 2020 objectives with European added value for interest groups.

2.1.3 Macro-regional strategies can be useful tools for bridging the gaps in communication and public information. The populations of the localities and regions concerned and relevant businesses must be better informed about current programmes and projects."

2.1.4 Macro-regional cooperation on an equal footing is a new feature of European policy. Joint strategic approaches emerging in the two macro-regions, together with institutional links and more creative planning resulting from the strategies are examples of their initial achievements. The new projects and initiatives, together with a joint approach and successes which go beyond mere impressions, justify the efforts made by economic and social stakeholders in the regions concerned.

<sup>(1)</sup> EESC opinion on *Developing a Maritime Strategy for the Atlantic Ocean Area*, OJ C 229, 31.7.2012, p. 24.

<sup>(2)</sup> EESC opinion on *Towards an EU Macro-Regional Strategy to develop economic, social and territorial cohesion in the Mediterranean* (not yet published on the Official Journal).

2.1.5 The EESC agrees with the report's main conclusions:

- it would be better to have fewer priorities;
- strong political commitment is needed;
- more funding sources must be made available;
- strengthening administrative expertise (management, organisation) is crucial;
- it is vital to measure and evaluate results, quantitatively and qualitatively;
- red tape should be cut.

2.2 The EESC points out that macro-regional cooperation is part of the process of strengthening democracy in the EU, and of strengthening bottom-up initiatives. Such cooperation is a positive catalyst, defending and complementing the EU's fundamental values.

2.3 The EESC recognises that the report is methodologically sound, and agrees that the extensive survey was justified, particularly in view of the as yet undeveloped methodology to analyse Macro-regional strategies and the lack of specific statistical indicators.

2.4 The EESC welcomes the European Council conclusions of June 2012, calling for efforts to complete the EU's internal market and develop competitiveness. It is disappointing that, general principles such as integration, coordination, cooperation, multilevel governance and partnership aside, the Council does not offer any substantial additional instruments to implement macro-regional strategies.

2.5 The EESC points out that according to the experts surveyed the main problem is the mismatch between decentralised political commitment and funding.

2.6 A focus on sustainability (e.g. "blue" and "green" growth) and on infrastructure development is a natural consequence of macro-regional thinking. It generates European added value.

2.7 However, immediately and in the shorter term "European added value" is likely to be achieved through economic activity, on the basis of growth in GDP and employment.

2.8 For the EESC, the "three no's" no longer apply: there is funding from the 2014-2020 medium-term financial framework, an administrative institutional system is being developed to assist with implementation, and the necessary rules are set out in the common strategic framework. In order to promote innovation, SMEs, networking and employment, there should be more understanding of the change to the "three yes's" when evaluating macro-regional strategies from the perspective of support policy.

2.9 The macro-regional strategy has to be a priority in the 2014-2020 European programming period, integrating the "new" model of territorial cooperation within the partnership agreement and operational programmes (ERDF, ESF, EAFRD, EMFF) with a specific focus on the concept of "Community Led Macro-regional Development", which has the following characteristics:

- it focuses on specific areas;
- it is community-led, by macro-regional action groups composed of representatives of public and private socio-economic interests;
- it is carried out the basis of integrated and multi-sectoral area-based local development strategies;
- it is designed with consideration for macro-regional needs and potential.

2.10 "Community Led Macro-regional Development" will:

- encourage macro-regional communities to develop bottom-up approaches in circumstances where there is a need to respond to challenges calling for structural change;
- build community capacity and stimulate innovation (including social innovation), entrepreneurship and capacity for change by encouraging the development and discovery of untapped potential from within communities and territories;
- assist multi-level governance by providing a route for macro-regional communities to fully take part in shaping the implementation of EU objectives in all areas.

2.11 On its own initiative the EESC may consider to draw up a comprehensive analysis of the importance of macro-regional strategies in the future for Europe, and it will present a proposal on how to adjust such strategies to achieve uniform European development practice.

### 3. Results

3.1 The report notes that, according to the implementing reports of the EUSBSR and the EUSDR, macro-regional strategies have enabled the development of new projects and speeded up existing transnational projects. The strategies have facilitated networking and launched joint initiatives in the regions concerned. Flagship projects can both serve as excellent drivers and develop model projects for macro-regions.

3.1.1 As the first macro-regional strategy and a model for other strategies to follow, the EUSBSR with its three main objectives and 15 priorities confidently identified the areas which intra-regional cooperation could focus on, serving as effective instruments for implementing European sectoral and cross-cutting policies.

3.1.2 Development of the maritime sector, strengthening regional links, and investing in people's future and economic growth are to date the target areas which have provided input for other approaches to developing macro-regions.

3.2 As the second macro-regional strategy to have been adopted, the EUSDR, with its four main objectives and 11 priorities focuses and enriches regional thinking and areas of joint action.

3.2.1 Similarly to the EUSBSR's thematic areas, environmental and infrastructure priorities (connecting regions, environmental protection, strengthening the regions) dominate, while proposals and projects on promoting economic and social well-being reflect a political will for consistency with the EU 2020 strategy.

3.3 In several of its studies the EESC has endorsed the EU's efforts to make the most efficient and effective possible use of available funding. To this end, instruments must be synchronised and joint actions strengthened. There is an obvious need here to involve "external" funding. Macro-regional initiatives have achieved new results here too (for example, the report mentions the example of Baden-Württemberg and coordination of venture capital).

3.4 Both strategies under review here and the EESC's own-initiative opinions to date (in particular on the Mediterranean region and Atlantic coast) have emphasised the importance of political and economic cooperation with non-EU countries, and have drawn attention to potential for reducing numerous security policy risks, managing irregular immigration issues, etc.

3.5 The EESC strongly emphasises the great importance of the partnership agreements currently being drawn up and negotiated. These must take account of the macro-regional

context. At the same time, appropriate coordination with the social partners is needed, as well as coordination - cross-cutting, between countries and regions - of proposals and projects in the individual operational programmes, and the active involvement of social, economic and civil society stakeholders in them.

### 4. Proposals

4.1 The EESC feels that the principles set out here could and should be further developed and expanded.

4.2 It would be mistaken to treat macro-regions as a purely geographical phenomenon: account should also be taken of the complex social, economic and historical ties.

4.3 Expressing "shared challenges" and "improved cooperation" in terms of cohesion purposes stands in the way of a functional understanding of a macro-region transcending its borders, and of its implications for development and cohesion processes in Europe as a whole.

4.4 The concept of "added value" in relation to macro-regions has not been defined in the report. According to the EESC, added value in the case of macro-regional strategies can only refer to value which either cannot be provided by independent action at the level of individual regions/Member States, or can only be achieved at the cost of higher investments or lower efficiency.

4.5 In their time, the "three no's" were understandable, but now it is clear they would probably mean giving up European added value at a time when the recovery is still fragile and needs strengthening.

4.6 In their current state, macro-regional strategies reflect a European approach, according to which the tools and funding available to individual regions can be used more efficiently through appropriate cooperation and coordination between participating regions and Member States (with the European Commission taking a hands-off approach). This increases the added European value of macro-regions.

4.7 According to the EESC, the pan-European added value of macro-regions could likely be increased substantially by developing supplementary tools, improving legal and institutional capacity and putting in place additional resources.

4.8 Looking at different scenarios for the EU's development up to 2020 and various proposals set out in them concerning Europe as a whole, such as "Connecting Europe" objectives and separate funds, whenever initiatives and projects use European funding, we need to identify the added value offered at all levels.

4.9 Additional such instruments at macro-regional level are an essential prerequisite for the EU 2020 strategy to succeed.

4.10 In addition to identification of European added value, the EESC feels that improved political, institutional, legal and financial conditions would:

- help to speed up recovery from the crisis;
- with regard to the future of Europe, make it easier when monitoring European institutional reforms and legislation to keep a close eye on to what extent the measures taken by individual Member States follow the logic of European action and are consistent with the principles of European added value, even when European funding is not used directly in a given project or initiative.
- The creation of macro-regional strategies could produce considerable extra value in the interests of growth and job creation.

4.11 The EESC feels that the strengthening of political governance geared to development within the scope of macro-regional strategies offers significant European added value. To date, the history of the European Union has been marked by fluctuating political tensions between federalists and "nationalists"; these could be mitigated through a stronger intermediate level of coordination and cooperation.

4.12 The EESC believes it must be possible to think of macro-regions in functional terms. Developments and other cross-border measures of European interest would strengthen, on the basis of innovative networks, the EU's growth and thus its cohesion in this connection.

4.13 The EESC would like to see political progress made in terms of how macro-regions are dealt with. In principle, it is the Council which decides on support for bottom-up initiatives, as well as future "lateral" and "top-down" support for them from all institutions. Generally speaking, on the basis of previous experience, this could apply to the following areas (functions):

- a) research, education, language learning, cooperation on health and cultural matters;
- b) cooperation on energy, environmental protection, logistics, transport and public services (water, sewage, waste management);
- c) joint planning by government bodies, regional institutions, local and regional authorities;
- d) greater participation by civil society and NGOs;
- e) cooperation on security and migration;

f) practical measures to support market competition (specific cooperation on labour market measures, supporting SMEs, establishing development funds);

g) statistical cooperation.

4.14 Macro-regional strategies can make a valuable contribution to cross-border cooperation between cities, networking of technological centres and more rapid development of innovation.

4.15 Most of these are areas in which a primarily bottom-up approach to integration is appropriate, and where national economic and social councils can play a bigger role. The report does not mention the importance of participation of economic and social interest groups and consultations.

## 5. Further steps

5.1 The EESC agrees that participants in macro-regional strategies should recognise them as a cross-cutting task of their governments.

5.2 The EESC feels that administrative type activities should be kept to a minimum, and that the European Commission should develop and propose new methods to involve the public, for example e-democracy tools. It is essential to step up participation at both the preparation and implementation stages.

5.3 The principle of including macro-regional objectives in individual partnership agreements and operational programmes is a sound one.

5.4 The European Commission should support the use of best practices for existing programming instruments, including in the case of macro-regions which are still under development or discussion.

5.5 The EESC feels that all administrative capacity deficits can only be overcome if it can be shown that this approach is in the interest of proven resource efficiency gains.

5.6 The EESC feels that realistic measures and indicators must be introduced in order to monitor progress; however, active involvement of the Commission and other European institutions is essential, particularly in order to develop an indicator of added value, given its multilevel nature.

5.7 The EESC is in favour of strengthening - hitherto successful - bottom-up development; however, it feels that economic, environmental, social and local partners must be involved more closely, while developing cross-cutting links with newly developed macro-regions.



5.8 The EESC feels that the implementation of the strategies' governance systems should be speeded up and extended while preserving their specific nature.

5.9 While developing new forms of governance, the EESC suggests looking into the possibility of the European Commission also advocating an option which could lead to the emergence of an "intermediate level", macro-regional, development-oriented type of governance in Europe.

5.10 Essentially, macro-regional initiatives comprise two dimensions, transnational and European. The EESC feels that the focus so far has been exclusively on cooperation and coordination between individual countries. One of the most important points made by the report is that efforts to ensure that joint action comprises a European dimension, thereby enabling European added value, would be very welcome.

5.11 The EESC feels that macro-regional initiatives with a European dimension can, provided they are given appropriate support, help to boost the EU's political credibility, and develop new development practices through greater social involvement.

5.12 Once again, this raises the question whether political commitments entered into at EU level which have to be met at local level could be complemented through macro-regional commitments to be met at European level. This is something which could be implied by the call for "improved cooperation".

5.13 The European Commission rightly points out that macro-regional and sea-basin strategy approaches answer similar aspirations, but this clearly reflects internal divisions within the Commission and the danger of strategies becoming fragmented. "Maritime strategy" elements cannot be viewed as macro-regional elements without potential or real links between maritime/coastal area infrastructure, urbanisation, production and human factors on the one hand, and maritime/ocean capacity or risk related tasks which are significant for production and protection.

5.14 The EESC wholeheartedly endorses the report's comments that not all options have been explored. However, we cannot agree with the comment that further developments and intensified action are possible "without involvement of the Commission, or based more exclusively on a transnational programme".

5.14.1 This is the only point in the evaluation which explicitly states that the European Commission does not want to get involved or play a role in developing and implementing macro-regional strategies, despite feeling that many kinds of paradigms can still be developed and implemented. No explanation is provided as to which paradigms these are.

5.15 The EESC is calling on the Commission to continue to take a central role in the development and implementation of macro-regional strategies. The EESC is also calling on the Council to give the Commission the necessary tools and resources to be able to carry out this role in a proper fashion.

5.16 The idea of a transnational programme implies that programmes with European added value could be eligible for some kind of support, without going beyond the scope of the "three no's". Programmes to ensure better compliance with environmental requirements, targeted EU connectivity investments, or a critical mass for innovation are examples here.

5.17 The report says nothing about how European added value should be generated or evaluated, how the results should be used or what further incentives are needed.

5.18 The EESC feels that the surprisingly brief comments in the "Conclusions" need to be expanded in line with the concern expressed in the title. Of course, "governance" is an important issue, given that the European Union ultimately needs to decide on general governance issues.

5.19 Politically, environmentally, and socio-economically, the macro-regional approach could be a useful instrument for strengthening cooperation between European states/regions, mitigating nationalist tendencies through greater social consensus, mutual respect and acceptance and helping to achieve EU 2020 objectives with European added value for interest groups.

5.20 Macro-regional strategies can be useful tools for bridging the gaps in communication and public information. The populations of the localities and regions concerned and relevant businesses must be better informed about current programmes and projects.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation’**

COM(2013) 348 final — 2013/0188 (CNS)

(2014/C 67/12)

Rapporteur: **Mr DANDEA**

On 27 June 2013, the Council decided to consult the European Economic and Social Committee, under Article 115 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation*

COM(2013) 348 final — 2013/0188 (CNS).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 142 votes to 2 with 6 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the proposal for a directive<sup>(1)</sup> amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (AEOI), and believes that it represents a significant step forward in the implementation of the action plan to strengthen the fight against tax fraud and tax evasion<sup>(2)</sup>.

1.2 As far as the Committee is concerned, this proposal cannot be viewed in isolation from other European and international initiatives aimed at greater exchange of information between tax administrations, such as the extension of the 2005 European Savings Directive; the FATCA arrangements, under which a number of European countries are trying to reach a bilateral agreement with the United States, not least to guarantee their own rights; and the existing directive on the automatic exchange of information, the extension of which is now being sought.

1.3 Given that the Member States lose billions of euros each year as a result of tax fraud and tax evasion, the EESC considers the Commission's proposal to speed up the implementation of certain provisions of Directive 2011/16/EU on AEOI to be justified.

1.4 The Commission proposes adding five further categories to the categories of income subject to AEOI. The EESC agrees

that these new categories of income should be included since they are more likely to be affected by tax fraud than those already in the directive.

1.5 Since tax evasion and fraud are global issues, they cannot be combatted solely within the EU. The EESC would therefore urge the Commission and the Member States to redouble their negotiating efforts, in the OECD and other global bodies, to promote AEOI as an international standard.

1.6 The EESC in particular urges Member States to ensure that the future standard for AEOI takes into account the EU legal requirements, experience and expertise in this area. It invites Member States to adopt a coordinated position to this end so that the European standpoint carries more weight in international discussions.

1.7 With regard to these international and European initiatives, the Committee also believes that efforts should be made to create the broadest possible level playing field involving as many countries as possible so as to avoid, as far as possible, any possible negative economic or other repercussions for the Union.

1.8 For the sake of simplicity and efficiency, from the point of view of cost-savings, and for the benefit of everyone involved, the EESC takes the view that efforts must be made to harmonise the various systems for exchanging information that are associated with each of the initiatives and to reorganise them into a single framework. This should at least happen at European level. Moreover, the underlying rules should be clear and should be proportionate to the desired outcomes.

<sup>(1)</sup> COM(2013) 348 final.

<sup>(2)</sup> COM(2012) 722 final.

1.9 The EESC calls on the Member States to ensure that the human, technological and financial resources needed to implement AEOI successfully are made available, given the complexity and volume of the information to be subject to transfer between Member States as from 2015. The training of officials who are to be responsible for the exchange of information must be a priority.

1.10 If the new instruments to combat tax violations are to be effective, the EESC believes that both the Commission and the Member States must step up their efforts to simplify and harmonise tax legislation.

## 2. Proposal for a Council Directive amending Directive 2011/16/EU

2.1 In view of the increase in tax fraud and tax evasion over recent years, and their serious impact on Member States' tax revenue, losing them billions of euros each year, the Commission has drawn up this proposal for a directive to amend certain provisions of Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

2.2 The objective of the Commission's proposal is to expand the scope of AEOI in the EU beyond that provided for in the existing system.

2.3 The Commission proposes amending Article 8 of the directive to introduce new categories of income to be subject to AEOI, removing the reference to a threshold below which a Member State may not wish to receive information from other Member States and accelerating the implementation of the provisions of the current directive on extending the automatic exchange of information.

2.4 The new categories of income to be subject to AEOI are: **dividends, capital gains, any income generated with respect to the assets held in a financial account, any amount with respect to which the financial institution is the obligor or debtor, including any redemption payments, and account balances.** The Member States will have to send information regarding this income as from 2015.

2.5 Taking account of consultations with Member States, the Commission proposes removing the threshold below which Member States can currently choose not to receive a particular type of information, pointing out that it is not practical and that Member States agree that it should be removed.

2.6 For the new categories of income that would be subject to AEOI, the Commission does not maintain the **condition of availability of information** which is currently in place for the

categories of income referred to in Article 8(1). This approach speeds up the extension and implementation of the mandatory automatic exchange of information.

2.7 The Commission's proposal is in line with the initiative of some Member States to conclude agreements with the USA in relation to its Foreign Account Tax Compliance Act (FATCA), thus obliging them to provide wider cooperation in accordance with Article 19 of the Directive on Administrative Cooperation with other Member States.

## 3. General comments

3.1 This proposal for a directive is one of the measures in the action plan<sup>(3)</sup> to strengthen the fight against tax fraud and tax evasion presented by the Commission at the end of 2012 at the request of the European Council. In its opinion<sup>(4)</sup>, the EESC welcomed the presentation of the plan and expressed its support for the Commission in combating these practices which affect the internal market.

3.2 The Member States lose billions of euros each year as a result of tax fraud and tax evasion. Given that they erode the tax base and thus oblige Member States to increase taxes, the Committee believes that tax fraud<sup>(5)</sup> and tax evasion<sup>(6)</sup>, as well as being illegal, are immoral practices that significantly affect the functioning of the internal market and distort the fairness of tax systems vis-à-vis taxpayers.

3.3 Tax fraud and tax evasion are global issues. Measures to combat them within the internal market should therefore be complemented with agreements within the OECD, the G8, the G20 and other bodies, to develop AEOI as an international standard. The EESC welcomes the efforts of some Member States which have already concluded agreements with the USA in relation to the FATCA. In accordance with Article 19 of the Directive on Administrative Cooperation, these will give Member States the option of wider cooperation in the field of automatic exchange of information. The EESC however welcomes the fact that the proposal for extending mandatory exchange of information offers Member States a uniform EU legal basis that will guarantee legal certainty and a level-playing field for both competent authorities and economic operators. The EESC also considers it important that the future global standard for automatic exchange of information should take into account the EU legal requirements, experience and expertise in this area.

<sup>(3)</sup> Idem.

<sup>(4)</sup> OJ C 198, 10.7.2013, p. 34.

<sup>(5)</sup> Tax fraud is a form of deliberate evasion of tax which is generally punishable under criminal law. The term includes situations in which deliberately false statements are submitted or fake documents are produced. (Definition extracted from COM(2012) 351 final).

<sup>(6)</sup> Tax evasion generally comprises illegal arrangements where liability to tax is hidden or ignored, i.e. the taxpayer pays less tax than he is legally obligated to pay by hiding income or information from the tax authorities (Definition extracted from COM(2012) 351 final).

3.4 The sheer complexity of Member States' tax systems and the major differences between them may prove to be significant obstacles to the implementation of AEOI. The EESC believes that, in order to ensure that the new instruments to combat tax fraud and tax evasion function efficiently and effectively, the Commission and the Member States should step up their efforts to simplify and harmonise tax legislation.

#### 4. Specific comments

4.1 In the proposal for a directive, the Commission wishes to include five new categories of income in AEOI: dividends, capital gains, any income generated with respect to the assets held in a financial account, any amount with respect to which the financial institution is the obligor or debtor, including any redemption payments, and account balances. The EESC agrees that these new categories should be included since, given their nature and scale, they are more likely to be affected by tax fraud than those already in the directive.

4.2 For the new categories of income subject to automatic information exchange, the Commission does not maintain the condition of availability of information. For these categories of income, Member States will have to forward the data recorded

as from tax year 2014. The EESC welcomes the Commission's proposal, which will speed up the implementation of AEOI laid down in Directive 2011/16/EU.

4.3 The automatic exchange of tax information requires a significant amount of information to be received by each Member State from all of the other Member States. The EESC calls on the Member States to ensure that the human, technological and financial resources needed to implement AEOI as from 2015 are made available.

4.4 Given the complexity of the data to be subject to the AEOI system, the EESC calls on the Member States to provide training for officials who will work with this system in order to ensure that it functions efficiently.

4.5 In the proposal for a directive, the Commission has made no changes to the condition of availability of information in relation to the categories of income referred to in Article 8(1) of the Directive 2011/16/EU. The EESC recommends that the Member States make efforts to ensure that this data can be collected as from 2017, when, in accordance with the current provisions of the directive, they should be included in the AEOI system.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 Long-term Investment Funds’**

COM(2013) 462 final — 2013/0214 (COD)

(2014/C 67/13)

Rapporteur: **Michael SMYTH**

On 4 July 2013 and 17 July 2013 the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Articles 114 and 304 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 European Long-term Investment Funds*

COM(2013) 462 final — 2013/0214 (COD).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 150 votes to 2 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the proposed regulation from the Commission to establish a cross-border product framework for a long-term investment. The introduction of European Long-Term Investment Funds (ELTIF) will help to stimulate investor demand for important long-term assets.

1.2 The fact that ELTIFs can only be offered under the Alternative Investment Fund Managers Directive (AIFMD) and must invest at least 70 % of funds in eligible long-term projects such as physical and social infrastructures and SMEs should ensure the emergence of stable investment products.

1.3 The EESC accepts most of the Commission's analysis of the expected demand for ELTIFs and of the regulatory barriers currently inhibiting institutional and retail investment in new cross-border infrastructure projects. The proposed regulation has the potential to stimulate a meaningful single investment market in long-term projects.

1.4 The Commission's proposal to introduce closed-ended funds open to both institutional and retail investors is probably the best approach especially given the likely emergence of the secondary market in units or shares in ELTIFs.

1.5 As the proposed regulation breaks new ground in European investment markets, there is a need to carefully monitor its implementation. The EESC welcomes the proposal

to monitor of the development of the ELTIF market. In the event of the initiative failing to develop a long-term cross-border investment market then further evaluation, assessment and reform would be undertaken to address the failings and to further enhance the attractiveness of ELTIFs.

## **2. Background to the proposed Regulation**

2.1 On 26 June 2013, the EU Commission published a proposal for a Regulation on European Long-term Investment Funds (ELTIF) together with a lengthy impact assessment <sup>(1)</sup>. The Commission states that the main purpose of creating a cross-border fund vehicle of this nature is to increase the amount of non-bank finance available for companies in the EU requiring access to long-term capital for the purposes of projects relating to:

- infrastructure such as in the fields of transport, communications, energy or education;
- investments in unlisted companies, mainly SMEs;
- investments in real estate assets, such as buildings or direct purchase of an infrastructure asset;
- investments in social infrastructure, innovation infrastructure and climate protection.

<sup>(1)</sup> SWD(2013) 231 final.



2.2 The Commission's proposals are consistent with the approach taken in the Green Paper on long term financing of the European economy <sup>(2)</sup> which was approved by the EESC in July 2013 <sup>(3)</sup>. As the title of the regulation suggests, the focus is on the stimulation and facilitation of greater volumes of long-term investment across Europe. There is a need to make such long-term investments more widely available and attractive to investors.

2.3 It is necessary to take action at European level because the Commission's research highlights anomalies, inconsistencies and fragmentation in the provision of long-term investment vehicles across the Union. Annex 2 of the accompanying impact assessment sets out in great detail these inconsistencies in long-term fund regimes in Germany, UK, France, Ireland, Netherlands, Italy and Luxembourg. According to the Commission there is no agreed set of cross-border standards for what long-term assets and investments are, for whom they may be suitable and for how they function.

2.4 The existing cross-border framework for investments – the Undertakings in Collective Investment in Transferable Securities (UCITS) – relates to portfolios of liquid transferable securities such as bonds and shares. The asset classes that are excluded from UCITS, namely long-term real assets such as infrastructure and property, are essential for ensuring sustainable growth. Long-term investment instruments are generally non-transferable and illiquid with no secondary markets available and often require substantial upfront capital commitments. These factors can deter even the largest institutional investors.

2.5 The Commission identifies three sets of risks commonly associated with long-term asset investments:

- the risk of misleading investors as to the nature of the risks of long-term assets;
- the risk associated with the illiquidity of long-term assets; and
- the risk that existing long-term funds lack sufficient expertise in asset selection, project monitoring and matching return profiles to potential client needs.

2.5.1 Mainly due to these risks, long-term investment funds have not had an entirely successful history to date. They have not always lived up to their planned performance and investors have been misled about expected returns and there is some evidence of fund mis-selling. The Commission recognises the need for appropriate due diligence in and professional management of such long-term investment funds. Great

emphasis is placed in the regulation on the drawing up of appropriate information and marketing materials. Retail ELTIFs will be a packaged retail investment product and will need to have a Packaged Retail Investment Product Key Information Document (PRIIP KID) for marketing to retail investors. Prominent and clear warnings will be needed for retail investors in relation to the closed-ended nature of the vehicle, its investment horizon and the absence of any early redemption rights.

2.6 The Commission estimates that there is between 1 500 and 2 000 billion euro of infrastructure project finance required in Europe up to 2020 and that this is evidence of the need for large-scale financing. The consultation exercise in drawing up the Commission's impact assessment gathered substantial evidence of an appetite among investors (both institutional and retail) for such an ELTIF.

### 3. Key features of the proposal

3.1 The upshot of all this has been sub-optimal development and performance of the market for long-term investment vehicles right across the EU. Specifically, it is claimed that funds are smaller than they might otherwise be; management costs are higher than they should be and retail investors have very restricted choice of funds across Member States. Action at European level is required to address the situation and the Commission therefore proposes to create a single market for long-term investment funds.

3.2 Seven policy options are identified on the basis of their capacity to address these operational objectives. These options range from maintaining the status quo, a voluntary product label and code, expanding UCITS to include some long-term assets, the launch of a long-term closed-ended investment product modelled on UCITS open to institutional investors only, the same product but opened up to high net worth individuals, a new fund with stronger investor protection regulations and no redemption rights, open to all investors including retail investors and finally the same fund but with redemption rights after an initial lock-in period.

3.3 Of these seven options, option six, namely a new European long-term investment fund (ELTIF) open to all investors without redemption rights is the preferred option. This option is similar to the existing models in those member states that allow investments of retail investors.

3.4 Under the Commission's proposals ELTIFs will operate within the Alternative Investment Fund Managers Directive (AIFMD) regime as a new category of authorised closed-ended fund. As the legislative framework for ELTIFs takes the form of a regulation of the European Parliament and of the Council, it will be directly applicable in all EU Member States without the need for further transposition. There are also various aspects of the regime where the European Securities and Markets Authority (ESMA) will produce regulatory technical standards.

<sup>(2)</sup> COM(2013) 150 final/2.

<sup>(3)</sup> OJ C 327, 12.11.2013; p. 11-14.

3.5 ELTIFs are intended for investment in long-term assets appropriate to the life cycle of the fund. The overall design and orientation of the structure will be towards long-term assets such as infrastructure projects. The Commission sets out rules around how the portfolio of an ELTIF can be invested. At least 70 % must be invested in long-term assets and not more than 30 % in assets eligible for investment by a UCITS. The 70 % limit relating to portfolio composition does not apply over the first 5 years of the ELTIF, during the lifetime of the ELTIF for 12 months if the scheme looks to raise new capital, and approaching the end of its life cycle, once it begins to sell assets in accordance with its redemption policy.

3.6 ELTIFs must be closed-ended with a fixed term. Investors will not be permitted to ask for redemption of their investment before the end of that fixed term. The length of the fixed term will be determined by the nature of the assets the ELTIF targets to acquire and hold. So there is a correlation with the investment horizon of the long-term assets to be acquired and the redemption horizon of the ELTIF. ESMA is to develop regulatory technical standards to further outline the circumstances around matching the life-cycle of the ELTIF with the life cycle of each of its individual assets.

3.7 Article 17 of the proposed Regulation envisages the emergence of a secondary market for units or shares in an ELTIF. This would provide liquidity to investors who might wish to redeem all or part of their holdings and as such it would not affect the underlying financing of the projects within the ELTIF itself.

3.8 ELTIFs will be investment products within the meaning of the Markets in Financial Instruments Directive (MiFID) and therefore subject to all the requirements of that directive in relation to marketing, selling and disclosure.

3.9 ELTIFs appear to be a positive development in terms of both the creation of a new product label and retail passport for the long-term asset/closed-ended sector and as a potential source of funding for unlisted EU companies. The Commission's assessment is that there is an appetite from managers and investors for such a product and it will be of interest to those in the infrastructure sectors in terms of an alternative financing source.

3.10 Given the groundbreaking nature of the proposed regulation, the issues of monitoring and evaluation take on even greater importance. The Commission recognises this and proposes to monitor the growth or otherwise in the market for ELTIFs over an initial period of perhaps four years. Key performance indicators such as the number of funds established that operate cross-border, the average size of ELTIFs, the views of investors and the relative proportions of funding according to infrastructure, property, SMEs etc. will enable an assessment of the success or otherwise of this initiative. In the event of the initiative failing to develop a long-term cross-border investment market then further evaluation, assessment and reform would be undertaken to address the failings and to further enhance the attractiveness of ELTIFs.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on the 'Commission report on Competition Policy 2012'**

COM(2013) 257 final

(2014/C 67/14)

Rapporteur: **Mr MENDOZA CASTRO**

On 3 July 2013 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

*Commission report on Competition Policy 2012*

COM(2013) 257 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 2 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 132 votes to 1 with 6 abstentions.

**1. Conclusions and recommendations**

1.1 Ten years on from the entry into force of Regulation 1/2003, it must be stressed that the regulation has been a great success, bringing about far-reaching change in EU competition policy.

1.2 The EESC welcomes the 2012 report, which gives details *inter alia* of the work carried out by the Commission and the European Court of Justice in the area of antitrust measures and combating cartels.

1.3 The EESC has repeatedly called for the establishment of a framework that affords consumers legal protection; it therefore highlights the tabling of the draft directive on action for damages for infringements of competition law provisions.

1.4 The EESC believes it was right to take the approach of "carrying on as usual" in the field of competition despite the economic crisis. However, the fact cannot be ignored that economic powers in competition with the EU on world markets openly make use of state aid and restrictive competition practices.

1.5 The large sums of public money that have been poured into public aid to save the financial sector from collapse will continue to be a burden on the taxpayer for many years. This aid will only be justified if the reform of the financial system prevents future repetition of the irresponsible behaviour that led to the financial crisis. Given the need to restore the credibility of the financial system, the EESC welcomes the fact that the Commission is treating the inquiry into the Euribor and the Tibor as a top priority.

1.6 The EESC welcomes the payment services package issued by the Commission in July 2013, which it sees as a step in the right direction.

1.7 Looking at how the general principles are applied to specific cases will reveal whether state aid modernisation (SAM) and the new framework for SGEI aid are resulting in more effective and just implementation of the TFEU. Because of their special characteristics, postal services warrant special consideration when it comes to state aid.

State aid policies should enable the public authorities to grant aid to businesses which can further the EU's growth objectives, whilst limiting distortions of competition.

1.8 It is questionable whether liberalisation – the central aim of EU energy policy – has brought more competition, more transparent markets and lower prices for users, and the Commission appears to acknowledge this.

1.9 As regards the telecommunications market, the EESC believes that the principal goals should be a genuine reduction in telephone charges for households and businesses, high-quality broadband connections for all, abolition of roaming charges, and a single EU regulator.

1.10 In high-technology sectors where there is constant innovation, the lengthy period of time between the start of proceedings and the adoption of decisions can result in the disappearance of the companies that are the victims of these anticompetitive practices.

1.11 The EESC points to the need for greater harmonisation in the e-book market to prevent arbitrage and to move towards market integration.

1.12 The EESC welcomes and supports the Commission's endeavours to penalise abuse of patents by large pharmaceutical companies, creating barriers to the generic medicines market. However, given these companies' high profits, the fines are unlikely to have a dissuasive effect. Tougher legal measures should be considered for infringements of competition principles in the medicines market.

## 2. Gist of the 2012 report

2.1 In 2012, competition policy was deployed to consolidate the single market. To achieve this objective the Commission worked with national competition authorities (NCAs) and the European Competition Network (ECN) to coordinate efforts to enforce antitrust rules. The enforcement of competition rules focused in particular on sectors "of systemic and cross-cutting importance to the EU economy" to lay the foundations for sustained growth.

2.2 The report looks at competition policy enforcement in four key areas: the financial sector, state aid, network industries (energy, telecommunications, postal services) and the knowledge economy.

2.3 It also provides details about dialogue with the other EU institutions – particularly the European Parliament, but also the EESC and the CoR.

## 3. General comments

### 3.1 *EU competition policy after a decade of enforcement of Regulation 1/2003*

3.1.1 Regulation 1/2003 brought about a radical change in EU competition policy. Eight times more initiatives have been taken in the field of competition since its entry into force than during the same length of time prior to that. This highlights the great increase in the activity of the Member States, which have become the main champions of competition principles, adopting 88 % of the decision in this field.

3.1.2 The operation of the European Competition Network (ECN) should also be mentioned, whose impact has been felt at two levels. Firstly, from a general perspective, the work shared between the different national authorities has been carried out without problems and the cooperation and coordination mechanisms provided for in Regulation 1/2003 have been effective. In addition, with support from the ECN's political work, the enforcement of the Regulation has also led to a considerable degree of voluntary convergence of Member States' legislation on procedures and powers in the area of penalties.

3.1.3 Although the number of decisions adopted by the Commission has not increased significantly (failing to meet the expectations created by the reform), the quality of these decisions has been notable in terms of the cases addressed. It can therefore be concluded that the Regulation has been extremely successful in achieving its objectives.

### 3.2 *The 2012 report*

3.2.1 The EESC welcomes the 2012 report, which gives details of the work carried out in a key EU policy area.

3.2.2 The EESC has repeatedly expressed its support for antitrust decisions and the fight against cartels as an essential aspect of competition policy. 2012 saw some major Commission proceedings and European Court of Justice judgments in this field.

3.2.3 The Commission states that it has continued to ensure the sound functioning of the Single Market in the current crisis, "despite occasional calls for a softer stance towards anticompetitive conduct by firms or Member States in view of the economic crisis". The EESC believes this was the right approach to take.

3.2.4 The EESC has always seen competition policy as a key factor in the internal market, and must reiterate this at a time when the turbulence that has affected the European economy since 2008 is putting the EU's determination to pursue this policy to the test, as the public authorities may be more inclined to accept that recovery must take priority over respect for the Treaties. They may also yield to the temptation to protect certain sectors that are in difficulties or to neglect basic principles prohibiting abuse of dominant positions or agreements between businesses seeking to share the market between them.

3.2.5 In any case, strict enforcement of competition policy is a challenge when it comes to laying the foundations for recovery and building a strong, competitive economy when certain countries or economic blocs that compete with the EU on world markets fail to respect the same principles. China's state aid to its steel industry (along with other advantages, such as low wages) is one of many examples.

3.2.6 The EESC has repeatedly called on the EU to establish instruments offering consumers legal protection, so that they can seek damages for infringements of competition rules. As well as providing a means of protecting the property rights of individuals and businesses, these legal actions could help the national and EU public authorities in their antitrust work and in the fight against cartels. The Committee therefore notes the

Commission's adoption, on 11 June 2013, of a Proposal for a Directive on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union <sup>(1)</sup>.

#### 4. Competition in the financial sector

4.1 Due to the crisis, the Commission approved bank mergers faster than usual. Between 1 October 2008 and 1 October 2012 it authorised a total of EUR 5 058,9 billion (40,3 % of EU GDP) of aid to the financial sector, of which EUR 1 615,9 billion (12,8 % of GDP) was used. Over a similar period, state aid to the real economy rose to EUR 82,9 billion (0,7 % of GDP).

4.2 Temporary state aid – provided for under the TFEU – saved the financial sector from collapse and was indispensable to avert serious harm to the economy. In the Member States which benefited from this aid, it was made conditional on rehabilitation and restructuring of the banks. However, ultimately, using large sums of money funded by the European taxpayer to save the financial sector will only be justified if far-reaching reform of this sector prevents repetition of the irresponsible behaviour that caused the current crisis.

4.3 The transparency, effectiveness and solidity of the financial markets is being seriously jeopardised by certain scandals that have affected major banks. The heavy fines imposed on some of them are not significantly affecting the accounts of the giants of the financial world, who, in any case, have been saved from bankruptcy by public funds. After the Libor scandal, suspicion moved to the way other indexes, such as the Euribor and the Tibor, are set. The EESC welcomes the Commission's decision to make the inquiry into this matter a top priority, given its major implications for the economy.

4.4 The EESC notes the Commission's decision to launch an inquiry into the credit default swaps (CDS) market in order to establish whether leading banks (JP Morgan, Bank of America Merrill Lynch, Barclays, BNP Paribas, Citigroup, Commerzbank, Crédit Suisse First Boston, Deutsche Bank, Goldman Sachs, HSBC, Morgan Stanley, Royal Bank of Scotland, UBS, Wells Fargo Bank/Wachovia, Crédit Agricole and Société Générale) have used anti-competitive practices as regards the financial information which is essential in order to operate on this market (only submitting it to Markit) and in the clearing system (favouring ICE Clear Europe: this case concerns nine of the banks mentioned).

4.5 The electronic payment system in the European Economic Area is dominated by two major companies - MasterCard and Visa - which establish multilateral interchange fees (MIFs) by agreement with the banks. Visa's credit and debit

cards represent 41 % of all payment cards in the EEA, giving it virtual control of a market which, in 2010, saw 35 billion card payments, totalling EUR 1,8 trillion. The system goes against competition principles and places the consumer at a disadvantage. It has not kept pace with technological developments and hinders cross-border trade. The judgment of the EU General Court confirming prohibition of the use of MIFs by MasterCard <sup>(2)</sup> should become a general requirement for payment services.

4.6 The EESC welcomes the payment services package issued by the Commission on 24 July 2013, which, among other things, sets ceilings for credit card (0,3 %) and debit card (0,2 %) commission. This is a step in the right direction, although we would have liked to have seen credit card commission reduced further and debit card commission abolished.

#### 5. State aid reform

5.1 Looking at application of state aid to specific cases will reveal whether the state aid reforms guarantee more just, effective observance of the general principles of the TFEU. The EESC broadly supported the new framework for state aid for services of general economic interest (SGEIs) <sup>(3)</sup> adopted in 2011, considering it to be a more diversified and proportionate approach to the different types of public service. However, it also made it clear that efficiency must not take precedence over the quality, results and sustainability of services, especially in the provision of social and healthcare services. In addition, the specific nature of social economy enterprises (cooperatives, mutuals, associations and foundations) should also be taken into account <sup>(4)</sup>.

5.1.1 To ensure proper application of the general rules to specific cases, the EESC points to the specific nature of SGEIs, which have an important place among the EU's shared values and foster fundamental rights and social, economic and territorial cohesion, and are therefore crucial in combating the inequalities of society and, increasingly, in sustainable development as well.

5.2 The EESC also supported state aid modernisation (SAM) <sup>(5)</sup>, although it suggested that the ceiling for *de minimis* aid be permanently increased from EUR 200 000 to EUR 500 000, as was recently decided in relation to SGEIs <sup>(6)</sup>. Full implementation of the modernisation process requires reform of numerous sectoral rules. The EESC believes that the new guidelines on broadband – adopted in late 2012 <sup>(7)</sup> – are to be welcomed, as they facilitate public financing of infrastructure that is essential in order to achieve the goals of the Digital Agenda.

<sup>(2)</sup> Case T-111/08.

<sup>(3)</sup> European Parliament Resolution of 15.11.2011. OJ C 153E, 31.5.2013.

<sup>(4)</sup> OJ C 248, 25.8.2011, p. 149.

<sup>(5)</sup> COM(2012) 209 final.

<sup>(6)</sup> OJ C 11, 15.1.2013, p. 49.

<sup>(7)</sup> IP/12/1424.

<sup>(1)</sup> COM(2013) 404 final.



5.3 The EESC considers that one of the aims of state aid policy should be to enable the public authorities to grant aid to businesses that can further the EU's growth objectives, whilst also limiting distortions of competition.

5.4 The EESC expresses its concern at the proposed Commission Regulation (EU) declaring certain categories of aid compatible with the internal market under Articles 107 and 108 of the TFEU <sup>(8)</sup>, given that they pose a serious threat to the jobs of people with disabilities in certain Member States. The EESC recommends, in particular, that state aid for the employment and training of vulnerable groups such as people with disabilities be exempt from application of the threshold based on national GDP and treated as an absolute principle, as it would have no effect on preventing distortion of competition.

## 6. Promoting competition in network industries: the backbone of the single market

### 6.1 Energy

6.1.1 Since the 1990s the EU has worked hard on adopting legislation to liberalise the energy markets. The third package (2011) is the latest and most important of the measures seeking to create a single energy market in the EU as of 2014. However, the European policies have not been applied resolutely enough by the Member States, where situations of oligopoly have emerged among private businesses which are detrimental to consumers and users.

6.1.2 It is questionable whether liberalisation – the central aim of EU energy policy – has brought more competition, more transparent markets and lower prices for users. High energy prices are currently posing serious problems for low-income households (risk of energy poverty), and the fact that businesses are paying higher prices than their competitors on the world markets (Japan, United States) places them at a disadvantage, particularly in high-energy consumption industries such as the steel industry. The Commission states that competition policy cannot "on its own integrate the EU gas and electricity markets, ensure competitive prices and security of supply". This statement may be an implicit acknowledgement of the need to make changes in energy policy.

6.2 *Telecommunications.* The 2012 report states that over the past 15 years great strides have been made in injecting competition into telecoms markets. The EESC agrees with this view, although fragmentation and insufficient real competition between businesses continue to predominate. Consequently, telephone and broadband charges in some Member States are very high. The EESC believes that an EU telecommunications policy should pursue four principal goals:

- genuine reduction in telephone charges for households and businesses;
- high-quality broadband connections for all;

- abolition of roaming charges;
- a single EU regulator.

6.3 *Postal services.* While the Commission adopted decisions authorising state aid to the postal services of the United Kingdom, France and Greece, it ordered the recovery of certain sums paid to Bpost (EUR 417 million) and Deutsche Post (between EUR 500 million and EUR 1 billion). A court decision is awaited on the latter case. Given the size of the sums to be returned, the EESC – recalling the need for liberalised postal services to be effective, competitive and able to provide a high-quality, universal service at affordable prices <sup>(9)</sup> – wonders what the impact will be on jobs and quality of service in the businesses concerned if the demand is upheld.

6.3.1 *Parcel delivery companies.* As regards the blocking of the takeover of TNT Express by UPS, the EESC notes the Commission's argument that there are only a small number of companies in the EU and removing a competitor would be detrimental to customers.

## 7. Knowledge economy

7.1 Under the heading *Preventing misuses in nascent and fast-moving digital sectors*, the Commission report mentions a number of proceedings related to the anticompetitive conduct of large companies which control substantial market shares in telephony (Samsung, Motorola), search portals and other activities (Google) and IT (Microsoft). Microsoft, which occupies a prominent position in communication media, received a EUR 561 million fine, one of the largest fines in history (Microsoft's gross profits in 2012 were USD 59,16 billion). The EESC fully supports all the decisions adopted, while wishing to make the following broader points.

7.1.1 In certain cases, a long time can elapse between the start of proceedings and the final decision (nine years in the case of the EUR 497 million fine imposed on Microsoft in March 2004), owing to the great complexity of the cases, the need to respect administrative and judicial procedures, and the financial clout of the companies investigated. In fast-moving technology sectors this results in the disappearance of the companies that are the victims of these abusive practices.

7.1.2 Moreover, the possible removal of competitors by means of anticompetitive practices is more apparent in cases of abuse of dominant position than in vetoing of mergers or takeovers, which are concerned with future scenarios. In these last situations, the Commission has at times been criticised for adopting decisions on the basis of "speculation", but the EESC does not share this view: that is the customary solution in competition policy and the decision is fully justified by the rigorous, thorough nature of the inquiry, in which the party concerned takes part.

<sup>(8)</sup> [http://ec.europa.eu/competition/consultations/2013\\_gber/gber\\_draft\\_regulation\\_en.pdf](http://ec.europa.eu/competition/consultations/2013_gber/gber_draft_regulation_en.pdf)

<sup>(9)</sup> OJ C 168, 20.7.2007, p. 74.

7.1.3 As the Commission points out, the commitment decisions adopted under Council Regulation 1/2003 make it possible to obviate lengthy, costly proceedings, and they are legally binding once adopted. However, as they are the result of a compromise settlement with companies that are the subject of an inquiry, they benefit from favourable, or less tough conditions. At all events, any failure to comply can lead to penalties being imposed.

## 7.2 The book market

7.2.1 *E-books.* The commitment decision adopted in December 2012 concerning Apple and four e-book publishers is intended to prevent predatory practices that are detrimental to publishers and shops. Among other things, it restricts the use of the "Most Favoured Nation" clause in retailing. It should be stressed that the Commission worked together with the US Department of Justice in view of the global nature of the market. The ban on anticompetitive practices in the EU faces the added difficulty that there are different policies in the Member States on pricing and taxation of books in general and e-books in particular. The EESC therefore points to the need for greater harmonisation to prevent arbitrage and to move towards market integration. It should be emphasised that the e-book market is a recent market and there is insufficient information available, and so more needs to be known about the way it works.

7.2.2 *On-line book sales.* The EESC draws attention to the fact that sellers' associations in France and the United Kingdom have reported possible unfair competitive conduct by Amazon in the area of discounts.

## 7.3 Pharmaceutical sector

7.3.1 The EESC welcomes and supports the Commission's endeavours to penalise abuses of patents designed to obstruct the generic medicines market. The ECJ judgment in the Astra-Zeneca case <sup>(10)</sup> confirmed the EUR 60 million fine imposed by the Commission. The US Supreme Court also ruled against similar agreements and "pay-to-play" agreements. The statements of objections sent by the Commission in July 2012 to over 14 companies involved in two major cases highlight the fact that these practices are frequent and are severely detrimental to consumers and public resources.

7.3.2 Between 2003 and 2012 the 11 leading global pharmaceutical companies made net profits of USD 711,4 billion, which makes it unlikely that the fines imposed by the competition authorities will have a dissuasive effect. In actual fact, this is not just a competition issue, as it affects the highly sensitive area of people's health, as well as being a financial drain on households and social security. The EESC therefore suggests envisaging more effective legislative measures at EU level in order to prevent this kind of conduct.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(10)</sup> Case T-321/05.

**Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on electronic invoicing in public procurement'**

COM(2013) 449 final — 2013/0213 (COD)

(2014/C 67/15)

Rapporteur: **Mr BARROS VALE**

On 4 July 2013, the European Parliament and, on 30 September 2013, 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 directive of the European Parliament and of the Council on electronic invoicing in public procurement*

COM(2013) 449 final — 2013/0213 (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 2 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 130 votes to 2 with 3 abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the proposed directive as an attempt to standardise electronic invoicing data, and supports the idea that a data model should be established by CEN, the European standardisation body.

1.2 Given today's fragmented market, in which steps to achieve the widespread use of electronic invoicing have been taken individually, using such differing criteria that that electronic invoices cannot be exchanged on the cross-border market, the creation of a European standard is an essential tool for the development of the single market and an important step in eliminating existing barriers to market participation.

1.3 In December 2010, the Commission presented a Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled *Reaping the benefits of electronic invoicing for Europe* <sup>(1)</sup>, on which the Committee had the opportunity to deliver an opinion <sup>(2)</sup>.

1.4 The recommendations of the expert group on electronic invoicing, set up by the Commission to look at the obstacles preventing swifter adoption of electronic invoicing in the European Union (EU) referred to the "adoption by all actors within both the private and public sector of a common invoice content standard and data model – the UN/CEFACT Cross-Industry Invoice (CII) v.2". It should be noted that most

respondents during the public consultation agreed with this and with other recommendations made in the report. These data, as well as other specifications (CWA 16356 and CWA 16562 and the financial invoice based on the methodology provided by ISO 20022), are included in this proposal, and the EESC welcomes the inclusion of such specifications, which are the outcome of lengthy work by experts.

1.5 However, the EESC is both surprised and disappointed that no reference is made to a deadline for CEN to submit the proposed European standard for a semantic data model of the basic electronic invoice. Setting a deadline is provided for in Article 10(1) of Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and yet the proposed directive ignores this aspect altogether, failing to reflect the importance and urgency of establishing this standard.

1.6 Furthermore, on the subject of deadlines, the Committee wishes to express its concern that the proposed directive provides for a transposition period of 48 months. This excessively long deadline is not only at odds with the target set for transition to e-procurement by 2016; it is also inappropriate given the reality of the situation and current technological advances, and even with regard to the wishes of traders. This could lead to the gap between EU Member States in this respect growing wider, and consequently to a two-speed Europe. This deadline could even cause further market access barriers until the directive is fully adopted by all Member States. Significant progress has been made in the field of electronic invoicing, even in countries experiencing a severe economic and financial crisis, such as Italy and Portugal, which proves that this important project can be achieved within a shorter timeframe. It would be both possible and desirable to shorten the deadlines.

<sup>(1)</sup> COM(2010) 712 final.

<sup>(2)</sup> OJ C 318, 29.10.2011, p. 105.

1.7 As has been argued previously by the EESC <sup>(3)</sup>, standardisation and systems interoperability are essential to the success of the electronic invoicing project and to the development of the internal market that it is intended to achieve; it is therefore becoming increasingly urgent to address the current fragmented state of the market. Furthermore, the deadline of ten years proposed for analysing the results of implementation of the Directive on the Internal Market and on the adoption of electronic invoicing is inappropriate and quite inconsistent with the speed at which technological developments occur in a market where obsolescence is the norm.

1.8 The proposed directive confines itself merely to ensuring that "the authorities and contracting entities do not refuse to receive electronic invoices which comply with the European standard" established by CEN. A lot of work has been done, involving considerable investment in human and financial resources. The Committee wonders whether this would not justify the broader aim of a real standardisation of procedures and the universal acceptance by all stakeholders, both private and public, of the model that is developed for electronic invoicing. This aim would actually serve the ambitions of developing the single market and of achieving a paperless public administration.

1.9 The EESC supports the widespread use of electronic invoicing. However, its potential will only be realised if systems are interoperable, thereby enabling documents to be exchanged. The public procurement market is required to show a greater degree of transparency and rigour than other markets; it should thus serve as an example of good practice and have a knock-on effect on other markets. Electronic invoicing in public procurement and the adoption of "straight through" procurement procedures are urgent and desirable. The EESC therefore wishes to reiterate its support and its desire to see "straight through" electronic procurement become a reality as soon as possible, as it has stated in its opinion on the subject <sup>(4)</sup>.

1.10 The basic standards for electronic invoices have already been studied, in particular under the PEPPOL (Pan-European Public Procurement Online) project <sup>(5)</sup>, funded by the European Commission and which published its Final Report in November 2012. On the basis of the work carried out by the CEN Workshop BII (Business Interoperability Interfaces for Public Procurement in Europe), the PEPPOL project has drawn up a number of Business Interoperability Specifications (BIS), such as the specifications for an electronic invoice model, which garnered broad consensus among PEPPOL consortium members. The Committee calls for use to be made of the work already done, which goes beyond merely defining electronic invoicing data, as in fact appears to be the wish of the consortium's participants. This will prevent or minimise the risk of work being redone and of resources being wasted on new studies and even of investments being duplicated by Member

States and economic operators who then see their solutions, which were created on the basis of the results that were obtained, become obsolete.

1.11 As the European market consists mainly of Small and Medium-sized Enterprises (SMEs), the EESC recommends that their interests be safeguarded by adopting a solution that is affordable and easy for all users to take up, in terms of both cost and the technology used. This will be a genuine step towards eliminating existing barriers to SMEs' market participation. Only then, will the desired trickle-down effect have any real impact, with this initiative potentially becoming an important milestone for achieving significant savings in monetary and human resources, combating fraud and tax evasion, and shortening payment periods.

1.12 The Committee also recommends, as it has already noted <sup>(6)</sup>, that account be taken of the needs and interests of consumers, as only those with an understanding of information technologies are likely to reap the real benefits of electronic procurement. Widespread training will have to be provided in the fields of Information and Communication Technologies (ICT).

1.13 Also with regard to consumers, the Committee reiterates its concern to safeguard the interests of people with disabilities. Care must be taken to ensure that the document is designed to provide universal access and considers the special needs of people with disabilities, in line with the rules of non-discrimination on grounds of disability enshrined in Article 21 of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities, as ratified by the European Union.

## 2. Background

2.1 The proposed directive aims to address a gap in the legislation needed in order to achieve a paperless administration. This is a priority for the Digital Agenda, one of the Europe 2020 Strategy's flagship initiatives.

2.2 The Commission believes that a directive is the appropriate and proportionate instrument for the desired goal, as it obliges the Member States to achieve a certain objective while giving them the freedom to decide how this should be done.

2.3 Modernising public administration was selected as one of the five priorities of the Commission's Annual Growth Survey in 2012 and 2013. Reform of the public procurement system, the digitisation of public administration, reduction of the administrative burden and greater transparency are factors for growth, bringing public administration into the modern era and making it more efficient, with environmental and economic benefits estimated to total EUR 2,3 billion.

<sup>(3)</sup> JO C 318 de 29.10.2011, p. 105.

<sup>(4)</sup> E-procurement. (See page 96 of this Official Journal).

<sup>(5)</sup> Grant Agreement number: 224974.

<sup>(6)</sup> JO C 318 de 29.10.2011, p. 105.

2.4 Although various e-invoicing methods and e-procurement platforms do exist, they are not yet commonly used in most Member States, with electronic invoicing only accounting for between 4 and 15 % of all invoices issued or received. Clearly, therefore, the electronic internal market is not working.

2.5 Furthermore, the formats used for e-invoicing and public procurement platforms vary considerably among themselves and are sometimes even incompatible, which forces economic operators to comply with new invoicing requirements in the different Member States in which they wish to participate in public procurement procedures, thus incurring high adaptation costs. This constitutes a barrier to the free market, discouraging some economic operators from taking part in public procurement procedures.

2.6 The establishment of a European standard for electronic invoicing and the consequent interoperability of invoicing systems, as well as the standardisation of "straight through" electronic procurement procedures, are important steps towards eliminating current barriers to competition.

2.7 The 2010 Evaluation Report on the 2004 Action Plan for Electronic Public Procurement <sup>(7)</sup>, accompanying the Green Paper on expanding the use of e-procurement in the EU <sup>(8)</sup>, advises the Commission to work on minimising the risks of a decentralised and fragmented approach and highlights some important points to consider:

- provision of a supportive legal environment: more legal changes may be needed to clarify and define the obligations relating to the creation and operation of such platforms, e.g. legislation related to electronic signatures, e-invoicing and VAT;
- a more pragmatic approach, where appropriate, to technical issues: to ensure balance between operating costs, the sophistication of platforms and the security that is offered. Certain limits to "straight through e-procurement" have also been identified, such as difficulties in using automated evaluation approaches to complex purchases and the absence of a time-stamping system which is accepted throughout the EU;
- greater support for administrative simplification and organisational change: to support the Member States in combating the inertia shown by operators and contracting authorities. Within this policy, steps should be taken to introduce better monitoring systems at both the national and European levels;

— the lack of standardisation in e-procurement procedures: with countries currently developing such procedures individually, economic operators currently face – and will continue to face in the near future – different platforms using different techniques, inevitably creating barriers to access and greater difficulties in developing the tasks of each one. Although a single system is neither desirable nor intended, the existence of common core features is important, as this would facilitate interoperability and universal access;

— improved access and wider inclusion: action may be necessary to ensure that e-procurement is available to all interested parties, including SMEs.

### 3. Gist of the proposal

3.1 The directive aims to establish a European standard for a semantic data model <sup>(9)</sup> of the core electronic invoice <sup>(10)</sup> that is technologically neutral, ensuring the protection of personal data in accordance with Directive 95/46/EC.

3.2 The model should be drawn up by the relevant European standardisation body, which is the European Committee for Standardisation.

3.3 The directive does not set a deadline either for the request by the Commission to the standardisation body or for the submission of proposals by that body. This is important, and would be desirable.

3.4 Member States are asked to ensure that both contracting authorities and contracting entities accept electronic invoices, provided they comply with the European standard that is established.

3.5 Member States are asked to transpose the directive within a deadline of 48 months, enacting any national laws or regulations necessary for the purpose.

3.6 30 June 2023 is the date set for presenting the report assessing the directive's impact on the internal market and for the adoption of electronic invoicing in public procurement to the European Parliament and the Council. This follow-up study is of paramount importance and monitoring tools should be developed to assess the impact of the measure's adoption, both in terms of the costs incurred in implementing it and of the savings generated by its use.

<sup>(9)</sup> 'Semantic data model' means a structured and logically interrelated set of terms and meanings that specify the content exchanged in electronic invoices.

<sup>(10)</sup> 'Core electronic invoice' means a subset of information contained in an electronic invoice that is essential to enable cross-border interoperability, including the necessary information to ensure legal compliance.

<sup>(7)</sup> SEC(2010) 1214 final.

<sup>(8)</sup> COM(2010) 571 final.



#### 4. Comments

4.1 Some Member States have already implemented the electronic invoicing system or will be doing so, making it compulsory to issue invoices through computerised invoicing systems. In Portugal, for example, issuing invoices through computerised invoicing systems, duly certified by the national tax authority, is compulsory for all economic operators, except those whose annual turnover is less than EUR 150 000 or who issue fewer than 1 000 invoices per year.

E-procurement has been mandatory in Portugal since 2009. Sweden, Denmark and Finland also require electronic invoicing for some public procurement procedures. In Austria and Italy, electronic invoicing is currently being brought in and, in Italy, will become mandatory as of 2014.

4.2 A survey carried out by the Portuguese Public Procurement Association for the INCI (Institute of Building and Real Estate), published in January 2011, makes a number of suggestions for improving electronic procurement procedures, and this analysis should be taken into account when developing the European public procurement and electronic invoicing models. The study highlights the importance of standardising the workings of the platforms and of greater interoperability between the platforms and other services, in addition to simplifying the mechanisms and requirements for electronic signatures.

4.3 For the contractor, the potential advantages of electronic invoicing in public procurement are:

- the dematerialisation of documents, with the resultant environmental impact reduction (in terms of both paper consumption and the environmental footprint created by mail deliveries), opportunity costs and operational costs;
- ease of access to procurement procedures, both national and cross-border, through purpose-built electronic platforms, alleviating the difficulties caused by distance from the location of the procurement procedure, either within the country or beyond its borders. In this regard, EU-level standardisation could facilitate access, removing barriers to participation in procurement procedures by mitigating the difficulties caused by distance;
- a reduction in participation costs, making it possible to open up the market to more businesses, especially SMEs;

4.4 For the contracting entity, the potential advantages of electronic invoicing in public procurement include:

- reduction of red tape, opportunity costs, and environmental impact;
- faster procedures for deliveries, invoice processing and payment procedures;
- greater transparency and rigour in public procurement;
- ease in auditing the process;
- greater efficiency in public administration by generating a knock-on effect on other areas in which procedures will be dematerialised;
- promoting the best use of financial resources, which is essential, given the crisis that Europe is currently experiencing.

4.5 The potential disadvantages include the following:

- substantial investments have already been made, by both Member States and economic operators, in the various existing systems. Much of the software and even the hardware will conceivably have to be adapted, and the cost of this could be significant. In this regard, the only criticism that can be made of the standardisation now being sought is that it is long overdue, consequently allowing each Member State to move at its own speed;
- security of the data that is exchanged: although platforms are now much more reliable, information leaks can apparently still occur;
- dependence on third-party services: telecom operators and managers of electronic platforms;
- a further potential disadvantage of electronic invoicing is that its widespread use could result in greater difficulties of access for people with disabilities, unless their specific needs are safeguarded, with guarantees for universal access, equal opportunities and non-discrimination against people with disabilities.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union’**

COM(2013) 404 final — 2013/0185 (COD)

**and on the ‘Communication from the Commission on quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union’**  
**C(2013) 3440**

(2014/C 67/16)

Rapporteur: **Ms MADER**

On 1 July and 8 July 2013 respectively, the European Parliament and 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 Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union*

COM(2013) 404 final — 2013/0185 (COD).

On 8 May 2013 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 on quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union*

C(2013) 3440

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 2 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), the European Economic and Social Committee adopted the following opinion by 133 votes to 1, with 4 abstentions.

## **1. Conclusions and recommendations**

### **1.1 General conclusions**

1.1.1 The absence of national rules that adequately govern actions for damages or, on the other hand, the disparity between national legislations places not only victims, but also the perpetrators of competition law infringements in a position of inequality.

1.1.2 This may also give a competitive advantage to undertakings that have breached articles 101 or 102 of the Treaty on the Functioning of the European Union, but which do not have their headquarters or do not conduct business in a Member State whose legislation is favourable.

1.1.3 These differences in the liability rules may damage competition and hinder the proper functioning of the internal market.

1.1.4 The Committee thus welcomes the Commission's proposal to facilitate access to justice and enable victims to obtain compensation.

1.1.5 Nevertheless, the EESC considers that the proposal offers too much protection to undertakings benefiting from leniency programmes, to the detriment of the victims. Certain provisions of the proposed directive limit their scope for action because they are based on the notion that those requesting leniency programmes should be heavily protected against actions for damages.

1.1.6 Finally, the proposed directive needs to be aligned with the "Recommendation on common principles for injunctive and compensatory redress mechanisms in the Member States concerning violations of rights granted under Union Law" <sup>(1)</sup> because both texts make provision for all Member States to have national collective redress mechanisms, particularly for actions for damages.

<sup>(1)</sup> OJ L 201, 26.7.2013, p. 60.

## 1.2 Recommendations on the proposal for a directive

1.2.1 The EESC welcomes the proposed directive governing actions for damages in competition matters.

1.2.2 The Committee believes that obtaining evidence is a crucial factor for exercising the rights of appeal and approves the provisions proposed by the Commission to allow proportionate access, under judicial supervision, to the information that is relevant and necessary for the action.

1.2.3 Like the Commission, it supports leniency programmes which make it possible to identify numerous infringements and feels that undertakings should not be discouraged from cooperating, whilst considering that these programmes should not protect undertakings more than is strictly necessary. In particular, such programmes should not absolve them from paying damages to victims.

1.2.4 The EESC supports the provision aimed at ensuring that once a ruling issued by a national competition authority or appeal body has become definitive it cannot be called into question by the courts dealing with the action for damages.

1.2.5 Similarly, the Committee approves the Commission's proposals on the beginning of the period of limitation, which include the recommendations it had made in its opinion on the White Paper, and supports the provisions on the suspension of deadlines when cases are referred to the national competition authority.

1.2.6 The EESC has taken note of the principle of joint and several liability and the arrangements envisaged for leniency programmes. Nevertheless, it is concerned about their enforcement, particularly in terms of establishing the level of liability of each undertaking.

1.2.7 The EESC considers it essential to avoid situations that could lead to unjust enrichment. It therefore welcomes the provisions governing the passing-on of overcharges which make it possible to guarantee that the compensation is paid to the person that actually suffered the harm and significantly improve the possibilities for consumers and small undertakings to receive compensation for the harm suffered.

1.2.8 The EESC supports the Commission's assessment of how useful it might be to have out-of-court settlements, providing that they are well formulated, independent and remain optional. Furthermore, it feels that alternative dispute settlement mechanisms cannot be a credible solution for victims unless there are effective mechanisms for judicial remedies, particularly class action

1.2.9 Bringing the proposal for a directive into line with the recommendation on collective redress is necessary because both documents provide for Member States to have national collective redress mechanisms, particularly for actions for damages.

In this connection, the Committee regrets that the introduction of a class action in competition matters, which should have been an effective mechanism for consumers, has been left out but included in a recommendation – which is not binding – encouraging Member States to establish collective redress mechanisms.

## 1.3 Recommendations on the communication

1.3.1 The EESC welcomes the communication on quantifying the harm suffered by the victims of competition law infringements.

1.3.2 It feels that the right to compensation for the full amount of harm caused by an anti-competitive practice is a fundamental right and that action for damages is a useful adjunct to the powers of the public authorities and national competition bodies.

1.3.3 Finally, the Committee shares the Commission's thinking on the difficulty of assessing the harm. It considers that the guidelines contained in the "practical guide" appended to the communication should provide a useful tool for the courts and parties, whilst maintaining the independence of the national judge as regards existing national rules.

## 2. Commission proposals

### 2.1 The proposal for a directive

2.1.1 Following a very broad consultation procedure <sup>(2)</sup>, on 11 June 2013, the European Commission presented a Proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.

2.1.2 The Commission's goal is to ensure that articles 101 and 102 and national competition laws are fully effective by enabling everyone, be they consumers, undertakings or public authorities, to seek compensation for the harm caused by anti-competitive practices of any kind.

2.1.3 The Commission notes that the combination of public and private actions is necessary and complementary for enforcing competition rules.

<sup>(2)</sup> Consultations on the 2005 Green Paper and the 2008 White Paper.

2.1.4 It emphasises that there are currently numerous obstacles and some legal uncertainty, particularly due to the differences in rules within the Member States, which are undermining the effectiveness of the law and the proper functioning of the market.

2.1.5 In order to level the playing field between the Member States in terms of judicial protection of the rights guaranteed by the Treaty and the absence of an effective framework in certain countries for compensating victims of breaches of articles 101 and 102, it proposes establishing common standards aimed at:

- improving the process of obtaining evidence, while respecting the principle of proportionality, and taking account of the specific characteristics associated with the leniency procedures and settlements, whose importance it underlines;
- making provision for the decisions of the national competition authorities identifying an infringement to automatically constitute proof of the existence of an infringement before Member States' courts;
- drawing up rules on limitations to prevent deadlines from expiring before victims have had a chance to assert their rights;
- establishing a principle of business solidarity whilst maintaining more favourable rules for leniency in order to retain the benefits of cooperation;
- establishing rules for taking account of the passing-on of costs;
- establishing a straightforward presumption of harm in cartel cases;
- encouraging recourse to consensual dispute resolution mechanisms by making provision for suspending periods of limitation during this phase.

## 2.2 The communication

2.2.1 This states that Articles 101 and 102 TFEU are public order provisions aimed at ensuring that competition is not distorted within the internal market and that they also create rights and obligations for undertakings or consumers which are protected by the European Union's Charter of Fundamental Rights.

2.2.2 The communication then focuses on the difficulty of quantifying harm in competition cases and the fact that this

responsibility is entrusted to the national courts, through these can refer to a practical guide drawn up by the Commission's departments.

2.2.3 To supplement the proposed directive, the Commission has appended to the communication a practical guide on quantifying harm.

2.2.4 This purely informative guide is in no way binding on the national court or the parties. Its aim is to make available to the national courts or parties information on the methods and techniques that can be used to quantify harm.

## 3. General comments on the proposal for a directive

3.1 In its opinion on the White Paper on action for damages resulting from infringements of the Union's antitrust rules, the EESC had stressed the need for adopting measures to improve the legal conditions under which victims of an anti-competitive practice can assert their right to seek compensation for the harm suffered. The Committee therefore welcomes the proposal, which will help to remove the obstacles identified.

3.2 It feels that the action for damages must supplement the action of the public authorities and national competition bodies and that its deterrent role will have a beneficial effect.

3.3 It feels that action for damages is a fundamental right for victims, who may be consumers and/or undertakings, and it must lead to compensation in full for the harm suffered as a result of the anti-competitive practices.

3.4 The right to seek compensation for harm suffered has in fact been affirmed several times since 2001; the ECJ has ruled that anyone must be able to seek compensation for such harm<sup>(3)</sup>. Moreover, Article 47 of the Charter of Fundamental Rights recognises the right to an effective remedy when the rights guaranteed by the Union's law have been violated.

3.5 Like the Commission, the Committee thinks that the leniency programmes help to detect many infringements, and feels that undertakings should not be discouraged from cooperating. At the same time, it thinks that these programmes should not offer undertakings absolute protection and should not hinder the victims' right to compensation.

3.6 It notes that the proposed directive is supplemented by a recommendation encouraging the Member States to establish collective redress mechanisms to guarantee individuals effective access to justice. The EESC regrets that the proposal

<sup>(3)</sup> Case C-453/99 (*Courage and Créhan*) and Joined Cases C-295 to 298/04 (*Manfredi, Cannito, Tricano and Murgolo*).

does not address the issue of introducing a class action procedure, the only mechanism that can guarantee fully effective redress and that access to collective redress is relegated to a recommendation that has no binding force. The EESC calls on the Commission to legislate on this question.

3.7 Finally, the Committee shares the Commission's thinking on the difficulty of assessing harm. It thinks that the guidelines contained in the "practical guide" appended to the communication will provide a useful tool to the courts and parties, whilst retaining some leeway for interpreting the existing national rules.

#### 4. Specific comments on the proposal for a directive

##### 4.1 *Obtaining evidence.*

4.1.1 The EESC believes that obtaining evidence is a fundamental factor in allowing cases to be examined.

4.1.2 Similarly, it believes that it is necessary to provide for access to evidence so that victims can acquire the information they need for their action for damages.

4.1.3 Nevertheless, the Committee considers that access to such evidence should remain under judicial supervision and that disclosure should be proportionate in order to preserve the rights of the parties.

4.1.4 Like Directive 2004/48/EC on respecting intellectual property rights <sup>(4)</sup>, the proposed directive defines the disclosure of evidence by guaranteeing that all Member States should allow minimum effective access to the evidence which the applicants and/or defendants need to prove the justification for their claim for damages and/or to put forward a defence.

4.1.5 This definition reduces the legal uncertainty created by the Pfleiderer ruling <sup>(5)</sup>, which accepted that, in the absence of European legislation on access to information obtained by a national authority under a leniency programme, it is up to the national court to determine, on a case-by-case basis and according to national law, the conditions under which the disclosure of documents forming part of a leniency procedure to the victims of an infringement of competition law may be authorised or refused.

4.1.6 Finally, Article 6 of the proposal for a directive provides for complete protection for leniency corporate statements and for settlement submissions.

4.1.7 It also provides for temporary protection, until the procedure has been closed, for documents specifically drawn

up by the parties for purposes deriving from public enforcement of the law (replies to a request for information from the competition authority, statement of objections).

4.1.8 The EESC approves the fact that omitting, refusing to disclose or destroying evidence should be penalised effectively and proportionately to act as a deterrent.

4.1.9 The details in question relate more precisely to undertakings involved in a case brought by the competition authority in relation to the facts underlying a damages claim (objective element) and/or which knew or should reasonably have known that the case was being dealt with or going to be dealt with by the national court.

4.2 Effect of national decisions: the EESC supports the provision to ensure that once a ruling issued by a national competition authority or appeal body has become definitive it should not be called into question by the court dealing with the action for damages.

##### 4.3 *Limitation periods*

4.3.1 The EESC considers it essential to establish rules for calculating limitation periods to safeguard victims' rights.

4.3.2 The Committee supports the Commission's proposals on the beginning of the limitation period, which incorporate the recommendations it had made in its opinion on the White Paper, and the provisions on the suspension of deadlines when cases are referred to the national competition authority. These provisions guarantee victims the right to an effective remedy. The Committee nevertheless feels that the suspension could be increased to two years after the date on which the decision noting an infringement became definitive.

##### 4.4 *Liability*

4.4.1 The EESC takes note of the principle of solidarity, which cannot be questioned.

4.4.2 It wonders what conditions would apply if one of the undertakings had been involved in a leniency programme, particularly the difficulty of proving or establishing liability for each of the undertakings and assessing their contribution in terms of their financial capacities.

##### 4.5 *Passing-on of overcharges*

4.5.1 The EESC welcomes the fact that the proposed directive includes provisions for the passing-on of overcharges generated by fraudulent practices. It considers it essential to avoid situations that could lead to unjust enrichment.

<sup>(4)</sup> OJ L 195, 2.6.2004, p. 16.

<sup>(5)</sup> Case C-360/09.



4.5.2 It believes that the presumption in Article 13 concerning indirect purchasers is an important means of guaranteeing that the compensation is paid to the person that actually suffered the harm and significantly improves the possibilities for consumers and small undertakings to receive compensation for the harm suffered.

4.5.3 The Committee supports the principle of full compensation for harm as defined in Article 2 and repeated in Article 14.

#### 4.6 Quantifying harm

4.6.1 The EESC supports the principle of a presumption of harm in proven cartel cases in so far as this presumption removes an obstacle to actions for damages, whilst maintaining the rights of the contravening undertaking.

4.6.2 It believes that simplifying the evidence must be sufficient not to hamper actions for damages, since the evidence is always difficult to establish in competition cases.

4.6.3 The EESC is in favour of making a "practical guide" available such as the one appended to the communication, since it gives the parties a degree of certainty regarding establishing the amount of the damages.

#### 4.7 Consensual dispute resolution

4.7.1 The EESC takes note of the Commission's thinking on the benefits of consensual settlements, which make it possible to reach a fair solution at a lower cost, and approves the proposed provisions on the suspension of periods of limitation and the effects of consensual settlements on legal actions which will encourage recourse to these options.

4.7.2 Nevertheless, it points out that the support for these mechanisms presupposes that they are well formulated, independent and remain optional, so as on no account to restrict recourse to the courts.

4.7.3 Moreover, as it emphasised in its opinion on the White Paper, the Committee believes that alternative dispute settlement mechanisms cannot constitute a credible solution for victims unless there are effective mechanisms for judicial remedies, particularly class action.

4.8 Assessment: The Committee supports the Commission's assessment policy so that lessons may be learned from it and, where appropriate, the necessary measures adopted.

### 5. Comments on the communication

5.1 The victim of an infringement of competition law seeking damages for his/her harm may be faced with a number of obstacles arising from the differences between national rules and procedures for quantifying harm.

5.2 The right to an effective remedy must not be hampered by disproportionate obstacles adding to the inherent difficulty of quantifying harm in competition cases. The truth is that it is impossible to determine precisely how the conditions and behaviour of market operators would have changed if the infringement had not occurred. It is only possible to guess at a probable scenario.

5.3 The EESC believes, therefore, that the practical guide can serve as a useful tool for the national court, whose independence is respected by the purely informative nature of the guide and the fact that it is not legally binding.

5.4 In any event, it is the applicable law that will determine the method for quantifying the harm in the particular circumstances of any given case.

5.5 The court dealing with the case will also have to take into consideration the evidence available, the resources at its disposal in terms of cost and time and assess their proportionality as regards the value of the claim for damages submitted by the victim.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010'**

COM(2013) 312 final — 2013/0164 (COD)

(2014/C 67/17)

Rapporteur: **Mr IOZIA**

On 1 July 2013 the European Parliament, and on 6 September 2013 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 Regulation of the European Parliament and of the Council establishing the Copernicus Programme and repealing Regulation (EU) No 911/2010*

COM(2013) 312 final — 2013/0164 (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 2 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 144 votes to 1 with 3 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the proposal for a Regulation of the European Parliament and of the Council establishing the Copernicus programme and repealing Regulation (EU) No 911/2010, although it has perhaps arrived a year behind the optimum schedule drawn up for the programme in 2011.

1.2 The EESC is particularly pleased to see that the Member States and the European Parliament have taken on board its firm support for financing the GMES programme, now with the new name of Copernicus, under the multiannual financial framework. This will ensure that the programme can in fact be rolled out, despite a cut of 2 billion euros in the initial funding proposal - a cut which could jeopardise the entire programme. The Commission has displayed flexibility in changing its own views so radically.

1.3 The EESC reiterates its wholehearted support for the European Union's space programmes Galileo and Copernicus, flagship programmes under the Horizon 2020 project that demonstrate the European space industry's capacity for innovation and technological development, enable it to maintain its lead over its international competitors and contribute to a climate favourable to the creation of high-quality knowledge and research-based jobs.

1.4 As there are only a few months to go before the first satellite of the Sentinel constellation is launched, the EESC would recommend that the Commission clearly define Copernicus governance as it is not readily comprehensible as

it stands. In the EESC's opinion, the two main agencies in the area of European space policy, ESA and EUMETSAT, should be clearly involved in the management of the EU's space and meteorological programmes and in the overall management of the Copernicus programme. This is not clearly stated in the Commission's recitals. Article 12(4) and (5) of the proposal for a regulation will have to be amended so that the more tentative "may entrust" becomes an assertive "shall entrust".

1.5 The EESC voices its misgivings, as it has done on numerous previous occasions, over the use of delegated acts which do not observe to the letter the provisions of the TFEU on the option of exercising delegation for limited periods and for non-essential activities. Any such delegated acts must be substantiated so as to provide a clear frame of reference for all interested parties.

1.6 The EESC calls for more detailed procurement rules setting out the conditions for firms wishing to participate in the Copernicus activities. These rules must take into proper consideration the requirements of small and medium-sized firms in line with commitments made under the Small Businesses Act (SBA) and the Single Market Act (SMA) provisions on the development of the internal market. It will be extremely important to have a clear and stable legal framework governing private investments.

1.7 The EESC concurs with the assessment of the economic potential of Copernicus and its conformity with the objectives of the Europe 2020 project, and hopes that the regulation in

question can be approved swiftly so that the activities referred to in the multiannual financial framework can commence in January 2014. It hopes that support for downstream Copernicus services will be significantly strengthened. At present these are well-defined in the objectives but not in the instruments that need to be included in the regulation, entrusting specific tasks to the Commission.

1.8 The EESC thinks it is fundamental, in order to involve as many firms as possible, to provide a platform which will make it genuinely possible to promote investments, employment and development. To this end, the EESC considers it essential for data to be made openly available, free of charge, for all European operators and is firmly in support of opening negotiations with third countries to set up a regime of complete reciprocity with industries in countries which do have access to data. In the absence of such agreements, the EESC thinks it would be appropriate for industries in countries with access to Copernicus data to be subject to a licensing system, limiting their access to the essential data. Free access arrangements should be guaranteed for all developing countries or any country in an emergency situation.

1.9 In view of the considerable financial investment involved and the sensitivity of the data, the EESC agrees that the European Union should assume ownership of the system. It would point out that the proposed regulation specifies neither the means, costs nor responsibilities arising from the future management, or transfer, of the ownership of Copernicus. It would welcome greater clarity on this point.

1.10 The EESC would strongly urge all the European Institutions, particularly the European Parliament, which has only a few working sessions left before it is dissolved prior to the forthcoming elections, to approve this regulation swiftly, accepting the improvements suggested, so that the Copernicus programme can continue. There is a very real risk that funding may be withdrawn from the programme if it is not approved on time.

## 2. Introduction

2.1 The proposed regulation establishes the appropriate legal framework for the governance and financing of the European Earth Observation Programme, GMES (Global Monitoring for Environment and Security), in its new operational phase starting in 2014. It therefore repeals Regulation (EU) No 911/2010, which set up the programme and remains in force until the end of 2013.

2.2 The Regulation also officially gives the GMES programme a new name: "Copernicus".

2.3 Having regard to the Treaty on the Functioning of the European Union, in particular Article 189, the proposal for a new Regulation of the European Parliament and of the Council covers the following points:

- 1) change of name to Copernicus;
- 2) governance of GMES in its operational phase, with a view to allowing the Commission to delegate activities to certain operators;
- 3) funding for the period 2014-2020.

2.4 As summarised in the communication, "Copernicus is structured in six Services: Marine, Atmosphere, Land and Climate change monitoring as well as support to Emergency and Security. Copernicus uses data from satellites and in-situ sensors such as buoys, balloons or air sensors to provide timely and reliable added-value information and forecasting to support, for example, agriculture and fisheries, land use and urban planning, the fight against forest fires, disaster response, maritime transport or air pollution monitoring. Copernicus also contributes to economic stability and growth by boosting commercial applications (the so-called downstream services) in many different sectors through full and open access to Copernicus observation data and information products. It is one of the programmes to be delivered under the Europe 2020 strategy for smart, sustainable and inclusive growth and was included in the industrial policy initiative of Europe 2020, given its benefits to a wide range of Union policies".

2.5 The space structure has received approximately EUR 3.2 billion in funding to date, mostly from ESA (over 60 %) and the EU (around 30 %), under the Seventh Framework Programme (FP7).

2.6 The funding of the operational phase, comprising both exploitation of data and renewal of space infrastructure, cannot be shouldered by individual Member States because of the costs this will incur. Through this Regulation the EU is therefore assuming responsibility for the operational phase of Copernicus/GMES and the associated financial burden (EUR 3 786 million at 2011 prices).

2.7 In its Communication *A Budget for Europe 2020* [COM(2011) 500 final, 29.6.2011], the Commission proposed that GMES be funded outside the multiannual financial framework (MFF) in the period from 2014 to 2020.

2.8 The EESC was totally against the Commission's proposal at that stage, in other words to relegate the financing necessary for development and completion of the GMES programme to an external ad hoc fund <sup>(1)</sup>.

<sup>(1)</sup> OJ C 299, 14.10.2012, p. 72.

2.9 That initial proposal for outside funding was subsequently rejected by the Parliament in its Resolution P7\_TA(2012)0062 of 16 February 2012. The European Council conclusions of 7-8 February 2013 on the MFF specify that the programme should be financed under sub-heading 1a, with a maximum level of commitments of EUR 3 786 million (2011 prices) to be laid down in the MFF Regulation.

2.10 National space agencies have also set up their own earth observation systems. The Commission notes in its Communication, however, that they have not yet found a way of cooperating with regard to the funding of sustained operational programmes in the field of environmental monitoring. It is vital to continue this observation work, considering the increasing political pressure on public authorities to take informed decisions in the field of the environment, security and climate change and the need to respect international agreements.

### 3. General comments

3.1 The Copernicus/GMES space structure has been developed from 2005 up until the present time through independent funding from ESA of almost EUR 2 billion, with additional funding of approximately EUR 1 billion from the "Space" theme of the EU's Seventh Framework Programme and the Initial Operations programme, totalling EUR 3.2 billion spent to date and earmarked for spending up to the end of 2013.

3.2 Recital 17 notes that in view of the dimension of the programme, it will be necessary to delegate implementation to entities with the appropriate technical and professional capacity, some of which are listed in the following recital 18. For the operational phase to be successful, it will be necessary for the governance agreements associated with this regulation to take account of the real capacity available in Europe in the area of satellites and the exploitation of satellite data. Recital 18 omits to mention the two main agencies with planning, operational and management capacity in the field of satellites in Europe, ESA and EUMETSAT.

### 4. Specific comments

4.1 A number of European States have come together in two major organisations in the space sector, ESA and EUMETSAT. ESA, which has a budget of over EUR 4 billion and a staff of some 2 250 (2011), has developed and managed a considerable number of environmental satellites (ERS, Envisat, Cryosat, SMOS, GOCE and SWARM) and has developed the European MeteoSat, MeteoSat Second Generation and Met-OP meteorological satellites. ESA also stores and distributes data from a large number of third party missions. EUMETSAT, the European organisation for the exploitation of meteorological satellites, with an annual budget of about EUR 300 million and a staff of 280 (2011), has the specific task of processing and distributing meteorological data.

4.2 Alongside these two major organisations are a number of other European Union agencies which are involved in European space policy, as set out in the following table <sup>(2)</sup>.

Agency	Main Themes	Budget and staff (2007)
European GNSS Agency (GSA)	Manages European satellite navigation programmes (e.g. Galileo).	5,4 million (2009) – 50 staff
European Union Satellite Centre (EUSC)	Support to EU in satellite imagery analysis.	16 million (2011) – 100 staff
European Environmental Agency (EEA)	Integration of environmental issues into economic policies.	41 million (2012) – 220 staff
European Maritime Safety Agency (EMSA)	Technical and scientific assistance in the development of EU legislation on maritime safety and security and pollution.	54 million (2010) – 200 staff
FRONTEX	Operational coordination of Member States on border security.	22 million (+13 reserve) – 170 staff
European Defence Agency (EDA)	Cooperation on defence capabilities and armament.	31 million (2010) – 100 staff
European Research Council (ERC)	Part of FP7. Support in scientific research and excellence in Europe.	32 million (2009) – 220 staff
Research Executive Agency (REA)	Responsible for the evaluation and management of many FP7 programmes.	31 million (2009) – 349 staff

4.3 The above figures indicate existing satellite operational capacity in the EU agencies, ESA and EUMETSAT. The Commission should take into account the whole range of resources and professional capacity available when assessing the programme requirements.

4.4 In recital 18, ESA and EUMETSAT are not explicitly included amongst the agencies which will implement Copernicus. It is considered necessary to add them, in the light of Article 11.

4.5 Article 12(4) and (5) of the proposal for a regulation will have to be amended so that the more tentative "may entrust" becomes an assertive "shall entrust".

<sup>(2)</sup> Source: PACT-European Affairs.

4.6 In Article 2(1)(b) and (4)(b) the Commission states that boosting economic growth and employment are among the main objectives of Copernicus.

4.7 The EESC agrees, but would ask that specific, targeted initiatives be planned in order for this to happen. This applies in particular to the practical measures that will be required and that will determine the added value of downstream production activities. Dissemination, incentives for developing applications for the data provided by the system and raising awareness of Copernicus' potential are all essential measures which should be included in the regulation, with explicit reference to the activities to be undertaken in order to achieve the stated objectives.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 fees payable to the European Medicines Agency for the conduct of pharmacovigilance activities in respect of medicinal products for human use'**

COM(2013) 472 final — 2013/0222 (COD)

(2014/C 67/18)

Rapporteur: **Ms HEINISCH**

On 12 July and 1 July 2013 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 114 and 168 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 fees payable to the European Medicines Agency for the conduct of pharmacovigilance activities in respect of medicinal products for human use*

COM(2013) 472 final — 2013/0222 (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 2 October 2013.

At its 493rd plenary session of 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 144 votes to one with seven abstentions:

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the Commission proposal, which makes an important contribution to the further improvement of medicinal product safety and the transparency of the assessment processes. The Committee particularly welcomes the improvements compared with the Commission's first draft, in particular special rules for SMEs.

1.2 The Committee welcomes the principle that the marketing authorisation holder will not have to pay fees twice for the same pharmacovigilance activity. It calls on the Commission to ensure that, simultaneously with the introduction of the new fees, national fees charged for the same activity are abolished.

1.3 The EESC welcomes the Commission's proposals regarding the periodic safety update reports (PSUR) and post-authorisation safety studies (PASS). The Committee calls on the Commission, however, to allow further fee reductions for medicinal products with a well-understood safety profile.

1.4 The EESC believes that the processing of EU-wide assessment procedures carried out on the basis of pharmacovigilance data (referrals) is a national responsibility, which should not be financed exclusively from fees paid by marketing authorisation holders. Such assessment procedures are a key task of the competent authorities at national and

EU level and should, the Committee believes, be financed from EU funds, *inter alia* in order to ensure the independence of the assessment.

1.5 The EESC welcomes the proposal that the EMA will levy an annual flat-rate fee from marketing authorisation holders for pharmacovigilance activities. However, the Committee notes that the pharmacovigilance activities are only available to a limited extent, if at all. The Committee therefore suggests that the flat-rate fee be suspended pending availability of these services.

1.6 The Committee welcomes the Commission's proposal that fees should be shared as fairly as possible between all market authorisation holders affected. The EESC suggests that the proposed approach involving "chargeable units" should be reconsidered.

## **2. Introduction**

2.1 The maintenance or restoration of good health is for most people a high priority, and for many the highest.

2.2 Medicines, together with advice and treatment from members of the medical professions, are of key importance for the maintenance or restoration of health. Patients, as citizens of the European Union, rightly expect optimum treatment with effective and safe medicines in all Member States. All regulations concerning medicines must assign the highest priority to the interests of patients.

2.3 Risks arising from the use of medicines must be excluded as far as possible or at least minimised, and safety must be paramount. This requires adequate checks before authorisation and ongoing surveillance after authorisation. This activity, known as pharmacovigilance, is the responsibility of all stakeholders, marketing authorisation holders, members of the medical professions, patients, as well as the competent authorities in the Member States and the EU as a whole.

2.4 Patients expect uniform decisions to be taken on medicines authorised in several Member States on a sound scientific basis and to be communicated in uniform and easily understandable language. The European Medicines Agency (EMA) and its specialised bodies have a key role to play in coordinating scientific assessment and in uniform communication.

2.5 If the EMA is to be able to perform these important tasks, it must be appropriately financed. At present the EMA is unable to levy fees for many pharmacovigilance activities. This possibility is created by the Commission proposal.

2.6 When introducing new fees, it must be ensured that the pharmaceutical manufacturers pay an appropriate financial contribution for the services they require.

2.7 The contribution of the pharmaceutical manufacturers must be designed in such a way that medicines continue to be available to patients in the European Union; the levying of fees must not jeopardise the marketing of products for economic reasons so that patients cannot be appropriately treated.

2.8 Patients expect EU-wide procedures for the assessment of pharmacovigilance data to be based exclusively on scientific considerations, independently of the fees of the pharmaceutical manufacturers.

### 3. Background

3.1 In earlier opinions the Committee has repeatedly stressed the importance of a competitive and innovative pharmaceuticals industry in Europe. In the last 50 years it has been one of the modern industrial sectors with the highest levels of technology and innovation rates. Throughout Europe this sector employs hundreds of thousands of, mostly highly qualified, specialised workers, and it achieves a high level of added value.

3.2 However, the positive effects of medicinal products can also be accompanied by undesirable side effects resulting from errors in use or medication, including the misuse and/or abuse of the product.

3.3 The use of medicinal products thus requires a high degree of responsibility and close attention should be paid to

this, as public health is at stake here, particularly given that many side effects of new medicines are often identified only after authorisation and marketing.

3.4 The amendment to Directive 2001/83/EC and Regulation (EC) No 726/2004 published on 15 December 2012 widens the tasks of the EMA with regard to pharmacovigilance, including EU-wide pharmacovigilance procedures, the monitoring of literature cases, the improved use of information technology-tools and the provision of more information to the general public. Furthermore, the pharmacovigilance legislation stipulates that the Agency should be enabled to fund those activities from fees charged to marketing authorisation holders. New categories of fees should therefore be created to cover the new and specific tasks of the Agency.

3.5 To finance these activities, the revised pharmacovigilance legislation provides for fees to be charged to marketing authorisation holders. These fees should be related to pharmacovigilance activities performed at the level of the EU, notably in the context of the EU-wide assessment procedures. These procedures include scientific assessment carried out by rapporteurs from the national competent authorities of the Member States. These fees are therefore not intended to cover the pharmacovigilance activities of the national competent authorities performed at national level. Member States may accordingly continue to charge fees for the activities performed at national level, which should, however, not overlap with the fees laid down in this legal proposal.

### 4. Definitions

4.1 According to the definition of the World Health Organization (WHO), the concept of **pharmacovigilance** means the science and activities relating to the detection, assessment, understanding and prevention of adverse effects or any other drug-related problem, risk management, prevention of therapy errors, the provision of information on medicines and the promotion of rational therapy with medicines.

4.2 The concepts of **side effects** and **adverse drug reactions** (ADR) mean undesirable negative effects of treatment with a medicine.

4.3 Periodic safety update report (PSUR) means a compilation of comprehensive data on the uses and risks of one or more medicines over an extended period, generally more than three years, which has to be submitted by the marketing authorisation holder to the competent authorities of the countries in which the product has been authorised.

4.4 A **referral**, an EU-wide procedure for the assessment of pharmacovigilance data, is a regulatory procedure at European level aimed at arbitrating between different scientific positions or reservations in connection with the authorisation of medicines.

4.5 A **post-authorisation safety study (PASS)** is a scientific study aimed at drug safety. This may be initiated voluntarily by the marketing authorisation holder or may be carried out as a condition imposed by the competent authority following authorisation for pharmaceutical products. The main objectives of these studies are to identify the frequency of occurrence of known side effects under everyday conditions, to identify rare, hitherto unknown side effects which went undetected in clinical studies because of the small number of cases, and to investigate possible risks arising from everyday use by specific groups of patients (e.g. the very old, pregnant women, patients with impaired liver function etc.).

4.6 **EudraVigilance** (European Union Drug Regulating Authorities Pharmacovigilance) means an information network and management system operated as a core service by the EMA, aimed at ensuring drug safety in the European Economic Area. EudraVigilance supports in particular the electronic communication of reports on side effects before and after the authorisation of a pharmaceutical product (including suspected cases) and their systematic collection, as well as the early identification of drug risks and appropriate measures to minimise risks.

4.7 The Extended EudraVigilance Medicinal Product Dictionary (**xEVMPD**) is an extended version of the EVMPD medicinal product dictionary, which was closed in July 2011. Marketing authorisation holders feed the database with product-related data on all medicinal products authorised in the European Economic Area, including product names, authorisation holder and the relevant pharmacovigilance system, type and status of the authorisation, pharmaceutical formulation and strength, route of administration, and on indication, active ingredients and excipients. The EU medicinal product dictionary was to have been complete by 2 July 2012, but is currently usable only to a limited extent.

4.8 A "**chargeable unit**" means each individual entry in the database in accordance with Article 57(1)(l) of Regulation (EC) No 726/2004 (xEVMPD) based on information from the list of all medicinal products for human use authorised in the Union referred to in Article 57(2) of the Regulation.

## 5. Legal basis

5.1 The proposal is based on Article 114 and Article 168(4)(c) TFEU. It is based on Article 114 TFEU as differences between national legislative, regulatory and administrative provisions on medicinal products tend to hinder intra-Union trade and therefore directly affect the operation of the internal market.

5.2 In addition, the proposed regulation is based on Article 168(4)(c) TFEU as it aims at supporting the goal of setting high standards of quality and safety of medicinal products.

## 6. Subsidiarity and proportionality principles

6.1 The EMA is a European decentralised Agency established under Regulation (EC) No 726/2004 and hence the decision on its funding and charging of fees is to be taken at the EU level. The new pharmacovigilance legislation provides a legal base for the Agency to charge fees for pharmacovigilance. Hence, only the Union can act to enable the Agency to charge fees for pharmacovigilance. Only pharmacovigilance activities that are performed at EU level and involving the Agency are covered by the proposal for a regulation. As regards pharmacovigilance activities remaining at national level, the EU is not competent and Member States may still continue charging national fees accordingly.

6.2 The Commission considers that the proposal is in line with the proportionality principle as it does not go beyond what is necessary to achieve the general objective pursued, i.e. to introduce fees in order to allow the proper implementation of the pharmacovigilance legislation that is applicable since July 2012.

## 7. General comments

7.1 The EESC recognises the major, positive contribution that medicinal products make to citizens' quality of life and has always supported any initiatives liable to increase safety in the use of medicinal products, which is a fundamental aspect of public health protection.

7.2 The EESC pays tribute to the Commission's efforts, through the amended version of Directive 2001/83/EC and Regulation (EC) No 726/2004, to improve the legal framework for pharmacovigilance and to simplify it in the interests of patients and pharmaceutical manufacturers. In this way the Commission is making a major contribution to the completion and deepening of the internal market in a complex and important area like the medicinal products sector.

7.3 The Committee also acknowledges the important contribution which the EMA makes in this connection, particularly in coordinating the communication of scientifically well-founded and uniform information on the risks of medicinal products to patients in the EU.

7.4 The EESC supports the aim of the Commission proposal to make it possible for the EMA to charge appropriate fees for its pharmacovigilance services.

## 8. Specific comments

8.1 In this context the EESC in principle welcomes the fee arrangements set out in Articles 4 and 5. Both the PSURs mentioned in Article 4 and the post-authorisation studies (PASS) referred to in Article 5 make an extraordinarily important contribution to the early identification of risks and are thus, from the point of view of patients, to be welcomed unreservedly.

8.2 The Committee assumes that the requirements for submission of documentation, both for PSUR and PASS purposes, will be less onerous for medicinal products with a well-known safety profile than for new, innovative medicinal products. Consequently, the checks and processing carried out by the EMA and the rapporteurs involved will presumably also be less onerous than in the case of new, innovative medicinal products. The Committee calls on the Commission to make provision for a further reduction in the fee for medicinal products with a well-known safety profile, to reflect the documentation required under Articles 4 and 5.

8.3 The Committee does not, however, consider the fees for referrals listed in Article 6 of the Commission proposal to be appropriate. The EESC considers, rather, that assessment procedures of this type should be conducted independently of pharmaceutical industry fees and should be guided purely by the interests of patients. The cost should be covered by the EU budget.

8.4 The EESC also welcomes in principle the annual flat-rate fee proposed in Article 7. The Committee assumes, however, that this fee will be levied only when the EMA is able to provide the full pharmacovigilance services to be financed by the fee to the companies liable to pay it. The Committee does not consider the proposed link with a chargeable unit to be appropriate.

8.5 The EESC also welcomes the proposed fee reductions and exemptions for small and micro-enterprises.

8.6 In effect, only a partial service is currently being provided by the EMA in return for the proposed flat-rate fee; charging this at the full rate is therefore not yet justified. The Committee therefore suggests that the flat-rate fee be suspended pending availability of these services. The date on which these services become available could be confirmed by the EMA Management Board, in accordance with the third paragraph of Article 24(2) of Regulation (EC) No 1235/2010. This article states: "The Management Board of the Agency shall on the basis of an independent audit report that takes into account the recommendation of the Pharmacovigilance Risk Assessment Committee confirm and announce when the Eudravigilance database has achieved full functionality."

8.7 With regard to the "chargeable unit", national conditions may, for example, mean that the same authorisation is issued in a country in several languages, involving several entries in the database. Most pharmacovigilance activities are carried out per active ingredient and not "chargeable unit" and should be charged accordingly. The Committee therefore suggests that the chargeable unit should refer to a European procedure number. National authorisations should not be subject to multiple counting.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 End-to-end e-procurement to modernise public administration'**

COM(2013) 453 final

(2014/C 67/19)

Rapporteur: **Mr BARROS VALE**

On 26 June 2013 the Commission decided to consult the European Economic and Social Committee, under Article 314 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 End-to-end e-procurement to modernise public administration*

COM(2013) 453 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 2 October 2013.

At its 493rd plenary session, held on 16-17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 147 votes to 3, with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) already had the opportunity to advocate speedy implementation of "end to end" e-procurement in a previous opinion <sup>(1)</sup> <sup>(2)</sup> and now reiterates its support for making this practice widespread, since it has potential for optimising resources.

1.2 "End-to-end" e-procurement should be viewed as an opportunity to modernise public administration, rendering it more efficient, through the increased discipline and transparency that this practice instils.

1.3 It also provides an opportunity for firms, particularly small to medium-sized enterprises (SMEs), facilitating their access to new possibilities in a more open, transparent market.

1.4 The EESC does, however, feel it must express concern that the poor results to date do not appear to fit in with the initial intention of completing the transition to e-procurement by 2016.

1.5 The low level of Member State involvement is worrying, indicating continued resistance to adopting practices which are known to be beneficial to both public administration and economic operators. Here the Commission will have to keep up its efforts to persuade the relevant parties to use e-procurement at all stages, either by implementing the "end-to-end" e-procurement system in their procedures, or by legislating and spreading good practice in this domain. The EESC therefore welcomes the fact that the Commission has made its e-procurement solutions available to those Member States wishing to use them.

1.6 The public procurement market is segmented: it contains multiple solutions and platforms which in most cases are not designed to be interoperable. The lack of strategic guidelines, and even lack of will on the part of Member States to come together to implement joint solutions for universal access, makes access difficult for national and cross-border economic operators and, as a consequence, hinders free competition. It is up to the Commission to play its role as standardiser, harmonising technical requirements based on work already carried out and supported inter alia under the PEPPOL project (Pan-European Public Procurement Online), which met with widespread support. Harmonisation is a key step towards democratising a market which is intended to be transparent and accessible, in the interests of rigorous deployment of public funds.

1.7 The EESC also calls for the solutions to be accessible to everyone, by overcoming language barriers and ensuring access for disabled people. At the same time, it is important to keep costs low when creating, adjusting and maintaining existing platforms. Standardisation is therefore vitally important.

<sup>(1)</sup> OJ C 11, 15.1.2013, p. 44

<sup>(2)</sup> "End-to-end" e-procurement concerns the use of electronic communications and transaction processing by public sector organisations when buying supplies and services, in all stages of the tendering process, from the pre-award phase (notification, access to tender documents, submission of tenders, assessment of tenders and contract awards) to the post-award phase (ordering, invoicing and payment).



1.8 Access to the public procurement market is still difficult for SMEs which are not big enough and do not have adequate human and financial resources. The EESC reiterates its view that European legislation on public procurement has to help SMEs bring together the necessary capital and experience, amongst other things by setting up consortia or temporary joint ventures <sup>(3)</sup>.

1.9 The proposed directive currently under discussion on e-invoicing in public procurement is one more key step towards completion of "end-to-end" e-procurement. Standardisation of the content of invoices, enabling interoperability, will generate considerable benefits. Nevertheless, the EESC would point out that, despite the benefits that this will entail, the periods of time envisaged for its adoption and full deployment are too long. At a time of constant technological change, standardisation measures are urgent and desirable, otherwise solutions will come too late.

1.10 Commission funding for developing e-procurement infrastructures throughout Europe by means of the Connecting Europe Facility (CEF) is to be welcomed, but a question mark has now been placed over this initiative due to the deep cuts in the funding allocated for it by the Council. The EESC deplores this reduction, which will entail major changes to projects of common interest promoted by the Commission, including support for developing and implementing e-procurement.

1.11 The EESC would underline that, as with any initiative involving change, training for the people involved is of vital importance. The possibility of financing training programmes under the 2014-2020 structural funds is to be lauded. However training in the public sector must not be neglected, since it is essential to develop new technical skills and raise awareness about new "paperless" working methods.

1.12 The EESC would take this opportunity to urge the Council to call on Member States to put into practice the ideas outlined in documents issued by the Commission and consultative bodies on this matter, enhancing the impact of work already done in this domain.

## 2. Summary of the document

2.1 The Communication assesses the state of implementation of "end-to-end e-procurement", setting out progress in measures referred to in the Communication on A strategy for e-procurement <sup>(4)</sup>.

<sup>(3)</sup> OJ C 11, 15.1.2013, p. 44.

<sup>(4)</sup> COM(2012) 179 final.

2.2 Reform of public procurement, digitalisation of public administration, less red tape and increased transparency are all factors in economic growth, the modernisation of public administration being one of the five priorities of the Commission's Annual Growth Surveys in 2012 and 2013. Public expenditure on goods, works and services represents 19 % of the EU's GDP (2011 data). This demonstrates the importance of reforming public procurement in such a way as to allow a reduction in public expenditure, freeing up major resources which can be leveraged to invest in growth-enhancing policies.

2.3 Reform of public procurement and the introduction of an "end-to-end" electronic public procurement model is also an opportunity to innovate the way public administration is organised, introducing greater transparency and discipline and contributing to the sustainable growth objectives set down in the Europe 2020 strategy.

2.4 At present, most SMEs have internet access – only 4,6 % of SMEs did not have access to the internet <sup>(5)</sup> in 2012. Thus, the majority of SMEs are equipped for the use of "end-to-end" e-procurement, which ties in with the generally positive experience in countries where e-procurement is common practice. Nevertheless, particular attention should be paid to promoting low-cost, easy-to-use e-invoicing and e-procurement services.

2.5 Despite widespread use of the internet, e-procurement is still in the fledgling stage; it is the Commission's intention to make its use mandatory by mid-2016. For example, the level of uptake of e-submission remains very low and is estimated at about 10 %. In the majority of Member States, e-submission is voluntary, the exception being Portugal where, above a certain threshold, the procedure is mandatory. E-invoicing is already being used by some countries, above certain thresholds, but it is estimated that only 12 % of firms use electronic means for issuing or receiving invoices in their dealings with public bodies.

2.6 The tack to adopt entails standardising e-procurement, making e-invoicing the rule rather than the exception in public procurement, encouraging Member States to devise national strategies to ensure that e-procurement and e-invoicing are used, and sharing best practice.

## 3. General comments

3.1 The EESC would reiterate that it recognises the importance of revising the legal framework governing public procurement, allowing the process to be dematerialised (made

<sup>(5)</sup> Eurostat data, 2013

"paperless") and gradually making public e-procurement mandatory. Nevertheless, it notes that not enough progress has been made here, as demonstrated by the fact that e-procurement is not used very much.

3.2 Fragmentation of the public e-procurement market has been on the increase, with Member States moving forward independently in this domain, using a variety of solutions and platforms which, for lack of strategic guidelines, were not designed to allow interoperability – an essential condition for facilitating universal access. Although there have been reports at local level of an increase in the number of parties participating in tenders, a positive sign of improved market access, the same cannot be said of participation in cross-border tenders where SMEs have encountered difficulties in accessing the tenders, not only for technical reasons but also for economic ones. Access to cross-border tenders can be possible for SMEs working together with others in a consortium, and this solution can and must be made available and encouraged at national level

3.3 The EESC deems the question of interoperability to be key and calls for firmer steps to be taken in this direction, supporting the standardisation work which has already been carried out and building on experience in those countries where the system is more developed.

3.4 "End-to-end" e-procurement is an important tool for instilling greater discipline and transparency into a sector which, because it concerns us all, has to serve as an example setting standards for steadfast honesty and integrity.

3.5 The process may bring a variety of benefits such as:

- steps to counter tax evasion and avoidance;
- greater market efficiency with a significant reduction in operational and opportunity costs in the various phases of contracts, either for the contracting body or for the contracted body (contractor);
- a positive environmental impact due to the dematerialisation of documents, through both lower paper consumption and the smaller environmental footprint associated with document distribution;
- shorter procurement and payment periods;
- ease in auditing the process;
- integration and development of the internal market;

- expansion of the public procurement market to national and cross-border SMEs, by alleviating difficulties associated with distance to the venue of tenders, facilitating access to national and cross-border tenders;

- smaller margin for error in the completion of forms and fewer cases of exclusion from tenders due to non-compliance resulting from such errors, since tenders are submitted by means of electronic forms which now contain validations;

- platforms being able to send alerts to suppliers about the publication of invitations to tender;

- an opportunity to modernise public administration which, in a knock-on effect, will give rise to other processes being dematerialised, thus reducing red tape;

- reduced costs relating to documents with declarations of contract terms;

- opportunities for companies to provide technological and communications services; and

- the creation of new roles for staff in public administration and companies.

3.6 The potential disadvantages include:

- the high cost of creating and maintaining e-procurement platforms which entail major investment, although this investment will generate benefits which outweigh the costs;

- the potentially considerable costs of adapting software and even hardware, both for public administration and other economic operators, in those countries where investment in these platforms is already quite advanced;

- the security of data logged in these electronic platforms;

- dependence on services rendered by third parties, such as telecommunications operators and procurement platform managers; and

- the fact that increased regulations for acts necessary to the awards process (submission of tenders, supporting documents and completion of forms) may generate an increase in procedural inconsistencies, leading to nullification of award acts or contracts.

#### 4. Specific comments

4.1 The proposed directive on e-invoicing in public procurement, currently under discussion, establishes a European standard for e-invoicing. The proposal is a welcome step on the way to establishing the use of "end-to-end" e-procurement, at a time when issuing and exchanging e-invoices is still in its early stages. Standardisation of information contained in invoices will facilitate cross-border interoperability. However, the EESC maintains that the time periods envisaged are too long and do not serve the goal of encouraging the rapid spread of the use of e-invoicing in public procurement, a practice which will have a knock-on effect on other markets.

4.2 The proposal is also not ambitious enough, in that it does no more than stipulate that public bodies may not refuse to accept documents drafted in line with the European standard.

4.3 Investment in infrastructure in Member States has been considerable. It is therefore desirable that standardisation be concluded quickly so as to capitalise on investment already made and avoid repeating investment which turns out not to meet the new standard.

4.4 The European Committee for Standardisation (CEN) will be commissioned by the Commission to carry out standardisation work. The EESC maintains that this work should take advantage of both progress already achieved by the CEN BII, which has produced "standard interoperable profiles", and experience with the PEPPOL project, which has defined points of interoperability necessary for linking up existing platforms in the Member States.

4.5 Against the current backdrop of scarce financial resources, the EESC welcomes the Commission plan for financing and supporting the development of infrastructure for "end-to-end" e-procurement through the Connecting Europe Facility (CEF)<sup>(6)</sup>. Nevertheless, given the amounts known to be available, now slashed from EUR 9.2 billion to a mere EUR 1 billion, the EESC would recommend that investment in developing e-procurement mechanisms not be neglected when these meagre resources are being shared out.

4.6 Since the success of establishing "end-to-end" public e-procurement is not just the responsibility of the Commission, Member States should be reminded of the role they have to play in making this practice a reality. The Commission will not only have to serve as an example, making public procurement

procedures electronic. It will also have to work towards providing Member States with support on the path they have to take, functioning as a standardising authority, spreading good practice and supporting the definition of national strategies leading to implementation of a public procurement system which has no obstacles to participation of any type: a system where there is interoperability and universal access. Another important aspect of the Commission's role is to make the solutions which have been developed available as open source.

4.7 The Commission has announced the launch of a study aimed at pinpointing the most successful strategies in public e-procurement and e-invoicing in Europe, so as to help Member States assess their own policies. Spreading good practice is both important and desirable. Various studies have already been carried out and their results published, such as the recommendations of the e-TEG (E-Tendering Expert Group), the Golden Book of e-procurement (which, despite being independent of one another, arrived at similar conclusions), and even the final report of the PEPPOL project. The circumstances in each country are unique, so countries should be given help in defining strategies, although not necessarily by publishing yet another study, which seems to be counter-productive and unnecessary.

4.8 The EESC welcomes the Commission's commitment to promoting the development and use of e-certificates, using the Virtual Company Dossier (VCD) tool developed under the PEPPOL project, which allows economic operators to submit the documentation necessary for any contracting body in Europe which is able to interpret and accept them.

4.9 Also to be supported is the intention to monitor, at national level, expenditure incurred with public procurement, as well as the associated performance indicators. One example is the Portuguese portal "Base"<sup>(7)</sup> which already allows expenditure on public procurement to be monitored and various statistics obtained.

4.10 The EESC welcomes the possibility of funding being made available under the structural funds for the 2014-2020 period for setting up training programmes for companies; the focus here should be on SMEs. Nevertheless, training for public sector bodies should not be overlooked either; training programmes will have to be developed which encourage efficient use of new, paperless methods which entail fewer costs. Also important is the possibility of financing infrastructure, which will have to be aimed not only at public administration but also at economic operators.

<sup>(6)</sup> OJ C 143, 22.5.2012, p. 116-119.

<sup>(7)</sup> [www.base.gov.pt](http://www.base.gov.pt).

4.11 As already mentioned, the matter of interoperability and universal access is of major importance for the EESC, which welcomes the Commission's publication of the fundamental principles with which public e-procurement systems must comply. Over and above the concern with ease of access for cross-border suppliers and SMEs, the EESC stresses that language barriers should be borne in mind, as should difficulties encountered by disabled people, in line with the rules on non-discrimination on grounds of disability enshrined in Article 21 of the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of Persons with Disabilities, as ratified by the European Union.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 the harmonisation of the laws of the Member States relating to making available on the market of pressure equipment'**

COM(2013) 471 final — 2013/0221 (COD)

(2014/C 67/20)

Rapporteur working without a study group: **Mr PEZZINI**

On 4 July 2013 the European Parliament, and on 16 July 2013 the Council, decided to consult the European Economic and Social Committee, under Articles 114 and 304 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 the harmonisation of the laws of the Member States relating to making available on the market of pressure equipment (recast)*

COM(2013) 471 final — 2013/0221 (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 2 October.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 142 votes to 2 with 2 abstentions.

## **1. Conclusions and recommendations**

1.1 The European Economic and Social Committee welcomes the work done by the Commission to bring European legislation on pressure equipment into line with international developments and the new internal regulatory framework, in order to improve market effectiveness and efficiency and simplify procedures, by laying down the essential safety requirements with which pressure equipment must comply in order to be placed on the internal market.

1.2 The Committee agrees with the legislative option of recasting, that is "the adoption of a new legal act which incorporates in a single text both the substantive changes it makes to the previous act and the provisions of that act which remain unchanged", in order to bring Directive 97/23/EC (PED) into line with the new regulatory framework.

1.3 The Committee once again reiterates the importance of ensuring due regard for the principle of the free movement of safe and compliant goods, so that products lawfully marketed in one Member State can be marketed without hindrance throughout the EU, guaranteeing the full traceability of products and market surveillance that is uniform, effective and efficient.

1.4 In the Committee's view, all of the obligations and procedures pertaining to the new PED must be applied, while respecting the principle of proportionality in the procedures and certification costs, especially for smaller companies and for non-standard or limited-series products.

1.5 The Committee also considers it important to have more efficient and universal market surveillance and greater

equivalence between the levels of competence of notified bodies for conformity assessment, which must meet stringent mandatory criteria and receive training support.

1.6 Implementation of the new PED should be monitored, and a report should be submitted every two years by independent experts, to the Council, the Parliament and the Committee.

1.7 The Committee considers that more weight should be attached to the indicators collected by RAPEX, which make it possible to monitor the reduction in the number of non-compliant products on the market and improvements in the quality of conformity assessment services provided by notified bodies.

1.8 The powers to implement the new directive conferred on the Commission must have a clear and transparent scope and must, above all, meet the requirements to inform and, where appropriate, consult the Parliament, the Council and the Member States.

## **2. Main issues surrounding the marketing of pressure equipment**

### *2.1 Legislative harmonisation and pressure equipment*

2.1.1 Intra-Community trade in consumer products accounted for around EUR one trillion between 2008 and 2010, and the value of the EU harmonised sectors, for both consumer products and professional use, has been estimated to total more than EUR 2.1 trillion.



2.1.2 The free movement of safe and compliant products is one of the cornerstones of the Union and market surveillance is an essential tool for protecting consumers and users against the placing on the market of dangerous and non-compliant products.

2.1.3 The introduction of Directive 97/23/EC on pressure equipment – the PE directive – has proven extremely important:

— to the operation of the internal market in the sector, in terms of both effectiveness and efficiency,

— to remove a number of trade barriers,

— and to ensure high levels of product safety.

2.1.4 The Committee has welcomed the alignment of the legislative framework with the new regulations on arrangements for the marketing of goods on the internal market <sup>(1)</sup>, endorsing Regulation (EC) No 765/2008 <sup>(2)</sup> on accreditation and market surveillance – known as the **NLF Regulation** – and Decision No 768/2008/EC on a common framework for the marketing of products – known as the NLF Decision, as indicated in the Goods Package on which the Committee has issued a favourable opinion <sup>(3)</sup>.

2.1.5 The Commission also plans to bring Directive 97/23/EC into line with Regulation (EC) No 1272/2008 of 16 December 2008 – known as the **CLP Regulation** – on the classification, labelling and packaging of substances and mixtures <sup>(4)</sup>, according to the new classification provided therein, to take account of the hazards arising from the pressure associated with dangerous fluids.

## 2.2 Alignment with the new regulatory framework and legal consistency

2.2.1 The problem of non-compliance with the PED's requirements is broadly perceived by all economic operators in the sector to be detrimental to the competitiveness of businesses that follow the rules.

2.2.2 This is unfair competition, largely caused by the shortcomings and ineffectiveness of market surveillance mechanisms,

including inefficient traceability of products from third countries, the lack of competence of notified bodies <sup>(5)</sup>, and the non-direct implementation of the NLF Decision.

2.2.3 The impact assessments also found that economic operators find it difficult to deal with a regulatory environment that has become ever more complex.

2.2.4 Increasingly, a number of regulations apply to the same product, as demonstrated by the CLP Regulation on classification, labelling and packaging of substances and mixtures, which introduces new classes and categories of hazards, corresponding only partially to those currently used and which will become operational in the industry as of 1 June 2015.

2.2.5 The Committee, in its opinion <sup>(6)</sup> concerning the regulation and the NLF Decision, had already pointed out that "reinforcement and updating of the requirements for the marketing of safe, high-quality products are key factors for consumers, businesses and European citizens".

2.2.6 The EESC therefore supports bringing the PE Directive into line with the NLF Decision, to ensure the highest legal clarity by means of the legislative technique of recasting, through "the adoption of a new legal act which incorporates in a single text both the substantive amendments which it makes to an earlier act and the unchanged provisions of that act. The new legal act replaces and repeals the earlier act" <sup>(7)</sup>.

2.2.7 Similarly, the Committee welcomes the alignment of Directive 97/23/EC with the CLP Regulation, to ensure legal consistency in the classification of pressure equipment based on the fluid it contains, with effect from 1 June 2015, when Directive 67/548/EEC will be repealed. This alignment within the EU implements the Globally Harmonised System of Classification and Labelling of Chemicals, which has been adopted at the international level under the auspices of the United Nations (UN).

## 2.3 The obligations of economic operators and traceability requirements

2.3.1 Of particular relevance to the Committee are the requirements for product traceability and the obligations of economic operators, in particular:

— the obligation for importers, authorised representatives and distributors to check that products bear the CE mark and are accompanied by the required documents and information on traceability,

<sup>(1)</sup> OJ C 120, 16.5.2008, p. 1.

<sup>(2)</sup> OJ L 218, 13.8.2008, p. 30; OJ C 120, 16.5.2008, p. 1.

<sup>(3)</sup> OJ C 181, 21.6.2012, p. 105.

<sup>(4)</sup> OJ L 353, 31.12.2008, p. 1.

<sup>(5)</sup> Notified bodies are the bodies (notified by the Member States to the Commission) responsible for assessing conformity that test, examine and certify products.

<sup>(6)</sup> OJ C 120, 16.5.2008, p. 1.

<sup>(7)</sup> OJ C 181, 21.6.2012, p. 105.

- the obligation for manufacturers to provide instructions and safety information in a language that can be easily understood by consumers and end-users,
- traceability throughout the supply chain, covering manufacturers, authorised representatives and importers, and
- for all economic operators, the obligation to inform the authorities of who has purchased the product and who has supplied it.

2.3.2 Such guarantees of traceability for any pressure equipment placed on the market should be fully implemented, in line with the principle of proportionality with regard to procedures and certification costs, especially for smaller companies and for non-standard or limited series.

2.3.3 It is equally important for there to be more efficient market surveillance and a greater equivalence between the levels of competence of notified conformity assessment bodies, with appropriate mandatory requirements for all, in order to ensure the utmost impartiality and effectiveness throughout the EU and fair competition among all manufacturers.

2.3.4 Indicators to monitor the reduction in the number of non-compliant products on the market and improvements in the quality of assessment services should be based on information obtained through the RAPEX system and the notification procedures for the safeguard clause, established in accordance with the directive, and on the NANDO <sup>(8)</sup> database.

2.3.5 The Committee believes that, if the implementing powers of the new recast directive are conferred on the Commission in accordance with Regulation (EU) No 182/2011

of 16 February 2011, this must be done with due regard for the guarantees of information for the Council and Parliament and, where appropriate, for the Member State concerned.

### 3. General comments

3.1 The Committee welcomes the recasting of the 1997 PED and values the work done by the Commission to bring European legislation on pressure equipment into line with international developments and the new internal regulatory framework.

3.2 The Committee reiterates the importance of ensuring due regard for the principle of the free movement of safe and compliant goods, so that products lawfully marketed in one Member State can be marketed without hindrance throughout the EU by guaranteeing full product traceability, in conjunction with market surveillance that is applied in a uniform, effective and efficient manner.

3.3 Greater account should be taken of the principle of proportionality in procedures and certification costs, especially for smaller companies and for non-standard or limited series products: the EESC considers that a revision of the legislation, such as that proposed, would need a specific impact statement for SMEs, in addition to the impact assessments and consultations that are carried out.

3.4 More efficient and widespread market surveillance and greater equivalence between the levels of competence of notified conformity assessment bodies should be achieved not only through sanction mechanisms, but also – and above all – through support for targeted European training measures.

3.5 The new revised legislation should be subject to regular checks and reports to the Community institutions, corroborated by RAPEX indicators on compliance infringements and the general safety of pressure equipment placed on the market.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(8)</sup> See: <http://ec.europa.eu/enterprise/newapproach/nando/>.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council adapting to Article 290 of the Treaty on the Functioning of the European Union a number of legal acts providing for the use of the regulatory procedure with scrutiny’**

COM(2013) 451 final — 2013/0218 (COD)

**and the ‘Proposal for a Regulation of the European Parliament and of the Council adapting to Article 290 of the Treaty on the Functioning of the European Union a number of legal acts in the area of Justice providing for the use of the regulatory procedure with scrutiny’**

COM(2013) 452 final — 2013/0220 (COD)

(2014/C 67/21)

Rapporteur-general: **Mr PEGADO LIZ**

On 16 September 2013 the Council of the European Union and on 4 July 2013 the European Parliament decided to consult the European Economic and Social Committee, under Articles 33, 43(2), 53(1), 62, 64(2), 91, 100(2), 114, 153(2)(b), 168(4)(b), 172, 192(1), 207 and 338(1) 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 adapting to Article 290 of the Treaty on the Functioning of the European Union a number of legal acts providing for the use of the regulatory procedure with scrutiny*

COM(2013) 451 final — 2013/0218 (COD).

On 4 July 2013 the European Parliament decided to consult the European Economic and Social Committee, under Article 81(2) 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 adapting to Article 290 of the Treaty on the Functioning of the European Union a number of legal acts in the area of Justice providing for the use of the regulatory procedure with scrutiny*

COM(2013) 452 final — 2013/0220 (COD).

In view of the urgency of the matter, the European Economic and Social Committee, at its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), appointed Mr Pegado Liz as rapporteur-general and adopted the following opinion by 110 votes with 6 abstentions.

## 1. Conclusions and recommendations

1.1 The aim of the two proposals for regulations, COM(2013) 451 final and COM(2013) 452 final of 27 June 2013, which have been referred to the European Economic and Social Committee (EESC) for an opinion, is to align *en bloc* 165 legislative instruments which were initially subject to the regulatory procedure with scrutiny (hereafter referred to as the RPS) to the new delegated act regime.

1.2 This step has been requested by the European Parliament, with the support of the Council, for the purpose of aligning the former "comitology" practices with the delegation procedure laid down in Article 290 TFEU.

1.3 The Committee supports the Commission initiative, which is necessary in order to protect the sources of law in

the European Union as well as making for simpler and more efficient procedures.

1.4 The Committee notes that its detailed report on the delegation procedure was recently adopted and recommends that it be taken into account as it will make the present opinion more readily comprehensible.

1.5 The collective alignment of 165 legal instruments (regulations, directives and decisions) from 12 different areas does in fact raise a number of legal and practical issues.

1.6 Some aspects of the delegation procedure are still far from clear. For example, the concept of "non-essential elements" has yet to be defined. A precise evaluation of how the mechanism actually works in practice also needs to be carried out.

1.7 Some proposals for regulations contain options which misinterpret the framework established by the basic legislative acts, going so far as to allow for delegation to be exercised for a period of unspecified length or setting very short deadlines for scrutiny by the Parliament and the Council.

1.8 As stated in its general and specific comments, the Committee would advise the Commission to tailor this collective alignment more closely to the individual contents of some of the basic legislative acts.

1.9 The Committee would also urge the Council and the Parliament to exercise maximum vigilance and to conduct a detailed evaluation of all the acts included in this alignment.

## 2. Introduction

2.1 The Treaty of Lisbon, which entered into force on 1 December 2009, makes a distinction between the power conferred on the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act under Article 290 TFEU (delegation procedure), and the power to adopt implementing acts under Article 291 TFEU (implementing procedure).

2.2 These two powers are subject to entirely separate legal frameworks.

2.2.1 The use of the power of delegation is set out in non-mandatory instruments:

- the Communication from the Commission to the European Parliament and the Council on the implementation of Article 290 of the Treaty on the Functioning of the European Union <sup>(1)</sup>;
- the Common Understanding on Delegated Acts concluded between the Parliament, the Council and the Commission;
- Articles 87a and 88 of the European Parliament Regulation, as amended by the Decision of 10 May 2012 <sup>(2)</sup>.

2.2.1.1 The Committee recently adopted a detailed information report on the delegation procedure and warmly recommends that it be read so as to make the present opinion <sup>(3)</sup> easier to understand.

<sup>(1)</sup> COM(2009) 673 final of 9.12.2009.

<sup>(2)</sup> Doc. A7-0072/2012.

<sup>(3)</sup> Information Report on Better Regulation: Implementing acts and delegated acts <http://www.eesc.europa.eu/?i=portal.en.int-opinions&itemCode=24245>.

2.2.2 The use of the implementing powers provided for under Article 291 of the TFEU, on the other hand, is regulated by legally binding instruments:

- Regulation 182/2011 <sup>(4)</sup> (hereafter referred to as the Comitology Regulation), which provides for two procedures: the advisory procedure and the examination procedure;
- Decision 1999/468/CE <sup>(5)</sup> (hereafter referred to as the Comitology Decision), amended in 2006 in order to strengthen the Parliament and the Council's powers of scrutiny, which provides for the regulatory procedure with scrutiny (RPS).

2.2.3 The RPS has been used to adopt implementing measures which amend non-essential elements of basic legislative acts. The wording in Article 5 of the Comitology Decision <sup>(6)</sup> is very similar to the definition of delegated acts. A delegated act as defined by Article 290 TFEU is, in fact, a quasi-legislative act adopted by the Commission in order to supplement or amend certain "non-essential elements of the legislative act".

2.2.4 It is because of this similarity that between 2009 and 2014 Article 5a of the Comitology Decision and the RPS will provisionally remain in force, the Commission's intention being to use this limited period to adapt existing provisions requiring the RPS to the delegated acts regime.

2.2.5 In response to a request by the European Parliament <sup>(7)</sup> and with the support of the Council <sup>(8)</sup>, the Commission has therefore undertaken an alignment exercise involving a number of regulations, directives and decisions.

The aim of these proposals for omnibus regulations, which have been referred to the Committee for an opinion, is to introduce this alignment *en bloc*.

## 3. Commission proposals

3.1 The Commission has published two proposals for regulations:

- the first, COM(2013) 451 final, concerns "a number of legal acts";
- the other, COM(2013) 452 final, refers to "a number of legal acts in the area of Justice".

<sup>(4)</sup> OJ L 55 of 28.2.2011, p. 13.

<sup>(5)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(6)</sup> Introduced by the Council Decision of 17 July 2006, (OJ L 200 of 22.7.2006, p. 11).

<sup>(7)</sup> EP Resolution of 5 May 2010 (P7-TA (2010) 0127) point 18.

<sup>(8)</sup> Statements by the Commission OJ L 55 of 28.2.2011 p. 19.

A third package of proposals is still being drawn up and is expected to be published in the near future.

3.2 The aim of the proposal concerning "a number of legal acts" is to transfer collectively 160 legislative acts (regulations, directives and decisions) from the RPS to the delegation procedure; these cover 11 different areas:

- communications networks, content and technology;
- employment, social affairs and inclusion;
- climate action;
- energy;
- enterprise and industry;
- environment;
- statistics;
- internal market and services;
- mobility and transport;
- health and consumers;
- taxation and customs union.

3.2.1 It comprises an explanatory memorandum, the proposal for a regulation and a simple annex listing the acts included in the transfer from the RPS to the delegation procedure.

3.3 The proposal covering "a number of legal acts in the area of Justice" is set out in a separate text because the legal base of these acts is contained in Part Three, Title V of the TFEU and they do not apply to all the Member States. Under Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TFEU, this Member State will not be subject to the proposed regulation.

3.3.1 The proposal for a regulation adapting a number of legal acts in the area of Justice to Article 290 TFEU concerns five regulations on:

- the taking of evidence in civil or commercial matters;
- the European Enforcement Order for uncontested claims;
- the European order for payment procedure;

— the European Small Claims Procedure;

— the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

#### 4. General comments

4.1 The Commission is proposing omnibus regulations, aligning several regulations, directives and decisions *en bloc*, instead of adopting a separate proposal for a regulation for each of the instruments concerned.

4.1.1 The Commission previously used this method in 2006 to introduce the regulatory procedure with scrutiny (RPS). It used a communication to urgently adapt 25 regulations and directives, including Directive 2005/1/EC of 9 March 2005 establishing a new organisational structure for financial services committees<sup>(9)</sup>. There was also the 2007 Commission communication adapting another series of acts listed in four annexes to the RPS<sup>(10)</sup>. The EESC made comments and recommendations at that time<sup>(11)</sup>.

4.1.2 The Commission has never yet carried out an alignment on such a scale as this.

4.1.3 The Committee notes that the proposals for regulations delineate the scale of the Commission's powers, as they lay down the scope and time available to the Council and the Parliament for raising objections.

4.1.4 This choice is understandable from the point of view of simplification and procedural rapidity, but it raises many questions.

##### a) Indeterminate period

4.2 Article 2 of the two proposals for regulations provides that the power to adopt delegated acts in the context of this exercise is "conferred (...) for an indeterminate period of time".

4.2.1 The Committee points out that, in accordance with Article 290 TFEU, the duration of the delegation of power must be explicitly defined in the basic legislative act, and that until now, with very few exceptions, delegations have in principle always been granted for a specific period, renewable where necessary, with a requirement for a report on the implementation of the delegation.

<sup>(9)</sup> COM(2006) 900 to 926 final.

<sup>(10)</sup> COM(2007) 740 final, COM(2007) 741 final, COM(2007) 824 final, COM(2007) 822 final and COM(2008) 71 final.

<sup>(11)</sup> OJ C 161, 13.7.2007, p. 45 and OJ C 224, 30.8.2008, p. 35.



4.2.2 It notes that the Commission's preference for delegations of indeterminate duration<sup>(12)</sup> is not shared by the Parliament<sup>(13)</sup>. Moreover, the proposal for an omnibus regulation dispenses with the obligation to submit regular reports on the application of the measures provided for in the basic acts<sup>(14)</sup>.

4.2.3 The EESC therefore asks whether the "alignment" regulations proposed by the Commission can go so far as to provide that the delegation will continue for an indeterminate period in all cases, whatever the area concerned.

#### b) Supervision by the EP and the Council

4.3 Moreover, as the Committee stated in its information report on delegated acts, the delegation of powers is subject to supervision by the Council and the Parliament, which may revoke the delegation at any moment, object to a delegated act adopted by the Commission, in principle within two months of the date on which the Council and the Parliament are notified of the delegated act, or inform the Commission within the same period of two months of their intention not to raise any objections. This basic two-month time limit may be extended at the request of the Parliament or Council.

4.3.1 Article 5a(3) to (6) of the Comitology Decision provided for a complex system of different deadlines, ranging from two to four months, depending on 1) whether the measures planned by the Commission were in accordance with the opinion of the Scrutiny Committee and 2) on the institution (Council or Parliament) conducting the scrutiny.

By way of derogation from the "normal" arrangements, Article 5a(5)(b) provided that these time limits could be curtailed in "duly substantiated exceptional cases" and "on the grounds of efficiency", without, however, setting any precise deadline.

Paragraph 6 also made provision for a special one-month deadline, which had to be provided for in the basic instrument, in specific instances where the normal system could not be applied "on imperative grounds of urgency".

4.3.2 Article 2(6) of the proposal for a Regulation adapting a number of legal acts to Article 290 TFEU refers to the possibility of derogation but merely provides that in duly justified exceptional cases the normal time limit within which the Council and Parliament may oppose the delegated act may be reduced to one month<sup>(15)</sup>.

<sup>(12)</sup> COM(2009) 673 final of 9.12.2009, point 3.2.

<sup>(13)</sup> *Common Understanding* point IV.

<sup>(14)</sup> Three years, for example, in Directive 2006/21/EC of 15 March 2006 on the management of waste from extractive industries.

<sup>(15)</sup> However, the proposal for a Regulation adapting a number of legal acts in the area of justice to Article 290 TFEU does not provide for this possibility.

4.3.3 The new system proposed seems to restrict the room for manoeuvre available to the Council and the Parliament in exercising their powers of scrutiny.

4.3.4 The Committee asks in particular how it will be possible for the Council and the Parliament to exercise their powers of scrutiny over 165 delegated acts effectively in such a brief period.

#### c) Non-essential elements

4.4 The Committee points out, as it stated in its information report, that the delegation procedure concerns the adoption of delegated acts relating to non-essential elements provided for in legislative acts adopted jointly by the Council and the Parliament.

4.4.1 The Commission's proposals for regulations concern twelve different areas.

4.4.2 The exact legal nature of the delegated acts being rather vague and the areas concerned by these proposals for regulations being both extensive and sensitive, it is possible, as demonstrated below, to question the "non-essential" character of certain measures.

4.4.3 Moreover, the concept of "non-essential measure" has been interpreted by the Court in different ways, depending on the area in question. Thus, on 5 September 2012, the Grand Chamber of the Court of Justice of the European Union recognised that the question of individuals' fundamental rights was the prerogative of the legislator and could never therefore be covered by a delegation to the Commission<sup>(16)</sup>.

4.4.4 Moreover, the Court of Justice of the EU has not yet had the opportunity to rule on the implementation of the Commission's delegated competence as such. An action has just been brought before the Court by the Commission, for the first time, in a case concerning biocidal products, for the annulment of Article 80(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012<sup>(17)</sup>.

<sup>(16)</sup> Case C-355/10, *European Parliament v Council of the European Union*, on the surveillance of the Union's external maritime borders and on the powers of border guards to disembark immigrants in the third country from which the boarded ship had originated.

<sup>(17)</sup> Case C-427/12 *Commission v European Parliament and Council of the European Union*. Case concerning the making available on the market and use of biocidal products, in so far as the article provides for the use of an implementing act under Article 291 TFEU for the determination of the fees payable to the European Chemicals Agency, rather than a delegated act under Article 290 TFEU. According to the Commission, the act it is required to adopt under Article 80(1) of Regulation (EU) No 528/2012 should be understood as a delegated act within the meaning of Article 290 TFEU, insofar as it aims to supplement certain non-essential elements of the legislative act.

The action was brought before the Court on 19 September 2012, and the Court is expected to deliver its judgment in late 2013/early 2014 at the earliest, having heard the conclusions of the Advocate-General.

## 5. Specific comments

5.1 In most of the proposals examined in this opinion, the Commission has adapted the RPS in an appropriate and reasonable way to the system of delegated acts provided for in Article 290 TFEU. A number of situations still give rise to specific doubts and difficulties, however.

### a) *Lack of clarity with regard to the arrangements*

5.2 Most of the legal instruments concerned contain an explicit reference to Article 5a of the Council Decision of 17 July 2006 <sup>(18)</sup>, known as the Comitology Decision, which introduced the RPS and asserted the need to use this procedure for the adoption of measures of general scope designed to amend non-essential elements of a basic instrument. However, this change in the system made by the Decision of 28 June 1999 only entered into force on 24 July 2006.

5.2.1 Thus, none of the legal instruments subject to the "alignment" exercise before that date makes it clear which measures are subject to the RPS. In fact, it was only with the decision of July 2006 that a new paragraph 2 was added to Article 2 of the decision of June 1999. This for the first time made provision for the adoption of measures of general scope designed to amend non-essential elements of a basic instrument.

5.2.2 All these legislative acts thus only contain wording <sup>(19)</sup> such as "the measures necessary for the implementation of this directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999", "the Commission shall be assisted by a Committee" and "Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof".

5.2.3 The Committee points out that the adaptation of the RPS to the delegation system would mean doing away with referrals for committee opinions required under the RPS. They are, however, retained for the implementing measures provided for in Article 291 TFEU.

5.2.4 This effectively removes one stage at which the "non-essential" nature of "certain elements" of the basic legislative act is checked.

5.2.5 Acts pre-dating the Comitology Decision appear in the list appended to the Commission's proposal for a regulation.

However, they were published before the comitology procedure had been systematised, and references to measures were therefore extremely vague, e.g. "adaptation to technical progress" (Directive of 20 May 1975 on aerosol dispensers) <sup>(20)</sup>.

### b) *Identification of the scope of application*

5.3 The identification of the scope of the application of Article 5a to the "non-essential elements" of certain basic legislative acts sometimes leaves room for improvement. For example, the general wording: "The measures (...) designed to amend non-essential elements of this Regulation" in Regulation (EC) No 661/2009 on the general safety of motor vehicles is unsatisfactory without further amplification.

5.3.1 Sometimes Article 5a is applied to elements, the non-essential nature of which is doubtful. This is the case, for example, of:

- Regulation (EC) No 715/2009 on conditions for access to the natural gas transmission networks (Article 23);
- Regulation (EC) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity;
- Articles 23(1) and (4) and 40(3) of Directive 2006/123 of 12 December 2006 on services in the internal market, regarding the appropriateness of professional liability insurance to the nature and extent of the risk;
- Articles 12, 34(1) and 35(2) of Regulation (EC) No 1371/2007 of 23 October 2007 on rail passengers' rights and obligations.

### c) *Areas linked to fundamental rights*

5.4 Measures which are apparently "non-essential", such as the adaptation of annexes to directives, may nonetheless give rise to doubts regarding the impact on the protection of certain fundamental rights.

5.4.1 The following examples could be cited:

- the annexes to Regulation (EC) No 1338/2008 of 16 December 2008 on Community statistics on public health and health and safety at work (Articles 9 and 10(2));

<sup>(18)</sup> OJ L 200, 22.7.2006, p. 11.

<sup>(19)</sup> See for example Directive 2006/25/EC, Directive 89/391/EEC and Directive 2003/10/EC.

<sup>(20)</sup> A correct way of referring to technical and scientific progress can be found in Regulation (EC) No 1272/2008 of 16 December 2008 on labelling and packaging, or in Directive 2008/56/EC of 17 June 2008 on marine environmental policy.

- the subjects to be covered by the population and housing censuses (Regulation (EC) No 763/2008 of 9 July 2008);
- the annexes to Directive 2006/126/EC of 20 December 2006 on driving licences;
- the derogations to the annexes to Regulation (EC) No 1831/2003 of 12 January 2003 laying down requirements for feed hygiene (Article 28 and 31(2));
- the annexes to Regulation (EC) No 853/2004 of 29 April 2004 on the hygiene of foodstuffs (Articles 13(2) and 14);
- the amendment of the annexes which contain wording concerning the exercise of certain rights, such as for example the European Enforcement Order for uncontested claims (Regulation (EC) No 805/2004 of 21 April 2004), the European order for payment procedure (Regulation (EC) No 1896/2006 of 12 December 2006), the European

Small Claims Procedure (Regulation (EC) No 861/2007 of 11 July 2007) and the service of judicial and extrajudicial documents (Regulation (EC) No 1393/2007 of 13 November 2007).

5.4.2 There are also more sensitive cases, such as those where a fundamental part of the rules on a given subject will be laid down via delegated acts, such as:

- the procedure for complaints in connection with "protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community" provided for in Regulation (EC) No 868/2004 of 21 April 2004;
- or the definition of the constituent elements of the APR for consumer credit (Directive 2008/48/EC of 23 April 2008, Articles 19(5) and 25(2)).

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Council Recommendation on effective Roma integration measures in the Member States'**

COM(2013) 460 final — 2013/0229 (NLE)

(2014/C 67/22)

Rapporteur: **Mr TOPOLÁNSZKY**

On 26 June 2013 the European Commission decided to consult the European Economic and Social Committee, under Articles 19(1) and 22 of the Treaty on the Functioning of the European Union, on the

*Recommendation on effective Roma integration measures in the Member States*

COM(2013) 460 final — 2013/0229 (NLE).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 17 October), the Committee adopted the following opinion by 135 votes to 4, with 6 abstentions.

**1. Conclusions and recommendations**

1.1 The Committee welcomes the European Commission's proposal for a recommendation, recognising – while considering most regrettable – the need for the raft of measures it contains, which can also be seen as a sort of minimum implementation programme.

1.2 The Committee also regrets that, as pointed out in the recommendation's explanatory memorandum, achievement of the objectives of the framework strategy is constantly running up against serious difficulties in terms of implementation and political commitment at national, regional and local level.

1.3 The Committee draws attention to the shortcomings highlighted in the analysis documents drawn up by civil society organisations on the framework strategy and the national strategies. Going on the information provided by the interested parties, it is vital to take these shortcomings seriously and remedy them, by devising and implementing effective and substantial public-policy responses within a short timeframe.

1.4 The Committee considers that the part of the proposal regarding horizontal policy measures is poorly framed, and urges the Council to develop it further, and to establish much more specific requirements regarding the four fields indicated, while aiding their implementation by outlining the best practices expected.

1.5 Given the conclusions reached in the explanatory memorandum of the proposed recommendation<sup>(1)</sup> and given

the deterioration of the socio-economic situation due to the crisis, the Committee considers that the Council should make use of its power to adopt legally binding acts in order to alleviate in particular the distress and great poverty that endangers people's lives and to combat the most extreme effects of discrimination, racism and anti-Roma prejudice.

1.6 The Committee advocates – especially in cases of extreme disadvantage – the establishment of clear frameworks for the implementation of human rights and the long-overdue introduction of benchmarks and indicators to enable this kind of situation to be assessed.

1.7 The Committee recommends that groups of independent researchers equipped with legal instruments and the necessary safeguards in terms of research ethics carry out assessments of the implementation of the strategies and are backed up by assured funding and transparency in the use of funds.

1.8 Legal and other necessary guarantees should be used to strengthen the equality authorities, which are key to anti-discrimination policy, as well as the national contact points, which play a vital role in the implementation of the strategies, and the collaboration between these various bodies and the sections of society concerned.

1.9 In order to increase the effectiveness of strategy implementation and remedy the loss of trust observed within these communities, it is vital to properly involve and mobilise the Roma in all of the areas of action. The Committee suggests and expects a broader conceptual framework for cooperation, a culture of consensus that goes beyond consultation alone, and puts forward proposals to this end.

<sup>(1)</sup> "... while Member States have had the legal possibility to act to address the issue of Roma integration, the measures planned so far are not sufficient. Due to the lack of a coordinated approach to the issue of Roma integration, there are growing discrepancies among Member States."

1.10 The Committee stresses the need for decision-makers to unambiguously distance themselves from the alarming pronouncements about the Roma that have been tinged with racism and violence and are highly discriminatory. It also emphasises the importance of consistently condemning and openly monitoring outbreaks of violence and hate speech, and putting in place legal, administrative, regulatory and public relations instruments that can effectively tackle such phenomena.

## 2. Background

2.1 On 5 April 2011, the Commission adopted an EU Framework for national Roma integration strategies up to 2020 <sup>(2)</sup>, at last making it possible, after a lengthy wait, to conduct concerted action to reduce the extreme poverty and segregation that also affect Roma people. In June 2011 the Council endorsed <sup>(3)</sup> this document and called on the Member States to adopt national Roma integration strategies by the end of 2011.

2.2 Under the provisions of the framework, the European Commission is to report annually on the state of progress in implementing the strategies. In 2012, for the first time it assessed <sup>(4)</sup> the national strategies presented by the Member States and adopted horizontal conclusions and, in an annex, analysed the strengths and weaknesses of each Member State's strategy <sup>(5)</sup>.

2.3 Roma representative associations followed the process of framing these strategies very closely, conveyed their points of view or reservations in a series of documents, and also assessed the final strategies <sup>(6)</sup>.

2.4 All these analyses have pointed to major shortcomings in Member State strategies. Civil society organisations view the horizontal content and its failings as a major problem. These shortcomings include:

- a) insufficient effective measures to combat discrimination;
- b) a lack of measures to promote "full access";
- c) a lack of measures aimed at recognising and strengthening the human dignity of the Roma and their community;
- d) a lack of measures to reduce disparities and the particularly serious disadvantages noted within the Roma community

(for instance, the lack of measures aimed at easing the specific difficulties experienced by Roma women and children);

- e) a lack of measures to mobilise and encourage the Roma, their communities and civil society organisations with a view to implementing strategies.

2.5 The abovementioned analysis documents drawn up by the Commission do not refer to the fundamental shortcomings identified in the Member States' strategies. They are lacking in condemnation and calls to alleviate or put an end to the myriad and most serious forms of social and societal handicap that sometimes undermine human rights. For example, insufficient emphasis is placed on violations of human rights, such as:

- a) human trafficking, which develops alongside prostitution and the issue of jobs under conditions of "slavery";
- b) Roma women's fundamental right to have control over their own bodies and to have free access to birth control; forced sterilisations, carried out without the consent of those involved, also sometimes occur;
- c) extreme forms of poverty that infringe human rights, lack of provision of basic needs (e.g. lack of access to drinking water or to health care and basic sanitation for people living on the outskirts of towns, camps, etc.);
- d) and lastly, the inadequate nature of anti-racist objectives and measures aimed at ensuring the safety of Roma lives and property, together with their rights, and at stepping up protection against racist attacks.

2.6 The EESC has drawn up two opinions on the framework strategy and national strategies for Roma integration. Its previous opinion <sup>(7)</sup>, which focuses on the issue of the societal empowerment and integration of Roma citizens in Europe, endorses the framework strategy, discusses the need for a three-fold approach regarding its design and future implementation (race/ethnicity-neutral inclusion policy, a policy to support empowerment of those who regard themselves as members of any Roma community and the celebration of social inclusion they have achieved, general policies and publicity to combat racism), and puts forward further proposals.

2.7 In its additional opinion, the EESC <sup>(8)</sup> warns, with reference to a study carried out in 2012, of the loss of trust noted by Roma opinion formers and thus submits proposals concerning in particular their integration and involvement.

<sup>(2)</sup> COM(2011) 173 final.

<sup>(3)</sup> Council Conclusions on an EU framework for national Roma integration strategies up to 2020.

<sup>(4)</sup> COM(2012) 226 final.

<sup>(5)</sup> SWD(2012) 133 final.

<sup>(6)</sup> *Analysis of National Roma Integration Strategies*, ERPC, March 2012.

<sup>(7)</sup> OJ C 248, 25.8.2011, p. 16-21.

<sup>(8)</sup> OJ C 11, 15.1.2013, p. 21.



### 3. General considerations

3.1 The Committee recognises and considers most regrettable the need for the Council recommendation in the light of the situation of the Roma, the impact of the crisis and the widely varying commitments on the part of the Member States; it endorses the recommendation's objectives. However, it considers that the raft of measures it contains, which can also be seen as a sort of minimum implementation programme, is in some cases so unclear and non-operational that it cannot achieve the objectives set out in the document.

3.2 According to the Commission proposal's explanatory memorandum, it seeks to "speed up progress by focusing the attention of the Member States on a number of concrete measures that are crucial for implementing their strategies more effectively". The Committee regrets that this aim suggests, at the same time, that achievement of the objectives of the framework strategy is constantly running up against serious difficulties in terms of implementation and political commitment at national, regional and local level.

3.3 The Committee points out that if this politically favourable moment for Roma integration is not to be missed - which would constitute a real danger to both the Union's objectives and any improvement in the living conditions of those concerned - a list of recommendations backed up by a system for analysing real situations should be adopted with the involvement of relevant Roma and civil society organisations, in conjunction with wide-ranging consultations. The list should be genuinely ambitious and open to monitoring, comprising sufficiently practical and operational elements, as well as being subject to evaluation.

3.4 The Committee considers that the policy recommendations set out in the proposal are helpful, and should receive wide backing as a short-list of measures that must be implemented unconditionally. It notes, however, that the recommendations lay down an overly-restrictive framework for action, and that they are not ambitious enough; it would therefore argue that the list of recommendations need to be fleshed out and augmented with monitoring and follow-up tools.

3.5 The Committee considers that the part of the proposal regarding horizontal policy measures is poorly framed, and urges the Council to further develop the four fields indicated (anti-discrimination, protection of Roma children and women, poverty reduction and social inclusion, and empowerment) and to establish much more specific requirements, at the same time providing some indication of the best practices expected.

3.6 The Committee is not convinced by the reasoning set out in the document, according to which the "choice of a non-binding [legal] instrument aims at providing practical guidelines

to the Member States as regards the problem of Roma social inclusion, but without laying down strict binding rules", because "according to the Commission's findings, strong and proportionate measures are still not in place to tackle the social and economic problems of much of the EU's Roma population". In the current period of crisis, if this is not handled in an appropriate and targeted way, Roma groups who are also particularly affected by segregation, discrimination and extreme poverty will be disproportionately exposed to its effects, although it is already imposing an unbearable burden on them. The Committee thus feels that this situation requires decision-makers to come up with immediate and effective solutions and measures including with regard to the enforceability of rights.

3.7 Given the conclusions reached in the explanatory memorandum of the proposed recommendation<sup>(9)</sup>, the Committee therefore considers that the Council should make use of its power to adopt legally binding acts in order to alleviate in particular the distress and great poverty that endangers people's lives and in order to combat the most extreme effects of discrimination, racism and anti-Roma prejudice. Such measures are needed precisely because of the evident shortcomings, at Member State level, in terms of legislation and case law<sup>(10)</sup>.

### 4. Specific proposals

4.1 The Committee suggests that the competent EU services re-evaluate their functions where these directly concern the application of the fundamental rights of the Roma and of minority rights and do not involve the open method of coordination, particularly where the above-mentioned issues are concerned. The Committee therefore considers it necessary for:

- a) the Union to define precisely the criteria which, under its powers, it uses to determine violations of the second- and third-generation human rights defined by the UN and, at the same time, to clarify in which cases, when it suspects a violation of human rights has occurred, it takes legal action within its powers;
- b) the Union to interpret and adapt these fundamental and minority rights in keeping with circumstances and the social handicaps which may disproportionately affect the Roma;

<sup>(9)</sup> "... while Member States have had the legal possibility to act to address the issue of Roma integration, the measures planned so far are not sufficient. Due to the lack of a coordinated approach to the issue of Roma integration, there are growing discrepancies among Member States."

<sup>(10)</sup> "The objectives of the proposed action cannot be sufficiently achieved by the Member States on their own and may therefore be better achieved through coordinated action at EU level rather than through national initiatives of varying scope, ambition and effectiveness." 2013/0229 (NLE), explanatory memorandum.

- c) the Union to define, together with Eurostat and using an interpretation of EU statistics on incomes and living conditions (EU-SILC framework), income and deprivation indicators which highlight not only the thresholds for extreme poverty but also conditions that undermine human rights and dignity;
- d) wider use to be made of techniques that have so far only been rarely applied in this area. For example, as well as an analysis of the situation of "poor" people whose incomes are 50 or 60 % below the median, the situation of people whose income is 30 % (25 %) lower could also be analysed. Alternatively, in addition to "aggregate" discrimination indices currently applied, "marginal discrimination" measurements could also be used to identify particularly serious instances of exclusion in the form of deprivation, thanks to highly sensitive indicators (such as comfort or overcrowding in housing).

4.2 The Committee proposes giving priority to the preservation of the linguistic and cultural traditions that underpin Roma identity, together with social and budgetary support, following a re-examination of the strategies.

4.3 The Committee considers that in order for the national Roma integration strategies to succeed, Member States must focus particularly on monitoring related policies in terms of legislation and case law and as regards corrections to be made concerning possible anti-discriminatory effects; Member States will need to put effective mechanisms in place to this end.

4.4 With a view to promoting Roma integration and their material independence, the Committee expects in particular the Member States to deliver a response commensurate to what is needed and introduce employment, entrepreneurship and vocational-training programmes. It calls on them to strengthen the legal instruments that are likely to effectively motivate companies to hire Roma. For segregated Roma communities where employment has long been extremely low and discrimination on the labour market very high, innovative forms of employment policy need to be introduced, such as enough suitable temporary public-funded jobs.

#### *Monitoring and evaluating policies*

4.5 The Committee regrets that the European Union Agency for Fundamental Rights and the Member States have not yet been able to establish the indicators and benchmarks which are a prerequisite for evaluating strategies and intervention programmes, or the relevant methodologies and requirements on which proper and independent data collection and reporting depend <sup>(11)</sup>. Current Member State monitoring and evaluation

practices are often limited to reports drawn up without any real evaluation method, sometimes based on data, and it is not unusual for them to produce entirely baseless results.

4.6 The Committee proposes that evaluation tasks should be entrusted to groups of researchers and institutions selected by open calls for tender. They should be professional and free of political links, and their independence should be further upheld by a range of legal instruments (e.g. introduction of a declaration of absence of conflict of interest, transparency rules for finance and use of funds, verification by the scientific community, monitoring of research methods, etc.) <sup>(12)</sup>.

#### *Policy recommendations*

4.7 In addition to the programmable, transparent and appropriate funding of equality authorities, the legal situation of such bodies must also be strengthened in order to minimise the ability of political authorities to influence their operations, at the same time as they ensure the conditions for them to carry out their work. Equality authorities must also maintain permanent and close links with the relevant associations representing the Roma, in addition to the contact points for Roma.

4.8 The National Contact Points for Roma integration must be fully transparent in performing their tasks, in both theory and practice. Their work is crucial to achieving the framework strategy. The rights of the contact points, together with those of the government bodies responsible for planning and implementing social policy for the Roma should be guaranteed in law, so they can function as watchdogs, express their opinions on legislative procedures concerning government policies that also affect the Roma, and influence them to ensure that they do not weaken each others' effects. The Roma contact points have an obligation to inform the associations representing Roma civil society. This could be done, for example, by publishing the annual reports by the independent evaluators, the content of which would be free of any political influence, or by holding specialist conferences.

4.9 The Committee believes that it will be difficult to achieve the objective set out in point 5.1 of the proposal, namely that "the Member States should take the necessary measures to ensure the application of this Recommendation at the latest by [24 months from the publication] and should notify the Commission of any measures taken in accordance with this Recommendation by that date"; to achieve this, it would need to be ensured that the Member States could not be exempted from the obligation to implement the EU framework strategy

<sup>(11)</sup> Point 4.4 of the proposal for a recommendation.

<sup>(12)</sup> Evaluators must make a declaration of absence of conflict of interests, stating that he/she is not a government employee or using public funds, which could jeopardise the independence of the results of the evaluation.

and their own commitments. The content of the proposal as it stands represents only one part of a wider system of requirements defined by the framework strategy in a far-reaching context, which the Commission is required to evaluate annually.

#### *Roma integration and involvement*

4.10 A number of experts and Roma civil society organisations - who partly agree with the European Commission's evaluation in this field - consider that some current Member State policies and aid mechanisms do not allow the issue of Roma integration to be tackled effectively enough, and that they are not always grounded on and guided by a human-rights based approach<sup>(13)</sup>. Unfortunately, in the meantime exclusion of Roma has been seen to be on the rise in several countries. This state of affairs is mainly due to the ongoing discrimination against the Roma and deep-rooted anti-Roma prejudice, to which law-enforcement agencies are failing to devote adequate attention. As pointed out in the explanatory memorandum of the proposed recommendation, "the crux of the problem lies in the close links between discrimination and social exclusion experienced by Roma" <sup>(14)</sup>.

4.11 The Committee believes that countering the mutually-reinforcing negative effects of these mechanisms should be the main objective of all inclusion policies. The main instruments in this regard include Roma integration and encouragement of their involvement, together with empowerment and capacity-building of Roma organisations. This is only possible within an openly accepting culture, where Roma policy effectively centres on areas of real concern to them, and where the Roma are not seen only as beneficiaries, but as equal actors whose involvement is essential. The old paternalist approach under which processes were defined by majority opinion-formers and decision-makers in society must be changed, and the Roma must be recognised and accepted as responsible members of society, able and willing to actively shape their own future.

4.12 The Committee would refer to a previous opinion<sup>(15)</sup> in which, on the basis of a study, it pointed to widespread dissatisfaction, distrust and frustration among many spokespersons for the Roma community, civil society and their representatives. According to the same EESC opinion, despite the declared intentions, "there has been a failure to sufficiently involve the relevant organisations or to develop effective mechanisms ensuring involvement. At the same time, due (in some

cases) to centuries of discrimination and segregation, current processes have failed to inspire sufficient trust among representatives of those concerned". A study carried out by the ERPC during the same period reached the same conclusions<sup>(16)</sup>.

4.13 Turning to changes in social and decision-making approaches, the Committee notes that this process is inconceivable without the involvement of Roma - and civil society organisations working with them - in designing, implementing and evaluating policies at all levels. The Committee considers that indicators must be defined for accurately measuring the degree of Roma integration and involvement (e.g. local or central administration, data on school attendance, rates of involvement in programme implementation, etc.).

4.14 The Committee suggests and expects a broader conceptual framework for cooperation, a culture of consensus that goes beyond consultation alone, the introduction of platforms for permanent dialogue (also at local level), the creation of organisational mechanisms that are suitable for participation, greater transparency in decision-making by public authorities (at local level), and reasons to be given for decisions (also reporting any differences of opinion and giving voting results).

4.15 The Committee proposes that, as indicated previously, a fund be set up (as one aspect of the Europe for Citizens programme, for example) to assist Roma integration and empowerment, as well as capacity-building for their civil society organisations. The ESF operational programme, or more specifically the guarantee for support programmes providing technical assistance, would be equally important in building the institutional capacities of Roma organisations.

4.16 Decision-makers must unambiguously distance themselves from the alarming pronouncements about the Roma that have been tinged with racism and violence and are highly discriminatory. Outbreaks of violence and hate speech must be consistently condemned and openly monitored, and legal, administrative, regulatory and public relations instruments must be put in place that can effectively tackle such phenomena. In this respect, opinion leaders, the political and media elite in particular, have a special responsibility to bear. The Committee proposes carrying out systematic research into prejudices, using a standard methodology, together with the creation of instruments that can, if negative trends are identified, encourage public policies in this field, back their implementation, or help intensify efforts.

<sup>(13)</sup> COM(2012) 226 final, SWD(2012)133 final, Analysis of National Roma Integration Strategies, ERPC, March 2012.

<sup>(14)</sup> The European Roma Policy Coalition (ERPC) recommends that national Roma integration strategies should be based on a core meant to eliminate anti-Gypsyism. Although eliminating the gaps related to income, health and education are important, there will be no progress without making the elimination of anti-Gypsyism a key priority of national Roma integration strategies. Final ERPC recommendation.

<sup>(15)</sup> OJ C 11, 15.1.2013, p. 21.

<sup>(16)</sup> "(...) a large majority of respondents across Member States described the drafting process of the NRIS as lacking transparency. In most of the cases, stakeholders' participation, in particular the involvement of Roma, is still unclear with regard to implementation of the NRIS." Analysis of National Roma Integration Strategies, ERPC, March 2012.

4.17 The Committee would firmly draw Member States' attention to the fact that in order to tackle this segregation and discrimination that goes back generations and weighs on all facets of the lives of those concerned, implementing programmes in the form of projects focusing on one particular problem area is not enough. It is now vital to opt for a systematic approach to achieving the strategic objectives.

Brussels, 17 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on the 'Proposal for a Decision of the European Parliament and of the Council on enhanced cooperation between Public Employment Services'**

COM(2013) 430 final — 2013/0202 (COD)

(2014/C 67/23)

Rapporteur: **Ms DRBALOVÁ**

On 1 July and 8 July 2013 respectively, the European Parliament and 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 decision of the European Parliament and of the Council on enhanced co-operation between Public Employment Services (PES)*

COM(2013) 430 final — 2013/0202 (COD).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 17 October), the European Economic and Social Committee adopted the following opinion by 174 votes to 1 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 The EESC endorses the Commission's proposal to establish a European Network of Public Employment Services (PES), providing a platform for comparing their performance at European level, identifying good practices and fostering mutual learning in order to strengthen service capacity and efficiency. Its prime role should be to advise and coordinate.

1.2 The Committee acknowledges that well-functioning structures, including labour market observatories networks, already exist at regional level, contributing effectively to achieving common EU employment targets set by the Europe 2020 strategy. It recommends to the Commission and the Member States, with due respect for subsidiarity and diversity across the EU, to establish a more coherent relationship between PES and regional observatories.

1.3 In accordance with the Agenda for new skills and jobs, the EESC acknowledges the key role played by PES in implementing the priorities which will reinforce each of the four aspects of flexicurity.

1.4 The EESC calls on the Commission to specify in its document the links between the new European PES network and the Employment Committee (EMCO), and to clearly state the nature and goal of the modernisation concepts prepared by the PES, which should not be compulsory.

1.5 The EESC considers that benchmarking systems for public employment services, based on quantitative and qualitative indicators to assess PES performance, is a useful form of cooperation. The EESC particularly upholds the use of statistical indicators to gauge the performance and efficiency of employment services and active employment policies. Nevertheless, the EESC stresses that the result of this should be to make workers more adaptable and ready for a lasting return to the labour market and ensure their smooth transition into it.

1.6 With regard to the adoption of the general framework and delegated acts, the EESC urges the Commission to define the future terms of these acts in its document. It recommends making the proposal more detailed so that it lists the general framework's key indicators. Delegated acts, for their part, should complement these key indicators in less important areas, in line with Article 290 TFEU.

1.7 The EESC asks the Commission to define the role of each of the partners in the light of Article 4 on cooperation. The proposal should not reduce the social partners' role to that of associate partners, but should give them a stronger voice in PES modernisation. It should also address the role of civil society on the basis of the partnership principle.

1.8 The EESC also recommends that all interested parties participate in creating the conclusions and recommendations of the European PES network.



1.9 The EESC recommends that the Commission call on the Member States, inasmuch as they aim to successfully adapt PES organisational models, strategic goals and procedures to a rapidly developing environment, to implement the technical, human and financial framework. This would boost their capacity and enable them to carry out their new multifunctional role.

1.10 The EESC believes that PES' new competences, particularly in the area of active employment policies, must be reflected in appropriate capacities and financial support. Resources from the EaSI programme<sup>(1)</sup> should be maintained and the funding should be sustainable.

1.11 The EESC welcomes the conclusions and commitments made by all the participants at the youth employment conference held on 3 July 2013 in Berlin.

## 2. Introduction

2.1 The Europe 2020 strategy<sup>(2)</sup> has set the ambitious goal, to be met by all Member States, of raising the employment rate of men and women aged 20 to 64 to 75 % by 2020. Public employment services have a central role to play in achieving this goal.

2.2 The guidelines for the 2020 employment policies<sup>(3)</sup> recognise that PES are key actors and play a pivotal role in achieving recommendations 7 (increasing labour market participation) and 8 (developing a skilled workforce). The conclusions adopted during the meeting of PES heads in Budapest on 23-24 June 2011, under the heading Making the employment guidelines work, establish the contribution to be made by PES to the achievement of the Europe 2020 strategy.

2.3 Employment and labour market policy is still in the hands of the Member States; organising, staffing and running their PES is also a national competence. Nonetheless, the current arrangements for voluntary cooperation between Member States, implemented in 1997 when an informal consultative group<sup>(4)</sup> of PES was set up, have reached their limits and are no longer a match for current needs and challenges. We need a mechanism to swiftly identify poor performance and any related structural problems, as well as systematic information on the results of current benchmarking and knowledge exchange methods.

<sup>(1)</sup> Programme for Employment and Social Innovation (EaSI), integrating and extending the coverage of three existing programmes: Progress, EURES and the European Progress Microfinance Facility.

<sup>(2)</sup> COM(2010) 2020 final.

<sup>(3)</sup> Council decision on guidelines for the employment policies of the Member States, 2010/707/EU, 21 October 2010.

<sup>(4)</sup> Informal consultative group of the European Commission: HoPES (Heads of Public Employment Services).

2.4 In addition, the informal discussions by ministers in the Employment and Social Affairs Council (EPSCO), meeting in Dublin on 7-8 February 2013<sup>(5)</sup>, concluded that the exchange of best practices could be improved through enhanced and more accurately targeted cooperation between PES. The ministers accordingly asked the Commission to prepare a detailed proposal on a bench-learning initiative.

2.5 On 17 June 2013, the European Commission issued a proposal for a decision of the European Parliament and the Council which is in line with the extension of the flagship initiative An Agenda for new skills and jobs<sup>(6)</sup> and the 2012 employment package<sup>(7)</sup> and proposes to formalise cooperation between public employment services and to set up a European PES network.

2.6 This network should be operational for the 2014-2020 period, linked to the Europe 2020 strategy. The network's operation will be assessed and reviewed after four years. It will be funded through the Programme for Employment and Social Innovation (EaSI) and the European Commission will provide the network's secretariat, drawing on its own current human resources.

2.7 The incentive measure delivered by the network should help to:

- implement the Europe 2020 strategy and its key employment goals;
- improve the functioning of EU labour markets;
- improve labour market integration;
- increase geographical and occupational mobility;
- combat social exclusion and integrate people excluded from the labour market.

2.8 During the initial Council discussions in July 2013, a majority of Member States welcomed the Commission proposal and took a positive approach to the objectives set. Reservations were voiced, primarily concerning the two-way links with the work of the Employment Committee and possible overlapping, the excessive number of Commission competences, the terms of the delegated acts and the failure to pin down funding issues.

<sup>(5)</sup> Informal EPSCO meeting in Dublin, 7-8 February 2013.

<sup>(6)</sup> COM(2010) 682 final.

<sup>(7)</sup> COM(2012) 173 final.

### 3. General comments

3.1 The EESC generally welcomes all Commission initiatives intended to achieve the Europe 2020 strategy goals in the field of employment and the labour market, tighten up cooperation between the Member States, develop skills and adapt them to the needs of businesses and workers and support geographical and occupational mobility.

3.2 Given the urgency of the situation – particularly in some Member States – regarding mounting unemployment, especially long-term and youth unemployment, the EESC endorses the Commission's proposal to establish a European Network of Public Employment Services providing a platform for comparing their performance at European level, identifying good practices and fostering mutual learning in order to strengthen service capacity and efficiency.

3.3 Under pressure from long-term challenges triggered by global and technological changes and an ageing work force, as well as short-term emergency measures intended to redress the fallout of the economic slowdown, many Member States are already engaged in modernising their PES (with varying degrees of success), either centralising or in contrast decentralising them, extending their remits and endeavouring to tap their full potential.

3.4 The EESC considers that it is vital to overhaul PES to meet new labour market demands: an ageing work force, the rise of the silver and green economies, the new skills and requirements of young people, the development of ICT and technological innovation, the growing mismatch between supply and demand of skills.

3.5 PES have to tackle short- and long-term challenges simultaneously. They have to respond immediately, flexibly and creatively to developments in their working environment, combine short-term measures with sustainable solutions and anticipate social risks.

3.6 The EESC believes that PES' new competences, particularly in the area of active employment policies, must be reflected in appropriate capacities and financial support. This is not happening in many Member States, however, particularly at a time of budget cuts and cost-cutting measures. Yet, funding for operating PES – and especially for staffing – should be increased at this time, in order to ensure effective monitoring that leads to job offers. Well-functioning PES could be transformed in the future into skills centres.

3.7 In 2010, at the EESC's request, the European Foundation for the Improvement of Living and Working Conditions (EUROFOUND) drew up a background paper on Financing and operating active labour market programmes during the crisis<sup>(8)</sup>. Taking ten countries as an example, this paper describes variations in the interaction between active and passive employment policies, and the deterioration in expenditure in terms of GDP to promote activation measures, particularly in Member States with a rapid surge in unemployment.

3.8 The Commission's proposal is intended, by means of incentive measures (under Article 149 TFEU), to promote cooperation between Member States, improve the integration and functioning of EU labour markets, and help improve geographical and occupational mobility and combat social exclusion.

3.9 The new network will focus on the following initiatives: developing and implementing European-wide benchmarking systems among public employment services, providing mutual assistance, adopting and implementing a concept for modernising and strengthening PES in key areas, and preparing reports on employment.

3.10 The Commission proposal follows on from previous activities and studies on PES business models, on PES performance measurement systems and on the role of the PES with regard to flexicurity, anticipating skills needs and equipping people for new jobs.

3.11 The EESC believes that PES activity will never again be mere routine<sup>(9)</sup>. PES need to become multifunctional agencies facilitating a range of transitions in the EU labour market: from studies to first-time employment, and from one career to another. They need to enable interaction between labour market actors and to encourage them to cooperate and innovate; they also need to cooperate closely with public and private partners<sup>(10)</sup> and to guarantee compliance by labour market actors with policies in that field.

3.12 The EESC considers that PES should focus their efforts more closely on the supply side of work, while fully maintaining their benefits payment operations, since employers are

<sup>(8)</sup> See John Hurlly: *Financing and operating active labour market programmes during the crisis*, EUROFOUND, 2010.

<sup>(9)</sup> See: *Public Employment Services' contribution to EU 2020*, PES 2020 Strategy Output Paper, 2012.

<sup>(10)</sup> The European Commission has launched the PARES initiative, a partnership between public and private EU employment services, which is a priority action in the 2011 communication on *An agenda for new skills and jobs*.

having increasing difficulty recruiting the workers they need. Small and medium-sized enterprises in particular often need more support from PES, hence the need to improve collaboration between PES and businesses.

3.13 Even in a time of high unemployment, there is still a mismatch between the skills available and labour market needs. Via the HoPES network<sup>(11)</sup>, PES take part in debates and consultations on the role of skills in the economy and society. The goal is to link up the worlds of work and education and to establish mutual understanding of qualifications and skills. For PES, this means setting up partnerships with the various stakeholders and balancing the supply and demand of qualifications in the increasingly complex arena of local labour markets<sup>(12)</sup>.

3.14 The EESC acknowledges the unique role played by PES in implementing each aspect of flexicurity. Using solid empirical evidence, the study on *The role of the Public Employment Services related to 'flexicurity' in the European labour markets*<sup>(13)</sup> has shown that PES have grasped the need to redirect their services and adopted a wide range of strategies and measures to support flexicurity. PES should continue to step up their capacity so that they can act as intermediaries and carry out evaluations in the area of flexicurity.

3.15 The EESC thinks that PES should be primarily focused on those individuals or groups of workers that are most difficult to place on the labour market and have particular requirements – the long-term unemployed, older workers, women, young people, those with disabilities and immigrants – while rigorously applying and monitoring anti-discrimination measures.

3.16 In connection with the Europe-wide struggle to counter high youth unemployment, the EESC underscores the important role played by PES in implementing the youth guarantee. It also welcomes the promise, made by PES heads at the youth employment conference in Berlin on 3 July 2013, to play a pivotal role in promoting youth employment in Europe, to become more efficient and to boost cooperation with other stakeholders<sup>(14)</sup>.

<sup>(11)</sup> See: *The Case for Skills: A Response to the Recommendations regarding the Future Role of Public Employment Services under the New Skills for New Jobs Agenda*, European Network of the Heads of Public Employment Services, September 2011.

<sup>(12)</sup> See R.A. Wilson, *Anticipating skills needs of the labour force and equipping people for new jobs: which role for public employment services in early identification of skill needs and labour up-skilling?* Report drawn up for the European Commission. Danish Technological Institute/ÖSB Consulting/Warwick Institute for Employment Research, 2010.

<sup>(13)</sup> *The role of the Public Employment Services related to 'Flexicurity' in the European Labour Markets*, 'Policy and Business Analysis', Danish Technological Institute/ ÖSB Consulting/Tilburg University/Leeds Metropolitan University, March 2009.

<sup>(14)</sup> Conference on youth employment (Konferenz zur Jugendbeschäftigung), 3 July 2013 in Berlin, contribution from the HoPES network.

#### 4. Specific comments

4.1 According to the proposal for a decision, the European PES network should cooperate closely with the Employment Committee and contribute to its work by forwarding information and reports on the implementation of employment policies. The EESC considers that the decision should identify the network's consultative tasks and relationship with the Employment Committee. The network is to have a consultative and coordinating role and its establishment must not be seen as an attempt to harmonise PES structures or social systems.

4.2 The EESC can hardly ignore the fact that well-functioning structures, including regional labour market observatories networks, do already exist at regional level, effectively contributing to achieving the common EU employment targets set by the Europe 2020 strategy.

In order to ensure a more coherent relationship between PES and the observatories, the EESC draws attention to the need for:

- a) arrangements under which public-sector regional employment observatories run directly by the regions can participate in the European network;
- b) a better link between the European network of regional employment observatories and the European PES network;
- c) arrangements pertaining to membership of and access to the European network for private-sector regional employment observatories and public-sector regional employment observatories that are not directly run by the regions, but operate under their instructions and work towards their objectives;
- d) any other act to improve the functioning of and connection between all the existing structures, with the aim of using all available instruments so as to involve all tiers of government and to take action at all levels – national, regional and local.

4.3 Funding to develop cooperation between PES will be drawn from the Progress strand of the European Programme for Employment and Social Innovation (EaSI) between 2014 and 2020. This legislative proposal is budget-neutral and does not require any additional human resources. As regards projects developed by the network or linked to knowledge exchange and then rolled out in the various PES, Member States can receive funding from the European Social Fund (ESF), the European

Regional Development Fund (ERDF) and the Horizon 2020 framework programme. The most important thing, in the EESC's view, is that resources from the structural funds should be maintained and funding should be sustainable. The PES' new competences, particularly in the area of active employment policies, must be reflected in appropriate capacities and financial support.

#### 4.4 Article 3 of the proposal defines the network's initiatives.

- Article 3(1) (a) stipulates that the network is to develop and implement European-wide evidence-based benchmarking systems among public employment services based on the use of quantitative and qualitative indicators to assess PES performance and to gather evidence with a view to establishing an appropriate mutual learning vehicle.
- The EESC endorses this principle. It considers that benchmarking PES, based on quantitative and qualitative indicators to assess PES performance, is a useful form of cooperation. The EESC particularly upholds the use of statistical indicators to gauge the performance and efficiency of employment services and active employment policies. Input indicators (e.g. the budget) should rather be used as context indicators. Other indicators that the EESC considers useful include the number of people registered (per State), the total number of intermediaries and their number per candidate, the rates of return to work and job retention monitored after three and six months, the average length of unemployment, the ratio between supply and demand, the length of employment and type of jobs following an active employment policy programme, the rate of employees joining training schemes, costs incurred and the number of EU or third-country workers.
- There needs to be a focus on those who are most remote from the labour market and analysis and measurement of job centres in areas with similar conditions in terms of unemployment level and economic performance.
- Article 3(1)(c) stipulates that the network is to adopt and implement a concept for modernising and strengthening PES in key areas.

The EESC recommends that the wording here be made more precise to make it quite clear that the PES network will effectively have a purely consultative role. The EESC considers that this article should set out clearly the nature and goal of the PES modernisation concepts. The EESC believes that under no circumstances should these concepts be compulsory.

#### 4.5 Article 4 on cooperation refers to cooperation and the exchange of information with labour market stakeholders,

including providers of employment services. The EESC considers that this article should specify the role of each of these stakeholders more clearly.

4.5.1 The EESC points out that social partners are the main labour market stakeholders and they have a pivotal role in PES modernisation; accordingly they should have an appropriate place in the new organisation. In its paper on the role of the social partners in the governance of PES, particularly in times of crisis, taking four EU Member States as examples, the International Labour Organization shows that changing PES automatically changes the role, participation and influence of the social partners. Whereas in Austria the means of action available to them have grown, particularly at regional level, in Germany and Denmark their influence is shrinking, their role centring on consultation rather than co-decision. For historical reasons, in the United Kingdom the social partners are not involved at institutional level<sup>(15)</sup>. The EESC therefore welcomes the series of initiatives enacted by the European social partners as part of their joint work programmes<sup>(16)</sup>.

4.5.2 In this context, the EESC notes a worsening trend with the new Commission Decision 2012/733/EU regarding EURES. During April's meeting of the Advisory Committee on Freedom of Movement for Workers<sup>(17)</sup>, social partner representatives expressed strong concerns at seeing the social partners' role reduced to that of associate partners.

4.5.3 In many of its opinions, the EESC has endorsed the Commission's call for partnerships between all stakeholders to support job creation, boost employment, develop skills and combat social exclusion. With a view to combating the high levels of youth unemployment in Europe, the EESC has stressed the role of teaching establishments, counselling bodies, civil society organisations (youth organisations, women's associations, organisations providing support for disabled people, etc.), families and individual people, as this is the only way to address, jointly and fully, the situation in European labour markets.

4.5.4 The EESC also welcomes the partnership between employment services (PARES)<sup>(18)</sup> to promote dialogue at EU level and so ease transitions in the labour market. Labour markets are becoming ever more complex and all employment service providers need to cooperate. The EESC also supports the European Commission's PES to PES Dialogue programme to promote mutual learning.

<sup>(15)</sup> J. Timo Weishaup, *Labour Administration and Inspection Programme: Social Partners and the Governance of Public Employment Services: Trends and Experiences from Western Europe*, 2011.

<sup>(16)</sup> The autonomous agreement on inclusive labour markets (2010) is based on the common analysis of principal labour market factors (2009).

<sup>(17)</sup> See the minutes of the meeting of the Advisory Committee on Freedom of Movement for Workers, held on 12 April 2013 in Brussels.

<sup>(18)</sup> PARES is one of the Commission's support measures for the Agenda for new skills and jobs, intended to support flexicurity.

4.6 Under Article 7 on the adoption of a general framework, the Commission will be empowered to adopt delegated acts in accordance with Article 8 of the proposal concerning a general framework for the delivery of the benchmarking and mutual learning initiatives as defined in Article 3(1). Generally speaking, the EESC can endorse the use of delegated acts to amend certain provisions concerning the general framework for the delivery of the benchmarking and mutual learning initiatives. However, further information will be needed to identify the issues that these delegated acts could substantially amend. The EESC recommends making the proposal more detailed so that it fine-tunes the general framework's key indicators. Delegated acts, for their part, should complement these key indicators in less important areas, in line with Article 290 TFEU.

4.7 The proposal states that these new Commission initiatives will supplement PES cooperation in EURES under Articles 45 and 46 of the Treaty. The EESC considers that the proposal should make clear the synergies between the new PES network and EURES <sup>(19)</sup>. The new network should support a broader mandate for EURES and its pivotal role in matching up skills and the needs of the European labour market and improving mobility in the EU. The network could also collaborate with other organisations, such as careers advice agencies.

Brussels, 17 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(19)</sup> See OJ L 328, 28.11.2012, p. 67-128.



**Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament and the Council — Strengthening the social dimension of the Economic and Monetary Union’**

COM(2013) 690 final

(2014/C 67/24)

Rapporteur-General: **Georgios DASSIS**

On 4 October 2013 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 and the Council — Strengthening the social dimension of the Economic and Monetary Union*

COM(2013) 690 final.

On 17 September 2013 the Committee Bureau instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee’s work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Georgios Dassis as rapporteur-general at its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 17 October), and adopted the following opinion by 157 votes to 3 with 19 abstentions.

## **1. General comments**

1.1 The unprecedented economic and financial crisis, which has hit Member States of the Eurozone particularly hard, has also exposed structural weaknesses in Europe in general. It has shown a clear link between high unemployment rates, pressure on national budgets, social decline and social unrest. While accepting that national budgets have to be in balance, reductions have had negative effects on education, active labour market policies and social welfare. Increased unemployment and poverty are having a negative impact on the skills and employability of the workforce. It also affects companies’ ability to grow and create jobs, which in turn is undermining recovery.

1.2 The Union is witnessing the proof in some of the most hard-hit countries that the economic and social crisis also has become a political crisis, where extremist and undemocratic political movements are on the rise. The need to counterbalance this trend is a matter of utmost urgency, through concrete actions at European, national and local level.

1.3 The internal market should be an economic and a social project. It has contributed to building employment and prosperity in all EU Member States. Completing the internal market and enhancing efficiency and social cohesion against the background of the Europe 2020 strategy is essential to enable Europe to exit from the crisis more rapidly.

1.4 It is against this background that the Committee has examined with considerable interest the Commission Communication as a first contribution to the upcoming European Council

discussions and decisions on reinforcing the social dimension of European Economic and Monetary Union.

1.5 It calls on the Commission to update and reinforce its policy in the light of these discussions, in order to make further progress, notably on the pro-active use of employment and social inclusion indicators.

1.6 The Committee has consistently supported measures to enhance social investment, a greater targeting of European funds to sound employment and social policies, a dedicated youth employment initiative and youth guarantee scheme, and better cross-border mobility. It therefore welcomes the increased attention brought to these policy areas. It also welcomes the foreseen strengthened social dialogue as part of the European Semester process.

1.7 The Committee shares the Commission view that a reinforcement of the social dimension would help Member States realise their potential in terms of employment growth, improving social cohesion and in preventing greater disparities. It particularly supports the idea to step up closer surveillance of employment and social imbalances within the EMU through a systematic monitoring of rates of unemployment, of young people not in employment or training or education, of household income, poverty and inequality.

1.8 The proposed *scoreboard* of employment and social imbalances based on key indicators and thresholds should therefore pro-actively detect asymmetric developments and spillover into overall economic performance. This monitoring

system should trigger where required a timely and effective adjustment mechanism and policy response, as is the case for similar economic and financial imbalances. The Committee consequently shares the European Council view of 27-28 June 2013 that the envisaged framework of social and employment indicators is a "first step" towards a more comprehensive social dimension of the EMU <sup>(1)</sup>.

1.9 The Committee has played its consultative role in the build-up to the upcoming European Council discussions through its opinion of 22 May 2013 <sup>(2)</sup> and reiterates its call for a further strengthening of the social dimension of the EMU.

## 2. Specific comments

2.1 In its communication, the European Commission proposes a number of initiatives to strengthen the social dimension of the EMU with a particular focus on three points:

- Reinforced surveillance of employment and social challenges and policy coordination
- Enhanced solidarity and action on employment and labour mobility
- Strengthened social dialogue.

2.2 The Committee agrees with the need to strengthen the social dimension of the EMU and would like to highlight the following:

### *On reinforced surveillance of employment and societal challenges and policy coordination*

2.3 EU fiscal consolidation and economic governance cannot be sustained without equivalent forms of social consolidation and social governance. Current "spreads" in European social divergences undermine recovery, growth and cohesion. The EESC argues that the European semester must include employment and social inclusion benchmarks within the same surveillance framework as that governing economic coordination and structural reforms. Quantifiable employment and social targets must match debt and deficit targets, with similar adjustment and solidarity mechanisms to redress social imbalances and promote social investment.

2.4 The EESC recognises that economic renewal and social investment by the EU and Member States requires more than formal governance structures and statutory mechanisms. This is

why organised civil society and individual European citizens have a stake and a role to play in their own right. Participatory ownership of the European project is paramount.

2.5 However, the Committee also underlines that sustainable social improvements require that structural problems in Member States are tackled at source. Global competitiveness, economic growth and a strong social dimension are key elements to get Europe out of the crisis. The recently proposed social policy indicators must be used to strengthen the short term and long term reforms.

### *On enhanced solidarity and action on employment and labour mobility*

2.6 As the Commission argues in its Communication, cross-border labour mobility is an important element in preserving employment and competitiveness and to creating new jobs to replace those lost due to economic restructuring.

2.7 In order to further reduce the existing barriers to labour mobility, additional measures should be adopted to make easily understandable information on labour and social law available to mobile workers in their respective national languages. Workers should also have a specific right to advice. The relevant advice facilities should work closely with the social partners and EURES, ensuring that mobile workers are informed about social and legal conditions in the host countries before they leave their countries of origin.

2.8 Social investment helps people. It strengthens their skills and capacities and helps them participate in society and the labour market, in turn leading to greater welfare, stimulating the economy and helping the EU to emerge from the crisis stronger, more cohesive and more competitive.

2.9 Targeted social investment not only brings about social progress whilst increasing competitiveness. Particularly in times of unprecedented, dramatic unemployment and increasing poverty, investment in the welfare state also plays a critical role in strengthening social cohesion and integration and in tackling social exclusion and poverty. Such investment spending must guarantee efficiency.

2.10 The EESC clearly stresses that the social dimension of the EMU needs clear instruments, indicators and qualitative and quantitative objectives that are as effective as the economic and financial obligations of the EMU. It also advises the European Council that if there is insufficient consensus or political will for such a revitalised EU social dimension, the EESC would propose the option of enhanced cooperation within the EMU, with own financial resources, a supplementary Social Fund, a Social Progress Pact and social standards, objectives and stabilizer mechanisms matching the fiscal, budgetary and monetary stabilizer mechanisms.

<sup>(1)</sup> European Council Conclusions – 27/28 June 2013, EUCO 104/13, point 14 (c).

<sup>(2)</sup> OJ C 271, 19.9.2013, p. 1-7.

*On strengthened social dialogue*

2.11 The Committee takes a positive view on the proposals from the Commission to improve the involvement the social partners in the coordination of economic and employment policies at European level. Social dialogue plays an important role at all levels. It contributes to solutions, which reflect the views of both employers and workers and also builds understanding and trust essential to reform European labour markets and reinforcing the social fabric.

2.12 The Committee also takes note that the future of social dialogue, including the issue of the tripartite dialogue, is already being discussed by the European social partners.

Brussels, 17 October 2013.

*The President  
of the Economic and Social Committee*  
Henri MALOSSE

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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 — Towards a more competitive and efficient defence and security sector'**

COM(2013) 542 final

(2014/C 67/25)

Rapporteur: **Mr VAN IERSEL**

Co-rapporteur: **Ms HRUŠECKÁ**

On 3 July 2013, 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 (TFEU), on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Towards a more competitive and efficient defence and security sector.*

COM(2013) 542 final.

The Consultative Commission on Industrial Change, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 17 October), the European Economic and Social Committee adopted the following opinion by 172 votes to 23 with 24 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC very much welcomes the forthcoming European Council on Defence this December, to be based on the EC Communication <sup>(1)</sup> and the High Representative/Head of Defence Agency report <sup>(2)</sup>. These initiatives are a very urgent and timely response to internal and external challenges, with a view to promoting the long-term predictability and credibility of European defence.

1.2 In going beyond traditional taboos, the Communication and the (provisional) viewpoint of the High Representative put the current situation and the actions to be taken in the right perspective.

1.3 The High Representative's report, in particular, argues convincingly that a comprehensive CSDP-strategy is indispensable to respond to European defence and security requirements. The EESC agrees that a CSDP will provide the most appropriate framework for effective cooperation in the area of military capability, but stresses, in addition, that cooperation will also be a condition for a credible CSDP.

1.4 If this initiative is to succeed, favourable political conditions must be put in place. Given that the road to

making substantial adjustments in European (industrial) defence structures will be a long and thorny one, involving inter-related policies, the EESC considers that the foremost condition for achieving badly needed breakthroughs will be a consistent commitment on the part of EU government leaders.

1.5 The EESC urges the Council to adopt a number of tangible actions and measures to strengthen competitiveness and cooperation in the European defence sector, sending a clear message for the future.

1.6 The EESC supports the aim of sustaining an independent European defence, commensurate with Europe's economic weight and other interests in the world. The long-term goal should be autonomous protection of European citizens, ensuring that the military is provided with up-to-date equipment on an on-going basis and guaranteeing European values (human rights, democracy) <sup>(3)</sup>.

1.7 The new phase of transition is also having an impact on defence and security in Europe. Geopolitical shifts are taking shape in a period of serious stagnation of the economy and persistent unemployment in large parts of Europe. In parallel, new actors are appearing on the world scene. Global developments are outpacing developments in Europe. The gap is increasing. Europe must adjust faster to keep pace with other countries.

<sup>(1)</sup> Towards a more competitive and efficient defence and security sector, COM etc.

<sup>(2)</sup> This document is not yet published. A provisional point of view of the HR is available.

<sup>(3)</sup> OJ C 299, 4.10.2012, p. 17.

1.8 In addition, the need for industry to be competitive, combined with shrinking financial resources, necessitates cost-effectiveness. European approaches, substituting for counterproductive overlaps, uncoordinated policies and gaps, must foster value for money, leading to less waste of money and higher output, to the benefit of the taxpayer.

1.9 The EESC is happy with the pointed and acute analysis in the EC Communication concerning the relative position of Europe. A comparable analysis brought the EESC to plead, last year, for a radical change of mind in Europe towards common defence issues <sup>(4)</sup>.

1.10 The EESC agrees in particular with Chapter 9 of the EC Communication on essential elements for the agenda of the Council, namely: a strategic European concept, a Common Security and Defence Policy <sup>(5)</sup>, and a European Defence Industrial Strategy.

1.11 Europe badly needs a "common defence language". This asks indeed for a shift from national to shared European thinking on strategic needs, which would promote that national interests are fulfilled through the pursuit of EU strategic objectives.

1.12 A political and civil engagement is also needed to ensure that public opinion is properly informed about the importance of European strategic global and industrial interests in order to foster the active support of citizens and taxpayers. The EESC agrees with the Commission that a healthy Europe-based defence industry will also deliver a vital contribution to the European manufacturing industry at large <sup>(6)</sup>.

1.13 The largest possible number of Member States (MS) must be committed to achieving this far reaching goal. If not all MS are willing to take part, the process should be put on the rails with those that are willing to do so.

1.14 The EESC underlines the role of the Commission and the EDA, which must be expected to work closely together in implementing the Communication. It largely supports the actions envisaged by the Commission. In Chapter 6 of this Opinion it adds additional observations and recommendations to the proposals.

1.15 The EC Communication does not discuss a pro-active industrial policy. The EESC, by contrast, points to the exceptional position of the defence sector in 100 % institutional markets around the world. A pro-active industrial policy in selected areas, carried out by the Member States and/or the

Commission, is indispensable to attain up-to-date production and cost-effectiveness. Shared EU and national competences as well as effective interaction and synergies between civil and military projects and technology will turn out to be highly beneficial and cost-efficient.

1.16 New projects in a multilateral European framework must be identified from the conceptual phase onward, taking advantage of EDA. It can take decades before such projects become fully operational. The earlier they start the better.

1.17 Public and private R&D is core business. In this area defence investment is at its lowest level since 2006 <sup>(7)</sup>. Ways of improving the conditions for investment and its application in concrete projects should be put in place in the overall concept.

1.18 The greatest responsibility falls on the main producing countries as drivers of the process. A harmonious relationship between these and the other MS must be ensured. SMEs and research facilities in all countries must be broadly interconnected in order to get as many MS on board for a European strategy as possible.

1.19 Given the unrest amongst those working in the sector, due to unstructured reorganisations, predictable policies are all the more necessary. Coordination in anticipating change is also required in order to ensure decent labour contracts and prospects. Social dialogues must be in place.

1.20 This Opinion focuses primarily on policy principles, envisaging an urgent breakthrough in a strategic area that brooks no delay. The first steps in December should pave the way for a successful follow-up. The European Council, governments, the Commission, EDA, parliaments, and industry (including employee representatives) should all be involved when it comes to the elaboration of strategic orientations and concrete projects.

## 2. Europe is challenged

2.1 The Commission rightly points to a shift "*in the world's balance of power as new centres of gravity are emerging and the US is rebalancing its strategic focus towards Asia*". The BRICs are intensifying their military expenditure. China and Russia, in particular, are considerably increasing their budgets up to 2015.

2.2 American pressure on Europe to take its full part in the overall military spending of the Western world is increasing incessantly. Due to budgetary constraints, the US is rationalising its defence and this is also affecting agreements with the Europeans.

<sup>(4)</sup> OJ C 299, 4.10.2012, p. 17.

<sup>(5)</sup> See Article 42 TEU.

<sup>(6)</sup> In this respect a very illustrative example in the civil industry is the successful and vibrant development of Airbus.

<sup>(7)</sup> See EDA Defence data 2011.



2.3 The gap between the US and Europe is huge. In 2010 the total European defence budget (excepting Denmark) was EUR 196 bn. compared to the EUR 520 bn. of the American budget <sup>(8)</sup>. More importantly, the overall European R&D budget is 1/7 of the American one, affecting the equipment and the deployment of the people under arms.

2.4 Meanwhile the threats are manifold. Political and military tensions are not decreasing, new tensions are arising – some of these at Europe's doorstep. In order to be level with traditional powers, new ambitious world players want to ensure that their national defence matches their economic and other interests.

### 3. European approaches

#### A. Political

3.1 The Europeans are facing two interlinked categories of problems:

- a substantial drop in defence spending, creating gaps and damage to national defence capabilities and effectiveness, especially due to continuous reduction in R&D spending;
- geopolitical shifts, which should lead to far closer European cooperation and a higher degree of independence in defence and security.

However, the state of the European debate on these two interlinked fields is still in its infancy.

3.2 Government papers <sup>(9)</sup> all reflect a substantial decline in defence expenditure <sup>(10)</sup>. They are focusing primarily on adjustments within a national framework: how to be as cost-effective as possible in maintaining sufficient output of the capabilities. MS are still far removed from a way of thinking that places national defence capabilities in a natural way in a European perspective.

3.3 The EESC concluded last year that, "Defence policy is shaped by countries' strategic interests which in Europe are mainly defined in national terms. Obsolete approaches visibly lead to increasing fragmentation, gaps, overcapacity and a lack of interoperability in European defence capabilities" <sup>(11)</sup>.

3.4 Sixty years of European integration and the single market have given rise to resilient economic and company structures

that generate a strong home-based pattern of economic activities. However, in military and defence thinking, let alone in organising, Europe is still at the beginning.

3.5 Defence as a function of foreign policy, which is still the expression par excellence of national sovereignty, is conceived, built up, and run along national lines. Any multinational cooperation, either with European partners or beyond, is seen from that angle.

3.6 Initiatives to overcome the inherent obstacles have to a large extent failed thus far. The St. Malo Anglo-French military pact or agreement on defence cooperation in 1998 was expected to mark significant steps in military cooperation. After fifteen years, and despite further negotiations, the results remain meagre.

3.7 A Six-Nation initiative in 1998 generated, in 2000, a Letter of Intent of the six most important producing countries – France, Germany, the United Kingdom, Italy, Spain and Sweden, the so-called LoI countries – resulting in a Treaty on restructuring and operation of the defence industry. This Treaty on planning and cooperation with industry as well as on capabilities and research has, over a long period, generated no tangible results.

3.8 Other forms of cooperation also exist between MS, such as between the Dutch and Belgian Navies, the Nordic Defence Cooperation (Denmark, Finland, Iceland, Norway and Sweden), and the German and Dutch Land forces. However, these should not be confused with industrial cooperation, which is still largely lacking.

3.9 In 2004 the European Defence Agency was established, envisaging structural defence cooperation, also supported by Commission initiatives. Despite some progress, structural cooperation has so far not got off the ground due to a lack of commitment on the part of the MS.

3.10 In conclusion, the EESC notes that despite growing awareness of the need for closer cooperation and a European vision on defence, the lack of political will, traditional views, and vested interests have hampered any substantial progress.

#### B. Industry

3.11 The reaction of the European defence industry towards international developments has been rather different:

- It operates in a world context. It is necessarily linked to national governments, but is also very active in international markets, increasingly a basis for positive results.

- Moreover, the main industries are working both in the military and in the civil sector. The more dynamic civil part is increasing due to shrinking military sales and earnings, especially in Europe.

<sup>(8)</sup> Source: EDA, January 2012.

<sup>(9)</sup> **Strategic Defence and Security Review**, UK, October 2010. Livre Blanc sur la Défense et la sécurité nationale, France, May 2013.

<sup>(10)</sup> Very open on the impact of this decline were the pointed comments of the French Minister of Defence, Jean-Yves Le Drian, in a speech for the Ecole militaire in Paris on 29 April this year.

<sup>(11)</sup> Ibid. point 1.2.

3.12 For a long time, industry has been concerned about its competitive position. The institutional position of industry varies greatly from country to country: from completely state owned companies to private business and all variations in-between. The common denominator is that the role of governments is overriding everywhere. Despite (partial) privatisation the link between industry and governments remains very strong as it is dependent on (monopolistic) government demand and regulation, and on licenses for exports.

3.13 The preference of industry would be consolidation on a European scale, but the market is too limited. BAE-Systems, Finmeccanica, and, to a lesser degree Thales and EADS, are very active in the US. However, they cannot freely operate in Europe because, due to special relationships, national governments remain at the helm of any strategic decision in industry.

3.14 Market dynamics enhance competition worldwide. The American industry is intensifying its efforts in exports in order to compensate for the reduction of certain domestic markets. New world actors will increasingly fill their own needs. They will also target exports and thus compete with European industry on third country markets.

3.15 Finally, industry takes the position the EESC strongly underlined last year, namely that a mature defence industry can never hold a credible international position without a solid home-base. Given the high technology component of military equipment, no single national market or national defence budget is any longer of sufficient volume. This has already been the case for twenty years and the consequences are becoming ever more acute.

3.16 On the way to an independent European defence the EESC underlines the high priority of sovereign capabilities and high added value investments, which are crucial for Europe to play a distinctive role worldwide and will also contribute to new thinking among Europeans.

3.17 Recently, industry has reiterated all the usual arguments in favour of stable and predictable long-term European driven technology and production schemes in any important area.

3.18 Industry is ringing the alarm bell. In order to survive and maintain its earning capacity and employment, the alternative is to increase civil production. In that case, however, Europe would lack, to an ever larger degree, a home-based defence industry, which would also affect its foreign policy.

3.19 Trade unions, represented by IndustriAll, reflect similar feelings of great uneasiness. In 2011, 7330 00 qualified people

in Europe<sup>(12)</sup> were directly employed by the aerospace and defence sector and another two million people depended on it. Over the last decade the workforce has been substantially reduced and further budgetary cuts are threatening jobs. Young people are insufficiently attracted to the defence sector due to its unpredictable future.

3.20 The EESC points to the fact that the employees are largely paying for governments' failure to restructure their defence organisations. By postponing the rationalisation of the military base, governments are missing the opportunity to invest in renewing capabilities effectively, which has a negative impact on the workforce.

3.21 The current situation will provoke increasing resistance, as long as unplanned and unstructured reorganisations continue. In putting pro-active policy changes in place, the participation of representatives of the workforce at company and territorial level will be necessary in order to avoid abrupt adjustments.

3.22 Employment, maybe on a smaller scale, will require far more European coordination in technology and production. In this process, precarious employment must be prevented by new skills and competences in order to ensure as much as possible decent labour contracts and prospects. Effective social dialogues at various levels must be in place.

3.23 The slimming down of European production due to budget cuts must be managed in a structured way, involving decent social dialogues aimed at maintaining jobs and redeploying redundant workers. Both industry and personnel are better off in a predictable market-driven European context than in short-term and badly planned reorganisations on a purely national basis without clear objectives<sup>(13)</sup>.

#### 4. Political conditions and potential prospects

4.1 The prospects of the European defence industry will gradually get so uncertain that a fundamental debate among Europeans on the future is needed - and if not among all, then at least among those that are willing.

4.2 There is a need for a new mindset and for the development of a "common language" between MS and in the EU, starting from three basic assumptions:

— an integrated European economy needs a common approach to defence and security to safeguard and protect its interests, its citizens and its views in the world;

<sup>(12)</sup> ASD Annual Report 2012.

<sup>(13)</sup> See also "Twelve demands for a sustainable industrial policy", IndustriAll Europe Executive Committee, 12-13 June 2013.

- there is a need for a common analysis of existing and expected (long-term) world developments as a starting point to elaborate ideas and concrete approaches to sustain Europe's overall position in the world;
- the link needs to be made between foreign policy, threats, defence and security, long-term prospects, and a sustainable defence industry, including employment.

4.3 The EESC is fully aware of the huge impact of these interrelated assumptions that are continuously insufficiently discussed. Numerous initiatives that were started over the last fifteen years in good faith have failed because national sovereignty, i.e. national perceptions of threats and positions, expressed by national foreign policy, has never been questioned. Consequently, Europe is currently living with a wide range of positions that are, to a certain extent, incompatible. The EESC believes that a serious breakthrough is illusory without an acceptance of shared sovereignty in the framework of the EU.

The debate must start on a new footing for new, more promising processes.

4.4 Given the wide range of policy areas involved, the EESC very much welcomes the European Council on Defence this December. Until now, the responsibility for defence and security has been mainly in the hands of the Ministers of Defence, generally in line with general guidelines of the Ministers of Foreign Affairs, and under the strict surveillance of the Ministers of Finance.

4.5 Meanwhile, the context is changing completely, due to drastic budget constraints and the need for rationalisation together with new paradigms and, consequently, new threats. Given, amongst other things, the interrelationship between civil and military technology and innovation, and the link between defence and public security, other parts of governmental policy are equally involved. All these factors call for a holistic and global approach.

4.6 Many people, notably industrialists and employees, are counting on structural thinking and action from December onward. If the EU misses this opportunity, it may take years again to get a positive process on track.

4.7 The European Council in December will be the first EU Council to address the defence issue in overall terms. Given the overwhelming complications involved in setting course for new directions, the EESC believes that subsequent European Councils will be indispensable to provide a visible pathway, credibility, and predictability.

## 5. Industrial policy

5.1 The EESC very positively welcomed the EC Communication on Industrial policy<sup>(14)</sup> aiming at stimulating beneficial conditions, policies and programmes to start, build up and reinforce industrial activities in Europe. Europe must ensure its industrial future in an open environment.

5.2 Defence is a predominant and exceptional sector. Its functions, by its very nature, in 100 % institutional markets around the world. The sector and research facilities alike are set up and organised mainly along national lines. The smaller countries, lacking their own industrial production, buy "off the shelf", which in fact boils down to buying from the US.

5.3 Through consolidation in industry – cross-border mergers and take-overs – and internationalising – notably with the US industrial fabric – big companies and SMEs across the continent are interlinked. Exports are still running positively. The biggest obstacle is the laborious relationship with European governments due to the lack of a common horizon.

5.4 In addition to the actions of the EDA, the EU started with two directives envisaging the opening of intra-European markets<sup>(15)</sup>. The deadline for transposition was the summer of 2011<sup>(16)</sup>, but actual implementation is slow.

5.5 The EESC very much welcomes the EC Communication<sup>(17)</sup>, which demonstrates substantial progress in analyses and proposals. The Commission rightly underlines, in the framework of an industrial policy for the defence sector, the significance of the internal market for defence products, R&D, the role of SMEs, the potential contribution of regional policy, and the development of appropriate skills.

5.6 However, as a point of criticism the EESC points to the fact that the Commission highlights insufficiently the exceptional position of the defence sector as well as the need for a pro-active industrial policy. It is not only about the opening of markets, as this must be defined properly, due to the specific characteristics of the defence sector, including Art. 346 TFEU.

5.7 It is also about creating a political basis in Europe for governments to work together on their common destiny in the long term. Only then will the conditions be fulfilled to start serious common programmes from the conceptual phase on to focused research, innovation and production in the European home-market over a long-term period.

<sup>(14)</sup> EC Communication on Industrial policy (COM(2012) 582 final) and EESC Opinion on this Communication.

<sup>(15)</sup> Defence Package, 2007.

<sup>(16)</sup> Directives 2009/43EC (OJ L 146, 10.6.2009) on Transfer of defence-related products and 2009/81EC (OJ L 216, 20.8.2009) on Defence and security procurement. The Defence Package contained also a Communication "Strategy for a Stronger and More Competitive European Defence Industry", COM(2007) 764, 5.12.2007.

<sup>(17)</sup> See footnote 1.

5.8 R&D is key at the start of the value chain that should be Europeanised<sup>(18)</sup>. These were the reasons for stressing R&T and R&D cooperation in the setting-up of EDA, its predecessors (WEAG and IEPG) as well as in NATO. However, the implementation is, once again, missing.

5.9 Over 30 years, failing cooperation has been a rule rather than an exception. Some projects, such as NH-90 and A400M, have been started, but examples prove equally that system requirements were too often a simple adding up of national requirements, that the development phases were way too long, and that the final products were overly costly.

5.10 Apart from some relative successes, other cooperation initiatives, such as the NF-90, have failed and a range of competing fighter aircraft programmes have been implemented in parallel (Typhoon, Rafale, Gripen), while many countries have joined the US F-35 programme as well as a wide variety of missile programmes.

5.11 No major, large-scale programmes are currently being implemented, whilst existing systems are ageing and becoming obsolete. As a case in point, the EESC points to armoured vehicles, sub-marines, transport helicopters and portable air defence systems. Here, the new unmanned systems would seem to offer an ideal opportunity for common initiatives, but in practice, no such objectives have yet emerged. Another possibility would be less ambitious cooperation, such as standardising air to air refuelling capabilities.

5.12 The EESC calls for the launch of European programmes, in particular on the next generation of RPAS, building on synergies with the Commission and on secure satellite communications. One can also look at areas for cooperation (with the Americans), such as air to air refuelling capabilities, which are an area of major shortfall and where the EDA is looking at European solutions.

5.13 The EC Communication mentions opportunities which require full political support. In this regard, starting a European high resolution space-based surveillance capability, providing successor systems for Helios, RadarSat etc. would seem to be a crucial initiative. A key issue here is the bundling of the combined expertise in the MS, the ESA and the Joint Research Centres, including financial resources. No European country is able to do this on its own.

5.14 Defence projects must be linked to EU R&D programmes wherever appropriate. FP7 is already involved in dual use projects. An added value is that it favours cross-border projects. The EESC calls for more systematic consideration of dual use technologies in Horizon 2020.

5.15 It is crucial that industrial policy in defence should also address the gap between the main producing and other countries. Participation of industries from all countries must be actively promoted to get as many countries politically on board and economically involved as possible. In this way the issue of off-sets, that usually arouses much debate and criticism, can gradually disappear. These elements should become an integral part of an overall European defence strategy.

5.16 The EESC points to the thorny issue of buying "off-the-shelf" outside the EU. In the framework of a European defence strategy such policies must be reconsidered. This essential and very complicated issue must be tackled at the highest level.

5.17 A well-managed European defence sector offers far better opportunities for balanced international cooperation, notably with the US. Given America's protection of its strategic interests, the EESC calls for careful consideration of the defence sector as an exceptional one on both sides of the Atlantic during the negotiations on the forthcoming FTA.

5.18 In this framework also, the continuity of supply of critical and sensitive parts of American origin in the European value chain must be duly ensured. A common European position will also facilitate negotiations with third countries on supply of critical raw materials.

5.19 Similarly, European intellectual property rights must be duly ensured when exporting to third countries.

5.20 Successful collaboration between industries from various countries should not be undermined by MS unilateral decisions concerning export control that would result in a diversified application of criteria for export controls in relation to the Common Position<sup>(19)</sup> as well as between MS national criteria.

## 6. Actions of the Commission

6.1 The EESC agrees largely with the proposed actions of the Commission. It considers them as a substantial step forward. On some issues it would like to add the following.

6.2 Cooperation with the EDA is crucial. The EESC considers coordination and dovetailing between the Commission and the EDA, as proposed in various envisaged actions in the Communication, an indispensable condition for progress and success. The EESC also points to the promotion of dual use capabilities, such as airlift capabilities.

<sup>(18)</sup> In line with many documents. See also OJ C 299, 4.10.2012, p. 17.

<sup>(19)</sup> 2008/944/CFSP.

6.3 The EESC stresses that, to realise its full potential, the EDA needs a firmer financial base and full commitment on the part of the MS. It should be given a more prominent role in defence planning in support of the MS.

6.4 The EESC endorses strongly the Commission proposals on standards and certification that will contribute to cross-border cooperation in industry as well as regional specialisation and networks of excellence. It encourages synergies between the EDA and the EASA, notably concerning certification.

6.5 SMEs, interlinked also with big companies, are very important for Europe's defence innovation and production. In support of the proposed actions the EESC underlines the need for open networks. Less, but better focused (European) projects can give rise to new opportunities.

6.6 The involvement of a broad spectrum of SMEs across Europe will also help to engage as many countries as possible. Their involvement can equally be an opportunity to compensate countries in shifting from buying "off-the-shelf" into European orientations.

6.7 The EESC strongly supports the envisaged Commission actions on skills, which are crucial. It very much welcomes a

positive contribution of the European Social Fund and the Structural Funds, and welcomes the work of the EDA in raising Member States' awareness, supporting the design of concrete projects in these domains.

6.8 The EESC reiterates its firm support for the Commission action to exploit actively dual-use technologies.

6.9 The EESC emphasises the potentially positive link between space policies and defence for existing and newly designed projects <sup>(20)</sup>.

6.10 The EESC endorses the proposed actions on energy. They will also engage an increasing number of SMEs.

6.11 The international dimension is of utmost importance, as will be the envisaged Communication on a long-term vision for EU strategic export controls. The EESC points to the fact that external industrial relations can only be successful if there is a genuine internal market.

6.12 Finally, the EESC fully endorses the entirety of the strategic considerations in chapter 9.2 of the Communication.

Brussels, 17 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(20)</sup> See EESC Opinion on Space, September 2013.



**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 Energy technologies and innovation’**

COM(2013) 253 final

(2014/C 67/26)

Rapporteur: **Gerd WOLF**

Co-rapporteur: **Pierre-Jean COULON**

On 2 May 2013 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 Energy technologies and innovation*

COM(2013) 253 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 30 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 117 votes to 1 with 4 abstentions:

## **1. Summary**

1.1 The European Economic and Social Committee (EESC) supports the Commission's planned measures.

1.2 The EESC reiterates its commitment to a European energy community and a European energy dialogue.

1.3 The Committee supports the goal of a joint, coordinated, consistent and cooperative approach by energy policy stakeholders.

1.4 The EESC recommends that bureaucratic inflexibility, risk aversion and market distortions, i.e. any kind of barrier to innovation, be avoided at all costs when implementing measures. The driving forces behind new ideas and concepts should be promoted.

1.5 The most important task is the technical and scientific development of energy technologies and innovation. This involves in particular the continuation and further development of the European Strategic Energy Technology Plan (SET-plan) in the 2014-2020 funding period.

1.6 Appropriate instruments should be used to strike a sound balance between carefully planned project development, on the one hand, and openness to various new approaches and competition between them, on the other.

1.7 Only through experience and a combination of a wide range of options and ideas, with a correspondingly broad energy mix, can we ensure long-term success in the massive undertaking which lies ahead.

1.8 The anticipated shortfall in funding in the Commission's Horizon 2020 R&D budget and in Member States' R&D budgets makes it all the more important to make use of the EU Structural Funds, the European Investment Fund and revenue from the EU Emissions Trading System, and in particular to steer the investment potential of the market economy towards addressing this major challenge.

1.9 Public research and development funds should be used in cases where this is needed for research objectives, but where industry cannot reasonably be expected to make the relevant investment (see 3.20).

## **2. Gist of the Commission Communication**

2.1 In view of the challenges in the run-up to 2020 and beyond, the Commission has set out its strategy for creating new technologies and innovation as an integral part of its energy policy.

2.2 The Commission seeks to:

— develop an integrated roadmap as part of the SET-plan by the end of 2013,

- draw up an investment action plan together with the Member States,
- strengthen the reporting system together with the Member States,
- invite the European Technology Platforms to adapt their mandate, structure and composition to the integrated roadmap,
- establish a coordination structure under the Steering Group of the SET-plan.

2.3 To this end, the Commission calls on the European Parliament and the Council to:

- reaffirm their support for the SET-plan,
- endorse the proposed principles and developments,
- support the use of EU, national, regional and private resources accordingly.

2.4 The Commission invites the Member States and regions to:

- coordinate their energy research and innovation programmes more closely, use resources from the EU Structural Funds and the European Investment Fund and revenue from the EU Emissions Trading System for this purpose, and further integrate individual national and regional programmes through the European Energy Research Alliance,
- increase cooperation through joint actions and clusters,
- support faster market roll-out of sustainable energy technologies.

### 3. General comments

3.1 In view of growing energy needs across the world, the critical resource situation and climate issues, numerous Committee opinions have highlighted the enormous task of ensuring sustainable, secure, environmentally-friendly and economically efficient energy supplies for Europe.

3.2 The Committee views the communication as another important step on the long journey towards meeting this goal. It therefore gives full support to the Commission's planned measures.

3.3 Only through a joint, coordinated and cooperative approach involving all stakeholders, in particular

- the European Council
- the European Parliament

- the European Commission and its various policy fields
- the Member States and their bodies
- regional and local authorities
- industry, including SMEs
- research organisations and universities
- political parties, civil society representatives, the social partners and the public

can this goal be reasonably achieved, if at all.

3.4 The Committee believes that the measures announced by the Commission are a step in the right direction and therefore supports them in full. At the same time, the Committee recommends that any steps taken always take account of the international situation and be carried out in conjunction with relevant non-EU country programmes.

3.5 The Committee reaffirms its commitment to a European energy community <sup>(1)</sup> as the necessary framework for achieving these objectives as efficiently as possible. It also reiterates its commitment to a European energy dialogue <sup>(2)</sup>, with a view to ensuring that the public is involved in policy-making and in various areas of action as an interested party and a civil society stakeholder.

3.6 However, there is also a need for the best possible information and transparency about the respective options available, the current state of their development, the opportunities they provide, the risks and costs involved, and their impact <sup>(3)</sup>.

3.7 While the measures and conditions proposed by the Commission and supported by the Committee are necessary, there is also scope for problems and conflict in their implementation, which should be avoided at all costs.

3.8 This involves, among other things, a tendency to adopt a centralised, cumbersome and planned economy approach, typically characterised by over-regulation and formal bureaucracy.

3.9 In warning about the danger of cumbersome administrative procedures, inefficiency and red tape, the Committee refers, among other things, to its opinion on *Simplifying the implementation of the research framework programmes* <sup>(4)</sup>. The Committee welcomes the Commission's efforts in this connection and therefore strongly recommends that this approach also be adopted when dealing with the subject under consideration.

<sup>(1)</sup> OJ C 68, 6.3.2012, p. 15.

<sup>(2)</sup> OJ C 161, 6.6.2013, p. 1.

<sup>(3)</sup> OJ C 198, 10.7.2013, p. 1.

<sup>(4)</sup> OJ C 48, 15.2.2011, p. 129.

3.10 However, another potential downside might be a tendency to avoid risks among bodies providing and receiving support and their stakeholders. This can lead to a preference for promoting technologies which are already well-known. Moreover, the fact that there is often a lack of experienced and recognised experts (from the respective relevant fields) in decision-making bodies is also a contributing factor here.

3.11 An approach that has been carefully planned in advance is, however, at best appropriate where there is already an adequate knowledge and technical basis, where future measures can therefore be clearly defined and where the way ahead is entirely straightforward, meaning that further changes or innovations are not needed and are even undesirable.

3.12 However, in the Commission's view, which the Committee fully endorses, this is specifically not the case in the area of energy technologies: ***we need a strong and dynamic technology and innovation strategy***. Such a strategy should also actively promote technologies entailing a high level of development risk, providing they show potential.

3.13 This will therefore indeed involve EU-wide implementation of the cooperative approaches and policies outlined in point 3.3, with a view to unlocking and consolidating common potential, but a broad spectrum of approaches and system concepts will also be needed, as well as an openness to innovative ideas and regional circumstances; in other words, stimulating ideas through a trial and error-based approach, and allowing and promoting competition.

3.14 This requirement must therefore supplement alignment and coordination measures. To this end, appropriate instruments must explicitly ensure a sound balance between carefully planned project development and openness to various new approaches. The Committee therefore agrees with the Commission that a suitable framework should be created for this purpose, allowing flexibility, innovation and a willingness to take risks, as well as providing for new research fields. Specific instruments and governance structures are needed here.

3.15 This particularly concerns the promotion of innovation-oriented projects in industry. There are plenty of examples of especially important innovation which have not come from predominant branches of industry in the market, but rather from outsiders, such as SMEs. Pursuing a state innovation policy which is geared primarily to promoting "national champions" runs the risk of wrongly assessing technical developments and underestimating their importance. The aeroplane was not invented by the railway industry or the shipping industry. As already pointed out by other authors, the electric

light did not come about as a result of the on-going development of the candle. In other words, it is not the candle industry which should be promoted. Rather, the driving forces behind completely new ideas and concepts should be sought out, in order to promote these especially.

3.16 However, there is further scope for conflict in the Commission's proposals: between innovation and market roll-out. Innovation is only successful if it proves its worth in the market and can get through the barren period which is often common at the beginning. Although financial support for market roll-out (see also 3.26) or even enforced tariffs (e.g. feed-in laws) can be very effective here, they also lead to long-term market distortions to the detriment of better solutions. The experience of feed-in systems shows how difficult it is to correct shortcomings in a timely manner once they have appeared. In this way, better solutions or more important measures are held back. In principle therefore, financial assistance for market roll-out of new technologies should at most be maintained until these technologies have achieved an appropriate market share.

3.17 The Committee therefore recommends that these issues be analysed carefully. Although the possible market roll-out development instruments should definitely provide a predictable and reliable framework for investment, at the same time they should ensure – e.g. with adequate degression firmly built in from the outset – that the above-mentioned disadvantages, which are anti-market and go against innovation, are avoided (see also 3.25 and 3.26).

3.18 According to the Commission and the Committee, however, the most important task in the field of energy is the technical and scientific development of technologies and innovation. This task involves cooperation and interplay between basic research, development, demonstration activities and innovation for the successful market roll-out of those technologies, processes and organisational approaches needed for the reorganisation of our current energy supplies in line with the energy roadmap for 2050 and beyond, but which in most cases cannot yet be predicted.

3.19 This involves in particular the relevant continuation and further development of the hitherto very successful SET-plan <sup>(5)</sup> in the 2014-2020 funding period.

3.20 In this connection, the main question is: for what support objectives public funds, i.e. revenues from taxes (or compulsory levies) on individuals and businesses – are supposed to or have to be used, and which funds are supposed to be raised by the private sector. The Committee will not go into the legal side of this matter here; it is concerned with the substantive and thematic aspects. It

<sup>(5)</sup> OJ C 21, 21.1.2011, pp. 49-55.

believes that any support from the Commission (which comes from public funds) should focus on those tasks which are less likely to be supported using private funds. Typical reasons for this may be as follows:

- There is a significant development risk involved, which contrasts with the considerable potential benefits should the initiative succeed.
- The ensuing costs are very high and can only be met by pooling multiple public sources.
- The period of time until practical benefits emerge is too long.
- It involves cross-cutting or key technologies (e.g. new materials).
- The result cannot readily be marketed, but there is a general social or environmental requirement.

3.21 Subject to its comments above, the Committee therefore supports the statement in the Commission's proposal to the effect that "the SET Plan needs increased focus on energy system integration, integration of activities along the innovation chain, and increased coordination of the EII [European Industry Initiatives] and EERA [European Energy Research Alliance] to support this" <sup>(6)</sup>.

3.22 The Committee views further appropriate development of the EERA as an important organisational means of achieving, in all energy areas, the European common ground and effectiveness that has, for example, been key to the success of European nuclear fusion research under EURATOM programmes to date. It is therefore important to give the EERA a governance structure geared to R&D, where, for instance, the respective sets of questions relevant to R&D are dealt with together and European expertise pooled. To this end, the Committee reiterates the need to provide for expert, informed and substantial involvement of the Commission in decision-making and the distribution of the respective development resources.

3.23 As regards the actual costs and the budget made available by the Commission, the Committee reiterates the disappointment it has expressed on several occasions that the funds earmarked for Horizon 2020 under the 2014-2020 financial framework in no way correspond to the scope of the relevant tasks and the importance of the issues involved.

3.23.1 It is therefore all the more important to use the scarce R&D resources available under Horizon 2020 as effectively as possible (award criteria) in such a way that they can act

as leverage, and provide an incentive to encourage Member States and also the private sector to significantly increase investment in R&D.

3.24 It is equally important, as proposed by the Commission, to acquire further sources of financing, i.e. to use EU Structural Funds and the European Investment Fund and revenues from the EU Emissions Trading System (which in the meantime have become very limited), and in particular to unlock the investment potential of the market economy and its industries and gear it to addressing this huge challenge.

3.25 The Committee has likewise already pointed out on numerous occasions that it is, however, necessary to finally end the confusion of nationally-oriented anti-competitive market intervention and instead to create valid and reliable Europe-wide rules <sup>(7)</sup>, in order to give investors planning certainty and the necessary incentives.

3.26 The above-mentioned effects of so-called feed-in laws in some Member States which involve excessive subsidisation of intermittent energy sources constitute one particularly extreme example of regulation which hampers innovation. Whereas at the beginning these were an extremely effective tool for start-up support and market roll-out, following initial success they have since resulted in inappropriate excessive subsidisation, which has at times led to such a significant drop-off in prices in the electricity market that it is not worthwhile for companies to provide reserve capacities and further develop them technologically, or to develop and invest in urgently needed storage technologies.

3.26.1 What is more, this gives rise to a paradoxical and grotesque situation where end-consumers of electricity have to cover the considerable cost difference between low (possibly even negative) market prices and the feed-in tariff which is far higher than average market prices.

3.26.2 The resulting excessively high consumer prices for energy pose not only a general problem for the European economy but also constitute one of the causes of energy poverty – the subject of a current Committee opinion (TEN/516).

3.27 This example should once again illustrate the complex relationship between innovation and market conditions. The Committee therefore reiterates its recommendation that remedial action be taken as quickly as possible in order to give adequate incentives and a chance of economic success to urgently needed investment in the development of innovative technologies and processes by the private sector. Otherwise such investment will cease, because even the most innovative business will make losses, inevitably go bankrupt and disappear from the market if there is competition from state-backed, highly subsidised technologies.

<sup>(6)</sup> COM(2013) 253 final, point 2.8.

<sup>(7)</sup> OJ C 198, 10.7.2013, p. 1.

#### 4. Specific comments of the Committee

4.1 With due consideration for its previous remarks, the Committee also supports the key principles outlined by the Commission, in particular:

- adding value at the EU level,
- looking at the whole energy system (generation, infrastructure, services, etc.) when setting priorities,
- pooling resources and using a portfolio of financial instruments,
- keeping options open, while concentrating on the most promising technologies for post 2020.

Only through experience of a wide range of options and ideas and by combining them, as part of a correspondingly broad energy mix, can we ensure long-term success in the massive undertaking which lies ahead. This requires pragmatism, realism and staying power.

4.2 With due consideration for its previous remarks, the Committee likewise supports the objectives for development outlined in the communication, in particular:

- unlocking the full potential of energy efficiency,
- delivering competitive solutions,
- fostering innovation in real market-driven conditions.

4.3 Particularly in view of the weaknesses of intermittent renewable energies explained in its latest exploratory opinion<sup>(8)</sup> on the subject, the Committee supports the Commission's plan to give greater weight to developing environmentally-friendly systems for baseload capacity, and to energy supplies geared to consumer needs, which includes nuclear fusion energy with ITER and the supplementary research programme, alongside renewable energies such as geothermal energy.

4.4 Similarly, the Committee fully supports the research and development work on the use of nuclear fission, but will make

no further comments here since it has already actively participated in a conference on the subject (Symposium on Benefits and limitations of nuclear fission for a low-carbon economy, Brussels, February 2013).

4.5 This also includes of course the development of suitable technologies and processes for CCS – even if limited fossil resources are consumed even more quickly as a result – with a view to ensuring first of all that CO<sub>2</sub> emissions can be lowered as quickly as possible.

4.6 Furthermore, the Committee reiterates its recommendation that, in efforts to expand intermittent renewable energies, priority and greater emphasis be given to developments targeting those elements of the overall system that are still missing, necessary for enabling the development of a more customer-oriented, viable energy supply.

4.7 This concerns first and foremost developing storage facilities with sufficient capacity which are as efficient as possible and offer the best possible value. In this regard, the Committee sees a particular need to make up ground in the appropriate further development and large-scale application of electrochemistry and electrolysis technology, together with the relevant materials. Like the ideas for battery-driven electromobility, a systemic link to intermittent renewables could thus be developed in (gas or liquid) fuel-powered mobility too (combustion or fuel cell).

4.8 In this connection, the Committee would refer to its opinion, requested by the Irish presidency<sup>(9)</sup>, where it raised concerns about rising energy prices and their impact on the public and on competitiveness. In order to facilitate more market-driven competition, the Committee recommended that an appropriate price for carbon be introduced (appropriate emissions trading, tax or similar) as the only measure to support renewables in the market. Although this would make fossil energy more expensive and thus also electricity from coal, oil or gas-fired power stations, it would also make it possible to dispense with the various other costly, market-distorting subsidies and compulsory measures for renewables. Revenue from the allocation of emissions rights should therefore under no circumstances be included in the general funds of the Member States as a source of additional general revenue, but should be used exclusively to develop and introduce efficient future energy systems. The Commission's proposal on this is therefore a step in the right direction and should be supported in full.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

<sup>(8)</sup> Ibid.

<sup>(9)</sup> OJ C 198, 10.7.2013, p. 1.



**Opinion of the European Economic and Social Committee on the 'Amended proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European telecommunications networks and repealing Decision No 1336/97/EC'**

COM(2013) 329 final — 2011/0299 (COD)

(2014/C 67/27)

Rapporteur: **Mr LEMERCIER**

On 10 June 2013 the European Parliament, and on 14 June 2013 the Council, decided to consult the European Economic and Social Committee, under Article 172 of the Treaty on the Functioning of the European Union, on the

*Amended proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European telecommunications networks and repealing Decision No 1336/97/EC*

COM(2013) 329 final — 2011/0299 (COD).

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 30 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion with 121 votes in favour and 2 abstentions.

*This opinion follows on from six previous EESC opinions on the **Connecting Europe Facility (CEF)** and the associated guidelines which were published by the European Commission in October 2011, namely: **TEN/468** <sup>(1)</sup> on the **CEF** (rapporteur Mr Hencks), **TEN/469** <sup>(2)</sup> on guidelines for **telecommunications networks** (rapporteur Mr Longo), **TEN/470** <sup>(3)</sup> on guidelines for **energy infrastructure** (rapporteur Mr Biermann), **TEN/471** <sup>(4)</sup> on the **transport network** (rapporteur Mr Back) and **TEN/472** <sup>(5)</sup> on the **project bond** initiative (rapporteur Mr Duttine).*

## 1. Conclusions and recommendations

1.1 As it has pointed out in several opinions, the EESC firmly believes that broadband access for everyone is key to the development of the European economy and from now on will be an essential element in the creation of new jobs.

1.2 Moreover, the EESC believes that building the single digital market, which is one of the EU's priority objectives, requires interconnection and interoperability between national networks. This is also vital for opening up many regions which have suffered economically and culturally.

1.3 Yet, on 8 February 2013, under the new multiannual financial framework (MFF), the Council slashed the digital Connecting Europe Facility (CEF) budget to EUR 1 billion. The

amended proposal takes into account the latest positions in the Council and in the relevant European Parliament committee.

1.4 The EESC therefore laments the fact that the Commission's revised proposal envisages deep cuts in the relevant budget - originally set at EUR 9.2 billion and now pruned to EUR 1 billion - and expresses its regret that the Commission has been forced to make far-reaching changes to projects of common interest for the development of broadband networks and digital service infrastructures. In the EESC's view, the inevitable freeze in many projects resulting from this decision risks depriving the EU of the technological advance it had secured in many strategic sectors.

1.5 The Committee stresses the huge difficulties for the Commission in effectively and fairly allocating the funds provided for in the regulation, given the drastic reduction in the initial envelope.

1.6 The EESC is nevertheless pleased that the principle of technological neutrality, essential for a genuinely open internet, is being reaffirmed. The EESC points out that resources must be used for open, accessible network solutions which are non-discriminatory and affordable for the general public and for companies.

1.7 The EESC reiterates its call for European, national and regional maps to be drawn up which identify coverage gaps and facilitate the creation of new public and private initiatives. The Commission recognises that no Member State or investor is prepared to fund cross-border services.

<sup>(1)</sup> OJ C 143, 22.5.2012, p. 116.

<sup>(2)</sup> OJ C 143, 22.5.2012, p. 120.

<sup>(3)</sup> OJ C 143, 22.5.2012, p. 125.

<sup>(4)</sup> OJ C 143, 22.5.2012, p. 130.

<sup>(5)</sup> OJ C 143, 22.5.2012, p. 134.

1.8 It is also important to be open to cooperation with third countries and international organisations in order to enhance interoperability between respective telecommunications networks.

1.9 The EESC believes that the proliferation of alternative operators, although it has encouraged innovation and brought down prices for consumers, has also considerably narrowed the margins of established public and private operators, as well as restricting and even stifling the investment capacity of some of these operators. It feels that a new European policy for regulating the networks - a virtuous circle of competition - is needed and that this will have to lead to close, coordinated involvement of the major European operators so that, as soon as Europe comes out of the crisis, it can make up the ground lost in developing broadband and ultra-fast broadband, and eliminate gaps in coverage.

1.10 The EESC regrets the fact that on such an important subject the Council, Parliament and Commission have not managed to reach a unanimous position. Given the size of the new envelope, the EESC feels that universal access to the internet, together with the development of broadband services and pan-European services platforms, remain priorities.

1.11 The EESC notes with consternation that the Commission has, at the Council's request, removed the reference to both the European Economic and Social Committee and the Committee of the Regions in Article 8 of the revised text. The EESC expresses the firm wish that the report in question be forwarded to it.

1.12 Lastly, the EESC reiterates that it will from now on be absolutely essential to include internet access in the universal service.

## 2. Gist of the revised Commission proposal

2.1 The EU Digital Agenda seeks to deploy cross-border public online services in order to facilitate the mobility of businesses and individuals. Building the single market therefore requires the interoperability of these emerging digital services.

2.2 The EU has set itself ambitious targets for broadband roll-out and take-up by 2020. On 29 June 2011, the communication entitled "A Budget for Europe 2020" on the 2014-2020 multiannual financial framework proposed that a Connecting Europe Facility be set up and that EUR 9,2 billion be earmarked for digital networks and services.

2.3 However, on 8 February 2013, in the new multiannual financial framework, the Council cut the CEF budget back to EUR 1 billion. On this new basis, the amended proposal takes into account as far as possible the latest positions in the Council and in the relevant European Parliament committee. It aims to

focus the CEF measures on a smaller number of digital service infrastructures, based on a stringent set of prioritisation criteria, and a limited contribution to broadband via financial instruments, with a view to leveraging private investment as well as investment from public sources other than the CEF.

2.4 Despite its limited financial contribution for broadband, the proposal lays down a framework enabling wider contributions from business and institutional players such as the European Investment Bank.

2.5 The main objective of the regulation is to streamline digital transmission and eliminate bottlenecks. The guidelines are accompanied by a list of Projects of Common Interest for the deployment of digital service infrastructures and broadband networks. These projects will help boost the competitiveness of the European economy, including that of small and medium-sized enterprises (SMEs), promote the interconnection and interoperability of national, regional and local networks, as well as access to such networks, and support the development of a Digital Single Market.

2.6 In the face of a difficult situation on the markets, the economic value of investing in broadband networks and the delivery of services of general interest appears to be limited, even if the single digital market holds considerable potential for growth.

2.7 Direct subsidies are planned for digital service infrastructures, to sort out bottlenecks linked to service deployment within interoperable frameworks. In most cases, these platforms are fully funded by the EU, as there are no natural owners of interoperable European service infrastructures.

2.8 It is now clear that no Member State or investor is prepared to fund cross-border services. The added value of EU action is thus high.

2.9 Every year, depending on the funding available and priorities identified, digital service infrastructures will nevertheless be deployed. Given the EU budgetary context, public support will come from sources other than the CEF, in particular from national sources and from the European Structural and Investment Funds (ESIF). The CEF will only be able to finance a limited number of broadband projects by itself, but it will facilitate the efficient allocation of ESIF in particular, by using funds earmarked for operational programmes. Such contributions will be ring-fenced for use in the Member State concerned. In matters pertaining to broadband, this proposal is limited to laying down mechanisms for allocating structural fund resources.

2.10 The principle of technological neutrality is being applied.

### 3. General comments

3.1 Two services have not been retained: "Trans-European high-speed backbone connections for public administrations" and "Information and communication technology solutions for intelligent energy networks and for the provision of Smart Energy Services".

3.2 The development of new digital service infrastructures to facilitate moves from one European country to another, the "European platform for the interconnection of employment and social security services", and "Online administrative cooperation platforms" have all been dropped.

3.3 The European Parliament's Industry, Research and Energy Committee has added further digital service infrastructures for the "Deployment of infrastructures in public transports [sic] allowing the use of secure and interoperable mobile proximity services", the "Online Dispute Resolution Platform", the "European Platform for Access to Educational Resources", and "Cross border interoperable electronic invoicing services".

3.4 Nevertheless, the EP has introduced very ambitious target transmission speeds ("1Gbps where possible and above").

3.5 The goal of the Digital Agenda for Europe, which is to put a broadband (high-speed) digital infrastructure in place which uses both fixed and wireless technologies, will require measures to remove "digital bottlenecks". In view of the deep cuts in a budget originally set at EUR 9,2 billion and now pruned to EUR 1 billion, the Commission has been forced to make far-reaching changes to projects of common interest for the development of broadband networks and digital service infrastructures.

3.6 As it has stated in several opinions, the EESC firmly believes that universal access to broadband, as well as being a key factor in the development of modern economies, has also become vital for creating jobs, ensuring greater cohesion and well-being, and securing the e-inclusion of people and entire economically and culturally disadvantaged areas.

3.7 The objectives and priorities of the projects of common interest developed to this end have been defined in response to a fundamental requirement: optimal use of financial resources and achievement of precise goals without spreading funds too thinly.

3.8 The EESC welcomes the reiteration of the principle of technological neutrality, which is essential for the internet to be genuinely open.

3.9 It points out that resources must be used for open, accessible network solutions which are non-discriminatory and

affordable for the general public and for companies. At the same time, the Committee stresses the huge difficulties for the Commission in fairly allocating the funds provided for in the regulation, given the drastically reduced budget.

3.10 It is now clear that no Member State or investor is prepared to fund cross-border services. The added value of EU action is thus high. The EESC reiterates its call for European, national and regional maps to be drawn up identifying gaps in coverage and facilitating the creation of new public and private initiatives. It is also important to be open to cooperation with third countries and international organisations, in order to strengthen interoperability between respective telecommunications networks.

3.11 The EESC believes that the proliferation of alternative operators, although it has boosted competition and brought down prices for consumers, has also considerably narrowed the margins of established public and private operators, as well as limiting their investment capacity. It is therefore important to discuss a new European policy for regulating networks that would allow close, coordinated involvement of all European players in this sector so that, as soon as Europe comes out of the crisis, it can make up the ground lost in developing broadband and ultra-fast broadband delivery.

### 4. Specific comments

4.1 The EESC laments the extent of disagreement between the Council, Parliament and the Commission on a subject that is of such importance.

4.2 There was a great deal at stake when the telecoms envelope was still set at EUR 9 billion for broadband and service platforms. Given the size of the new envelope, it seems justifiable to earmark it for activities which will provide the "building blocks" for projects that are currently on ice for budgetary reasons.

4.3 Developing the single digital market requires interconnection and interoperability between national networks. Against the new background of a shrinking budget, the Commission must set stricter criteria for selecting projects for funding, and monitor and assess them on an ongoing basis.

4.4 The EESC would point out that these projects may help SMEs to access the digital economy and create new stable jobs in the long term. The EESC asks that a regular report be published on the use of this funding.

4.5 Lastly, the EESC reiterates that from now on it will be absolutely essential to include internet access in the universal service.

4.6 Out of consideration for interinstitutional relations, it is with astonishment, verging on consternation, that the EESC notes that the Commission has removed the reference to both the European Economic and Social Committee and the Committee of the Regions in Article 8 of the revised text. In the course of discussions and at the EESC, the Commission representative explained this by stating that it had been done at the Council's request.

Perhaps it is the expression "forwarded" that causes a problem. Nevertheless, the EESC underlines its firm wish to receive the report in question.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on the 'Communication from the Commission — Blue Belt, a Single Transport Area for shipping'**

COM(2013) 510 final

(2014/C 67/28)

Rapporteur: **Jan SIMONS**

On 8 July 2013, 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 — Blue Belt, a Single Transport Area for shipping*

COM(2013) 510 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 30 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 124 votes to 1 with 4 abstentions.

## **1. Conclusions and recommendations**

1.1 The Committee welcomes the Commission's proposals set out in the communication, which aim to improve the operation of the maritime transport market and reduce the administrative burden for the maritime transport sector, thus making it more competitive. Indeed, it had hoped that these proposals would be published earlier.

1.2 In the Committee's view, the feasibility of the Commission's proposals is highly dependent on the view of customs authorities, one of the key stakeholders in this area. It urges the Commission to discuss the proposals in the Customs Committee as soon as possible.

1.3 One of the preconditions for the success of the Commission's proposals – both those on regular shipping services and those on the eManifest – is that Member States' IT systems must be completely interoperable for the eManifest. The Committee would point out that experience has shown that this is not a foregone conclusion, even when building on existing systems.

1.4 It should be explicitly stated in the eManifest that it expressly applies to all shipping services.

1.5 The Commission's envisaged deadline of June 2015 for implementing the eManifest is appropriate, albeit optimistic, as it coincides with the deadline, set by the Member States themselves, by which they must have established national single window services. Such services are crucial to the smooth operation of the eManifest, the technical preparations for which could not, therefore, be delayed for another year.

1.6 The Committee would also highlight the need to ensure that all stakeholders – and in particular customs authorities – are kept properly informed. There have been cases where the customs authorities were either unaware that operators were using paper manifests, as they are legally entitled to do, or refused to validate or accept them.

1.7 Alongside "hard" IT aspects, the Commission and Member States should also pay attention to "softer" elements such as initial and continuing training for customs officials, but this element is unfortunately absent from the Commission's proposals.

1.8 The Committee welcomes the fact that the Commission recognises the importance of good monitoring and information systems – which are of course vital to good decision-making – and notes that the European Maritime Safety Agency (EMSA) still has an important role to play here.

1.9 The Committee endorses the Commission's view that eManifest requirements need to be taken into account when revising the Vessel Traffic Monitoring and Information Systems Directive.

1.10 Finally, the Committee feels that it is very important for regular consultations to be held, once the Commission's proposals have been adopted, with customs authorities, representatives of the shipping sector, freight forwarders and employees in order to consult them on and inform them about obstacles linked to the implementation of the proposals.



## 2. Introduction

2.1 There is still no internal shipping market, despite the fact that Article 28 of the Treaty on the Functioning of the European Union (TFEU) specifically refers to the free movement of EU goods within the EU.

2.2 This is particularly relevant on account of the extent to which the EU is dependent on maritime transport to trade within the EU market and with the rest of the world: 74 % of the goods imported or exported by the EU and 37 % of goods traded within the EU pass through seaports.

2.3 Maritime transport – and indeed inland waterway transport – can have lower operating costs and less negative environmental impact per unit than other forms of transport. This mode of transport is still encumbered with unnecessary red tape, which prevents it from operating optimally.

2.4 For example, ships sailing from a port in one EU Member State to a port in another often leave the 12-mile territorial waters zone, and therefore need to complete customs formalities twice, unless they are covered by the regular shipping service scheme. All goods on board are regarded as non-Union goods and are subject to customs controls.

2.5 While these procedures are motivated by safety, security and financial considerations, they entail additional costs and lead to delays in delivering the goods.

2.6 One step towards solving this would be to distinguish between the goods on board which are Union goods, and which can be placed on the internal market with no further formalities, and non-Union goods, which are subject to the usual customs formalities.

2.7 In 2010 therefore, the Commission, with the Council's support, raised the idea of creating a "Blue Belt" to increase the competitiveness of the maritime transport sector by allowing vessels to operate freely within the EU internal market with a minimum of red tape, including simplification and harmonisation measures for maritime transport from third-country ports.

2.8 The Blue Belt concept took shape in part through the pilot project launched in 2011 by the Commission in close cooperation with EMSA, using EMSA's SafeSeaNet monitoring and information system.

2.9 Although the pilot project provided a great deal of useful data, customs authorities pointed out that this information still needed to be supplemented with information regarding the goods carried, in particular on their status (Union versus non-Union).

2.10 It is precisely this distinction that will enable procedures for EU goods to be relaxed.

## 3. Content of the Communication

3.1 The Commission published the Communication on the 'Blue Belt, a Single Transport Area for shipping' on 8 July 2013.

3.2 The Blue Belt proposals are based on the pilot project run by EMSA in 2011, and aim to:

- improve the competitiveness of maritime transport by reducing red tape;

- stimulate employment in the maritime transport sector; and

- reduce the environmental impact of maritime transport.

3.3 In this communication, the Commission aims to create a policy framework to achieve the aforementioned goals by presenting two necessary legal measures amending the Customs Code Implementing Provisions (CCIP), one already submitted to the competent committee in June 2013, and a second to be proposed by the Commission by the end of 2013.

3.4 The first measure involves further simplifying the procedure for operating regular shipping services for intra-EU maritime transport. It is a customs scheme for vessels that regularly serve the same EU ports, carrying mainly Union goods.

3.5 The simplification comprises reducing the period for consulting Member States from 45 days to 15. Companies will also be able to request advance authorisation for Member States where they do a lot of business, thus saving time should the opportunity arise to transport goods to the Member State in question.

3.6 The second measure, relaxing customs formalities for ships serving non-EU ports, will have a much greater impact. The Commission intends to introduce a system that could significantly improve customs procedures by making a distinction between Union goods on board a ship and non-Union goods on board that are indeed subject to normal customs clearance procedures.

3.7 The Commission proposes to introduce a harmonised electronic cargo manifest (the eManifest), enabling maritime transport companies to provide customs authorities with all the information regarding the status of the goods on board, both intra-EU and non-Union. The Commission expects the eManifest to be fully operational by June 2015.

3.8 The Commission's proposals as set out in the communication are directly related to the Ports Policy Review published on 23 May 2013, on which the Committee issued a favourable opinion on 11 July 2013.

#### 4. General remarks

4.1 The Committee is strongly in favour of removing barriers to the smooth operation of the internal market, not least with regard to maritime transport, which, as the Commission says in the communication, is vitally important to the EU. Indeed, it had hoped, as stated previously<sup>(1)</sup>, that these proposals would be presented at an earlier stage.

4.2 In its enthusiasm for completing the internal market for maritime transport as soon as possible, the Commission claims that this has already been achieved in other modes of transport. Sad to say, this claim is rather too optimistic: the internal market has not yet been completed either for road freight transport (cabotage restrictions) or for rail transport (national passenger transport).

4.3 It is clear to the Committee that, in order for maritime transport to be an attractive alternative to other forms of transport, efforts need to be made to reduce customs formalities and red tape, without however jeopardising safety or security.

4.4 The Committee considers cheaper and more efficient maritime transport to be an important goal, and supports the Commission's proposals to reduce customs formalities and red tape.

4.4.1 It would point out, however, that it is vitally important for these proposals also to be supported by Member States' customs authorities – the most important stakeholders in this field. Similarly, a specific category of transport operators – namely businesses with authorised economic operator status (AEOs) – could act as pioneers to test the introduction of the system.

4.5 With regard to the procedure for regular shipping services in intra-EU transport, the Committee welcomes the reduction of the consultation period from 45 days to 15 and the new option of applying for authorisation in advance.

4.6 As the European Commission does not intend to discriminate against purely intra-EU maritime transport in comparison to transport calling in at non-EU ports, the eManifest will apply to all maritime transport.

4.6.1 Specifically, the option of using the eManifest should be available not only for transport between EU and non-EU ports, but also for regular shipping services (RSS) and non-RSS transport between EU ports, if they wish to use it on top of the existing specific scheme.

4.6.2 Nonetheless, the Committee thinks it would be sensible to make explicit reference to the scope of the eManifest in future proposals on the subject.

4.6.3 With regard to the impact of the Commission's proposals, the Committee feels that particularly the eManifest – the harmonised electronic cargo manifest with information on the status of the goods on board – should be introduced as soon as possible following consultation with the competent Customs Committee.

4.6.4 It therefore also urges the Commission, once the decision has been taken to introduce the proposed measures, to prioritise harmonisation within the EU: Member States' IT systems must be fully interoperable in order to use the eManifest.

4.6.5 In view of this, the Committee feels that, while the Commission's stated deadline of June 2015 for introducing the eManifest may seem optimistic, it must be met.

4.6.6 After all, the Member States are already required, under Directive 2010/65/EC, to set up national single windows by June 2015; these are a key step towards implementing an eManifest. The Committee therefore urges all Member States, and certainly those with seaports, to meet this deadline on which they themselves agreed, otherwise the system will be doomed to failure right from the start.

4.6.7 Moreover, technical preparations for the introduction of an eManifest should be started no more than six months from now.

4.6.8 The Committee would stress that the information stored in the eManifest should be accessible to all interested parties, i.e. to governments, shippers and freight forwarders.

<sup>(1)</sup> EESC opinion on *Motorways of the sea in the logistics chain*, OJ C 151, 16.6.2008, p. 20.  
EESC opinion on *An Integrated Maritime Policy for the European Union*, OJ C 211, 19.8.2008, p. 31.  
EESC opinion on *European maritime transport space/reporting formalities for ships*, OJ C 128, 18.5.2010, p. 131.  
EESC opinion on *Roadmap to a Single European Transport Area (White Paper)*, OJ C 24, 28.1.2012, p. 146.  
EESC opinion on *Blue Growth*, OJ C 161, 6.6.2013, p. 87.  
EESC opinion on *Framework on future EU ports' policy*, not yet published in OJ.

4.7 It would, however, point out that, based on an IMO (International Maritime Organization) recommendation, a paper manifest does exist (albeit not harmonised, and not in all Member States), but that in practice a number of customs authorities are not aware of its existence and/or are not willing to validate or accept it. It therefore stresses the importance of disseminating information properly to all customs authorities.

4.8 The Committee notes that it is vital, when extending the simplified procedures to cover transport to non-EU ports, to ensure that quick and reliable monitoring and reporting systems are in place.

4.8.1 In this connection, the maritime transport sector is fortunate to have EMSA, an agency that has already demonstrated its added value with regard to the vessel traffic element of the eManifest; it is now up to European and national customs services to implement the "status of goods" element in good time.

## 5. Specific comments

5.1 According to the European Community Shipowners' Associations (ECSA), simplified administrative procedures would save EUR 25 per container, quite apart from the concomitant time savings that would have an even greater impact.

5.2 In any event, in the Committee's view this highlights the urgent need to develop balanced proposals so that the most important stakeholders in the issue – European and national customs authorities, shippers and freight forwarders – can also support them.

5.3 The Committee is adamant that the situation must, at any rate, not get worse, as could happen if, for example, VAT refunds on exports were subject to confirmation that the goods had indeed left EU territory.

5.3.1 Given that such exports are currently zero-rated, the introduction of such a condition could result in VAT being charged at a higher rate, which would then be very expensive and time-consuming to claim back. Fortunately, the Commission has advised us that, in the situation described above, VAT will remain at the current level of 0 %.

5.4 The Commission has stated that the intention is not to develop a completely new IT system – which would of course be very expensive – but to build on systems that already exist or are in development, such as the national single window. The Committee endorses the Commission's approach in this regard.

5.5 The Committee would also highlight the importance of having well-trained customs officials, and of providing good initial and continuing training to this end. It has already raised this issue in a previous opinion <sup>(2)</sup>.

5.6 It agrees with the Commission that eManifest requirements need to be taken into account when revising the Vessel Traffic Monitoring and Information Systems Directive.

5.7 The Committee would point out that, if a positive decision is taken on the Commission's proposal, it is very important for key stakeholders such as customs authorities, the maritime transport sector, freight forwarders and employees to be consulted regularly and kept informed on progress with and obstacles to implementation.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(2)</sup> EESC opinion on *State of the Customs Union*, OJ C 271, 19.9.2013, p. 66.

**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 the 2015 International Climate Change Agreement: Shaping international climate policy beyond 2020'**

COM(2013) 167 final

(2014/C 67/29)

Rapporteur: **Josef ZBOŘIL**

On 8 May 2013 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 The 2015 International Climate Change Agreement: Shaping international climate policy beyond 2020*

COM(2013) 167 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 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 120 votes to 3 with 9 abstentions.

## 1. Conclusions and recommendations

1.1 The EESC advocates that European engagement should be **proactive, ambitious and realistic** about what can be accomplished, in line with the EESC's opinion on the "Low Carbon Economy Roadmap 2050" <sup>(1)</sup>, and **adaptive** to changes in the global environment. Reflecting all three pillars of sustainability as well as transparency and accountability are pre-requisites for any successful future climate agreement. An EU that is able to cope with external challenges will also be able to provide a new driving narrative for its citizens.

1.2 The Commission document provides a comprehensive basis for discussion on and preparations for the upcoming climate change negotiations, with a view to achieving a plausible global 2015 Agreement.

1.3 The Committee appreciates the move to address the important principles of the expected global deal, and supports the Commission as it undertakes the further preparatory work required to establish an inclusive, ambitious, effective, fair, equitable, transparent and binding framework for this deal. The international climate change negotiations should be a forum in which countries encourage each other forwards, not hold each other back.

1.4 Further work must focus on general acceptance of the global 2015 Agreement as the global geopolitical and economic map has changed significantly in a short period of time. These profound changes have to be taken into account and the role of EU climate and energy policy during the economic downturn

and in the years to come must be carefully assessed. The EESC reiterates its position in the opinion on the 7th Environment Action Programme <sup>(2)</sup>, that not only the financial and economic crisis but also the environmental crisis (one manifestation of which is climate change) have been triggered by excessive use of financial and natural resources, and that overcoming these crises will require a completely new approach, as embodied in the EU's sustainability strategy. The economy of the future will have to be largely based on non-fossil energy sources. Though the EU policy remains ambitious, the targets should be set step-wise in compliance with the global environment and any conditionalities must be clearly defined.

1.5 The international economic landscape and a generally accepted process of governance will ultimately shape further discussion about a future global climate treaty. The process will be driven by the key economic powers. The EU must be thoroughly prepared to play its global "leadership by example" role. However, the EU also has to be careful not to lose its current uncontested leadership in climate change matters and technological development. Further (unbiased) analysis is needed for the global assessment of the Kyoto Protocol, including all its pros and cons, and lessons must be learned with a view to designing the 2015 Agreement. The forthcoming (2014) IPCC Fifth Assessment Report will also set the stage.

1.6 The general scientific consensus currently remains that it would be completely intolerable to allow global temperatures to rise by more than 2 degrees above 1990 levels, and that the levels of greenhouse gases in the atmosphere will need to be

<sup>(1)</sup> OJ C 376, 22.12.2011, p. 110-116.

<sup>(2)</sup> OJ C 161, 6.6.2013, pp. 77-81.

stabilised at about present levels. For this to happen, greenhouse gas emissions have to be drastically reduced. At present however greenhouse gas levels are continuing to rise steadily year by year. It is positive that more efforts to limit emissions are being made, but they still fall far short of what is needed to achieve stabilisation. The general objective of the new round of negotiations must therefore be to inject a new urgency into the process and to secure much more ambitious commitments and action from all countries and all parts of society.

1.7 The interests of the negotiating parties must be analysed accurately and synergies identified in the preparatory stage to avoid potential conflicts of interest and to build on synergies. Ambitious and realistic measures and targets should be built up by consensus and through interaction with those who will be called upon to put the actions into effect. While recommending measures and targets, positive incentives could ease general acceptance and ensure thorough implementation.

1.8 This can only be achieved by a transparent and thorough assessment of the effectiveness, costs and positive impact of climate policies for the economy and society at large. The Committee agrees with the Commission in its statement that the 2015 Agreement must be inclusive by ensuring commitments that are "applicable to all" countries – developed and developing alike.

1.9 Activities and actions taken at the "ground level" (communities, sectors) without the new global climate agreement are a perfect example of the pro-active approach of the civil society at large. As the matter of fact, civil society must be a key player, not least in fulfilling the policies and targets of the 2015 Agreement. Civil society must also advocate greater political efforts, and hold decision-makers to promises of stronger climate protection (e.g. commitments to end fossil fuel subsidies). That is why the policies adopted must meet the transparency and accountability requirements expected by civil society avoiding social and economic inequities. The 2015 Agreement would be a first step on the global energy transition path.

1.10 To show leadership and have more influence on the international negotiations the EU needs to commit itself firmly to more demanding targets for 2020 and 2030 and to demonstrate how the implementation of such targets is an integral part of its plans for economic recovery and transition to a more sustainable future. The Committee therefore maintains its position of urging the full implementation of all existing carbon-related targets for 2020 and of reconsidering the tightening of the 2020 GHG target to a 25 % reduction on the way to the agreed 80-95 % reduction by 2050. The Committee continues to urge 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 within Europe. They would also provide a strong benchmark level of ambition for the international negotiations.

1.11 It is hard to imagine how the different interests of the major players alone can be reconciled in the existing negotiating format of "cap-and-trade". Many stakeholders are expressing reservations and suggesting alternatives for the future negotiating format. Fall-back options for a new concept for a deal should be investigated, based on projects such as "carbon budgeting", or a global "carbon levy", or the proposal tabled by India to allocate everybody living on the planet emissions rights, or a combination of these.

1.12 The EESC fully supports the Communication's position that we cannot wait until the 2015 Agreement is in force in 2020: the actions we take between now and 2020 will be crucial for setting policies on the right path. These actions must be well thought out and based on real and tangible achievements in the fields of science, technology and developments, as discussed by the EESC in its opinion on the "Low Carbon Economy Roadmap 2050" <sup>(3)</sup>.

## 2. The Commission document

2.1 In 2011 the international community launched negotiations on a new international agreement to act collectively to protect the earth's climate system. This agreement, which is to be completed by the end of 2015 and to apply from 2020 onwards, is currently being negotiated through a process known as the "Durban Platform for Enhanced Action" (ADP).

2.2 The 2015 Agreement will have to bring together, by 2020, the current patchwork of binding and non-binding arrangements under the UN Framework Convention on Climate Change (Convention) into a single comprehensive regime.

2.3 The unilateral, or "bottom-up", nature of the Copenhagen-Cancun pledging process allowed for a more inclusive international approach.

2.4 In shaping the 2015 Agreement we will need to learn from the successes and shortcomings of the Convention, the Kyoto Protocol and the Copenhagen-Cancun process. We will need to move beyond the North-South paradigm reflecting the world in the 1990s towards one based on mutual interdependence and shared responsibility.

## 3. General comments

3.1 In its opinion on the 7th Environment Action Programme <sup>(4)</sup> the EESC has already emphasised the parallels between the financial and ecologic crises, both triggered by unsustainable use of economic or natural resources. In that

<sup>(3)</sup> OJ C 376, 22.12.2011, p. 110-116.

<sup>(4)</sup> OJ C 161, 6.6.2013, pp. 77-81.



opinion, it felt that "the response to the environmental crisis should be similar in design to the measures taken in the fiscal compact in response to the financial crisis, with clear requirements, clear indicators, checks and sanctions". This also applies to the forthcoming climate talks, which must send a clear message about developing a resource-efficient low-carbon global economy.

3.2 Important geopolitical changes have occurred and they need to be taken into account in preparation of the negotiation strategy. In a short period of time, the global geopolitical and economic map has undergone major changes. These profound changes have been triggered partly by the financial crisis, which is coupled with an economic crisis in the EU while the Business Investment Rate dropped from 23 points (2008) to 18,3 points (2013, first half)(Eurostat). The role of EU climate and energy policy during the economic downturn must be carefully assessed in shaping the coming negotiations.

3.3 These efforts are not yet sufficient. The international economic landscape will ultimately shape further discussion about a future global climate treaty, and the process will be driven by the key economic powers: China and the US, followed by India and the other BRICS countries (together responsible for 61,8 % of global emissions in 2012). In fact, 400-600 GWs of new coal-fired power generation will be built by 2020. The EU is in the midst of an economic downturn that has cost 3,8 million jobs and cut industrial production by roughly 20 %, while the number of employees in the sector of renewable energies and in energy saving measures increased.

3.4 However, there are very positive signs in the field of climate protection:

- In the EU renewable power installations accounted for 71,3 % of new installations during 2011 (a total of 32,0 GW of new power capacity of 44,9 GW) in 2012, renewable power installations accounted for 69 % of new installations (31 GW of a total of 44,6 GW of new power capacity). In 2011, new coal-fired power plants with 2,1 GW were put into operation, but 840 MW of coal-fired power plants were decommissioned. In 2012, the capacity of decommissioned coal power plants (5,4 GW) even exceeded the newly commissioned capacity coal power plants (3,0 GW) almost by the double.
- The high total emissions from China (26,7 % of global emissions) must be seen in relation to the proportion of the world's population (19 %). Compared with the EU (7 % share of the population, 11,5 % share of GHG emissions) or the U.S. (4,4 % share of the population and 16,8 % of total GHG) is the per-capita emissions in China is still relatively low. It has to be acknowledged that China has pledged to boost the employ of wind power and other renewable, by Increasing the share of non-fossil fuels in

its overall energy mix, as it intends to cut its carbon emission intensity per unit of GDP by 40 % to 50 % by 2020.

- In the U.S., renewable energies are developing rapidly, in 2012 wind power became the number one source of new electricity generation capacity for the first time in the U.S., accounting about 43 % of new electric additions with more than 13 GW added to the grid.

3.5 The world is not on track to meet the objective agreed by governments of limiting the long-term rise in the average global temperature to 2 degrees Celsius (°C). Global greenhouse gas emissions are rapidly increasing, and in May 2013 carbon dioxide (CO<sub>2</sub>) levels in the atmosphere exceeded 400 parts per million.

3.6 Policies that have already been implemented, or are now being pursued, are likely to lead to a long-term average temperature increase of between 3,6 °C and 5,3 °C (compared with pre-industrial age levels), with most of the increase occurring this century (based on climate modelling).

3.7 To have a realistic chance of meeting the 2 °C target, real action is needed before 2020, when a new international climate agreement is expected to come into force. Energy is at the heart of this challenge: the energy sector accounts for around two-thirds of greenhouse gas emissions, as more than 80 % of global energy consumption is based on fossil fuels.

3.8 Despite positive developments in some countries, global energy-related CO<sub>2</sub> emissions increased by 1,4 % to reach 31.6 gigatonnes (Gt) in 2012 – a historic high. Non-OECD countries now account for 60 % of global emissions, up from 45 % in 2000. In 2012, China made the largest contribution to the increase in global CO<sub>2</sub> emissions, but that increase was one of the lowest it has seen in a decade, which was driven largely by the deployment of renewables and a significant improvement in the energy-intensity of the Chinese economy.

3.9 In the United States, a switch from coal to gas in power generation helped reduce emissions by 200 million tonnes (Mt), bringing them back to the level of the mid-1990s. Despite an increase in coal use, emissions in Europe declined by 50 Mt as a result of economic contraction, growth in renewables and a cap on emissions from the industrial and power sectors. Emissions in Japan increased by 70 Mt, as efforts to improve energy efficiency did not fully offset the use of fossil fuels to compensate for a reduction in nuclear power. Even after allowing for policies now being pursued, global energy-related greenhouse gas emissions in 2020 are projected to be nearly 4 Gt CO<sub>2</sub>-equivalent (CO<sub>2</sub>-eq) higher than a level consistent with attaining the 2 °C target, highlighting the scale of the challenge still to be tackled in this decade alone.

3.10 International climate negotiations have resulted in a promise to reach a new global agreement by 2015, to come into force by 2020. But the economic crisis has had a negative impact on the pace of clean energy deployment and on carbon markets. Currently, 8 % of global CO<sub>2</sub> emissions are subject to a carbon price, while 15 % receive an incentive of \$110 per tonne in the form of fossil fuel subsidies (outside the EU countries). The EESC calls on the international community to follow through with the commitment set out in the conclusions of the 2012 United Nations Rio+20 conference, by introducing a binding requirement to end environmentally harmful fossil fuel subsidies - estimated by the World Bank at USD 780 billion per year - in the 2015 climate agreement.

3.11 Price dynamics between gas and coal are supporting emissions reductions in some regions but slowing them in others, while nuclear is facing difficulties and large-scale carbon capture and storage remains a distant prospect. Despite growing momentum to improve energy efficiency, there is still vast untapped economic potential. Non-hydro renewables, supported by targeted government policies, are enjoying double-digit growth of installed capacities. Investments in renewables would require stable economic environment both in carbon prices and, eventually, taxation in countries where the carbon tax is utilised.

#### 4. Specific comments

4.1 *How can the 2015 Agreement be designed to ensure that countries can pursue sustainable economic development while encouraging them to do their equitable and fair share in reducing global GHG emissions so that global emissions are put on a pathway that allows us to meet the below 2 °C objective?* First of all, it is hard to imagine how the different interests of the major players alone can be reconciled in the existing negotiating format of "cap-and-trade", and yet equitable and fair contributions from all is the sine qua non of any future deal. Thus, at least as a fall-back option, a different concept for a deal should be developed, and governance issues acknowledged. Ways must be found to ensure that actions taken to address climate change can assist societal, economic and environmental growth and development. This can only be achieved by a transparent and thorough assessment of the effectiveness, costs and positive impact of climate policies for the economy and society at large. We should draw lessons from Kyoto, with all its complexity and loopholes. It should serve as a useful starting point for serious work on a new concept. The prolonged Kyoto II and its emission share coverage is a very strong signal, calling for conceptual change.

4.2 *How can the 2015 Agreement best ensure the contribution of all major economies and sectors and minimise the potential risk of carbon leakage between highly competitive economies?* Carbon leakage is a phenomenon that relates not just to energy-intensive industries potentially in decline – it is inherent in the general conditions of doing business in the individual

economic area. An imbalance in carbon conditions, mainly between the most competitive regions, has caused investment in the EU to dry up. Ambitious and realistic measures and targets should be built up by consensus and through interaction with those who will be called upon to put the actions into effect. A simple, equitable and fair 2015 Agreement is thus a precondition for an equitable business environment in all regions of the global economy.

4.3 *How can the 2015 Agreement most effectively encourage the mainstreaming of climate change in all relevant policy areas? How can it encourage complementary processes and initiatives, including those carried out by non-state actors?* Obviously, the most effective way to encourage mainstreaming of the 2015 Agreement in all relevant policy areas is to keep it simple. Any excessive provisions aimed at organising this process would make the Agreement more difficult to implement. It is also important that the mainstreaming of climate change into other policy areas undergoes a transparent impact assessment. When including climate change in other policy areas, it is important to ensure that this is done in the most cost-effective and predictable way possible, without imposing an unnecessary administrative burden on stakeholders. Market-based approaches should be preferred.

4.4 *What criteria and principles should guide the determination of an equitable distribution of mitigation commitments of Parties to the 2015 Agreement along a spectrum of commitments that reflect national circumstances, are widely perceived as equitable and fair and that are collectively sufficient avoiding any shortfall in ambition?* Retaining "cap-and-trade" will require criteria and principles, and there would always be feelings of injustice and unfair treatment. However, in all cases consideration should be given to the market dynamics affecting a sector, existing and proposed climate change regulations that affect it, and the sector's maturity as regards its efforts to limit greenhouse gas emissions and utilise energy-efficiency technologies. To succeed and be sustainable, there must also be an incentive for all participants to work to achieve objectives, such as limiting emissions, improving efficiency, cooperating on research, sharing good practices, etc. A carbon levy can deliver emission savings and raise funding for research and development and adaptation in the most coordinated and efficient way.

4.5 *What should be the role of the 2015 Agreement in addressing the adaptation challenge and how should this build on ongoing work under the Convention? How can the 2015 Agreement further incentivise the mainstreaming of adaptation into all relevant policy areas?* Adaptation is in fact fairly well mapped and is based to a large extent on existing risk management programmes. While adaptation will not eliminate all risks from the impact of climate change, it will make an important contribution to limiting risks in many areas. Enhancing adaptive capacity will require further analysis, priority setting, planning and action at all levels of government, and requires the participation of local

communities and business. Rightfully, adaptation is expected one of the four mainstays of the future 2015 Agreement. In particular, business shall play a role through technology transfer and the sharing of best practices.

4.6 *What should be the future role of the Convention and specifically the 2015 Agreement in the decade up to 2030 with respect to finance, market-based mechanisms and technology? How can existing experience be built upon and frameworks further improved?* The Convention should become a coordinating body for key climate measures, supervising countries' performance and major financial flows and technology exchange. Companies are largely responsible for technology and the deployment of technology. Through the Technology Executive Committee (TEC) and Climate Technology Centre and Network (CTCN), the Convention can provide expert analysis of technologies and give nations full access to information, enabling them to select the most appropriate technologies.

4.7 *How could the 2015 Agreement further improve transparency and accountability of countries internationally? To what extent will an accounting system have to be standardised globally? How should countries be held accountable when they fail to meet their commitments?* In any case, the accounting system needs to be standardised globally, no matter how this is achieved, since correct information is essential where money is involved. It is also a key to achieving accountability with regard to the 2015 Agreement.

4.8 *How could the UN climate negotiating process be improved to better support reaching an inclusive, ambitious, effective and fair 2015 Agreement and ensuring its implementation?* Wide stakeholder

participation and a transparent process are necessary to ensure that the Agreement is reached satisfactorily and implemented. Business can offer its own expertise to the climate negotiations on effective ways to reduce emissions and develop solutions for sustainable development. Participation by the civil society and the business community at large can also ensure comparability of efforts and a level playing field. The new 2015 global Agreement is just the initial step forward, and the entire implementation of the Agreement would rely upon the civil society at large. Thus, the process and implementation outcomes must be transparent and convincing, winning confidence among the citizens worldwide.

4.9 *How can the EU best invest in and support processes and initiatives outside the Convention to pave the way for an ambitious and effective 2015 agreement?* The Committee welcomes the debate opened by this Commission document. Independent expert analysis of all aspects of climate policy is vital, especially in view of the changed and changing global geopolitical landscape. Some analysis is already available, so it is not necessary to start from scratch. One lead is the letter to the US President from his council of scientific advisors summarising the issues raised by climate change. The lesson of Kyoto and the protracted nature of UN negotiations also underline the need for change before it is too late. In addition, findings and recommendations made by expert organisations such as the IEA should and could be implemented without excessive delay. The IEA report "Redrawing the Energy Climate Map" offers a pragmatic and feasible approach. Four basic and achievable policies set out in the report are: improving energy efficiency in buildings, industry and transport; cutting construction and use of least-efficient coal plants; minimising methane emissions from oil and natural gas production and accelerating phase-out of some fossil-fuel consumption subsidies.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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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 — Strategic Guidelines for the sustainable development of EU aquaculture’**

COM(2013) 229 final

(2014/C 67/30)

Rapporteur: **José María ESPUNY MOYANO**

On 29 April 2013 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 — Strategic Guidelines for the sustainable development of EU aquaculture*

COM(2013) 229 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 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 122 votes to 3 with 6 abstentions.

## **1. Conclusions**

1.1 The EESC believes that aquaculture in the EU can and should contribute effectively to reducing Europe's increasing dependence on imports of aquatic products.

1.2 The EESC recommends that the European Commission and the Member States promote far-reaching measures to restore the competitiveness of European aquaculture businesses.

1.3 The Committee considers that the times currently taken to grant administrative authorisation to aquaculture farms are unacceptable: in many Member States, the process can take more than two or three years. For the sustainability of European aquaculture, the EESC considers it crucial to streamline administrative procedures and reduce their cost.

1.4 It is estimated that each percentage point of increase in the consumption of aquatic products produced internally through EU aquaculture would create between 3,000 and 4,000 full-time jobs. The Committee views this as particularly significant because those jobs would be skilled and, furthermore, they would be created in places offering very few alternative sources of employment.

1.5 The EESC is concerned about inadequate implementation of labelling rules for aquatic products, particularly non-prepackaged products, with information for consumers at the point of sale, from the point of view not just of fraud but also of unfair competition vis-à-vis European producers. The

Committee therefore calls on the Commission and the Member States to include in their strategic plans effective measures to rectify this persistent shortcoming.

1.6 The EESC endorses the mounting of communication campaigns to inform European consumers about the high standards of production and quality of aquaculture practised in the European Union. It should be possible to finance such campaigns through the future European Maritime and Fisheries Fund (EMFF).

1.7 The EESC once again strongly recommends stepping up import checks on aquatic products entering the European Union in order to ensure that they are completely traceable and in compliance with standards.

1.8 It is a priority in the EESC's view for the funding of R+D+i projects in aquaculture to be strengthened and for both the Member States and the Commission to gear their aquaculture research and innovation investment plans and programmes towards achieving the objectives set out in the vision document for the European Aquaculture Technology and Innovation Platform (EATIP), published in 2012.

1.9 Economic diversification of aquaculture (e.g. providing services for tourism) should be promoted and facilitated as an opportunity for aquaculture producers, both inland and coastal, particularly SMEs.



1.10 The EESC stresses the importance of recognising the European nature of the Aquaculture Advisory Council (AAC), by contrast with the regional scope of other advisory councils. To this end, it believes that the bodies participating in it (which must be related directly to aquaculture) must be European, or at least supranational, in scale. This should be reflected in its structure and financing.

1.11 The Committee notes that, in view of the multidisciplinary nature of aquaculture, the Commission must ensure that the AAC maintains direct and priority relations with its various Directorates-General.

1.12 Given that the first tasks entrusted in the European Commission's Strategic Guidelines to the AAC must be carried out in early 2014, the EESC urges the Commission and the Member States to ensure that it is set up and starts operating without delay.

## 2. Background

2.1 The ongoing reform of the Common Fisheries Policy gives a key role to aquaculture and makes it a priority to promote this sector.

2.2 In its proposal for the Common Fisheries Policy, the European Commission recommends introducing an open coordination method for aquaculture with the Member States. This system would involve a voluntary process of cooperation based on strategic guidelines and multiannual national strategic plans, in compliance with the subsidiarity principle.

## 3. Gist of the Commission proposal

3.1 The Strategic Guidelines for the sustainable development of EU aquaculture were published by the European Commission on 29 April 2013 (COM(2013) 229 final). The guidelines are non-binding, but they will form the basis for the multiannual national strategic plans. They are intended to assist the Member States in defining their own national targets, taking account of their relative starting positions, national circumstances and institutional arrangements.

3.2 The strategic guidelines cover four priority areas:

- administrative procedures,
- coordinated spatial planning,
- competitiveness, and
- creating a level playing-field.

3.3 The multiannual national strategic plans, which each Member State with aquaculture interests must draw up,

should set common objectives and indicators for measuring progress made. These strategic plans are to be presented by the Member States to the Commission by the end of 2013.

3.4 The multiannual national strategic plans should serve to promote competitiveness in the aquaculture sector, support its development and innovation, stimulate business activity, promote diversification, and improve quality of life in coastal and rural regions, as well as ensuring a level playing-field for aquaculture operators in terms of access to waters and land.

3.5 The proposed revision of the Common Fisheries Policy includes the setting-up of an Aquaculture Advisory Council which will be responsible for presenting recommendations and suggestions to the European institutions on issues relating to the management of aquaculture, as well as informing them about problems in the sector.

## 4. General comments

4.1 Some 13,2 million tonnes of aquatic products are consumed annually on the EU market, of which 65 % are imported, 25 % come from EU commercial fishing, and only 10 % from European aquaculture. The Committee shares the view that this imbalance is unsustainable, both in economic terms because of the trade deficit it entails, and socially because of the job opportunities forgone.

4.2 The EESC welcomes the Commission's view that each percentage point of increase in the consumption of aquatic products produced internally through EU aquaculture would create between 3,000 and 4,000 full-time jobs.

4.3 The EESC therefore agrees with the position of the Council, Parliament and European Commission that aquaculture must be one of the pillars of the EU's Blue Growth strategy and that its development can contribute to the Europe 2020 strategy. Aquaculture has the potential to boost growth and create jobs in coastal and river areas of the European Union where there are few alternative economic activities.

4.4 Demand for aquatic products is steadily increasing among consumers in Europe. European aquaculture offers consumers high-quality products, in compliance with the strictest environmental sustainability, animal health and consumer protection standards. The EESC believes that the supply of safe, healthy and sustainable food in the European Union should be considered a key challenge for the next few decades.

4.5 Despite these manifest advantages, aquaculture production in the European Union has stagnated since the year 2000. At the same time, aquaculture has registered strong growth in other parts of the world, which export a share of their products to the EU.



4.6 The EESC recognises that EU standards on public health, consumer protection and the environment form part of the fundamental values of the European Union. However, this legislation has considerable implications for the costs of European aquaculture producers, and these extra costs are rarely passed on in the prices of products which are obliged to compete on the market with imports that are not subject to the same requirements.

4.7 The EESC considers the Commission's proposal for re-establishing conditions of fair competition between EU operators and those of third countries to be wholly inadequate. Relying solely on measures to certify the safety and sustainability of EU aquaculture products and inform the general public of this standard is clearly an unsatisfactory way of restoring a level playing-field: public authorities should also demand the same safety guarantees of imports as are required of European products, with full 'sea-to-table' traceability.

4.8 The EESC considers that the imbalance on the European Union market between the production conditions for aquaculture in Europe and production conditions in third countries, which then export their goods to the EU, is much more than a simple issue of consumer information and decision. Other aspects have to be taken into account, such as the reduction in unnecessary red tape, access to space or the deficiencies of traceability systems.

4.9 In practice, the mandatory information that should always be available to consumers at the point of sale is often incomplete or unclear, which can result for example in fresh European products being replaced by defrosted imported ones without the buyer realising. This situation limits the ability of consumers to make responsible purchases, and also represents unfair competition vis-à-vis EU producers.

## 5. Specific comments

5.1 The EESC agrees with the Commission that close cooperation between aquaculture and the processing industry for aquatic products can further improve job creation and competitiveness in both sectors.

5.2 The EESC shares the Commission's view about the need to improve the information available on administrative procedures in terms of time and costs in relation to issuing licences for new aquaculture farms in the Member States.

5.3 The EESC agrees with the Commission that implementing spatial plans can help to reduce uncertainty, facilitate investment, speed up business development and encourage job creation in the aquaculture sector.

5.4 The EESC feels that inland aquaculture is not given enough attention in the Commission's communication, particularly in relation to spatial plans.

5.4.1 The Committee suggests that the Commission expand the scope of the best practice exchange seminar scheduled for summer 2014 to include the implementation of coordinated river planning (in addition to maritime planning), so as to help the Member States in this area.

5.5 The EESC recognises the importance of proper planning and control of aquaculture production in order to prevent undesirable effects on the environment. By the same token, it realises that sectoral management of aquaculture must follow an ecosystem-based approach.

5.6 The Committee knows how important it is for the development of aquaculture to be strongly research- and science-based.

5.7 Like the Commission, we are conscious of the environmental services provided by extensive pond-based aquaculture, which is an example of an economic activity that is compatible with the need to conserve habitats or species.

5.8 The Commission's idea of providing guidelines to help national and regional authorities implement EU legislation (e.g. on the environment) more effectively and consistently is in the EESC's view appropriate.

5.9 The EESC welcomes the role of the Aquaculture Advisory Council and believes that this body can help in achieving the objectives of the national strategic plans and check whether they are properly implemented. However, we would point out that this body is different in nature from other advisory councils, firstly because its sphere of activity concerns a private resource belonging to aquaculture businesses - in contrast to fishing, where stocks are a public natural resource - and secondly because its scope is not regional but EU-wide.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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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 Green Infrastructure (GI) — Enhancing Europe’s Natural Capital’**

COM(2013) 249 final

(2014/C 67/31)

Rapporteur: **Adalbert KIENLE**

On 3 July 2013, 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 Green Infrastructure (GI) — Enhancing Europe’s Natural Capital*

COM(2013) 249 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 1 October 2013.

At its 493rd plenary session of 16 and 17 October (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 134 votes in favour with 4 abstentions:

## **1. Conclusion and recommendations**

1.1 The Committee welcomes the Commission’s communication on Green Infrastructure (GI) and its intention of promoting GI projects by means of a package of measures.

1.2 The Committee recommends that use be made of experience with the implementation of the package of measures in order to develop it into the GI strategy announced in the Biodiversity Strategy 2020.

1.3 The EESC supports the aim of linking environmental benefits with economic and social benefits through GI projects. The aim is to create infrastructure with natural, semi-natural, used or urban landscape structures, thus contributing to the maintenance of biodiversity and other environmental factors, while providing cheap, sustainable services to society. In contrast to Natura 2000, the promotion of GI is not a legal instrument; it is not the purpose of the GI initiative to create an additional nature protection network alongside Natura 2000.

1.4 The EESC notes that the main responsibility for Green Infrastructure projects lies with the Member States, especially the bodies responsible for regional and local planning. The EU has a mainly supporting role to play in the promotion of GI. The GI concept should, in particular, be rapidly and effectively integrated into policy areas such as agriculture, forestry, nature conservation, water, marine and fisheries, regional and cohesion policy, urban planning, climate policy, transport, energy, disaster prevention and land use policies as well as into the corresponding EU financing instruments.

1.5 In the case of GI projects of European importance the EU must take on direct responsibility. The EESC supports the proposal to introduce, by analogy with the TEN-T, TEN-E and eTEN networks, a TEN-G for the financing of Green Infrastructure, with a list of cartographically presented GI projects of European importance.

1.6 The main actors in GI projects at regional and local level are the bodies responsible for regional and local planning, cities and local authorities, bodies responsible for infrastructure projects in areas like road building, railways, hydraulic engineering and flood protection, agriculture and forestry, companies and developers, civil society environmental organisations and trade unions. These actors should be strengthened. The progress of GI projects will depend to a great extent on their being initiated, accepted and supported by these actors.

1.7 The EESC considers that much more attention should be paid to the early participation of civil society in GI projects than is the case in the Commission’s communication. Participatory planning processes, with early involvement of citizens and civil society organisations, are of decisive importance.

1.8 It should also be borne in mind that GI projects can also give rise to conflicts between the legitimate interests of various stakeholders and mechanisms must therefore be provided for conflict settlement, balancing of interests and project optimisation. If properly used, GI could help to mitigate or overcome

traditional tensions in nature conservation between protection and use. The EESC stresses that sufficient incentives must be created for the mobilisation of the necessary private investment.

## 2. Introduction

2.1 The value of biodiversity *per se* and the services it provides as a form of natural capital mean that its maintenance and restoration are of vital importance for human well-being, economic prosperity and decent living conditions. In its Biodiversity Strategy for 2020<sup>(1)</sup> the European Commission therefore set itself the target of stopping the loss of biodiversity and the deterioration of ecosystem services in the EU by 2020 and of reversing these processes as far as possible. In particular, Green Infrastructure is to be promoted by means of a European GI Strategy.

2.2 The communication entitled *Green Infrastructure (GI) — Enhancing Europe's Natural Capital* adopted by the Commission on 6 May 2013 focuses on:

- Promoting GI in the main policy areas such as agriculture, forestry, nature, water, marine and fisheries, regional and cohesion policy, climate change mitigation and adaptation, transport, energy, disaster prevention and land use policies, by the publication of guidance for the integration of the GI concept into the implementation of these policies from 2014 to 2020;
- Improving GI research and data, strengthening the knowledge base and promoting innovative technologies;
- Improving access to finance for Green Infrastructure projects – establishment by 2014 of a special EU financing facility together with the European Investment Bank to support Green Infrastructure projects;
- Supporting EU-level Green Infrastructure projects – by the end of 2015 assessment by the Commission of the development of a network of Green Infrastructure projects of European importance as part of a TEN-G initiative.

2.3 In its opinion on the Biodiversity Strategy of 26 October 2011<sup>(2)</sup> the EESC welcomed the strategy in principle but was critical of the failure to analyse the reasons why the targets had not been met. In particular the lack of political will in the Member States was preventing their effective implementation.

## 3. General comments

3.1 A clear definition of GI is used by David Rose in *Green Infrastructure. A landscape approach*: "Green infrastructure refers to

features that connect the natural and built environments and make cities and towns more liveable, such as parks, trails, green roofs, green streets, and the urban tree canopy. At the scale of a region, green infrastructure comprises the network of natural areas, green spaces, greenways, working (forest and agricultural) lands, and other features that provide multiple benefits for the health and well-being of people and ecosystems (...)".

### 3.2 Examples of GI are:

- The creation or maintenance of natural flood plains: whereas a dike merely prevents floods, flood plains also filter the water, stabilise the water table, provide leisure opportunities, store CO<sub>2</sub>, provide timber and help to link up natural habitats.
- Forests with a good species, age and structural mix absorb large quantities of water and protect the soil, prevent flooding and landslips as well as mitigating their effects.
- GI as an integral part of the development of residential areas: well-designed parks, avenues, footpaths and green roofs and walls are a cost-effective way of improving the urban climate and generally improving the quality of urban life. This also contributes to biodiversity and combating climate change.

3.3 82 % of land in the EU is outside the Natura 2000 network. The maintenance and restoration of biodiversity by promoting Green Infrastructure, also outside Natura 2000, are therefore clearly essential both for the viability of the network of protected areas and for the provision of ecosystem services in general. In contrast to Natura 2000, the promotion of GI is not a legal instrument. It cannot therefore replace implementation of Natura 2000 but it adds a further component to it. On the other hand, it is not the objective of the GI initiative to create an additional nature protection network alongside Natura 2000. The EESC argues that the GI initiative should be used in particular to promote cooperative protection of nature and the environment in all Member States.

3.4 The EESC stresses the urgency of early and active participation of civil society in GI projects, as provided for in the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Numerous examples show the extent to which the success of projects depends on approval or rejection by civil society. There should therefore be much greater emphasis on the bottom-up approach and on the building of partnerships, involving local authorities, bodies responsible for infrastructure projects, industry and trade unions, agriculture and forestry, water resources management and coastal protection and environmental NGOs in the European Commission's strategy.

<sup>(1)</sup> COM(2011) 244 final.

<sup>(2)</sup> EESC opinion on *An EU Biodiversity Strategy to 2020*, OJ C 24, 28.1.2012, pp. 111-116.

3.5 The EESC notes with regret that the Commission communication on GI is not yet the European GI strategy announced in the Biodiversity Strategy 2020. The EESC welcomes the actions announced in the communication as steps in the right direction. Experience with the implementation of these measures should be used to develop this into a GI strategy.

3.6 The EESC considers it necessary to go further than the communication in setting priorities for the implementation of GI. Like the Biodiversity Strategy, the communication lacks a clear analysis of the reasons why Green Infrastructure has not been adopted on a sufficient scale. The planned technical guidelines and improvements in the state of information and knowledge will not be sufficient to compensate for a lack of political will in individual Member States to implement these concepts. The EESC believes that an effective GI strategy will require stringent monitoring and a critical analysis of the measures in the Member States as well as, where necessary, targeted follow-up measures to support Member States or regions with significant deficits.

#### 4. Specific comments

##### 4.1 Role of the EU in promoting GI

4.1.1 The main responsibility for Green Infrastructure projects lies with the Member States, especially the bodies responsible for regional and local planning. The EU has a mainly supporting role to play by publicising the concept of GI and, as provided for in the Commission communication, providing suitable and accessible sources of information and knowledge. Moreover, the EU financing instruments have a major influence on regional and local planning, and the integration of the GI concept into these financing instruments must therefore be given high priority.

4.1.2 In the case of certain GI projects of European importance the EU must take on direct responsibility. Such projects are typically based on cross-border landscape features such as mountain ranges, rivers or forests. The communication cites the European Green Belt initiative as a successful example of this. Particular attention should also be paid to cross-border river valleys as the basis for a European GI. Particularly in the case of rivers like the Danube or the Elbe, which this year once again experienced serious flooding, the GI concept can combine improved flood defences with the maintenance of sensitive waters of importance for pan-European biodiversity, as well as economic and tourism development.

4.1.3 The EESC supports the promotion of a strategically planned European network of GI projects of European importance with a list of cartographically presented projects. This project should, in the framework of a TEN-G initiative, be assigned similar status to European infrastructure initiatives in the areas of transport, energy and telecommunications.

##### 4.2 Dissemination of the concept of GI

One major obstacle to the dissemination and promotion of GI is, the EESC believes, to be found in the lack of knowledge of the concept of GI and of the practical advantages, including possible cost advantages. The Commission therefore rightly set itself the goals of raising important stakeholders' awareness of GI, promoting established practices by the exchange of information and improving the state of GI knowledge. Social media offer a particularly useful platform in this connection. The EESC considers the use of a clear and easily understandable definition of GI to be an essential precondition for this publicity work. The definition used by the Commission does not fulfil this condition <sup>(3)</sup>.

##### 4.3 Taking account of the specific situation in the individual Member States

4.3.1 The situation with regard to the availability of natural, semi-natural and urban land in the individual Member States and regions is highly diverse. Whilst in some densely populated regions and cities a great deal of land is used for "grey infrastructure", other regions have large areas of land which are left to nature. European GI promotion measures must make a distinction between regions attempting to create new GI and those where the emphasis is, rather, on the maintenance and care of landscapes.

##### 4.4 Integration of GI into key policy areas and their financing instruments

4.4.1 The communication rightly assigns the highest priority to the effective integration of GI considerations into a broad range of policy areas.

4.4.2 The EESC welcomes the drawing-up of technical guidelines, with principles and conditions for the integration of GI aspects into regional and cohesion policy, climate and environmental policy, health and consumer policy and the Common Agricultural Policy, including the related financing mechanisms. These should be rapidly published so that the Member States, which are already working on the operational plans, can use the guidelines for the 2014-2020 programming period.

4.4.3 GI depends not only on public but also private investment. The EESC emphasises that sufficient incentives are needed for private investment in GI. The EESC welcomes the proposed establishment of a special EU financing facility jointly with the EIB.

##### 4.5 Effective participation of civil society in regional and local planning

4.5.1 The Communication does recognise the need for integration of GI into regional spatial planning and local planning,

<sup>(3)</sup> COM(2013) 249 final, p. 3.

but the EESC points to the lack of any specific measures in the action plan. Local spatial, landscape and building planning in particular have a significant impact on the implementation of GI but, under the subsidiarity principle, can only be influenced by the European level to a limited extent.

4.5.2 The EESC calls for the early participation of regional and local civil society actors in GI projects, without which the projects will be impossible to implement or will fail for lack of social acceptance. Participatory planning processes are therefore needed, assigning an active, shaping role to these actors. It should be borne in mind that, when decisions on GI are taken, there are not only "win-win" scenarios, and individual stakeholders may in certain cases have to accept disadvantages (e.g. if the maintenance of GI on river banks or coasts results in construction bans). Conflicting objectives arising from competing land use claims (e.g. food, housing and infrastructure, biotope connectivity, biodiversity) must be addressed and solutions found.

#### 4.6 GI in urban areas

4.6.1 The EESC sees enormous potential for GI measures in urban areas. Here they bring health advantages, improve the urban climate, create jobs and improve the attractiveness of cities. In cities in particular it is important to improve understanding of GI solutions - beginning in schools - and to strengthen the active participation of civil society. The EESC sees the current strong interest in urban gardening and farming as a strong signal of the willingness of many people to contribute to intact ecosystems and to try out new forms of community and community spirit.

#### 4.7 Integration into agriculture and rural development

4.7.1 The nature and extent of the integration of GI will depend to a great extent on the outcome on the Common Agricultural Policy (CAP) and the EU's Multiannual Financial Framework (MFF) for 2014-2020. Political agreements have been reached in both areas. The EESC has repeatedly advocated a multifunctional agriculture and function-orientated direct payments. With a view to the forthcoming agricultural reform and a more environmental orientation for European

agriculture, direct payments have, inter alia, been made dependent on the achievement of higher environmental standards and the identification of environmental priority areas. The EESC will study the decisions on the CAP reform in detail and compare them with its own positions.

4.7.2 The EESC expects to see further environmental connectivity services provided in the framework of the European Agricultural Fund for Rural Development and in particular the agricultural environment measures. The EESC has repeatedly pointed to the interest in nature and biotope conservation among a large proportion of farmers and foresters. Many pilot projects have convincingly demonstrated that a partnership-based approach can achieve positive effects. The EESC calls for both extensively and intensively farmed land which is farmed in a resource-efficient way to be included in GI projects. Preference should be given here to voluntary, integrated production measures. Here too it is important to unlock the potential of GI for rural development in social and demographic terms.

#### 4.8 Linking GI to other policy areas

4.8.1 **Integrated management of waters and coasts** should make the most effective possible use of the potential of Green Infrastructure <sup>(4)</sup>.

4.8.2 The deterioration of ecosystems in the EU is above all a consequence of increasing land-take, land fragmentation and more intensive use of land. GI can counter this trend. It should be supported by more intensive European **soil protection policy** measures, including legislative steps, to reduce land-take <sup>(5)</sup>.

4.8.3 GI acts as a carbon sink, especially by protecting natural soils. The general **climate policy** objective of developing the European economy into a low-carbon, bio-based economy makes healthy ecosystems even more important. The many uses of GI should be given special attention in the Member States' strategies for adaptation to climate change.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(4)</sup> EESC opinion on *Maritime spatial planning and integrated coastal management*, (not published yet in O.J.)

<sup>(5)</sup> EESC opinion on the *7th Environment Action Programme* (point 4.2.2), OJ C 161, 6.6.2013, pp. 77-81.



**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 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean'**

COM(2013) 250 final — 2013/133 (COD)

(2014/C 67/32)

Rapporteur: **Mr SARRÓ IPARRAGUIRRE**

On 12 May 2013 and 28 May 2013, the European Parliament and the European Commission respectively decided to consult the European Economic and Social Committee, under Articles 43(2) and 304 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 Council Regulation (EC) No 302/2009 concerning a multiannual recovery plan for Bluefin tuna in the eastern Atlantic and Mediterranean*

COM(2013) 0250 final — 2013/0133 (COD).

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 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 137 votes to 2 with 4 abstentions.

## **1. Conclusions and recommendations**

1.1 The Committee welcomes this amendment to Regulation (EC) No 302/2009, as it shows that real results are being achieved in the recovery of bluefin tuna in the Eastern Atlantic and the Mediterranean.

1.2 The Committee again urges the European Commission to apply this Regulation as strictly as possible to all the Member States and ICCAT Contracting Parties.

1.3 The EESC reiterates its acknowledgement of the efforts made over recent years by the European Commission, the Member States and fishermen to comply with the demanding multiannual recovery plan, with the ensuing social and economic consequences that should be taken into account.

1.4 The EESC urges the Commission and the Member States to further develop their information activities, raising awareness about the reality of the bluefin tuna situation and the results of the recovery plan's implementation.

1.5 The EESC believes it is essential, in order to safeguard the recovery of bluefin tuna, for the type of fishing gear the EU will permit for fishing throughout the year to be clearly stated after Article 7(6).

## **2. Introduction**

2.1 The present opinion concerns proposal COM(2013) 250 final, which seeks to make a new amendment to Council Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean.

2.2 Bluefin tuna is one of the most important species governed by the International Commission for the Conservation of Atlantic Tunas (ICCAT). The EU is a contracting party to the ICCAT Convention.

2.3 In 2006, the ICCAT launched a recovery plan for bluefin tuna, prompting Regulation (EC) No 1559/2007, which was the first to establish a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean.

2.4 Regulation (EC) No 1559/2007 was repealed by Regulation (EC) No 302/2009 in response to ICCAT Recommendation 08-05, adopted at its 16th Special Meeting in 2008, establishing a new recovery plan for bluefin tuna.

2.5 At its 17th Special Meeting in 2010, the ICCAT adopted Recommendation 10-04 amending the earlier recovery plan by introducing a further reduction of the total allowable catch, strengthening measures to reduce the fishing capacity and reinforcing fishery control measures. As a result, an amendment to Regulation 302/2009 was adopted as Regulation (EU) No 500/2012 in order to implement these international conservation measures at Union level.

2.6 The European Economic and Social Committee issued opinions supporting the European Commission's proposals for both regulations, as it supports this most recent amendment, recognising the efforts being made by the Member States and fishermen to comply with the ICCAT's demanding recovery plan for bluefin tuna, and calling for scientific research to continue.

### 3. Scientific position

3.1 Since the 16th Special Meeting in 2008, the ICCAT has observed a recovery in the biomass of bluefin tuna in the Eastern Atlantic and the Mediterranean.

3.2 The Standing Committee on Research and Statistics (SCRS), the scientific committee that advises the ICCAT, stated, among other things, in its 2012 Executive Summary report that <sup>(1)</sup>:

3.2.1 Catch limits have been in place for the eastern Atlantic and Mediterranean management unit since 1998. In 2002, the Commission fixed the Total Allowable Catch (TAC) for the East Atlantic and Mediterranean bluefin tuna at 32 000 t for the years 2003 to 2006 and at 29 500 t and 28 500 t for 2007 and 2008, respectively. Subsequently, it established TACs for 2009, 2010, and 2011 at 22 000 t, 19 950 t, and 18 500 t, respectively. However, the 2010 TAC was revised to 13 500 t, establishing a framework to set future (2011 and beyond) TAC at levels sufficient to rebuild the stock to BMSY [Biomass Maximum Sustainable Yield] by 2022 with at least 60 % probability. The 2011 and 2012 TAC were set at 12 900 t.

3.2.2 The 2010 ICCAT Recommendation 10-04 was the fundamental driving force behind the recovery of bluefin tuna because, while providing for a further reduction of TACs to 12 900 tonnes for 2011 and 2012, it had a decisive impact on reducing the fishing capacity and on control measures, leading to a very significant reduction in the number of vessels and to effective control of their catches.

3.2.3 Although care is needed when considering estimates of catch using capacity measures, the Group's interpretation is that a substantial decrease in the catch occurred in the Eastern Atlantic and Mediterranean Sea through implementation of the rebuilding plan and through monitoring and enforcement controls.

3.2.4 Additionally, higher abundance or higher concentration of small bluefin tuna in the north-western Mediterranean detected from aerial surveys could also reflect positive outcomes from increase minimum size regulation. Rec.[06.05] also resulted in improved yield-per-recruit levels in comparison to the early 2000s as well as to a greater recruitment to the spawning stock biomass due to higher survival of juvenile fish.

3.2.5 The implementation of recent regulations and previous recommendations has clearly resulted in reductions in catch and fishing mortality rates. All CPUE indices showed increasing tendencies in most recent years. The Committee notes that

maintaining catches at the current TAC (12 900 t) or at the 2010 TAC (13 500 t) under the current management scheme will likely allow the stock to increase during that period and is consistent with the goal of achieving Fishing Mortality Maximum Sustainable Yield and Biomass Maximum Sustainable Yield through 2022 with at least 60 % of probability.

3.3 The EESC welcomes the report by the ICCAT's scientific advisory committee, which shows a clear trend towards bluefin tuna recovery, since it has firmly supported all the legislative proposals submitted by the European Commission concerning the multiannual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean.

### 4. Modifications contained in the ICCAT Recommendation

4.1 In 2012, the ICCAT Commission adopted a new Recommendation 12-03 amending its 15-year multiannual recovery plan (2007-2022).

4.2 This recommendation sets the TACs at 13 500 tonnes annually beginning in 2013 and thereafter, until such time the TAC is changed following SCRS advice. Of these 13 500 tonnes, 7 548,06 tonnes are allocated to the European Union. This means that after a number of years of reduced TACs and numerous efforts to bring about bluefin tuna recovery, the trend has been reversed this year and TACs have been increased by 600 tonnes, in line with scientific recommendations.

4.3 Moreover, with the aim of better adapting fishing seasons to the activities of fleets, the recommendation modifies fishing seasons, which are to be considered open seasons in contrast to the closed seasons indicated in previous ICCAT recommendations.

4.4 In addition, the actual dates when fishing is permitted by purse seiners, bait boats and trolling boats have been modified.

4.5 Finally, to avoid any uncertainty for those gears which are not subject to any specific rules on fishing season, it was necessary to include a provision explicitly allowing all other gears the possibility to fish all year round.

4.6 With regard to the allocation of quotas to the EU in ICCAT waters for 2013, the Council Regulation on TACs and quotas <sup>(2)</sup> laid down the fishing opportunities for each Member State and established that the season for purse-seiners will be from 26 May 2013 to 24 June 2013, in order to allow Member States sufficient time for planning.

<sup>(1)</sup> [http://www.iccat.es/Documents/SCRS/ExecSum/BFT\\_EN.pdf](http://www.iccat.es/Documents/SCRS/ExecSum/BFT_EN.pdf).

<sup>(2)</sup> Regulation (EU) No. 40/2013, OJ L 23, 25.1.2013.

4.7 The EESC considers all the modifications set out in ICCAT Recommendation 12-03 to be logical, congratulates the European Commission, the Member States and fishermen on their commitment to achieving this multiannual recovery plan for bluefin tuna, and urges the European Commission to press ahead with the efforts it is making.

## 5. Amendment of Regulation (EC) No 302/2009

5.1 In the light of the above, the proposal for a regulation amends Article 7 of Regulation (EC) No 302/2009, establishing the fishing periods for each of the types of fishing vessels authorised to catch bluefin tuna.

5.2 Article 7 is worded as follows:

### "Fishing seasons

- 1) Bluefin tuna fishing shall be permitted in the eastern Atlantic and Mediterranean by large-scale pelagic long line catching vessels over 24 m during the period from 1 January to 31 May with the exception of the area delimited by West of 10° W and North of 42° N, where such fishing shall be permitted from 1 August to 31 January.
- 2) Purse seine fishing for Bluefin tuna shall be permitted in the eastern Atlantic and Mediterranean during the period from 26 May to 24 June.
- 3) Bluefin tuna fishing by bait boats and trolling boats shall be permitted in the eastern Atlantic and Mediterranean during the period from 1 July to 31 October.
- 4) Bluefin tuna fishing by pelagic trawlers shall be permitted in the eastern Atlantic during the period from 16 June to 14 October.
- 5) Bluefin tuna recreational and sport fishing shall be permitted in the eastern Atlantic and Mediterranean from 16 June to 14 October.
- 6) Fishing for Bluefin tuna by other gears than those mentioned in paragraphs 1 to 5 shall be permitted throughout the year."

5.3 The EESC supports this amendment to Regulation (EC) No 302/2009, considering it to be logical since Article 7, as

amended, gives a clearer indication of the "open fishing seasons" compared to the concept of "closed fishing seasons" in the previous Article 7. At the same time, it amends the actual dates when fishing is permitted by purse seiners, bait boats and trolling boats, and stipulates that gears which are not subject to any specific rules on the fishing season may be used all year round. The Committee therefore considers that it would be appropriate to add the following sentence to Article 7(6): "in accordance with the conservation and management measures set out in Recommendation 12-03".

5.4 In connection with this authorisation, the EESC believes it is essential, in order to safeguard the recovery of bluefin tuna, for the type of fishing gear the EU will permit for fishing throughout the year to be clearly stated after Article 7(6).

## 6. General remarks

6.1 The EESC welcomes this amendment to Regulation (EC) No 302/2009, as it shows that the applications and modifications introduced each year point to the fact that during the first six of the planned 15 years of the multiannual plan, they are producing real results in the recovery of bluefin tuna in the Eastern Atlantic and the Mediterranean.

6.2 The Committee again urges the European Commission to apply this Regulation as strictly as possible to all the Member States and ICCAT Contracting Parties.

6.3 The EESC reiterates its acknowledgement of the efforts made over recent years by the European Commission, the Member States and fishermen to comply with the demanding multiannual recovery plan, with the ensuing social and economic consequences that should be taken into account.

6.4 The Committee wishes in particular to recognise the work being carried out by all the scientific institutions, in the both Member States and the Contracting Parties, by the European Commission and by the ICCAT itself with a view to moving ahead determinedly with this multiannual recovery plan for bluefin tuna. It would extend this recognition to the European Fishery Control Agency.

6.5 Lastly, the EESC urges the Commission and the Member States to further develop their information activities, raising awareness about the reality of the bluefin tuna situation and the results of the recovery plan's implementation.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

**Opinion of the European Economic and Social Committee on the ‘Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an EU strategy on adaptation to climate change’**

COM(2013) 216 final

(2014/C 67/33)

Rapporteur: **Isabel CAÑO AGUILAR**

On 16 April 2013, 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 European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an EU strategy on adaptation to climate change*

COM(2013) 216 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 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 134 votes to 1 with 8 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC supports the strategy on adaptation to climate change proposed by the Commission, while at the same underlining that mitigation policies are a key priority given the negative impact that climate change has already had in Europe.

1.2 The implementation of the new adaptation plan must take account of the fact that higher temperatures in Europe and the possibility of an increased rate of extreme phenomena may cause damage to people, the economy and the environment that is greater than initially thought.

1.3 The adaptation strategy must include specific measures for urban areas - home to three quarters of the European population - and for rural areas which are especially sensitive to variations in climate.

1.4 Since action by the Member States is crucial, it should be pointed out that insufficient progress has been made in certain areas since the publication of the White Paper in 2009. The Commission must therefore consider the need to play a more active role, making use of its powers under the TFEU.

1.5 The EESC believes it is very important that the next Multiannual Financial Framework (MFF) allocates 20 % of the total budget to climate-related measures. The sum of EUR 192 bn for this purpose represents a big increase.

1.6 Both the new adaptation strategy and the MFF represent significant progress in the integration of the EU's various policies and financial instruments.

1.7 The Commission proposal should offer a broader financial overview, including the key contributions to be made by the Member States, the business sector and families.

1.8 The Committee calls on those Member States which have yet to do so to act swiftly to draw up and rigorously apply national adaptation strategies.

1.9 In the remarks made in this opinion, the EESC broadly endorses the actions proposed by the Commission.

1.10 The EESC suggests specifically examining the structural changes required by the adaptation strategy in certain policies and in the production of goods and services, taking account of the impact on employment, industry, construction and RDI, among other things.

## **2. Gist of the Communication**

2.1 The 2009 White Paper on Adapting to climate change <sup>(1)</sup> proposed a two-phase framework for action, the first phase of which (2009-2012) comprised an adaptation strategy based on 33 measures.

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<sup>(1)</sup> COM(2009) 147 final.

2.2 The communication under consideration relates to a second phase focussing on three objectives:

- promoting action by Member States;
- better informed decision-making; and
- climate-proofing EU action, promoting adaptation in key vulnerable sectors.

In accordance with these objectives, eight actions are proposed.

2.3 The Commission takes the view that by prioritising coherent, flexible and participatory approaches, it would be cheaper to take early, planned adaptation action than to pay the price of not adapting. According to various estimates, on the basis of current trends, climate change will involve major financial costs for the EU, especially in the worst case scenarios, if adequate steps are not taken <sup>(2)</sup>.

2.4 Adaptation measures will have to be taken at local as well as regional and national levels.

### 3. General comments

3.1 The EESC supports the Strategy on adaptation to climate change proposed by the Commission and agrees with its statement that uncertainty cannot be used as an excuse for inaction. At the same time, it underlines that mitigation policies are a key priority given that the data available sufficiently demonstrates the negative impact that climate change has already had in Europe and the expectation that it will get worse in the future.

3.2 In the mid-1990s, the EU began a campaign to limit global warming to 2 °C above pre-industrial levels, a limit that was finally established at the Cancún Conference (2010). Respecting that limit requires a considerable reduction in greenhouse gas emissions, but the trend is moving in the opposite direction. In implementing the new adaptation plan, account must be taken of the fact that the temperature in Europe is rising faster than the average for the rest of the planet, with the possibility of an increased rate of extreme phenomena causing harm to people, the economy and to the environment greater than initially estimated.

3.3 The EESC points out that in **urban areas** - home to three quarters of the European population - the replacement

of natural vegetation with buildings and constructions of any type worsens the damage caused by certain natural phenomena. Heat and floods, amongst other things, will affect families - particularly vulnerable people (children and the elderly) - economic life, tourism and infrastructures, with negative effects on employment and people's quality of life. **Rural areas** on the other hand are especially sensitive to the variability of the climate given its impact on agriculture, livestock farming and logging, with the risk of depopulation and increased poverty.

3.4 An important factor associated with adaptation to climate change is that the variability of climate indicators changes according both to time and microregion. It is above all a question of temperatures, snow, rain, wind and humidity. Planning and construction standards will have to be adapted to future maximum and minimum values. Forests, for example, will have to be sufficiently resilient to deal with the strongest hurricane they are ever likely to encounter in their lifetime, which is usually one hundred years.

3.5 Adapting to climate change will inevitably involve costs, and these will take the form of implicit debt according to the definition of basic principles underpinning the method for calculating public debt. In the event that an additional deficit of this type occurs in the public finances, the implicit debt will become explicit. However, substantial damage can be avoided with, for example, anti-flood protection measures. The outcomes of investments in adaptation differ significantly depending on the source of financing, whether this be the EU, the national level, businesses or families. The Commission proposal only quantifies the EU's sources in some detail. However, it will be necessary to use all of these sources and to do so using structures and volumes which are effective.

3.6 To date, fifteen EU Member States have adopted national adaptation strategies, but only thirteen have specific action plans. Four years after the White Paper, and despite the urgency of the issue, the adaptation process, according to the Commission, "is in most cases still at an early stage, with relatively few concrete measures on the ground". In light of this, the Committee calls on those Member States which have yet to do so to act swiftly to draw up and rigorously apply national adaptation strategies.

3.7 Within the EU's adaptation strategy, the Commission has so far played a crucial role supporting, promoting and coordinating the decisions of the Member States, who are primarily responsible for adopting effective and coordinated measures to prevent the risks of climate change. The action by Member States is vital, but we should stress that insufficient progress has been made on adaptation in certain areas since the publication of the White Paper. The Commission must therefore consider the need to play a much more active role in relation to climate change, making use of its powers under the TFEU.

<sup>(2)</sup> Commission Staff Working Document, SWD(2013) 132 final.



3.8 In the proposed Multiannual Financial Framework (MFF) 2014-2020 <sup>(3)</sup>, the Commission suggested that a minimum of 20 % of the total budget be dedicated to climate-related actions. The EESC considers it very significant that the Council and the European Parliament have accepted this principle. In the new MFF, climate-related actions as a whole (mitigation and adaptation) account for around EUR 192 billion. This is a considerable increase, bearing in mind that adaption measures only received EUR 6 billion under the MFF 2007-2013.

3.9 The EESC considers it crucial for climate actions to be incorporated in a cross-cutting way into the Union's different policies and financial instruments (Cohesion Fund, Structural Funds, R+D, CAP, trans-European networks etc.). Both the new strategy and the MFP 2014-2020 represent progress in this direction.

3.10 Given the EU's mitigation and adaptation policies and the worsening effects of climate change represent an increase in the workload of the European Environment Agency (EEA), the EESC suggests that consideration be given to increasing human and financial resources.

3.11 The Committee points out that an adaptation strategy must take account of the effects of climate change on human health - a subject on which studies already exist (see *Impacts of climate change in human health in Europe. PESETA-Human health study*. 2009) - and the need to have adequate emergency services in the event of extreme phenomena.

#### 4. Specific comments

##### 4.1 Action 1: Encourage all Member States to adopt comprehensive adaptation strategies

4.1.1 The Commission refers to the creation of an adaptation preparedness scoreboard by 2014. In 2017, basing itself on the reports it receives as set out in the Monitoring Mechanism Regulation (currently under negotiation) and on the adaptation preparedness scoreboard, the Commission will assess whether action being taken is sufficient, and will propose, if necessary, a legally binding instrument.

4.1.2 The EESC is in favour of the possibility of applying Article 192 TFEU on the legislative procedure in relation to the environment. Any European legislation should provide for specific measures, time limits for application, control mechanisms and possible penalties for non-compliance. Given the urgency of the matter, the Committee suggests that the time periods for this decision be reconsidered.

##### 4.2 Action 2: Provide LIFE funding to support capacity building and step up adaptation action in Europe (2013-2020)

4.2.1 The Committee has spoken in favour of the proposal for a LIFE Regulation and considers the increase in the budget

to EUR 3,2 billion for 2014-2020 <sup>(4)</sup> to be a good sign. The Climate Action sub-programme (EUR 904,5 million in the Commission's initial proposal) includes three priority areas, in principle as follows: climate change mitigation (45 %), adaptation to climate change (45 %) and governance and information (10 %).

4.2.2 The Commission has identified five vulnerable areas among which the funds will have to be distributed fairly:

- cross-border management of floods;
- trans-boundary coastal management;
- mainstreaming adaptation into urban land-use planning;
- mountain and island areas;
- sustainable management of water (desertification and forest fires in drought-prone areas).

##### 4.3 Action 3: Introduce adaptation in the Covenant of Mayors framework (2013/2014)

4.3.1 The Covenant of Mayors – established on the initiative of the Commission – proposes achieving the target set by the EU of reducing emissions by 20 % by 2020, which should, of course, be fully supported.

4.3.2 The Commission only says briefly that it "will support" adaptation in cities, but provides no more detail. Given the voluntary nature of the covenant, it may be a good idea for the signatories, with the Commission's support, to draw up quantifiable objectives and mechanisms for following up measures relating to adaptation. The EESC believes that the Commission should deal with these issues so that we have a genuine EU policy on adaptation in urban areas, in which some Member States have experience (e.g. the Performance Indicator for Climate Change Adaptation - NI188 – in the United Kingdom).

##### 4.4 Action 4: Bridge the knowledge gap

4.4.1 The Commission mentions four key knowledge gaps, stating that it "will further work" with Member States and stakeholders in addressing them:

- information on damage and adaptation costs and benefits;

<sup>(3)</sup> COM(2011) 500 final.

<sup>(4)</sup> OJ C 191, 29.6.2012, pp. 111-116.

- regional and local-level analyses and risk assessments;
- frameworks, models and tools to support decision-making and to assess how effective the various adaptation measures are;
- means of monitoring and evaluating past adaptation efforts.

4.4.2 Horizon 2020 (2014-2020 period) allocates EUR 1,962bn to the Joint Research Centre, with a further EUR 656m to be provided by Euratom. What is involved here is a considerable increase (around EUR 17bn) on the 7th Framework Programme.

4.4.3 The EESC wishes to point out that the lack of specific data on some aspects cannot be an excuse for postponing decisions, since there is multiple evidence of the negative effects of climate change.

4.5 *Action 5: Further develop Climate-ADAPT as the 'one-stop shop' for adaptation information in Europe and inclusion (in 2014) of the future Copernicus climate services*

4.5.1 The Committee supports the decision to centralise in Climate-ADAPT the collection and dissemination of information on climate change. The interaction between Climate-ADAPT and national platforms will require an additional effort on the part of the Member States given that, currently, only six of them have comprehensive portals on the subject. The information provided by the regional authorities and the private sector is insufficient at present.

4.5.2 The EESC believes that the climate services of Copernicus (collection of information through the European network of satellites and systems located on the ground) are of vital importance for the adoption of measures. Combined with the observations of other services, particularly those of NASA, Europe contributes to the global fight against climate change.

4.6 *Action 6: Facilitate the climate-proofing of the Common Agricultural Policy (CAP), the Cohesion Policy and the Common Fisheries Policy (CFP)*

4.6.1.1 **CAP:** Overall, agriculture is directly or indirectly responsible for 30 % of greenhouse gas emissions. It therefore has significant potential to reduce emissions using more efficient cultivation methods. Unlike other sectors, direct emissions are inherent in the production method. Its specific characteristics should therefore be recognised.

4.6.1.2 In its opinion on "The link between climate change and agriculture at European level" <sup>(5)</sup>, the Committee emphasised the serious problems which drought will cause in the south of Europe and pointed out, amongst other things, that "agriculture is not only a victim of climate change, but also contributes to greenhouse gas emissions". It therefore "urges the Commission to conduct a more detailed analysis of differences between various types of agricultural land use in terms of climate impact, so that policy options can be developed, for example in relation to support for farmers".

4.6.1.3 The EESC takes note of the fact that, under the political agreement on the CAP of 26 June 2013, between 2014 and 2020 over EUR 100bn will be invested to help agriculture deal with the challenges associated with the quality of soil, water, biodiversity and climate change. To this end, 30 % of direct payments will be linked to carrying out agricultural practices of benefit to the environment and at least 30 % of the budget of rural development programmes will be earmarked for "green agriculture".

4.6.1.4 **Cohesion:** Failure to act, or delays in taking action, could upset cohesion in the EU. The effects of climate change can be expected to exacerbate social differences in the EU. Particular attention should therefore be paid to the social groups and regions which are most exposed to it and which are already disadvantaged for various reasons, such as poor health, low incomes, inadequate housing or lack of mobility.

4.6.1.5 For the 2014-2020 programming period, the Commission must send a clear message to the effect that all European policies should be linked to climate change mitigation and adaptation. Adaptation must be included explicitly in each National Strategic Reference Framework and in Operational Programmes. In this regard, the EESC suggests that the approval of projects be conditional upon compliance with environmental objectives. Projects with a negative impact in terms of climate change should be reduced to a minimum or entirely excluded. The Commission's legislative proposals on cohesion policy, which will enter into force in 2014, mention adaptation to climate change, but the EESC believes that requirements should be raised.

4.6.1.6 **CFP:** The Commission does not indicate specific measures in this connection. According to the FAO, the basic objective of adaptation policies must be to ensure the sustainability of the aquatic ecosystems on which fishing depends.

4.6.1.7 One of the areas which will be seriously affected by climate change will be forestry, which is a key natural depository of CO<sub>2</sub>. The very strong winds associated with hurricanes will destroy wooded areas, which will therefore have to be replaced prematurely. The number of destructive forest fires will increase during dry and hot periods. These factors will have a considerable impact on the sector's economy and the various roles played by the countryside.

<sup>(5)</sup> OJ C 27, 3.2.2009, p. 59.

#### 4.7 Action 7: Ensuring more resilient infrastructure

4.7.1 This is probably the greatest challenge facing public authorities in a climate change adaptation strategy. The main threats to infrastructure include the damage and destruction caused by extreme meteorological events, which may be exacerbated by climate change; coastal floods of riverbanks and floods resulting from higher sea levels; difficulties in the provision of electricity, drinking water and the impact of temperature rises on companies' operational costs. Some infrastructure may be not affected directly, but is not operational if physical access to services is not possible (such as ITCs).

4.7.2 Public and private investors must take account of the anticipated effects of global warming in financial plans for infrastructure projects. Certain works will require investments from the Member States, which in many cases are subject to budgetary restrictions because of the economic crisis.

4.7.3 Building on the mandate to assess climate change implications for Eurocodes, the Commission proposes working with European standardisation organisations (CEN, CENELEC and ETSI), financial institutions and scientific organisations to establish the changes needed in buildings and public works standardisation programmes. In this regard, the EESC would point out that standardisation models must prioritise the robustness and reliability of infrastructure over the purely economic considerations of profitability for investors. Since there are cases in Europe of the narrowing of rivers and the removal of marshland exacerbating the effect of floods, appropriate urban planning models should be established. At the same time, measures such as green roofs or facades could for example be recommended in buildings where this is possible.

4.7.4 The adaptation strategy must take account of the ageing population, since older people, and especially the more elderly, are very vulnerable when there are extreme temperatures and humidity. For example, consideration must be given to installing low-emission air conditioning systems which are sufficiently powerful and reliable in healthcare centres and residential care homes.

4.7.5 The EESC has in earlier opinions (ces1607-2011 and ces492-2012) supported the introduction of a two layer approach of the Trans-European Transport Networks (TEN-T) and the creation of designated European transport corridors, motivated by a wish to create a coherent transport network for the most important goods and passenger transport flows. The EESC consider this to be a useful goal and also based on a need to set priorities for the employment of scarce financing resources. However, concentration of infrastructure investments to such corridors also increase the vulnerability of the EU transport system if interruptions occur. The EESC stresses the need for taking account of this when planning and financing such corridor investments. Apart from good resilience in building structures, this also should mean pre-planned diversions and bypasses as part of such European transport corridors.

#### 4.8 Action 8: Promote insurance and other financial products

4.8.1 The report by the Joint Research Centre of the European Commission (2012), Natural catastrophes: Risk relevance and insurance coverage in the EU, demonstrates the need for better statistical information. However, the information available suggests that market penetration (private insurance cover and *ex ante* or *ex post* government intervention as a proportion of GDP) is generally low. In relation to floods, for example, penetration rates are not very high in the majority of Member States, except in cases where flood cover is included together with other covers. These rates are also low in relation to storm and drought risks, although the latter appears to have a moderate impact in the Member States.

4.8.2 The EESC welcomes the Commission's decision to present a Green Paper on insurance of natural and man-made disasters <sup>(6)</sup> in order to strengthen the insurance market and ease the excessive burden of risk on the public budget. It would like to make the following points on this matter:

- the adoption of appropriate adaptation measures enables insurance costs to be reduced,
- an adequate insurance policy which provides for the situation of producers is especially important for the agricultural sector,
- given the scale of the risks, the State must always act as the ultimate insurer, and
- social policies to cover the most vulnerable people and those without sufficient resources to acquire insurance policies are necessary.

5. The EESC suggests specifically examining the structural changes which will be required by adaptation in certain policies and in the production of goods and services. Although the effects of climate change mainly affect farming, forestry, construction of buildings and infrastructure, many other economic sectors may require adaptation measures. Some aspects which may be taken into consideration are:

- Employment. No detailed analytical studies have so far been carried out into the impact of adaptation measures on the professional training of workers and the effect on employment.

<sup>(6)</sup> COM(2013) 213 final.

- Industry. Given the considerable diversity of industrial sectors, the impact of climate change is not uniform. Where necessary, adaptation will require investments and in some industries, such as the steel industry, there has already been a considerable effort to cut emissions, both in terms of technology and finances. The required investments will have to be taken into account in financial forecasts and in measures to inform investors adequately.
- Construction. Residential construction and infrastructure works will be profoundly affected by adaptation measures

and this will likely involve increased costs. Eurocodes have yet to establish requirements in this connection and this is something that will undoubtedly be rectified <sup>(7)</sup>.

- RDI. Over recent decades, climate change has already had an impact on the allocation of resources (the EU's new financial plan is proof of this) and in the research programmes of universities and specialist centres. New careers and professional profiles have been created. It is a trend that is likely to increase in future.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(7)</sup> OJ C 198, 10.7.2013, p. 45-50.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)’**

COM(2013) 265 final — 2013/0140 (COD)

**and on the ‘Proposal for a Regulation of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC’**

COM(2013) 327 final — 2013/0169 (COD)

(2014/C 67/34)

Rapporteur: **José María ESPUNY MOYANO**

On 23 May 2013, and 7, 13 and 21 June 2013, the European Parliament and the Council decided to consult the European Economic and Social Committee, under Articles 43(2), 114, 168(4)(b) and 304 of the Treaty on the Functioning of the European Union, on the following proposals:

*Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation)*

COM(2013) 265 final — 2013/0140 (COD)

*Proposal for a Regulation of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005, Directive 2009/128/EC and Regulation (EC) No 1107/2009 and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC*

COM (2013) 327 final — 2013/0169 (COD).

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 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 133 votes to 2 with 4 abstentions.

## 1. Conclusions

### Controls

1.1 The EESC generally supports the proposal on official controls, which is aimed at guaranteeing a high level of human, animal and plant health and ensuring that the EU’s internal market functions smoothly.

1.2 The EESC welcomes both the establishment of a common analysis system and the existence of reference laboratories in each Member State.

1.3 The EESC views the setting of control fees by each Member State using their discretion as problematic, given that they may be implemented in different ways. The Committee is therefore in favour of harmonising these fees in terms of the criteria and the methodology used to manage them, though not in terms of their actual financial amount, which will have to reflect the circumstances of each country.

1.4 The EESC is against financing 100 % of official controls in each Member State purely on the basis of these fees, since there is a risk that the competent authorities will not give priority to making their controls more efficient.



1.5 As regards exemptions from payment of fees by micro-enterprises, the EESC highlights the risk of market distortion arising from possible differences in the way in which these fees are applied in the Member States. The risk of distortion would be reduced if the legislative proposal, or subsequent versions, were to include criteria for granting payment exemptions which were uniform across the EU and which were more precise and sufficiently broad so as to reflect the diverse reality of the sector and to take special account of SMEs and microenterprises.

1.6 At the same time, in such a way as to complement the above, it is necessary to recognise that some businesses have effective self-controls carried out by their own qualified staff. This may result in lower "public control fees" in these businesses, since it is possible to reduce substantially the work carried out by public officials in those enterprises. These officials will therefore be able carry out their control duties in those businesses which do not have the adequate human resources to carry out self-control measures themselves.

1.7 The EESC feels it is important that, for the future application of the legislation, account should be taken of the lack of uniformity in application of control measures in various Member States, especially given that differences in human and financial resources in the inspection work of each country may give rise to distortions in the controls of the respective agricultural and livestock markets, with adverse consequences for all.

#### *Expenditure*

1.8 The EESC generally supports the proposal on management of expenditure, which is aimed at guaranteeing a high level of safety of food and food production systems, improving the health and welfare of animals, detecting and eradicating pests and ensuring that official controls are carried out effectively.

1.9 The EESC is in favour of replacing the current financial provisions in multiple legal bases by one single, clear and modern financial framework which optimises the implementation and the functioning of financial management of expenditure in the field of food and feed.

1.10 The EESC welcomes the fact that the proposal promotes "better training for safer food" on the basis of a harmonised approach with a view to improving the way in which national and EU control systems function.

1.11 Regarding the establishment of a specific maximum amount and given that this amount does not allow for any upward revision because it is included in a predetermined multi-annual plan, the EESC believes that the proposed regulation is unclear concerning many aspects of expenditure management. The Committee is therefore unable to say whether or not this amount is sufficient.

1.12 As regards access to the reserve for crises in the agricultural sector in certain circumstances, the EESC believes that clarification is required on how the Member States will be able to avail themselves of this in the event of an emergency. Furthermore, given that this reserve is granted in emergency situations relating to animal and plant health, the EESC believes that the term "crises in the agricultural sector" should be changed to "crises in the agro-industrial sector".

1.13 Finally, as regards survey programmes to detect the presence of pests and sanitary measures for the outermost territories of Member States, the EESC calls on the Commission to also consider potential pests from third countries which for the EU represent a substantial proportion of the supply of raw materials and processed products used by the food chain sector, and to include relevant items of expenditure under the harmonisation of plant health or production standards with these countries.

## **2. Summary of the proposal on controls**

2.1 The Commission proposal seeks to revise the legislation on official controls to overcome shortcomings identified in its wording and in its application. It aims to put in place a robust, transparent and sustainable regulatory framework that is better 'fit for purpose'. The *ratio legis* of the proposal also covers shortcomings in the control systems of certain Member States, identified by the Food and Veterinary Office.

2.2 The document includes three major reviews to modernise the animal health, plant health and plant reproductive material *acquis*. It aims to modernise and integrate the system of official controls in a manner that consistently accompanies the upgrade of EU policies in these sectors.

2.3 As regards official controls performed on goods arriving from third countries, the provisions of the regulation currently apply together with sectoral provisions which govern respectively the imports of animals and animal origin products, those of plant and plant products, and the controls on food and feed.

2.4 The Commission states that the comprehensive body of legislation currently in place allows the EU to deal with emerging risks or emergency situations without causing distortions to trade but points out that the Union's system of import controls could be made more consistent by reviewing and consolidating the existing sectoral acts.

2.5 As regards the financing of official controls, the regulation confirms the general principle that each Member State will have to allocate adequate financial resources of its own to official controls, and also the obligation to collect, in certain areas, so-called 'control fees'.

2.6 The proposal maintains the obligation on Member States to designate national reference laboratories for each European Union reference laboratory designated by the Commission.

2.7 Finally, it will include a new provision on sanctions for non-compliance requiring Member States to ensure that financial penalties applicable to intentional infringements offset the economic advantage sought by the perpetrator of the violation.

### 3. Summary of the proposal on expenditure

3.1 The objective of the Commission's proposed regulation is to contribute to a higher level of health for humans, animals and plants along the food chain, a higher level of consumer protection and information and a high level of protection of the environment while favouring competitiveness and creation of jobs.

3.2 In order to reach these objectives, adequate financial resources are required. In order to ensure that expenditure is channelled effectively towards the right goals, specific objectives should be laid down and indicators should be set to assess the achievement of those objectives.

3.3 EU financing is based on grants, procurement and payments to international organisations geared towards these sectors. The regulation lays down the list of eligible measures which may benefit from EU financing as well as the eligible costs and applicable rates.

3.4 As stipulated in the proposal for the 2014-2020 Multi-annual Financial Framework, the Commission is proposing a maximum amount of EUR 1 891 936 000 for expenditure in relation to food and feed. The proposal also suggests the creation of an emergency mechanism to respond to crisis situations.

3.5 As regards the final rate to be established for the reimbursement of eligible costs and given the importance of the objectives laid down in this regulation, the proposal stipulates that 100 % of the eligible costs should be financed, provided that the implementation of those actions also implies incurring costs which are not eligible.

3.6 For national programmes on the eradication, control and monitoring of animal diseases and zoonoses, the proposed regulation stipulates that these programmes should benefit from EU funding in order to reduce the number of disease outbreaks in animals and zoonoses posing a risk to human and animal health.

3.7 As regards emergency measures to eradicate organisms harmful to plants or plant products (pests), the proposed regulation states that the EU must make a financial contribution to

eradicating these organisms and make financing available for emergency measures to contain potential pests. In addition, it is stipulated that the EU should finance appropriate surveys to ensure the timely detection of the presence of certain pests.

3.8 The regulation confirms that the EU will provide financial support for official controls. In particular, EU reference laboratories will be funded in order to help them bear the costs arising from the implementation of the Commission's work programmes. A financial contribution will also be granted for the establishment and operation of databases and computerised information management systems.

3.9 Finally, to ensure responsible and effective use of the EU's financial resources, the regulation authorises the Commission to check that this funding is used effectively for the implementation of eligible measures.

### 4. General comments

#### *Controls*

4.1 The Committee welcomes the proposal and the Commission's intention to protect the single market and guarantee a uniformly high level of health protection across the EU, helping to avoid legal vacuums.

4.2 The EESC supports the objective of modernising and strengthening control tools and official controls, so as to increase their use and make them more effective.

4.3 The EESC is concerned by the fact that each Member State sets its own control fees without the establishment of a predetermined amount. This could give rise to differences between countries, making some operators less competitive than others.

4.4 The Committee welcomes the provisions on sampling and analysis which stipulate that analysis be carried out in official laboratories, establishing a common system for conducting counter-analysis.

4.5 The EESC greatly welcomes coordination between countries and between laboratories, and therefore supports the existence of a reference laboratory in each Member State.

#### *Expenditure*

4.6 The Committee welcomes the proposed regulation and the Commission's intention to attain a high level of safety of food and food production systems, improve the health and welfare of animals, detect and eradicate pests and ensure that official controls are implemented effectively.

4.7 The EESC supports the objective to set measures and eligible costs.

4.8 The Committee welcomes the regulation's provisions on rationalising funding rates by setting standard funding at 50 % of eligible costs - a percentage which under certain conditions could rise to 75 or 100 %.

4.9 The EESC welcomes the fact the regulation sets a minimum grant amount of EUR 50 000 with the aim of avoiding red tape.

4.10 The EESC welcomes the access to a funding reserve in the event of a crisis in the agro-industrial sector, as well as financial support for surveying and detecting pests.

4.11 Finally, as regards official controls, the EESC welcomes the possibility established in the regulation of financial support for EU reference laboratories and projects aimed at improving them.

## 5. Specific comments

### *Controls*

5.1 The Commission proposal is excessively general when it comes to determining the amount of the fees, or the option of a model with a variable amount or based on modules (based on national or European criteria), or even with a flat rate. At operational level, the absence of a uniform administrative culture regarding the setting of fees for services in the various EU Member States may mean that in practice there is an uneven playing field among Member States, depending on whether or not they implement the fees or whether they do so according to different timetables.

5.2 The Commission proposal regarding the reasons for exemption from the fees may not correspond to the diverse reality of industry operators in the EU. There should be greater precision or various categories for reducing fees could

even be created in order to avoid an unjustified uneven playing field among businesses based on size, which distorts the single market.

5.3 The proposal needs to explain and spell out in more detail the tasks to be carried out by vets and control personnel on farms.

### *Expenditure*

5.4 The regulation's proposal to reduce the number of Commission decisions, as in the case of reimbursement of funding, is not considered to be sufficiently clear, since the document makes no mention of which body will carry out this action.

5.5 The Commission proposal stipulates that the European Union must make a financial contribution to emergency measures stemming from the outbreak and development of particular animal diseases or zoonoses, even if the proposal does not specify what the particular financial measures will be.

5.6 As regards emergency measures for plant health, it is important that the Commission proposal considers the possibility of making an EU financial contribution for the creation and management of survey programmes to detect the presence of pests and plant health support measures for third countries, available throughout the EU for all interested users.

5.7 As regards the training of public officials from the Member States, the EESC welcomes the Commission's plan, but believes that it is essential to harmonise the rules relating to the scope of this regulation in advance, so that the control systems function more effectively in practice.

5.8 Finally, as regards third countries, which for the European Union represent a substantial proportion of the supply of raw materials and processed products used by the food chain sector, the EESC believes that the proposal should take account of the possibility of harmonising plant health and animal health regulations with those countries.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013’**

COM(2013) 480 final — 2013/0224 (COD)

(2014/C 67/35)

Rapporteur: **Mr BACK**

On 16 July 2013, the Council and, on 4 July 2013, the European Parliament decided to consult the European Economic and Social Committee, under Articles 192(1) and 304 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 the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Regulation (EU) No 525/2013*

COM(2013) 480 final — 2013/0224 (COD).

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 1 October 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 134 votes to one with 9 abstentions.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the proposal for a Regulation on a system for monitoring, reporting and verifying (the MRV system) CO<sub>2</sub> emissions from shipping in the EU (the Proposal), as a first step towards implementing the measures to reduce CO<sub>2</sub> emissions from shipping set out in the 2011 White Paper on Transport Policy <sup>(1)</sup>.

1.2 The EESC welcomes the MRV system as a first step in a staged approach towards reaching an International Maritime Organisation (IMO) agreement on mandatory measures for reducing CO<sub>2</sub> emissions from shipping and takes favourable note of the improved energy efficiency and reduced emissions that are expected as a result of its implementation <sup>(2)</sup>.

1.3 The EESC appreciates that while the Proposal as such is insufficient for implementing these objectives, it nevertheless goes as far as would seem reasonable in terms of the measures that may be taken at national or regional level with regard to third countries. The EESC considers that the Proposal has struck the right balance in this respect.

1.4 The EESC welcomes the fact that the Proposal's cost to benefit ratio is favourable for the ship operators involved. The

EESC expects the Commission to monitor the outcome of the implementation of the Proposal on this point and to take the appropriate initiatives if, for instance, the predicted costs and benefits turn out to have an adverse impact on competitiveness.

1.5 The EESC questions the need for and the added value of the additional operational information that goes beyond the scope of fuel consumption and emissions, which is to be monitored and reported under the Proposal, as set out in Articles 9 (d) – (g), 10 (g) – (j) and Annex II, particularly as at least part of this information is considered to be commercially sensitive by the shipping industry and views seems to diverge as to the value of its availability in an aggregated form.

1.6 The EESC draws attention to the Blue Belt initiative by the Commission for alleviating administrative burdens on short sea shipping and takes the view that this approach should also apply with regard to this proposal <sup>(3)</sup>.

1.7 The EESC takes note that there is a need for further measures in order to achieve the objectives set out in the White Paper and considers that it is extremely important that such measures are taken within the IMO to avoid the risk of conflict with non-EU Member States and /or a negative impact on the competitiveness of EU shipping.

<sup>(1)</sup> COM(2011) 144 final, EESC Opinion on *Roadmap to a Single European Area*, OJ C 24 of 28.1.2012, pp. 146-153, particularly points 1.2, 3.7, 3.8 and 3.11.

<sup>(2)</sup> COM(2013) 480 final.

<sup>(3)</sup> COM(2013) 510 final – *Blue Belt, a single Transport Area for shipping*.

## 2. Introduction

2.1 Emissions from international maritime transport today account for 3 % of global greenhouse gas (GHG) emissions and 4 % of EU GHG emissions. Forecasts predict a global share of 5 % going forward to 2050 and considerable increases at EU level, where figures vary between 51 and 86 % depending on the base year chosen (2005 and 1990, respectively) <sup>(4)</sup>.

2.2 The EU 2008 Energy and Climate package, the EU 2020 Strategy <sup>(5)</sup> and the 2011 White Paper on transport policy all set out ambitious aims for GHG reductions. The overarching EU aims are a 20 % reduction relative to 1990 values, which will increase to 30 % in the event of a global agreement <sup>(6)</sup>. In the area of international shipping, the White Paper on transport policy sets a 40 % reduction target for 2050 relative to 2005 levels.

2.3 There is, however, no legal obligation for the shipping sector to reduce its GHG emissions, with the exception of the IMO sulphur regulation, which was transposed into EU law through Directive 2012/33/EU. International maritime transport is the only transport sector not included in the EU GHG emission reduction commitment.

2.4 Nevertheless, the European Council and the European Parliament have both made statements to the effect that all sectors should contribute to the reduction of emissions.

2.5 In the transport sector, targets have been set with respect to civil aviation, which has been included in the EU Emission Trading Scheme (ETS), and which also applies to flights to and from EU airports. Implementation of this measure has, however, been temporarily deferred with respect to non EU flights to smooth the way for a global agreement in the ICAO <sup>(7)</sup>.

2.6 In the area of shipping, no binding aims have been defined at EU level as it was considered more appropriate to wait for globally coordinated measures in the IMO.

2.7 Nevertheless, according to a 2009 statement by the Council and the Parliament, the fact that no international agreement in the IMO was approved by the EU or its Member States by 31 December 2011 means that the Commission should make proposals for the inclusion of international maritime emissions in the Community's reduction commitment, which would enter into force by 2013,

designed in a way that would minimise any negative impact on the Community's competitiveness <sup>(8)</sup>. These statements were followed up by a Commission statement in October 2012.

2.8 While the IMO has not delivered an international agreement in response to the 2009 statement, decisions have been taken to improve the energy efficiency of new ships and further proposals have been put forward to improve energy efficiency, where monitoring, reporting and control of emissions could be a first step. Against this background, the Commission considers that the on-going work in the IMO could lead to decisions on market based measures for the reduction of emissions. The commitment to act at regional EU level should therefore be implemented in a way that supports the continued work in the IMO. The Commission has expressed a strong preference for a global approach led by the IMO and will continue to act accordingly, despite the slow progress in terms of the IMO's action in this area. The Commission will continuously monitor progress and consider all future action in the context of the United Nations Framework Convention on Climate Change (UNFCCC) and the IMO.

2.9 The introduction of a system for the monitoring, reporting and verification of emissions (MRV) should represent the first step in this direction. This would make it possible to monitor developments and to promote improved energy efficiency at company level which could therefore reduce costs above and beyond the costs of running the MRV system. Experience may be drawn from existing company level systems. A regional EU MRV system should be implemented in cooperation with the IMO which could be adapted to possible future IMO measures along the same lines. It could also be a first step in a stepwise approach towards including maritime transport GHG emissions in emission reduction commitments at EU or international level through energy efficiency requirements and/or Market Based Measures (MBM).

## 3. The European Commission's proposal

3.1 The Commission has proposed a Regulation which provides a framework for a MRV system for CO<sub>2</sub> emissions from ships of over 5 000 gross tons (GT). The system covers all traffic in and between EU ports and between an EU port and the first non EU port of destination or the last non EU port of departure. It applies to all ships, irrespective of their flag, with the exception of warships, state craft and pleasure craft. The Proposal estimates that the tonnage threshold excludes about 40 % of the fleet but only 10 % of CO<sub>2</sub> emissions.

3.2 For the reasons indicated in Section 2 above, the system is to be implemented in close cooperation with the IMO and other international organisations and it will be possible to adapt it in line with possible future IMO concepts.

<sup>(4)</sup> COM(2013) 479.

<sup>(5)</sup> COM(2010) 2020.

<sup>(6)</sup> COM(2013) 479.

<sup>(7)</sup> Directive 2008/101/EC and Decision 377/2013/EU.

<sup>(8)</sup> Recital 2 of Decision 406/2009/EC and Recital 3 of Directive 2009/29/EC.



3.3 The MRV system proposed by the Commission provides a framework for ensuring the collection by ship owner/operators of relevant data for each ship and each journey falling under the Regulation, including movements inside ports. Annual reporting will also take place. Reporting will be approved by accredited verifiers and approved annual reports will be submitted to the Commission and the flag state. Annual reporting will be published and conformity documents issued by the verifiers are to be kept on board ships covered by the system. Conformity will be checked by the flag state and through the port state control system. Failure to comply will be sanctioned, in certain cases by the expulsion of a ship, i.e. a ban on its entry to EU ports until the compliance problem has been resolved.

#### 4. General comments

4.1 The EESC takes note of the strategic aims behind the Proposal that are ambitious and go far beyond the content of the proposal by seeking to establish a factual basis for further negotiations and further progress towards measures that will significantly reduce CO<sub>2</sub> emissions from shipping. The EESC welcomes these strategic aims and takes favourable note of the Commission's approach which is to gain control of the situation regarding CO<sub>2</sub> emissions and their evolution in a transparent and credible manner through the reporting and verification system which would be created under the proposed regulation. It also shares the belief that this knowledge base could help to bring forward the on-going work within the IMO to reach agreement on the mandatory measures for reducing CO<sub>2</sub> emissions from maritime transport. In this context, the EESC also refers to its opinion<sup>(9)</sup> on the proposal for a Regulation on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and union level relevant to climate change and repealing Directive No 280/2004/EC, since adopted as Regulation 525/2013.

4.2 The EESC also takes favourable note of the Proposal's partial bottom up approach whereby the information to be collected at company level is expected to encourage measures to improve energy efficiency at company level, which would lead to reduced fuel consumption and reduced emissions per transported unit, at a rate of 2 % per year. It would also reduce net costs by EUR 1,2 billion per year by 2030, according to the impact assessment accompanying the proposal, taking into account the cost of implementing the MRV system, which will largely be borne by the shipping industry.

4.3 The EESC nevertheless stresses the importance of continuously monitoring the accuracy of the assessment of the Proposal's cost to benefit ratio for the shipping industry and society. It also urges the Commission to immediately propose corrective measures should it transpire that the requirements imposed on the shipping industry under the

future MRV system represent a burden for the shipping industry, which would have a negative impact on its competitiveness.

4.4 The EESC has doubts regarding the proposal to extend monitoring and reporting duties to cover commercial and operational aspects as well. The EESC adds that the proportionality of this additional information requirement is questionable as it goes beyond the primary aim of the Proposal, which is to collect information on CO<sub>2</sub> emissions. Moreover, its usefulness has been questioned by the shipping industry and the information in question may also be commercially sensitive. Against this background, the imposition of additional administrative obligations would also seem to be at variance with the drive for simplification, which is such a key feature of the Commission's Blue Belt initiative to facilitate sea transport in the EU. In this context, the EESC also takes note that an obligation to provide this kind of information would be particularly burdensome for short sea shipping involving short journeys and multiple destinations.

4.5 The EESC also agrees with the assessment that the emissions reduction level which the Proposal is expected to provide will still fall far short of what is needed to achieve the targets set for the maritime sector under the 2011 White Paper on transport policy. Further and more efficient measures are needed as a matter of urgency.

4.6 In this context, the EESC also recalls earlier opinions<sup>(10)</sup> on maritime transport policy and environmental requirements, in which the EESC consistently maintained a line welcoming initiatives that improve the environment, yet also argued that, given the global nature of maritime transport, such measures should be taken at a global level, within the IMO.

4.7 In this context, the EESC recalls that the proposal will also apply to ships flying the flag of non-EU countries. While this does not pose a problem for intra EU transport operations, problems may well arise in the case of transport between EU and non EU ports. The EESC considers that this may represent a practical and political rather than a legal problem in view of the potential risk of retaliation or complications arising from the existence of several parallel systems of this kind. The EESC expresses the hope that the planned system will prove to be sufficiently attractive to those falling under its ambit and that, unlike the ETS system in civil aviation, no difficulties will arise with regard to third country operators.

<sup>(9)</sup> EESC opinion on *Sulphur content of marine fuel*, OJ C 68 of 6.3.2012, pp. 70-74.

<sup>(10)</sup> *Sulphur content of marine fuels*, OJ C 68 of 6.3.2012, pp. 70-74; *Blue Growth: Opportunities for marine and maritime sustainable growth*, OJ C 161 of 6.6.2013, pp. 87-92; *EU's maritime transport policy until 2018*, OJ C 255 of 22.9.2010, pp. 103-109; *ETS in aviation*, OJ C 133 of 9.5.2013, pp. 30-32; *Monitoring and Reporting Greenhouse Gas Emissions*, OJ C 181 of 21.6.2012, pp. 169-173; *Integrated Maritime Policy for the EU*, OJ C 211 of 19.8.2008, pp. 31-36; *The Greening of Maritime Transport and Inland Waterway Transport*, OJ C 277 of 17.11.2009, pp. 20-24.

4.8 The EESC shares the view that mandatory measures to reduce CO<sub>2</sub> emissions which go beyond the content of the Proposal should be agreed within the IMO in order to improve the chances of them being successfully implemented. It also considers that regional EU regulation is more likely to encounter various implementation difficulties, particularly with respect to third countries.

4.9 The EESC takes note that the impact assessment relating to the Proposal concludes that MBM are the most efficient measures for achieving an adequate reduction in CO<sub>2</sub> emissions to a level that will make it possible to achieve the emissions targets for maritime transport, as set out in the 2011 White Paper on transport policy.

4.10 The EESC also draws attention to the risk that regional mandatory measures to reduce emissions, especially MBM, may have a negative impact on the competitiveness of European shipping.

4.11 The EESC therefore also welcomes the obligation set out in the Proposal for the Commission to keep in close touch with the IMO and other pertinent international organisations regarding the implementation of an EU MRV system for maritime CO<sub>2</sub> emissions as well as the Commission's readiness to adapt the EU system to a future MRV system agreed within the IMO.

4.12 The EESC encourages the Commission and Member States to maintain their pressure within the IMO for prompt decisions on adequate, preferably MBM based, measures to reduce CO<sub>2</sub> emissions from maritime transport.

4.13 The EESC takes note that while the Commission attaches great importance to a solution involving the IMO, it does not exclude regional measures at EU level, should current developments in the IMO not lead to any results. The EESC welcomes the fact that no time limit appears to have been set for such regional measures and warns against taking measures that could prove to have little effect in terms of reducing emissions yet which might come at a higher cost in terms of reduced competitiveness or which could generate problems in relation to third countries to the extent that such measures affect ships flying their flag, at least in non EU waters.

4.14 The EESC also approves the link established between the sectorial MRV and the general monitoring system for GHG emissions established under Regulation 525/2013 <sup>(11)</sup>.

<sup>(11)</sup> Regulation EU 525/2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision No 280/2004/EC.

## 5. Specific comments

5.1 The EESC takes note that the concept chosen for the MRV system places most of the burden for the implementation of the system on ship-owners or ship operators and on the accredited verifiers while the Member States, the Commission and the EMSA will mostly carry out supervisory functions and receive reporting. This is intended to make it possible to profit from existing company level experience and to reduce the administrative burden on the EU institutions.

5.2 The EESC considers that, to improve the quality of emission reporting, relevant specific information such as the ice class of a ship or the presence of pertinent navigational conditions, such as winter navigation, should be recognised in the reporting.

5.3 The EESC takes the view that some aspects of the proposed MRV system are unnecessarily complex and resource consuming. It is, for instance, difficult to understand why a formal verification report must be drawn up for the annual reports given that a conformity certificate will be issued for approved annual reports, and that the main elements of that certificate will also be published. The EESC is of the opinion that a conformity certificate should be sufficient, possibly with a motivated verification report in cases where a conformity certificate has been refused.

5.4 While it is certainly useful to also communicate reporting under the Proposal to the Commission bodies responsible for implementing Regulation 525/2013 on monitoring and reporting of GHG emissions, it is difficult to understand why the Member States should be required to send a separate report to the Commission, adapted for the purposes of this Regulation, given that all the relevant information could simply be included in one report which could then be communicated to all those concerned.

5.5 The EESC also questions whether the scope of the expulsion sanction stipulated in Article 20 (3) of the Proposal is reasonable, since it would appear to prevent a ship from entering any EU port, including those of its flag state. It would seem reasonable to provide for some sort of port of refuge, which would provide an opportunity to resolve compliance problems.

5.6 The EESC questions whether the time limits provided for implementation are not unnecessarily long and whether it might not actually be possible to shorten the timeframe by one year. For instance, while it is foreseen that the Proposal should enter into force on 1 July 2015, monitoring plans to not need to be communicated to the Commission until 30 August 2017 whereas the monitoring process itself will not actually begin until 1 January 2018. This represents a transition period of about 2,5 years, which the EESC considers to be rather long, bearing in mind that a number of delegated acts and implementation acts will also need to be adopted.

5.7 The EESC also considers that the planned European Sustainable Shipping Forum may be a good focal point for a number of questions on implementation issues.

5.8 The EESC has also noted a number of technical points regarding the Proposal. In Article 14(1) both "company" and "ship operator" are mentioned, whereas according to the definitions in Article 3, the word "company" covers both owners and operators. Both Article 15(5) and 16(3) delegate powers to the Commission to issue delegated acts regarding inter alia "methods of accreditation of verifiers". The EESC suggests taking out the reference to "methods of accreditation" from Article 15(5) which deals with verification procedures and to retain it in Article 16 which deals with the accreditation of verifiers.

5.9 Article 23 provides for a very broad delegation to supplement and amend the provisions of Annexes I and II through delegated acts to take into account a number of elements, including scientific evidence, relevant data available on board ships, international rules and internationally accepted standards "to identify the most accurate and efficient methods for the monitoring of emissions and to improve the accuracy of the information requested". The EESC takes the view that this delegation goes far beyond adaptations to technical development and appears to authorise changes, such as the identification of monitoring methods, which are essential to the proposal. The EESC therefore takes the view that a delegation with this scope may be contrary to Article 290 TFEU. A similar question mark arises regarding the delegation in Article 15(3) for verification procedures.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 — A European Strategy for Micro- and Nanoelectronic Components and Systems'**

COM(2013) 298 final

(2014/C 67/36)

Rapporteur **Ms BATUT**

On 3 July 2013 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 — A European strategy for micro- and nanoelectronic components and systems*

COM(2013) 298 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 30 September 2013.

At its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October), the European Economic and Social Committee adopted the following opinion by 112 votes to 1 with 1 abstention.

## **1. Conclusions and recommendations**

1.1 The EESC welcomes the Commission's desire to create European leadership in the field of micro- and nanoelectronic components and systems and, by means of this cross-border project, to bring together with all speed the Member States, research, investments and energies, in order to turn excellence into production and jobs.

1.2 The EESC believes that micro- and nanoelectronic components and systems can provide the basis for a new industrial revolution and that, to this end, even more than a European industrial "strategy", a genuine "common industrial policy" of public interest is needed in this field, coordinated by the Commission so that European companies are in a position to take the lead in production and on the markets. This aspect is missing from the Commission's proposal.

1.3 In the EESC's view, the few existing clusters of excellence, which are crucial in terms of stimulating European efforts, must be expanded and further developed. Enabling less advanced entities across the EU to benefit from the broad public and private funding programme proposed in the Communication would enhance their potential. In this context, the system of state aid and subsidies needs to be revised because the issue faced by the EU in high-tech industries is not competition between EU firms, it is rather the absence of globally competitive leader firms in many high-tech sectors. The policy should be made more flexible in relation to this

cutting-edge sector, not just for the Joint Technology Initiative proposed, but also in order to help companies achieve global scale, as happens in Asia and America.

1.4 The EESC believes that the strategy presented in the Communication should seek to enable Europe to catch up and to establish European competences throughout the value chain – product and market leaders, contract manufacturers, platforms, core technology producers and design houses – and that the Union should protect the interests of its companies in each free trade agreement currently under negotiation (Japan, USA). The Committee supports the Euro-centric approach of the European Commission and is concerned about its implementation in the framework of the global value chain. Indeed the real weaknesses of Europe are the lack of product and market presence, and the paucity of leading product companies. However, the EESC recommends the Commission not to neglect the development of strong Member States as the basic elements of cross border synergies.

1.5 The Committee wholeheartedly welcomes the strategy on micro- and nanoelectronic components and systems, but would point out that it must conform to Articles 3(3) TEU and 9 and 11 TFEU. Since the roadmap is not due to be established until the end of 2013, the EESC recommends that account be taken of the socio-economic impact on living creatures and on sustainable development resulting from the growing use in our daily lives of micro- and nanoelectronic components and the materials involved, on research, employment, training, the crucial development of skills and abilities, and on public health and the health of workers in the sector.

1.6 It recommends establishing, alongside the Electronic Leaders Group, new forms of citizens' governance, in view of the scale of the public investments sought - EUR 5 billion over seven years - and the strategic importance of the sector.

1.7 The EESC recommends a mid-term assessment of the strategy.

## 2. Introduction

2.1 As part of its policy on stimulating investment to create a stronger European industry for growth and economic recovery (COM(2012) 582 final), the European Commission has published a Communication on micro- and nanoelectronic components and systems, which it had already defined in an earlier Communication (COM(2012) 341 final) as "Key Enabling Technologies (KETs)", which correspond to key initiative No 6 of the Europe 2020 strategy, under Horizon 2020.

2.2 Micro- and nanoelectronic components and systems as enabling technologies underpin a range of product categories that are now indispensable for all activities and contribute to innovation and competitiveness. The principle nine product categories are (1) computers, (2) computer peripherals and office equipment, (3) consumer electronics, (4) server and storage devices, (5) networking equipment, (6) automotive electronics, (7) medical electronics, (8) industrial electronics and (9) military and aerospace electronics.

2.3 The EESC is pleased to see that, with this new Communication, the Commission has followed up some of the recommendations it had occasion to make in its previous opinions<sup>(1)</sup>, and that it is showing a genuine will to take action to win back markets. Success will depend on making better use of research results and placing more emphasis on leader companies and products.

2.4 As the Commission itself states, the global turnover for this sector alone stood at around EUR 230 billion in 2012 and the value of products comprising micro- and nanoelectronic components and systems represents around EUR 1 600 billion worldwide. Observing that, on the one hand, EU support for R&D&I has been stagnating for 10 years (Communication, point 5.2) and, on the other, that over the last 15 years there has been a significant shift of volume production to Asia, which has both the patent holders and a skilled workforce (Communication, point 3.3), the Commission proposes to develop a new European industrial strategy for electronics and recommends coordinated public investment and public-private partnerships to attract EUR 10 billion of new public and private investment in "advanced technologies".

## 3. Summary of the Communication

3.1 For Europe to catch up and keep pace with the United States and Asia in the production of micro- and nanoelectronic components and systems, the Commission proposes:

- increasing and coordinating investment in research and development and innovation (R&D&I) and pooling the efforts of the Member States and the EU through closer cross-border cooperation;
- strengthening Europe's existing centres of excellence in order to maintain leadership;
- taking steps to make European digital carriers (silicon chips) more effective and less expensive (moving towards 450 mm wafers - the so-called "More Moore" track, and smarter wafers - the so-called "More than Moore" track);
- mobilising EUR 10 billion over seven years, half from regional, national and European public sources and half from public-private partnerships, so as to cover the value and innovation chain, including from the framework of Horizon 2020<sup>(2)</sup>.

The Commission's objectives are therefore:

- to provide Europe's key industries with more European manufactured micro- and nanoelectronic components and systems;
- to strengthen the supply chain and ecosystems for these technologies by providing more opportunities for SMEs;
- to increase investment in advanced manufacturing techniques;
- to stimulate innovation in all areas, including in design, to boost Europe's industrial competitiveness.

## 4. General comments

4.1 Nanotechnologies are used in all electronics and optoelectronics products. They represent what are known as 'top-down' technologies, which use more finely structured (micro) materials as a basis for creating components such as transistors, capacitors and electrical interconnections. Cutting edge research is now adopting a "bottom-up" approach, where smaller, usually molecular structures are assembled into integrated structures of nano entities (sized from 1 to 100 nanometres), such as nanotubes, which already have intrinsic electrical conductivity, and these will improve performance and extend the capacity of silicon even further.

<sup>(1)</sup> OJ C 44, 15.2.2013, p. 88; OJ C 54, 19.2.2011, p. 58.

<sup>(2)</sup> COM (2011) 808 final, Horizon 2020 - The Framework Programme for Research and Innovation.



As was outlined in point 2.2, the domains affected by electronic components and systems are extremely varied, affecting almost every dimension of industrial and commercial activities as well as most every facet of our personal lives. We are now beyond the stage where this list can be an exhaustive one.

4.2 The Committee welcomes the focus on a genuine industrial strategy for electronics, which will determine innovation capacity in all sectors of the economy and Europe's competitiveness and future, and welcomes the fact that the Commission wants this strategy to be a common driver for the Member States in order to make Europe a leader in this field. On the world market in Key Enabling Technologies (KETs), competition is fierce and capital is moving to areas outside Europe. In order to restore its position in the world, the EU should provide Member States with conditions suited to the industries in question.

4.3 The Communication proposes an extremely Eurocentric strategy based on filling the gaps in the value chain of the European electronic industry. However, value chains in the electronics industry are global, not regional. The three principal actors are: lead firms, contract manufacturers, and platform leaders. Dozens of other entities play important roles in the broader industry, including software vendors, production equipment manufacturers, distributors, and producers of more generic components and subsystems.

The value captured by the most powerful firms in global value chains - lead firms with global brands and component suppliers with strong positions of "platform leadership" - can be extremely high. The Communication is imprecise as to where in the global value chain the Commission plans to target its efforts and whether its ambitions extend beyond generic components and sub-systems.

4.4 In order to attract the necessary significant investment to this sector, the Commission wishes to promote cooperation and cross-fertilisation and expects researchers and leaders from the electronics industry (AENEAS & CATRENE Board members, "Nanoelectronics beyond 2020") to assist it in drawing up, by the end of 2013, the roadmap which will guide the strategy.

4.5 Welcoming this strong will to move forward, the EESC believes that the strategy should be warmly welcomed. Beyond a European industrial strategy, what is needed in this field is a genuine "common industrial policy", which offers researchers a comprehensive short- and long-term political vision. This is an area crucial to Europe's survival. The aim is to benefit from a critical mass, so as to turn research into products, and then into marketable products. It is therefore crucial to establish, on the one hand, industrial forecasts of at least five years, as competing third-country companies do, and on the other, links with civil society.

Although there is expertise, it has developed in certain niche areas and, between the design stage and the sale of the final product, SMEs specialising in this area are short on resources, skills and visibility. The EU needs strategies, products and leaders. The Communication does not take this aspect sufficiently into account.

4.6 In the first four product categories detailed in point 2.2, there is only one global leader from Europe. There is a more important European presence in the other sectors, but in no sector does Europe have a dominant position. The EESC regrets that the Commission's strategy is not more explicit in regard to these barriers to entry into the global value chain. An essential first step would be to repatriate contract manufacturing.

4.7 The EESC welcomes the Commission's recognition that there is an urgent need to step up and, first and foremost, coordinate the various efforts the public authorities are making in this area so as to ensure that the EU maintains its ownership of these technologies, even when they are sold all over the world.

4.8 In the EESC's view, it is absolutely vital to encourage cross-border synergies and equally as vital to stimulate Member State energies as a basis for the synergistic interaction. Europe can be no more than the sum of its parts. Member States themselves have the intellectual assets to make a global impact. The issue is as much energy; vision and ambition within borders as it cross border synergy.

4.9 Coordination will need to be extremely well structured so that the fragmentation that already exists at the level of the Member States is not compounded by the regional or indeed university level (clusters of excellence). The strategy must be tailored to the intrinsic features of the micro- and nanoelectronics sector.

4.10 The EESC believes that there needs to be a balance between a strategy based on market demand and a needed common industrial policy. The market cannot be the sole reference (cf. Communication, second paragraph of point 5.3; Annex, Point 4). Even so, the EU must not turn its back on market-based discovery.

4.11 A stronger European industry and a new strategy for electronic components and systems are entirely welcome, but they must conform to Articles 3 TEU and 9 and 11 TFEU. Despite the complexity of all these factors, the socio-economic impacts of the development of nanotechnologies and development **through** nanotechnologies should be mentioned.

4.11.1 The Committee considers that the data on the number of jobs in the sector, and on the training, qualifications and skills required, should be analysed and quantified. Jobs are currently being created, but there is a lack of skills. This mismatch needs to be addressed and doing so will require long-term investment, which can also be quantified. The ultimate objective is for all the stakeholders concerned to come together to strengthen the EU's position in the world of electronic components and systems. The Committee regrets that the Commission has omitted these aspects in its Communication, although they were covered in some depth in its previous text, issued in 2012 (COM(2012) 582 final), and also regrets that no mention is made of the sums involved.

4.11.2 Electronic devices are amongst the products containing nanoparticles which are or will be available to consumers. They are in the components of hybrid molecular electronics, semi-conductors, nanotubes and nanowires, as well as advanced molecular electronics. Low-voltage and ultra-low-voltage nanoelectronics are important areas of research and development working towards the emergence of new circuits operating close to the theoretical limit of energy consumption per bit. The EU should take into account the impact of wear, of deterioration at the end of life of nanomaterials contained in current electronic devices, or in those under development or to come in the future, in terms of sustainable development and preserving the environment and living creatures, even though the European Commission's current definition of nanomaterials does not include health as an issue in relation to micro- and nanoelectronics. The precautionary principle should be applied.

## 5. Specific comments

### 5.1 A genuine industrial strategy

5.1.1 The Committee endorses the Commission's strategy for closing the gaps in the value chain in relation to production and reversing the trend by bringing the missing links in the micro- and nanoelectronic technologies value chain back to Europe. However, it is curious about the reasons for the 10 years of stagnation (recognised explicitly in point 5.2 of the Communication) in EU support for R&D&I, despite its world-class reputation, which have prevented the European Union from taking its place on the world market at the crucial moment of China's awakening. Analysing these reasons, as well as the dynamics of the global value chain discussed in section 4 of this opinion, would prevent future errors, and to that end perhaps the strategies of other regions of the world should be taken as inspiration and useful ways to encourage certain types of production to return to Europe should be found.

5.1.2 The EESC believes that competitiveness based on reducing labour costs has decimated entire sectors (textiles, shoes, tyres, metallurgy, etc.). Contract manufacturing has had the equivalent effect in electronics. The electronics strategy should take account of this and allow for the definition of new forms of competitiveness, based on factors such as skills, excellence and the creation of more clusters, the dissemination of knowledge to more companies, internal flexibility, etc.

5.1.3 The Committee believes that, above and beyond financial support, coordinated EU protection could bolster SMEs and the brands they produce. The issues of patents, trade-secret protection, and ways of combating cybercrime and patent theft should be addressed in the strategy.

Multilateral free trade opens all borders, outside the coordinated regulation that could be provided by the WTO. The EESC considers that the strategy presented in the Communication should be taken into account in each free trade agreement currently under negotiation (Japan, USA). Free trade agreements, contrary to the wishes of the founding fathers for the European Union, open up the markets of partners who do not necessarily have the same rules.

### 5.2 Funding

5.2.1 The race for markets requires investments that the Member States, in the grip of the crisis and the budget cuts demanded by the EU, are no longer able to provide. The Commission is urging the private sector to step in. However, the crisis has made it more difficult for SMEs, particularly SMEs involved in innovation, to get access to credit, to the point that they are being strangled by their banks.

5.2.2 The Committee welcomes the fact that the Commission also focuses on their financing, thereby helping to loosen the noose.

5.2.3 Public contributors' capacity for action is limited, given their deficits and public debt, including welfare systems. The means of supervision available to them to check that businesses actually are engaging in maintaining and expanding their design and manufacturing activities in Europe (point 7.1, final paragraph) have not been sufficiently developed.

The Committee believes that the system of State aid and subsidies could be made more flexible in order to ensure:

1. that the sector's companies have more capacity to react on this future world market;
2. that there is exchange of good practices between all researchers;
3. that new centres of excellence can emerge in cities prepared to host them;
4. that solidarity rules prevent intra-European dumping;
5. that the procedures and criteria for accessing funds are simplified and banks informed.

5.2.3.1 The EESC calls for a clarification of the relationship with the Structural Funds and the EIB, particularly for the EU countries that are on their knees as a result of the severe financial crisis, where the massive contraction in public spending, combined with the freeze on private investment, has made all aid illusory and where the Structural Funds have already ceased to be any kind of miracle cure. The EESC suggests that the EU arrange for the possibility of the relevant researchers in these countries joining the best European research centres.

5.2.3.2 As far as private funding is concerned, the EESC considers that, although it can make a contribution, it is risky to predicate a long-term strategy on it.

### 5.3 Coordination

5.3.1 The EESC endorses the role the EU intends to play as a coordinator of the various forces, and supports the Commission's decision to use Article 187 of the Treaty and set up a joint undertaking (the new Joint Technology Initiative). By itself, the market does not play a "role", having no political will to give impetus to guidelines.

5.3.2 EU level is the appropriate level for organising a cross-cutting approach, avoiding the duplication of research, mobilising value chains and commercialising the results in the best conditions. Account should be taken of levels of development of research which differ between Member States, so that not only are clusters of excellence promoted, but the new funds made accessible to all. When the same business model cannot be applied everywhere, small start-ups must be able to receive assistance as well.

5.3.3 Account will have to be taken of the fact that the objective of ensuring vertical integration of IT systems (the former ARTEMIS programme) and nanoelectronics (the former ENIAC JTI) by establishing horizontal transnational cooperation between businesses and universities, is an ambitious one. In the crucible of new discoveries, understanding nano properties will require an increasingly multi-disciplinary approach and the EESC would welcome clarifications regarding the specificities of the regions and clusters of excellence, and about protection for the information that will need to be circulated and the patents that are filed.

### 5.4 Socio-economic impacts

5.4.1 These are not addressed in the Communication. The Communication aims to increase efficiency, but nothing can be achieved, especially in this area, without taking account of human capital (Articles 3(3) TEU, 9 and 11 TFEU).

#### 5.4.1.1 Employment

— According to the Commission, 200 000 people are employed directly by micro- and nanoelectronics firms

and the sector is also indirectly responsible for 1 million jobs. There is a constantly expanding need for skills.

— At the end of the value chain, firms must succeed in translating their investments into results (in terms of quality, profits and markets). The EU is at the cutting edge of world research, and must succeed in converting this into jobs.

— The EU must extend the high levels of expertise achieved in niche areas, by expanding information, training and qualifications, etc.

— The EESC urges that projects should not be financed at the expense of support for social inclusion and combating poverty, and points out that a properly trained, qualified and paid workforce is a measure of the quality of the final product.

#### 5.4.1.2 Training

— The EESC urges the Commission to recall the message of its Communication COM(2012) 582 final (chapter III-D). Human capital and skills and anticipating needs are key to the success of any initiatives in the field of micro- and nanoelectronic components, which are by their nature constantly evolving. The Commission has already introduced a skills comparability classification that will support mobility within the EU.

— Due to the lack of harmonisation, situations differ between the Member States in terms of taxation, education, access to capital and labour costs. The EESC believes the Commission is right to emphasise skills. It would urge that every measure be taken to facilitate within the EU the convergence of the training, qualifications, know-how and diplomas needed to cover the value chain of the European micro- and nanoelectronic industry.

#### 5.4.1.3 Health

5.4.1.3.1 The OECD defines nanotechnology as the set of technologies that enables the manipulation, study or exploitation of very small structures and systems (2009). Whether natural or manufactured, these materials are essential to nanotechnology and are handled and used by people, as citizens and as workers.

5.4.1.3.2 The EESC considers that, in a Communication which aims to make the EU a world-class player in this area, it is vital to sound a note of caution where this is called for and to mention the risks to human health, and to draw attention to the precautionary principle, so as to ensure that everyone can reap the rewards and that the risks can be minimised as much as possible so that we do not go down the asbestos path again. Certain current and future components of nanoelectronic systems do not stop at pulmonary, blood-brain or placental barriers. They have a considerable surface of interaction.

5.4.1.3.3 Furthermore, the health sector itself uses nanoelectronic systems and contributes in this way to the development of research; it must be remembered that its ability to do this currently comes from welfare systems which are a market for research, provided that crisis, unemployment and deficits permit it.

#### 5.4.1.4 Sustainable development

5.4.1.4.1 The EESC draws attention to the *Strategy for smart, sustainable and inclusive growth* called for by the Commission (EU 2020; COM(2010) 2020 final) and considers that the European strategy for micro- and nanoelectronic components and systems is at the heart of this issue.

5.4.1.4.2 The strategy must, from the very start, recognise that the industry we wish to develop is already producing specific forms of waste and is certain to produce others, and that, from the research stage onwards, the lifecycle of micro- and nanomaterials needs to be managed and financed. This is particularly true for manufactured materials and the systems that use them (see the "bottom-up" approach), especially since

all the risks have not yet been identified. In relation to them, consideration should perhaps be given to supplementing the Energy Taxation Directive <sup>(3)</sup>.

5.4.1.4.3 The EESC considers that the proposed industrial strategy can be classed as a public works policy and, as such, must comply with sustainable development requirements.

#### 5.4.1.5 Governance

Some Member States have organised public debates on this industrial revolution. At the end of the value chain, the challenge is to win the confidence of citizen-consumers so that they buy European.

The EESC therefore calls for stakeholders to be involved and for the issues of risk management and the definition of responsible innovation to be discussed. Taking account of the collective interest and the responsibilities of actors, and identifying issues and conflicts of interest will help to find solutions which are socially acceptable to citizens who are aware of the investments sought and the strategic importance of the sector.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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<sup>(3)</sup> COM(2011) 169 final.

**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council directive amending Directives 2006/112/EC and 2008/118/EC as regards the French outermost regions and Mayotte in particular’**

COM(2013) 577 final — 2013/0280 (CNS)

(2014/C 67/37)

On 12 September the Council decided to consult the European Economic and Social Committee, under Article 113 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Council directive amending Directives 2006/112/EC and 2008/118/EC as regards the French outermost regions and Mayotte in particular*

COM(2013) 577 final — 2013/0280 (CNS).

Since the Committee endorses the content of the proposal and feels that it requires no comment on its part, it decided, at its 493rd plenary session, held on 16 and 17 October 2013 (meeting of 16 October 2013), by 149 votes to 3 with 6 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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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 Council Regulation (EC) No 1083/2006 as regards the financial allocation for certain Member States from the European Social Fund’**

COM(2013) 560 final — 2013/0271 (COD)

(2014/C 67/38)

On 10 September and 6 September 2013, the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Article 177 and 304 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 Council Regulation (EC) No 1083/2006 as regards the financial allocation for certain Member States from the European Social Fund*

COM(2013) 560 final — 2013/0271 (COD).

The Committee decided, at its 493rd plenary session of 16 and 17 October 2013 (meeting of 16 October), by 149 votes to 3 with 6 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on the 'Draft proposal for a Council Regulation laying down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency — Draft presented under Article 31 of the Euratom Treaty for opinion of the European Economic and Social Committee'**

COM(2013) 576 DRAFT

(2014/C 67/39)

On 6 August 2013 the European Commission decided to consult the European Economic and Social Committee, under Article 31 of the EURATOM Treaty, on the

*Draft proposal for a Council Regulation laying down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency*

COM(2013) 576 DRAFT.

Since the Committee endorses the content of the proposals and feels that it requires no comments on its part, it decided, at its 493rd plenary session of 16 and 17 October 2013 (meeting of 16 October 2013), by 149 votes to 3 with 6 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 October 2013.

*The President  
of the European Economic and Social Committee*  
Henri MALOSSE

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**Opinion of the European Economic and Social Committee on the ‘Proposal for a Council Regulation opening and providing for the administration of autonomous tariff quotas of the Union on imports of certain fishery products into the Canary Islands from 2014 to 2020’**

COM(2013) 552 final — 2013/0266 CNS

(2014/C 67/40)

On 16 September 2013 the Council decided to consult the European Economic and Social Committee, under Article 349 of the Treaty on the Functioning of the European Union, on the

*Proposal for a Council Regulation opening and providing for the administration of autonomous tariff quotas of the Union on imports of certain fishery products into the Canary Islands from 2014 to 2020*

COM(2013) 552 final — 2013/0266 CNS.

Since the Committee endorses the content of the proposals and feels that it requires no comments on its part, it decided, at its 493rd plenary session of 16 and 17 October 2013 (meeting of 16 October 2013), by 149 votes to 3 with 6 abstentions, to issue an opinion endorsing the proposed text.

Brussels, 16 October 2013.

*The President*  
*of the European Economic and Social Committee*  
Henri MALOSSE

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